

Senate Select Committee on COVID-19
ANSWERS TO QUESTIONS ON NOTICE
Australian Taxation Office
Public Hearing 7 May 2020

Department/Agency: ATO

Question: 1

Topic: Alleged ERS fraud

Reference: Spoken – 7 May 2020

Senator: Katy Gallagher

Question:

CHAIR: Can you say when the investigation commenced or, from the ATO, when you became aware of this alleged fraud?

Mr Kershaw: We received the referral on 1 May and we acted within 48 hours.

CHAIR: Mr Jordan, when did you become aware of it?

Mr Jordan: I will pass over to Jeremy Hirschhorn. Personally, I think it was on the weekend, but—

Mr Hirschhorn: I'd have to take on notice the exact time, but it's fair to say that we did not sit on our hands in involving our AFP colleagues.

Answer:

The ATO was made aware of a relevant matter in relation to a request for early release of superannuation on 26 April 2020, when AUSTRAC made a suspicious matter report (SMR) available to the ATO. An individual had previously been notified by the ATO via SMS, that their request for early release of superannuation had been approved. The individual had contacted their superannuation fund to advise that they had not applied for early release of superannuation and acting on this advice, the fund had stopped the payment and raised an SMR on the incident which was lodged with AUSTRAC.

Further intelligence was subsequently gathered from other measures designed to protect the integrity of the stimulus measures and it was assessed by the ATO on 30 April 2020 that there may have been fraudulent activity associated with a small number of early release of superannuation applications.

This was accepted as an Australian Federal Police-led investigation by the Serious Financial Crime Taskforce on 1 May 2020.

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Question: 2

Topic: Outgoing JobKeeper funds

Reference: Spoken – 7 May 2020

Senator: Katy Gallagher

Question:

Senator GALLAGHER: My time has run out, so I will come back to this. I noticed that in your statement you gave details of how much had been spent in cash flow and early-access super. Have you got a figure on how much money has gone out in relation to JobKeeper, as of your latest figure—if that's midnight, 4 May?

Answer:

The ATO made payments to the value of \$2.2 billion in the first week of May.

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Question: 3

Topic: Dealing with fraud

Reference: Spoken – 7 May 2020

Senator: James Paterson

Question:

Senator PATERSON: Thank you for that. That might have been my subsequent question, but my question was: how common is it for these kinds of issues of fraud to happen?

Mr Katf: I might ask Jeremy Hirschhorn to talk a little bit more about the volume of that. His team looks after any of the fraud activities, so I don't have any metrics on that. Jeremy, I don't know whether you can add anything to that.

Mr Hirschhorn: I don't have the exact numbers with me, but we are constantly under attack from fraud in ordinary times, particularly in the context of GST refund fraud. So we have several hundred people across the office who are constantly looking at different sorts. For us, it's typically when we write cheques. That's usually as refunds, but now, with some of the stimulus measures, obviously there are other ways of getting refunds from the tax office. We have, in the ordinary course, hundreds of people focused on that, and we are moving more people to that in the context of the stimulus programs.

Senator PATERSON: Perhaps on notice you could provide them, just to give the committee a sense of how common this issue is. But would it be fair to say that a common feature of a tax system is that there are people who try to take advantage of it?

Mr Hirschhorn: Yes. I'd say it's just a feature of a tax system that there are constant attempts at fraud of different degrees of sophistication. Some of those are identity fraud, some of them are refund fraud. In a sense, part of our core business is dealing with attempted fraud.

Answer:

Matters of fraud are unfortunately a common part of any financial system including the tax and superannuation systems.

The ATO is prepared and has robust and frequently updated systems in place to detect and disrupt fraudulent attacks on these systems. For example, in 2018-19, we prevented \$7.4 million in income tax refunds from being paid where we intercepted identity crime.

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Question: 4

Topic: Minimising future fraud

Reference: Spoken – 7 May 2020

Senator: Katy Gallagher

Question:

Senator GALLAGHER: So, based on what we know now, what changes have been put in place to minimise the chance of any further fraud, or alleged fraud, like this from occurring?

Mr Geale: I'd have to take that on notice. I think Mr Hirschhorn did address that question earlier, in terms of not wishing to elaborate. But, personally, I don't know, so we'll have to take that on notice.

