

Standing Committee on Tax and Revenue

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

18 March 2015

Department/Agency: ATO

Question: 1-2

Topic: Crowdfunding

Reference: Written

Question:

1. Has the ATO been criticised for uncertainty regarding crowdfunding? Has the ATO been characterised as slow to adapt?
2. How do overseas tax agencies manage the tax aspects of crowdfunding? What can the ATO learn from them?

Answer:

1. The ATO has not directly received any negative comment concerning any uncertainty regarding the GST implications of crowdfunding arrangements nor that it is slow to adapt. However we do recognise the need for being increasingly responsive to emerging changes in business arrangements.

After appearing at the Tax and Revenue Committee on 27 August 2014, the ATO published a GST factsheet on 13 November 2014 that provides public guidance on crowdfunding in respect to the known transaction models involved. The factsheet had been 'visited' on 1,365 different occasions by the community.

The factsheet has generated some on-line discussion about the appropriateness of imposing GST on certain crowdfunding transactions. Those discussions, however, have raised no explicit concern regarding accuracy of the factsheet.

Prior to the Tax and Revenue Committee hearing the ATO has received only a limited number of requests for advice on GST issues concerning crowdfunding – issuing a private ruling on 17 September 2014 and a general advice on 14 November 2014.

The release of the fact sheet on 13 November 2014 seems to have currently met the needs of most interested parties. Naturally the ATO remains available at all times to assist individual taxpayers or advisors involved in crowdfunding arrangements to meet their tax obligations.

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2. The ATO has identified a limited amount of publicly available guidance material issued by overseas tax authorities concerning tax implications (including GST/VAT) of crowdfunding arrangements.

Articles discussing crowdfunding arrangements in overseas jurisdictions highlight that the tax impacts are dependent on the type of arrangement involved (such as donation-based, reward-based, debt-based, and equity-based), as well as on how the specific tax rules applicable to that particular jurisdiction operate.

It is important to be aware that, while material from other jurisdictions may provide some degree of insight, other jurisdictions have different tax laws in different terms to our own and this will often result in crowdfunding arrangements having different tax outcomes to those in Australia.

The ATO recognises that crowdfunding is emerging as a new way of raising capital for commercial purposes. The ability to provide meaningful generic advice, however, in many respects, depends on factual matters that the tax laws then operate.

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18 March 2015

Department/Agency: ATO

Question: 3

Topic: Single touch payroll

Reference: Written

Question:

3. We refer to correspondence from Stephen Healey, the President of the Tax Institute, to Mr Martin Mane of the ATO, dated 16 March 2015 in relation to single touch payroll. On page 2, the Institute raises concern about the effect of single touch payroll on the cash flow for some businesses. Could you please respond?

Answer:

As announced by the Government on 28 December 2014, the ATO and the Treasury have been conducting consultation with the community on the phasing of the start date for different sized employers and transition arrangements to support the move to Single Touch Payroll.

Consultation has also been examining the potential for employers to remit pay as you go withholding (PAYGW) and the Superannuation Guarantee (SG) at the same time employees are paid their salary and wages, and what support businesses may require to enable such a transformation in payments to government and superannuation funds.

Consultation feedback to date indicates that shifting the remittance date of PAYGW and SG to the same day employees are paid would help ensure employers meet their taxation and superannuation obligations. However it also indicates that bringing forward the due date for payment of these liabilities would have an impact on the cash flow of businesses, in particular those businesses that do not currently provision for these liabilities on an ongoing basis. Feedback indicates that real-time payment should not be mandated for all employers.

There has been strong support for the ability of employers to choose to pay PAYGW and SG during the payroll event (i.e. the ability to opt into real-time payments).

Some respondents have felt that certain categories of employers (e.g. poor compliers, or those undertaking phoenix activities) should be required to meet their PAYGW and SG during the payroll event.

The consultation feedback to date has been used to inform the options being developed for Single Touch Payroll. Further consultation is being undertaken to refine the implementation and transition options.