

**Transcript of conversation with Leon Byner and Ken Phillips
at 5AA on Wednesday, 7th December 2017**

Leon: Twenty eight to twelve. Now, yesterday we spoke to one of our top financial commentators who writes across Australia in the *Fin Review* and often for *The Australian*. I'm talking about Bob Gottlieb. And he was talking about the Tax Office who have taken away peoples' ABN numbers. And his view is, that the Tax Office should collect tax, not attempt to engineer business. And one of the issues was that there are a lot of people who might work from home or have a relatively humble business that do stuff, sometimes online but others via the mail, where they offer services and goods. But they're relatively small, but they are a very numerically blessed number, there's a lot of them. And of course, for those people, some of whom would have various disabilities, this provides them with a way of earning a living which takes them out of just relying on welfare payments. Let's talk now to the Executive Director of Self-Employed Australia, Ken Phillips. Ken, thanks for joining us today. Tell me, has your organisation engaged in discussions with the Tax Office about this that have been fruitful?

Ken: Oh Leon, we've been around 20 years in this space and I've been involved in ATO, consulted at committees for a heck of a long time and I know the people. And I tell you what, over the last five years or so, things have got pretty crazy, ah, to the extent that we've put together an insurance product so that if people are attacked by the ATO, we can go in to defend them. And that's what we did in this case with these people. They are mainly all women. I'll tell you this much, Leon. When I get on the phone to a woman who's suddenly had her income switched off because of this ATO aggression. She breaks down on the phone on me, and um, apologises for crying because she doesn't know where, how she's going to cover today's mortgage or how she's going to cover the electricity bill. And this is just the disaster and we can't allow this to continue. And we're determined, that when people bring this to our attention and that we've got involvement with them and so forth, that we're going to go in and, our conclusion is that we must aggressively defend people. The Taxation Office have just gone off the deep end and Robert indicated that to you yesterday. So the situation that we've seen with the OutScribe and the contractors working at home – don't think this is a one-off. This has almost become systemic and we're very, very concerned about it but we are in the business of seeking to do something about it.

Leon: Well, we, we're seeking some time from one of the Ministers, Kelly O'Dwyer, to clarify this. I mean, do you understand why this has been allowed to happen? Is there now some, is there some remedy where there is a recognition that an error has been made and it's got to be corrected?

Ken: One of the things we've found with the Tax Office, over the last few years, that when they make a mistake, and in this case it's, it was a mistake at law, they just, in our view, defied the law on this. But they just won't back down. They lock themselves into a particular position and they just drive ahead with it. It's not just people working from home. We've got IT contractors. We've got people in all sorts of situations. You know, we even had recently a Federal Court Judge seriously say in his Court Judgement that he considered that the ATO had probably committed a criminal act. Now this is getting pretty damn serious when you get a Judge saying that. This is over a small business person issue.

Leon: [Sighing] So how come this has not been rectified?

Ken: Oh, good question, Leon! That's why we're involved. That's why we're in the business of seeking to protect people.

Leon: Well see, our legislators have a responsibility. I mean, normally the ATO is a highly respected and efficient organisation. What you're describing here is a behaviour that I would have thought it's anathema to the ordinary Australian. And further the reason we have legislators and governments is to watch over these things and if there's been an injustice to damn well fix it.

Ken: Well, I couldn't agree more, couldn't agree more. And I'll tell you what happens, if someone gets attacked by the Tax Office, they'll get about a 20 page letter, saying, "We're doing this, and you've done this", and make all these accusations about you. And you look at it and you go, "I don't understand the letter." And then they'll have these little conversations with you and you'll say the wrong thing and they entrap you, in our view, in our experience. And this is just not on. Our view is that they are out of control.

Leon: Look, we've got to talk to Minister O'Dwyer to find out because she'd know about this by now, I would imagine.

Ken: Well, whilst she certainly knows about this case, but I don't know the extent which she's aware of what's going on because this has been developing, like osmosis, it's been developing a little bit at a time. It's been a change in the culture in the ATO, the direction that we just find quite extraordinary. And it just emerges and ...

Leon: Well, I've got some contacts in the Treasury's office. You know what I'm going to do? I'm going to talk to them today and just see if I can expedite this situation where we can do something on air, Ken, and get some clarity. Because you know, we've got a lot of people who increasingly, I mean, we, the service industries around Australia are in fact one of the great hopes for job creation. And I understand that there are sham contracts and we've talked about that with Andrew Stewart. We might even get him involved in this because he's one of the experts in this space. But I'm really amazed that it's come to something like this where the Tax Office get accused of practices that really, are generally off the scale. You don't normally hear the Tax Office behaving in this manner. You just don't. Twenty one to twelve. 8223 0000 at 1395, Adelaide's 5AA. Remember you can call us on any issue you like.