

Standing Committee on Tax and Revenue

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

24 February 2016

Department/Agency: ATO

Question: PQ16-000005

Topic: Tax return lodgment and the availability of prefill data

Reference: Hansard – page 4

Question:

CHAIR: If somebody has done their tax return early in July and additional pre-filled data comes in that was not available when they did their tax return, what is the process from there?

Mr Jordan: Presumably they know what they got during the year anyway. It is just not pre-filled, so it is not there. We would have salary and wages, interest, dividends, medical expenses, and if they had kept their managed investment trust distribution statements they would be able to put that in. It is not like they cannot do their return; it is just that we have not put it in for them. They can type it in on myTax or eTax.

CHAIR: I will rephrase the question. What evidence have you seen where people have completed their tax returns in that first period of July, putting the information in manually, and then subsequently the prefill or electronic data arrives a month or so later? What discrepancies are you finding in that system, and what is the process to work that out and have the taxpayer's affairs finalised?

Mr Olesen: I am happy to take some of that on notice, because I do not have the detail about what the story is for people who lodge early. Increasingly people are interested in waiting for the prefill data to be available before they lodge their returns. We make it clear when that data is available. From our perspective, the wash up subsequently would be a bit of data matching to check the return lodged against the prefill data we have. Going back to the original purpose of getting the data, as Mr Jordan talked about, on a post facto basis at some point we can match that and work out if there are significant discrepancies. I have no doubt that we have that analysis on that, but I do not have it with me. I am very happy to take that on notice.

Mr Leeper: I might briefly add some international comparisons. In Denmark and Norway the tax year finishes on 31 December. They say to taxpayers, 'Don't do anything—we will send you your tax return at the end of February.' It is a feature of the Australian system that people can lodge their own tax returns if they wish. There are other international models where basically the system says, 'Wait until all the information comes in, and we will send the return to you.' There are different approaches that could be taken.

Mr RIPOLL: In terms of the data matching, does that actually take place? In what you described, your language said, 'not quite', but does it actually take place? What form does it take?

Mr Olesen: I would want to check my facts just be sure, but I would be very confident that we do do that kind of data matching, along with all of the other data matching that we do. That was the original purpose of getting this data. I am not sure when, exactly, but it would be post the lodgement period, and then we would follow up with the taxpayer.

Mrs BRONWYN BISHOP: What if the information is wrong? How is that dealt with? For instance, if I am doing my practising certificate as a solicitor, I get a pre-filled document which asks me to make any corrections that may be necessary. Do you do that?

Mr Olesen: To put it in context, of the 80 million pieces of data that we make available through prefill—that is out of the 600 million pieces of data that we get in total—the number of complaints we get about inaccurate data is quite small. It is in the hundreds.

Mrs BRONWYN BISHOP: Would they know?

Mr Olesen: They may not know, which is your point. They may find out when we do the data matching subsequently and we write to them and point out that there is a discrepancy. Of course, as Chris was saying, they may well know, because they have the information and they could have verified from their own records whether the prefill is accurate.

Mrs BRONWYN BISHOP: How long would that process take? Would there be a penalty that might flow to the taxpayer?

Mr Olesen: I am unsure about timing, again, because I do not have the detail about when we do the data matching. It would be after the event, presumably in the first six to 12 months after the lodgement period. Penalties depend on the circumstances, of course. The requirement in Australia is for taxpayers to take reasonable care when they complete their returns.

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Answer:

What evidence have you seen where people have completed their tax returns in that first period of July, putting the information in manually, and then subsequently the prefill or electronic data arrives a month or so later?

Of the roughly 2.8 million taxpayers who lodged in July 2015, our data matching activities found discrepancies in around 45,000 returns where the taxpayer's pre-fill information was not complete at the time of lodgement. Discrepancies usually relate to the omission of income from salary and wages, investments and welfare income.

What discrepancies are you finding in that system, and what is the process to work that out and have the taxpayer's affairs finalised?

Each year, the ATO undertakes data matching and related follow-up activities. In 2014-2015, data matching follow-up activities were undertaken on around 200,000 cases, including cases where the taxpayer failed to lodge their tax return.

