

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

(Presented and read a first time, 3 May 1989)

(SENATOR WATSON)

A B I L L

FOR

An Act to amend the Income Tax Assessment Act 1936 to make deductible expenditure incurred for the preparation, by a registered tax agent, of information required by or under the Income Tax Assessment Act 1936

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title etc.

5 1. (1) This Act may be cited as the Income Tax Assessment (Tax Agents' Fees) Amendment Act 1989.

(2) In this Act, "Principal Act" means the Income Tax Assessment Act 1936.

Commencement

10 2. This Act commences on the day on which it receives the Royal Assent.

Expenses of preparing returns and furnishing information

3. Section 69 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

"(1) Subject to subsection (1A), expenditure incurred by a taxpayer in the year of income for the preparation by a registered tax agent of: 5

- (a) a return required under this Act to be provided to the Commissioner in respect of income of the taxpayer;
- (b) a return required under the Fringe Benefits Tax Assessment Act 1986 to be provided to the Commissioner by the taxpayer; or 10
- (c) other information provided to the Commissioner by the taxpayer:
 - (i) in compliance with, or in relation to, a request by the Commissioner in connection with the administration of, or an obligation created by, this Act, the regulations, the Fringe Benefits Tax Assessment Act 1986 or regulations under that Act; or 15 20
 - (ii) in contesting a dispute or in resolving a disagreement, otherwise than through proceedings in a Court, in respect of a matter arising under this Act, the regulations, the Fringe Benefits Tax Assessment Act 1986 or regulations under that Act; 25

shall be an allowable deduction.

"(1A) Expenditure incurred by a taxpayer in the preparation of information of the kind referred to in paragraph (1)(c) is not an allowable deduction if: 30

- (a) the information was sought of the taxpayer as a result of:
 - (i) the taxpayer intentionally not having set out in his or her annual return a full and complete statement of the total income derived by the taxpayer during a year of 35

1989

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THE SENATE

INCOME TAX ASSESSMENT (TAX AGENTS' FEES) AMENDMENT BILL 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator John Watson)

OUTLINE

The purpose of this Bill is -

To permit a taxpayer to receive a deduction not only for the cost of the preparation of a tax return but also for the fees charged by a tax agent for the preparation of additional information required under the provisions of the Income Tax Assessment Act 1936.

Self Assessment

Self-assessment is now a major part of the Australian Taxation System and it has radically altered the basis for the preparation of tax returns.

Post-assessment checks, whether by way of Desk Audit or Field Audit have become part of the assessment process.

In addition, objections and appeals are also now an intrinsic part of the self-assessment system.

Accordingly, it is reasonable to allow a deduction for the preparation of additional material required under the Income Tax Assessment Act as part of the assessment process.

However, provisions have been included in the Bill to deny a deduction in circumstances where the taxpayer has been engaged in tax avoidance or evasion those costs which have been incurred through a registered tax agent

- (i) in the preparation of an objection or an appeal;
- (ii) in the costs of an audit;
- (iii) or other costs associated with a scheme or arrangement.

The Bill specifically precludes use of the amendments to Section 69 in a dispute or disagreement taken to Court.



