



Julie Dennett
Committee Secretary
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Parliament House Canberra ACT 2600

Our reference: L&P
Contact officer: Debbie Hastings

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Dear Ms Dennett

I am writing in response to your letter of 23 April 2013 to Mr Chris Jordan, Commissioner of Taxation, requesting feedback in regards comments contained in the Law Council of Australia's submission on changes to Federal Court Fee increases since 2010.

The Law Council's submission noted at paragraphs 59-60 that they understood the increase in Federal Court fees would have a significant impact on the Australian Taxation Office as a significant user of the Federal Court system and may adversely impact the ATO's regulatory function in relation to outstanding tax debts.

The ATO has a significant volume of court proceedings each year in both state and federal jurisdictions, including commencing several thousand debt-related actions (wind-ups and creditors petitions) in the Federal Court. As such, the increase in Federal Court fees has had and will continue to have a significant impact on the potential cost of the ATO's litigation activity.

To illustrate the impact of the fee increases I have included a short table that includes the ATO's two major bodies of case work conducted in the Federal Court comparing last financial year's fees to a projection of this year's fees (noting also that the fee increase only commenced from 1 January 2013).

**Table 1: Comparison of ATO costs in regards filing fees
for 'wind ups' and 'Creditors petitions' (2011/12 and 2012/13)**

Type of matter	Volume 2011/12	Filing fee 2011/2012	Total Cost	Volume 2012/13 (est)	Filing Fee 2012/2013*	Total Cost (est)
Company 'wind-up'	2433	\$938	\$2,282,154.00	2400	\$938 / \$3145	\$5,019,600.00
Creditor's petition	721	\$828	\$596,988.00	450	\$828 / \$2195	\$941,175.00
		Total	\$2,879,142.00		Total	\$5,960,775.00

* The filing fee increase commenced 1 January 2013

To put these figures into their broader context, the ATO's total legal expenditure in 2011-12 was \$101,744,089.

The ATO always ensures that our legal budget delivers value and efficiency for the Australian Government and taxpayers. Accordingly, we have to be price sensitive to filing fees alongside other costs associated with litigation.

In light of the recent increase in Federal Court filing fees we are considering what options we may have around the number of actions filed and in which courts. Cost of filing was a significant factor in the ATO's decision to shift towards primary use of the Federal Court for our wind-up and creditors petition actions. Due to the cost of filing there is a possibility that the ATO may consider shifting volumes of matters back to the State Courts. We have advised the Federal Court of these considerations through the Federal Court Users Group.

Please do not hesitate to contact me if you have any queries about the above, or if the Committee requires any further information.

Debbie Hastings
First Assistant Commissioner
Law and Practice
Australian Taxation Office