

MEDIA RELEASE

Senator Nick Sherry

Assistant Treasurer

RELEASE OF REPORT INTO PERSONAL SERVICES TAX LAWS

The Assistant Treasurer, Senator Nick Sherry, has today released the Board of Taxation's review into whether the tax rules on the alienation of personal services income are proving effective, including in curtailing the use of sham contracting arrangements.

"The use of sham contractors is a threat to the integrity of the taxation system and a threat to working conditions of employees – and the Rudd Government is determined to see an end to its inappropriate use," the Assistant Treasurer said.

"That's why last May we asked the Board of Taxation to carry out a review of how the tax rules in this area are operating."

"The Board has concluded that while the current rules have gone some way in achieving their intention of improving integrity and equity in the tax system, the extent of this improvement is inadequate."

"The Board has found evidence of a low level of compliance and a degree of uncertainty or 'greyness' around the rules, such that it has found the alienation of personal services income rules in their current form do not provide acceptable levels of integrity and equity."

"This means that ordinary workers may be missing out on proper pay, proper super entitlements and a range of other employment conditions such as long-service and other leave entitlements."

The existing alienation of personal services income provisions were introduced in 2000 to answer concerns about the growing use of sham contractors.

They were designed to address both the alienation of personal services income through interposing an entity, such as where a company is used instead of a person being hired directly, despite the fact they are working effectively as a normal employee.

The rules were also meant to cut back on the capacity of individuals and interposed entities to claim higher deductions than direct employees providing the same or similar services.

The Board has suggested a range of possible reform options:

- introducing a reporting obligation;
- extending the attribution rules to personal services businesses;
- clarifying and simplifying the deduction provisions;
- implementing a test of 'employee-like' manner to clarify who is affected by the rules; and/or
- introducing a deemed labour income approach.

"I thank the Board for their work on this report, and also those stakeholders such as tax advisors and the trade union movement who have raised issues with the current workings of the tax law in this area with me," the Assistant Treasurer said.

"As I have said, these findings are of concern so we have passed the Board's report to the Australia's Future Tax System review."

"The Government will wait for the final report of the Henry Review before determining the appropriate action in this area."

CANBERRA

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