

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

Department/Agency: ATO

Question: 10

Topic: Sovereign entities

Reference: Written – 8 May 2020

Senator: Tony Sheldon

Question:

What is your understanding of the practical effect of the May 1, 2020 Economic Response Package (Payments and Benefits) Amendment Rules (No.2) 2020 in regards to Paragraph 7(2) (e) and/ or any other section that relates to “sovereign entities.” Specifically I want to know what the definition of “sovereign entity” was before the amendments and after.

Answer:

Effectively, the amendment to section 7(2)(e) broadens the definition of sovereign entity so that wholly owned subsidiaries of a foreign country or government will not be eligible for JobKeeper payments.

The definition in paragraph 7(2)(e):

- Before the amendment: *‘the entity is a sovereign entity’*.
- Following the amendment: *‘the entity is a sovereign entity, or would be a sovereign entity if subparagraphs 880-15(c)(ii) and (iii) were disregarded’*.
Note *subparagraphs 880-15(c)(ii) and (iii) of the Income Tax Assessment Act 1997* specifically exclude Australian resident entities from the definition of sovereign entity.

The Explanatory Statement provides that the “amendment addresses a technical issue in the Rules to ensure that they apply as intended”.

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

Department/Agency: ATO

Question: 11

Topic: Eligibility of Dnata employees for JobKeeper

Reference: Written – 8 May 2020

Senator: Tony Sheldon

Question:

I refer to the follow article in Australian Aviation of May 5, 2020.

<https://australianaviation.com.au/2020/05/dnata-says-4500-jobs-at-risk-by-jobkeeper-omission-82897/>

Can you advise on the exact date and form i.e. written or oral etc. you provided advice on the eligibility of Dnata employees for JobKeeper - both before and after the May 1st amendments - and what that advice to Dnata was?

Answer:

The ATO cannot comment on the taxation affairs of any individual or entity due to our obligations under the taxation secrecy laws. This includes details of advice (if any) provided to entities in respect of their specific facts and circumstances.

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

Department/Agency: ATO

Question: 12

Topic: Sovereign entities and eligibility for JobKeeper

Reference: Written – 8 May 2020

Senator: Tony Sheldon

Question:

Have you provided advice or rulings to any other companies operating in Australia that are ultimately owned, or part owned, by a sovereign entity on their employees eligibility for the JobKeeper program, and can you advise the Senate who these companies are, what industries they are in, and what your advice/rulings have been?

Answer:

The ATO cannot comment on the taxation affairs of any individual or entity due to our obligations under the taxation secrecy laws. This includes details of advice provided to entities based on their specific facts and circumstances.

The ATO has provided web guidance at:

<https://www.ato.gov.au/General/JobKeeper-Payment/Employers/Eligible-employers/>.