

ABSTRACT TEMPLATE FOR 2015 ATTA CONFERENCE

Retiring on a ton (1915 to 2015): It's time for sections 263 and 264 of the *Income Tax Assessment Act 1936 (Cth)*?

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Keywords: Tax, Investigation, Administration

Abstract

Sir Donald Bradman's last ever Test innings ends with a duck, bowled second ball by Eric Hollies at The Oval in 1948.¹ His batting average over his career in Test matches against all countries was 99.94 – if he had remained not out or scored 4 more runs and lost his wicket in his final Test innings, he would have averaged 100 per innings.²

The primary information gathering powers contained in the *Income Tax Assessment Act 1936 (Cth)* (ITAA 1936) are planned to meet a similar inglorious end. On 22 October 2014, the Government introduced *Treasury Legislation Amendment (Repeal Day) Bill 2014*, which repeals ss 263 and 264 of the *Income Tax Assessment Act 1936 (Cth)*. This ends the existence of information gathering powers in Commonwealth Income Tax Assessment Acts 75 days short of a 100 year anniversary. Although it's time for ss 263 and 264, the powers are reborn as Schedule 2 of the Bill amends Schedule 1 to the *Tax Administration Act 1953 (Cth)* (TAA 1953) to broaden the application of the rules around the Commissioner's power to obtain information under Division 353 in Schedule 1 to cover all taxation laws, not just a number of specified indirect tax regimes.

This paper, as well as surveying the scholarship surrounding the departing ss 263 and 264, seeks to draw out themes and trends relevant to the operation and interpretation of the Commissioner's new powers to obtain information under the proposed consolidated provisions and the adequacy of those rules for a new post BEPS environment.

¹ BBC <http://news.bbc.co.uk/sport2/hi/cricket/8036237.stm>

² The Bradman Foundation <http://www.bradman.com.au/home-bradman/>

If it's difficult
I'll do it now.

If it's impossible
I'll do it presently.

10/12/28.

Bradman

"If it's difficult
I'll do it now
If it's impossible
I'll do it presently

D.G. Bradman 10.12.28³

³ The Bradman Foundation <http://www.bradman.com.au/words-of-wisdom-from-the-don/>