In terms of the data matching, does that actually take place? In what you described, your language said, 'not quite', but does it actually take place? What form does it take?

Where these discrepancies meet our criteria for follow-up action, they are progressed through our data matching letter campaigns. These campaigns generally occur throughout the year following lodgement.

How long would that process take? Would there be a penalty that might flow to the taxpayer?

Each case is managed within a cycle time that provides time for taxpayers to respond to the information we hold about them before the case is finalised. Generally no penalties are applied to cases where taxpayers have lodged their return but are later found to have a discrepant amount.

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Department/Agency: ATO

Question: PQ16-000007

Topic: ATO receivers and payment structure

Reference: Hansard – page 7

Question:

Mr IRONS: Mr Leeper, you spoke about economic modelling and efficiencies in collecting debts before. A couple of businesses in my electorate have gone into administration, liquidation or receivership in the last 18 months. In two instances, in both of which the receivers were appointed by the ATO for debts that had not been paid, the companies felt they made a good case to the receivers for surviving and keeping their businesses alive. But they were still shut down. There was a comment made to me by a group of businesses that they felt that the receiver would not receive any payment from the ATO unless the business was shut down—so there was an actual reclaiming of that money. Someone was saying that that was occurring in about 66 per cent of those situations where ATO receivers had been appointed. I would just like to get a comment on that. **Is that the case—that receivers do not get a fee unless the businesses are put into receivership?**

Mr Leeper: I will have to take that on notice, I am sorry, but I can talk generally about our strategy on debt. We are constantly balancing the need to ensure a level playing field in the tax system between those businesses and individuals who pay their tax on time or near to time and those who do not pay taxes and other charges. Whilst we are active in the bankruptcy and wind-up market, we are much more conservative than commercial players. For example, in 2015-16 year to date, there have been a total of 7,324 bankruptcies initiated. We have started 292 of those. So we have been a party to 2,200 but we have only started 292. With company wind-ups, in the same period to 30 November 2015-16, there has been total advice through ASIC of 4,983 applications for wind-ups of companies. We have initiated 1,226 of those. So we are about a quarter in the company market. We are much more likely to be a party to a bankruptcy or a wind-up than to be the party that kicks it off. There are no hard and fast rules here but one of the things we are constantly trying to balance is putting a business under pressure or an individual under pressure. The key indicators for us would be their willingness to engage, their willingness to enter into payment arrangements and their willingness to keep the payment arrangements. But if there is evidence that a business is perhaps becoming or has become insolvent, we would probably have to take more aggressive action. Insolvency is a matter for courts to determine but I think we could indicate at a certain point that the businesses has gone underwater and there is not much prospect. Every case is different and important. I would say to you that the data suggests that we are perhaps more conservative than other commercial players in the marketplace around debts and wind-ups.

Mr IRONS: **If you could get back to the committee in regards to your payment structure to ATO receivers.**

Mr Leeper: I will take that on notice.

Answer:

The ATO is almost always an unsecured creditor and as an unsecured creditor the ATO has no role in appointing a receiver or the setting of their fee. The ATO would only appoint a receiver in the very rare circumstance where the ATO holds security over property and there has been a default by the taxpayer. In those cases where a receiver has been appointed by the ATO, the ATO will check that the fees are reasonable for the work performed and check the rate is comparable with fees in other insolvent administrations.

A receiver is appointed by a creditor through the Courts or a direct arrangement with the receiver, the ATO generally appoints a receiver through the Courts. The Receiver determines their fee based upon the work performed. These fees may be calculated using a number of different methods. The methods can include; payment on the basis of time spent by the external administrator and their staff, a quoted fixed fee, payment based on an upfront

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estimate, or a percentage of asset realisations. Charging on a time basis is the most common method used.

In all cases the Receiver is required to charge a reasonable fee for their work. If a creditor is not satisfied with a receivers fee they can apply to the Court to have these reviewed.

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Department/Agency: ATO

Question: PQ16-000006

Topic: Number of individual taxpayers who do not meet their lodgment obligations

Reference: Hansard – page 6

Question:

Mrs BRONWYN BISHOP: As he does can he just remind me of the number of taxpayers? These are individuals—

Mr Jordan: About 12 or 13 million—12½ million.

