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IN a week in which Tony Abbott struck a blow for small business owners by offering to create a small business ombudsman, a leading debt expert underlined what is wrong with the way governments treat small businesses.

Recently we saw the passage of legislation to "crack down on phoenix companies", but Roger Mendelson, chief executive of **Prushka** Fast Debt Recovery, argues the new law does nothing to protect small and medium-sized businesses from fraudulent phoenix activities.

He said the new legislation only protected the taxation interests of the federal government and was "a poor response to a problem that is costing small and medium businesses billions of dollars in unpaid debts".

A phoenix company involves the deliberate and often systematic liquidation of a company to avoid the payment of liabilities, including employee wages and superannuation, business creditors and outstanding taxes.

The business then "rises" like a phoenix and continues through another company, debt free and capable of dudding businesses and customers in the future.

Mendelson thinks the private sector loses about \$2 billion a year because of the shysters behind these companies, while their tax losses deprive the government of \$600 million in revenue.

The new law gives the Australian Taxation Office the power to demand security deposits from businesses to secure their tax obligations in relation to existing or future liabilities.

Veda Advantage research has shown a significant rise in the number of phoenix companies since the GFC. "One in 10 directors behind newly registered companies in March 2010 were linked to an adverse credit history with another company in the six months prior to starting the new company," Veda says.

Mendelson says it is hard for SMEs to do the legwork to spot a dodgy company.

"The federal government's response to the problem of phoenix companies leaves SMEs out in the cold and shows that the phoenix review was all about protecting government revenue and had nothing to do with protecting SMEs from dodgy operators," he says. "The federal government flagged it would fix the issue and has now dropped the ball."

Mendelson, unlike politicians and public servants, has a practical solution to the problem. He thinks all companies should be compelled to provide a "solvency statement" to any intending or current creditor on request.

"If the statement turns out to be incorrect, it would then open the way for the creditor to sue the directors of that company, who would become personally liable," he says.

A small business ombudsman would help small businesses with gripes against government departments, but the concept should be extended to unfair dealings between big and small businesses.

Abbott also promises not to change the rules governing contractors who think they are self-employed, but who unions and the tax office think are sham contractors. Sure, there are sham contractors -- but laws should not be changed to hurt a big number of fair dinkum contractors for a minority of scam merchants.

Peter Switzer appears on Sky News Business Channel

[www.switzer.com.au/small-business](http://www.switzer.com.au/small-business)

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