



EMBARGO: 9.30pm

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PRIME MINISTER

FOR MEDIA

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EXTRACT FROM PRIME MINISTER'S ADDRESS TO NSW CHAMBER OF MANUFACTURES

Retrospective tax legislation is by no means new. As far back as 1936 the British Parliament passed tax legislation which operated on tax avoidance schemes entered into before 1936, and when that legislation was appealed in the Court of Appeal, one of the highest courts in Britain, the senior judge of that court made two very significant comments.

"For years a battle of manoeuvre has been waged between the legislature and those who are minded to throw the burden of taxation off their own shoulders on to those of their fellow subjects

In that battle the legislature has often been worsted by the skill, determination and resourcefulness of its opponents of whom the present appellant has not been the least successful.

It would not shock us in the least to find that the legislature has determined to put an end to the struggle by imposing the severest of penalties. It scarcely lies in the mouth of the taxpayer who plays with fire to complain of burnt fingers."

He also said:

"The fact that the section has to some extent a retroactive effect again appears to us of no importance when it is realised that the legislation is a move in a long and fiercely contested battle with individuals who well understand the rigour of the contest."

One of Britain's most distinguished jurists, Viscount Simon, who was the Lord Chancellor, the equivalent to the Chief Justice, in an appeal by a taxpayer concerning the same legislation - and he upheld the legislation in that appeal - pointed to the unfairness of tax avoidance practices:

"Judicial dicta may be cited which point out that, however elaborate and artificial such methods may be, those who adopted them are 'entitled' to do so.

There is, of course, no doubt that they are within their legal rights, but that is no reason why their efforts, or those of the professional gentlemen who assist them in the matter, should be regarded as a commendable exercise of ingenuity or as a discharge of the duties of good citizenship.

On the contrary, one result of such methods, if they succeed, is, of course, to increase pro tanto the load of tax on the shoulders of the great body of good citizens who do not desire, or do not know how, to adopt these manoeuvres."

Viscount Simon made a very significant point in that statement.

I should like to conclude by making it perfectly clear that the Government does not in any way regard the proposed legislation as a precedent for future action.

Rather, it is legislation that has been called into existence to meet the particular and special circumstances which in the final analysis places a greater tax burden on Australian taxpayers.

I understand that the British Government introduced a major piece of retrospective tax legislation in 1978 designed to eliminate once and for all artificial tax avoidance schemes.

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