Answer:

The ATO is well prepared and has robust and frequently updated systems in place to detect and disrupt fraudulent attacks on the tax and superannuation systems. The ATO constantly enhances these models when we identify new types of fraudulent attacks. In addition to applying all pre-existing identity fraud risk models, extra measures were implemented in recognition that fraudsters would specifically seek to target stimulus measures.

Consistent with our continual process of hardening against fraud, the ATO is now running additional risk filters over all files before they are delivered to funds, and is providing additional information to funds to assist them in their own fraud prevention processes. The files are still being delivered to funds within publicised service standards..

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Question: 5

Topic: Charities registrations for JobKeeper

Reference: Spoken – 7 May 2020

Senator: Rachael Siewert

Question:

Senator SIEWERT: Thank you. Could I please go to the number of charities who have already applied, or registered, for JobKeeper.

Mr Geale: I don't actually have the date. I suspect this may be as of 4 May. I have it broken down for not-for-profits. We had approximately 14,000 not-for-profits.

Senator SIEWERT: There were 14,000 not-for-profits, but I want to know how many charities, specifically, under the 15 per cent provision.

Mr Geale: Charities would be in the not-for-profits, but I don't have a further breakdown as to what that is. I can take it on notice, if we have that breakdown available.

Senator SIEWERT: If you could, thank you. I want to go to the operation of the 15 per cent exemption for a charity and the decision by the Treasurer, which I support, to exclude government funding from that 15 per cent.

Answer:

There are approximately 56,600 charities registered with the ACNC. About 24,800 have PAYGW obligations.

As at 7 May 2020, approximately 9,700 charities had enrolled for Step 1 of JobKeeper, notifying their intent to participate. Of these, approximately 4,800 have moved to Step 2 of JobKeeper, which includes identifying eligible employees for payment. Of these approximately 4,200 are expected to be under the 15 per cent provision.

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Question: 6

Topic: Employers backdating terminations

Reference: Spoken – 7 May 2020

Senator: Kristina Keneally

Question:

Senator KENEALLY: Has the ATO received complaints relating to employers backdating terminations in order to avoid the ‘one in, all in’ rule?

Answer:

The ATO has established a confidential tip-off hotline for people to report JobKeeper fraud or concerning behaviour (such as employers attempting to avoid the “one in all in” rule).

A high level analysis of the tip-offs received so far indicate that there has been a small number of tip-offs that allege termination dates were backdated to avoid an employee being included in the JobKeeper scheme.

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Question: 7

Topic: Rejected applications ERS

Reference: Spoken – 7 May 2020

Senator: Kristina Keneally

Question:

Senator KENEALLY: How many applications for early access to superannuation have been rejected?

Mr Hirschhorn: I'm sorry, but I'm going to have to take the specific details on notice. There are two levels.

There's first an eligibility check effectively in the system, so some applicants are just rejected because the system determines they're not eligible.

Answer:

As at 7 May 2020, the ATO had received 1,257,283 applications for early release of super, of which 14,639 had been rejected.

These rejections relate only to applications where the applicant is identified as having already had an application approved.

In addition to ensuring duplicate applications are not approved, integrity controls exist within the application form itself. Based on the information input into the form, these integrity controls prevent the application from being submitted.

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Question: 8

Topic: Sole traders JobKeeper applications

Reference: Spoken – 7 May 2020

Senator: Perin Davey

Question:

SENATOR DAVEY: Are we monitoring how many sole traders are applying for JobKeeper? In the breakdown of industries are we also looking at whether they are sole traders or companies?

MR GEALE: About 40 per cent of enrolments have been for individuals or sole traders.

SENATOR DAVEY: Are we then breaking them down by state and industry as per the other data?

Answer:

As at 6 May 2020, 40 per cent of entities enrolled for the JobKeeper Scheme were sole traders.

The ATO does not have a break-down of the sole trader enrolment figures by state or industry.

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Question: 9

Topic: ATO ERS forms

Reference: Spoken – 7 May 2020

Senator: Rex Patrick

Question:

SENATOR PATRICK: In your forms do you give any cautions about the effect that this may have on future super funds, retirement funds?

Mr Hirschhorn: I will have to take on notice the exact form of how we do this, but I understand that we do have flags that basically this is an important financial decision and they should consider it carefully.

Answer:

The ATO cannot provide financial advice. However, the early release of super application form contains the following information:

Withdrawing your super early will reduce your retirement savings and may impact insurance attached to your account. You can consult the [MoneySmart](#) website for more information and you should consider whether you need financial advice before completing this application.

Additional information and guidance is available on the [ATO website](#).