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Roger Mendelson ... government should think again.

Photo: ANDREW DE LA RUE

Phoenix laws 'benefit ATO'

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One of the more high-profile debt collection agency chiefs has criticised the federal government's attempts to crack down on phoenix companies because the main beneficiary is the Australian Taxation Office.

Prushika Fast Debt Recovery's chief executive, Roger Mendelson, claimed that new legislation, rather than protecting small and medium enterprises from fraudulent phoenix activities that cost them billions of dollars in unpaid debts, only

protected the taxation interests of the federal government.

While phoenix activity has been reported to cost the government \$600 million a year in lost revenue, Mr Mendelson said the losses suffered by the private sector were estimated to exceed \$2 billion a year.

Passed by the Senate in June, the Tax Laws Amendment (Transfer of Provisions) Bill 2010 gives the ATO powers to demand security deposits from businesses to secure their tax obligations in relation to existing or future liabilities.

Mr Mendelson insisted that SMEs could only protect themselves against phoenix activity by carrying out credit checks and checking references, often beyond the resources of most SMEs.

He wants the federal government to revisit the legislation, suggesting that all companies be forced to provide a "solvency statement" if asked by any intending or current creditor. 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.