Mrs BRONWYN BISHOP: About 12 or 13 million, give or take a million?

Mr Jordan: I will stick with 12½ million.

Mr Olesen: It is 12.8, I think.

Mr Jordan: It is 12.8. Mr Olesen is being precise here.

Mrs BRONWYN BISHOP: Mr Olesen is always precise.

Mr Jordan: It is about 16 million all-up; 16 million lodgements. You have got individuals, businesses and large corporates.

Mrs BRONWYN BISHOP: But of individuals, 12.8—

Mr Jordan: Individuals; we are certainly on 12.8.

Mrs BRONWYN BISHOP: Do we know how many people who should file a return do not?

Mr Olesen: We have estimates of the number of people that we expect to lodge returns against which we monitor overall lodgements, yes.

Mrs BRONWYN BISHOP: How many do we think do not?

Mr Olesen: I could not give you a number. I am happy to take that on notice.

Answer:

In 2013-2014 there were 14,234,795 taxpayers predicted to have a lodgment obligation. By 30 June 2015 there were 1,736,166 of these who had failed to lodge. Lodgment reminders and compliance action will be undertaken across this population based on their risk to revenue and other risk factors.

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Department/Agency: ATO

Question: PQ16-000009

Topic: Non-issue of Notices of Assessment

Reference: written – 29 February 2016

Member: Bronwyn Bishop

Question:

The matter is the non-issue of Notices of Assessment to certain classes of taxpayers, in particular, non-resident individual taxpayers who have a nil taxable income (or loss).

Could you please give the Committee the following information:

- Does this occur?
- What is the legal and/or administrative background to a decision not to issue assessment notice?
- What are the implications for taxpayers and the ATO?
- The matter of the issuance of Notices of Assessment is covered in PS LA 2015/2, which is about trustees. Is the information in this statement applicable more generally?

Answer:

- Yes, this is the current practice.
- While it is the ATO's administrative practice to not issue a Notice of Assessment in the circumstances described, the Commissioner will issue a Notice of Assessment to an individual with a nil taxable income, upon request.
- The period of review for a taxpayer who is an individual does not begin until such time as a notice of assessment is issued to them by the Commissioner.
- ATO policy (PS LA 2015/2) is limited to trustee assessments and does not apply to other entities.

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Department/Agency: ATO

Question: 4

Topic: Tax Agent Portal and Client Correspondence List

Reference: Hansard – page 12 -13

Question:

Mrs BRONWYN BISHOP: The issues I want to go through are a bit eclectic, but we are short of time so I will go through them quickly. I want to go back to the question that Mr Hastie asked and the question I raised in the first place about the portal as it is, where it only deals with the individual taxpayer and not the tax agent. You were talking about changing things. I think it needs that dual purpose built into it. Is that the intention? There would be information for the taxpayer and information for the tax agent.

Mr Olesen: On the portal.

Mrs BRONWYN BISHOP: On the portal, so the tax agent does not have to go to the individual; he can look in there and the information will all be there?

Mr Olesen: Absolutely.

Mrs BRONWYN BISHOP: Right now, he is carrying the expense of having to go through all that stuff, which he cannot recoup from the client.

Mr Olesen: One of the great benefits of the shift to the new lodgement service that is becoming available progressively from this tax time, from July, is the pre-fill information that we make available in respect of the taxpayer—

Mrs BRONWYN BISHOP: No, that is not the point I am going to. The point I am going to is to respect the relationship between the client and the tax agent—in other words, you are not usurping the role of the tax agent and saying 'I'm only going to talk to his/her client.' You have to include him in the conversation.

Mr Olesen: Yes, absolutely. We have talked a fair bit about this issue today, and the immediate remedy in that space is trying to improve that client correspondence list—

Mrs BRONWYN BISHOP: No, not improve. Could I take that as an undertaking that there will be a provision that will include the tax agent, so that any information that goes to the client will also go to the tax agent?

Mr Olesen: We are working very actively on a solution that they would like. It is absolutely in that direction, but exactly what the solution is is what we are working out with agents actively.

Mrs BRONWYN BISHOP: How long?

