

CONSEQUENCES OF ANTI-AVOIDANCE PROVISIONS
FOR BANKERS

QUESTIONS AND ANSWERS

Question – Peter Fox (Malleons Stephen Jaques):

Mr Mills, it is with some trepidation that I address this one to you and I enjoyed your talk a lot. The ruling process in the financial transactions area that you administer: could I put it to you that in some areas, and I have got two or three specific examples in mind, the rulings are designed to set the position which the Commissioner wishes to be taken and in some way is trying to fill gaps in the legislation. And the specific examples that I do have in mind are the ruling on the redemption of convertible notes where there is a premium element, the ruling which you have mentioned on substituting income and I think those two examples are classic examples of where one cannot see clearly in the Act where the Commissioner gets the legs to get home.

Response – Ron Mills:

Yes, I think the point that has been made is that the difficulty is not so much to find the outlandish examples, but where to draw to line is the important point here. We do, of course, try to interpret the law, without making new law. I think we are all very doubtful about the extent of Part IVA at the moment. I do not know that I can really give you an answer that is going to satisfy you, other than to say that we try to put our view up front, in public, and issue more tax rulings so at least the professions and taxpayers generally do know what we are thinking. And we do indeed hope to increase our activity in a general taxpayer ruling program. It may even be at the expense of some private rulings that are sought – they may have to wait a little bit. We believe the important thing is to get the general rulings out so taxpayers at least know what we think is OK and what we do not think is OK.