

# Letters

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## Bill gives ATO wide powers of disclosure

When the Australian Taxation Office next asks you for information you may be startled to find out that under a proposed tax bill now before federal parliament your response may be passed on. The ATO could send it to the Australian Securities and Investments Commission, Australian Prudential Regulation Authority and other federal and state government departments and agencies for use by them in investigating and prosecuting you for a non-tax related matter.

For example, a taxpayer who is a company director may innocently respond to an ATO inquiry ostensibly concerning tax on the sale

of shares in a matrimonial settlement, and then find his response is handed on by the ATO to ASIC. This may happen at the instigation of the ATO without ASIC having previously known anything of it. ASIC may on receipt of the response start an investigation into whether, for example, the taxpayer had misled his co-directors in respect of the sale.

The bill is called the Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009, but has little to do with keeping taxpayers' information confidential, and a lot to do with disclosing the information to other government departments and agencies, and

enabling them to use the information in investigations and prosecutions.

The ATO is in an extremely powerful position in collecting information. You are obliged by the various tax acts to respond to all questions asked by the ATO. Any failure to respond is a criminal offence, and so is giving an inaccurate or misleading response. You are not entitled to refuse to respond on the grounds that the response might incriminate you.

Now any taxpayer responding to an ATO request may need a lorry load of lawyers to ensure that the response is not only not ill considered nor provided in haste, but will not incorrectly lead the ATO in reporting

the taxpayer to another government department or agency.

If the bill is passed, the ATO will be forced to change from a tax collecting government department with a long history of integrity, to an organisation of a George Orwellian style depiction.

The rule of law requires bills presented to parliament to be true to their title and any explanatory memorandum frank, honest and transparent. This cannot be said in respect of the proposed tax bill.

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