

**Senate Economics Committee**  
**Inquiry into Digital Delivery of Government Services**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Australian Taxation Office**  
**MARCH 2018**

**Department/Agency: ATO**

**Question: 6**

**Topic: Penalties**

**Question:**

Senator PATRICK: Could you take on notice—or you may have the information available now—the quantum of the penalty applied. I ask that in the context that that is the taxpayers' return for not receiving a service. In big business, if the penalty is small it is just a cost of business. So it would be appreciated if you could take on notice the quantum of the return to the taxpayer.

Mr Katf: Yes. I can answer part of that. I do not know the quantum of the penalty; I will take that notice. I refer to a statement made by the Commissioner to a Senate hearing a little while ago, where he made it very clear that we did reach a commercial settlement with HPE. The details of that are commercial in confidence.

Senator PATRICK: I don't mind if it is provided to the committee in confidence; we would be happy with that if you think that if necessary.

Mr Katf: I will take that on notice in terms of what we can and can't provide. I did want to say that the settlement does recoup the key costs incurred by the ATO. It actually provides us with higher grade IT equipment in our data storage space. It was both a penalty and an agreement.

**Answer:**

The Commissioner (as an independent statutory office holder) submits that the commercial settlement terms are subject to public interest immunity. Release of this material will harm the public interest by prejudicing the commercial interests of the Commonwealth. Release of this material may have an adverse impact on the ability of the Commonwealth to effectively negotiate reasonable settlements in future disputes of this type, and may have an adverse impact on the negotiation of future contracts. This harm goes beyond disclosure of the commercial interests of a third party dealing with the Commonwealth.