

# **Tax Administration Amendment (Combating Wage Theft) Bill 2021**

## **Answers to questions on notice - Unions NSW - Hearing 24 May 2021**

### **Re. the Hon. Natalie Ward's question regarding the structure/mechanisms to combat wage theft:**

The NSW Government has a responsibility to ensure it collects payroll tax from employers as efficiently and as effectively as possible. The NSW Government should seize the opportunity in its reform of legislation regarding the collection of payroll tax to develop and implement systematic and ongoing audits and investigations of employer compliance. In taking this opportunity reform should include the introduction of an ability for Revenue NSW to assess employer compliance with their obligations to accurately assess their payroll tax liability and to pay payroll tax.

To ensure this compliance we recommend Revenue NSW have the ability to assess whether employers are compliant with their obligations to pay their employees legal wages. This mechanism will ensure Revenue NSW has accurate information about the correct amount of payroll tax owed by employers. Without this mechanism Revenue NSW will not have the ability to ensure it is receiving an accurate view of employers' wage payments and therefore is not able to properly assess the amount of payroll tax owed by the employer. An ancillary benefit of this mechanism is it will also identify employers who are engaged in wage theft and would provide information to Revenue NSW that could be shared with other government agencies for the enforcement of payment of legal wages.

Further, it is practical that a tripartite group, with representative from government, unions and employers, be engaged to simplify the processes of reporting wage theft that arise from Revenue NSW investigations. Such an arrangement will bring together peak industrial organisations (both union and employer peak bodies) to assist workers in the recovery of stolen wages and to educate employers and workers on the legal entitlement to minimum wages and the rights regarding enforcement of legal wages.

### **Re Mr Shoebridge's question regarding expansion of powers under s 72:**

Presently, the power of the Chief Commissioner, afforded by s 72 allows for the gathering of oral and written evidence as well as the production of documentation to determine tax liability, for our purposes, in respect of payroll tax. Determining accurate tax liability for payroll tax necessarily involves determining wage entitlements for employees, hence s 72 also allows for and requires the identification of employers' obligation to pay legal wages and whether employers have complied with this obligation or alternatively if employers have participated in wage theft. This is because it is not possible to properly understand an employer's tax liability for payroll tax without first assessing the employer's liability for payroll. Payroll tax being a proportion of an employer's overall payroll liability. Further, in order to accurately assess an employer's payroll liability, it is necessary to assess the employer's obligation to pay legal wages and whether these wages have been paid. A failure to conduct this assessment will provide an inaccurate account of the employer's payroll liability and therefore the payroll tax liability will also be inaccurate.

The labelling of this bill as "Combating Wage Theft" and yet including no compelling consideration in the bill for the combat of wage theft is confounding. Section 72 provides sufficient scope for Revenue NSW to identifying payroll tax liability, and therefore wage theft, however the current powers provided to Revenue NSW and the extension of those powers in this bill do not empower Revenue NSW to take the necessary steps to conduct investigations to review employers' compliance with their obligations to pay legal wages. Accordingly, we recommend the current powers of Revenue NSW be bolstered by providing the agency with a broader power to enter

workplaces and to require all relevant material necessary of employers to investigate whether employees have received their entitlement to legal wages.