

THE LAW



TAXATION

Swiss treaty prevents tax evasion

The image of Swiss bank accounts as tools for tax evasion is about to be given a shake-up.

New laws amending the International Tax Agreement Act (1953) mean Australia and Switzerland will share information to prevent people evading tax payments or being required to pay tax twice and encourage greater trade and investment between the two countries.

Steven Ciobo (Moncrieff, Qld) says Australia has 44 bilateral tax agreements with different countries.

“Tax treaties facilitate trade and investment by reducing barriers caused by the double taxation of residents in the two countries,” he said.

It is expected there will be a stronger relationship between Australia and Switzerland as a result of the new agreement.

“The new treaty will update the existing bilateral tax arrangements between Australia and Switzerland, to align them with current Australian and international tax treaty policy settings,” Mr Ciobo said.

“This is expected to further encourage bilateral trade and investment.”

The new agreement with Switzerland replaces a previous agreement from 1980.

The establishment of effective exchange-of-information arrangements with Switzerland is expected to discourage the use of Swiss banks to conceal untaxed income and assets.

“The new treaty will also modernise the bilateral taxpayer information sharing arrangements and permit, for the first time, the exchange of



▶ SWISS BANKS: No longer a safe haven.

taxpayer information for the purpose of preventing tax evasion. This greater transparency includes access to Swiss bank information that could help Australia better enforce its tax laws,” Mr Ciobo said.

Asked about the extent of tax evasion between Australia and Switzerland, the Australian Taxation Office acknowledged the difficulty of placing a dollar figure on the issue but told the Joint Standing Committee on Treaties that over 188,000 transactions took place between the two countries during the 2012-13 financial year involving over \$41 billion.

Sharing information will lead to better transparency and enable both countries to better enforce their own tax laws.

The new agreement will also create a more reliable tax framework for business between Australia and Switzerland. This certainty is expected to encourage economic growth and job creation as investors can better plan for their businesses. ■

DRUG LAWS

New offence for importing designer drugs

Alternative illicit drugs, sometimes marketed as “legal highs”, will be subject to seizure if imported into Australia.

New Psychoactive Substances (NPS) is a term used to describe drugs that fall outside international drug treaties, according to Justice Minister Michael Keenan (Stirling, WA).

“NPS are designed to mimic the psychoactive effects of illicit drugs, however their chemical structures are not captured by existing controls on those drugs,” Mr Keenan said.

Often described as synthetic or designer drugs, NPS create a challenge for governments around the world. This is because once an NPS is banned, manufacturers can quickly create a new, alternative substance that has similar features but is not on the prohibition list.

The Justice Minister said when substances are presented as “legal highs”, it creates an improper assumption that they are safe.

“These substances are potentially very dangerous. They have been directly linked to deaths and serious injury. They are untested chemical compounds which masquerade as illicit drugs but are presented as being legal analogues of those drugs,” Mr Keenan said.



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The current regulatory system has been proven to be inadequate, as Australia has struggled with the increasing number of NPS available.

Under the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014, Australian Customs and Border Protection Services, officers will be able to seize NPS and substances presented as alternatives to illicit drugs.

The Justice Minister said the onus will then be on the defendant to prove that the substances are not prohibited or that they qualify for an exemption.

“It will be up to a person whose goods have been seized on suspicion of being a new psychoactive substance, to show why they should be returned to them. If an importer cannot do this—for example, by showing that the goods have a legitimate use—their goods will be destroyed,” Mr Keenan said.

The new law will not apply to psychoactive substances that are imported for a legitimate purpose. Foods, medicines, and industrial, agricultural and veterinary chemicals are examples of psychoactive substances that would be exempt from the new law.

States and territories will cooperate with the Commonwealth to stop the sale of NPS. Health, law enforcement and education initiatives will align across jurisdictions to complement the national framework for NPS that the Law, Crime and Community Safety Council announced on 4 July 2014.

“The Bill will stop people from importing these dangerous chemicals for use as alternatives to illicit drugs and pretending they are legal or safe. In combination with state and territory initiatives under the national framework, we can prevent [NPS] from becoming as great a challenge as other illicit drugs,” Mr Keenan said. ■



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SPORT

Winning the race against doping



▶ WINNING THE RACE: Athlete support staff subject to sanctions.

Australian legislation has now aligned with the World Anti-Doping Code (WADC), ensuring athletes are treated under the same rules everywhere, regardless of nationality or sport.

Sports Minister, Peter Dutton (Dickson, Qld), said the Australian Government is committed to clean sport.

“Not only is doping a serious risk to an athlete’s health and wellbeing, it is fundamentally about cheating and debasing all that is good about sport, which we hold close to our hearts—from improved health through physical endeavour to the pursuit of athletic excellence and the values it teaches,” he said.

The Australian Government is also a party to the United Nations Educational, Scientific and Cultural Organization (UNESCO)’s International Convention against Doping in Sport, which requires signatories to implement conditions imposed under the WADC.

The Australian Sports Anti-Doping Authority Amendment Bill 2014 will address the requirements of the WADC by focusing on athlete support personnel who are involved in doping by imposing longer periods of competition ineligibility for athletes caught doping, and by placing an additional emphasis on information management and investigation of drug cheats.

The Sports Minister said athlete support staff involved in doping will be subject to Anti-Doping Rule Violations (ADRVs).

“Appropriately, athletes or athlete support personnel who are found to have committed anti-doping rule violations are subject to sanctions such as ineligibility to compete and disqualification of results from sporting competitions,” Mr Dutton said.

“The international anti-doping community has agreed that it is time to take action to protect sports from those support persons who orchestrate systematic doping programs.”

Mr Dutton said the new law is also intended to encourage better information-sharing across sports administration bodies.

“With investigations and intelligence-gathering now forming an integral element of any strategy for detecting doping, the revised code emphasises the need for effective information flows between government agencies, sporting bodies and anti-doping organisations. Accordingly, amendments to the information-sharing provisions in the act are proposed to ensure clarity and simplicity,” Mr Dutton said.

(Editor’s Note: Sussan Ley (Farrer, NSW) is now Minister for Sport.) ■