Mr Olesen: We anticipate having something by the end of this calendar year or shortly thereafter.

Mrs BRONWYN BISHOP: I would like that reported back to this committee.

Mr Olesen: Sure.

Answer:

The ATO understands that when a tax agent client sets up a myGov account and links this to the ATO that their choice to receive Government correspondence through their myGov account can create difficulties for the client/agent relationship. To ensure the agent has visibility of the ATO correspondence the ATO created the client correspondence list that unfortunately did not operate as designed nor did it necessarily fit with the standard practice processes of agents.

The ATO has been working with tax agents to improve the use of the client correspondence list that allows tax agents to view correspondence sent to ATO linked myGov users who are their clients. The focus for the April 2016 deployment is to fix the basic issues/irritants and then build in enhancements to improve the client experience.

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The ATO is currently co-designing a new client correspondence list to replace the current function, with a range of tax and BAS agents for delivery early in 2017. The new client correspondence list will align to their practice processes, ensure agents are aware of the receipt of correspondence and provide the ability to choose what correspondence is directed to them and to their clients and support the agent/client relationship.

The ATO has advised tax agents through the Newsroom on ato.gov.au that following the feedback provided about how they use this portal function to sort and view their client's correspondence a number of enhancements to the Client correspondence function will be available in April 2016:

- It will be available in the BAS Agent Portal with access relevant to the BAS agent role
- Search results can be sorted by date or client name, with the ability to change the sort option to suit their needs
- They can customise their search for more than one delivery type
- If they request an 'All' client listing without filters, the results returned will be a reduced workable amount
- All their clients will be available in the list, not just individuals and sole traders
- Correspondence will be available in the portal the same day we issue it
- The screens will have a new look that is easier to read and use
- They can search for up to five years of correspondence for a single client.

The client correspondence list is not a complete list of correspondence but does contain all correspondence that clients will access through myGov.

- All correspondence that is generated out of our enterprise systems is available for viewing on the client correspondence list. This relates primarily to:
 - account activity related to income tax
 - superannuation processing
 - registrations
 - entry to and from the register
 - individual debt.
- All other correspondence is not viewable on the client correspondence including:
 - individually tailored correspondence prepared an ATO officer
 - bulk print letters including data matching letters and lodgment requests
 - business activity statements
 - cheques
 - accounting and debt letters related to business accounts.

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The ATO has also commenced to work on developing a preferencing function that will support the client/agent relationship. This will move to co-designing with Tax and BAS agents over the coming months.

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Department/Agency: ATO

Question: 5

Topic: Cash Economy

Reference: Hansard – page 15

Question:

Mrs BRONWYN BISHOP: Sure. Thank you, Mr Jordan, that would be terrific. The other thing I am going to ask about is—and I do not know whether it is possible for you to do this—the cash economy, which also concerns me. I remember when we first argued for a GST, many people argued that this would eat into the cash economy. Clearly, it has not. I was wondering if a situation could be introduced whereby every employer who enters into a proper employer-employee relationship—and it would apply to everybody: the cleaner; the nanny; the gardener; you name it, whatever it is—and if that relationship is established and if there are proper payments, proper pay-as-you-go, proper superannuation and all of those sorts of things and if those wages were allowed as a tax deduction in the hands of the employer, would that truly eat into the cash economy? It would increase the number of employees enormously and it would really put them on the record base because if the employer wanted to get that deduction they would have to disclose it. Therefore, you would have somewhere to go to check it up. I would like you to perhaps consider it. I do not know whether it is possible to do any work on it, but it occurs to me that it may be one way of truly eating into the cash economy.

Mr Jordan: I understand exactly what you are saying. To motivate people to register as an employer and take out things, it would probably require a policy sort of decision.

Mrs BRONWYN BISHOP: Yes, it would.

Mr Jordan: We could raise that with Treasury for their view on that. Typically, a householder does not have that requirement now to withhold. It is only business-to-business situations, not consumer-to-business situations, where that withholding obligation generally sits. We can certainly take that to Treasury.

Answer:

The Commissioner will explore possible options to address cash economy issues related to ‘consumer to business’ transactions and consult with the Treasury through a framework that exists to allow the Commissioner to advocate changes to the tax law.