

Senate Economics Legislation Committee

Inquiry into Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia and Other Measures) Bill 2018

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

16 NOVEMBER 2018

Department/Agency: ATO

Question: 1

Hansard page: 62

Topic: Compliance action

Question:

Senator DAVID SMITH: Just taking that up, I was wondering whether you might be able to take on notice how many compliance actions have been taken against firms regarding the R&D tax incentive in the last financial year.

Mr Jacobs: We can take that on notice. The answer, as Mr Day has said, is that it is very difficult for us, with our systems, to be able to separately identify R&D adjustments from where we might look at a company and adjust for a range of tax or deduction matters.

Answer:

We are currently improving our ability to track and report compliance activities as R&D risk cases across the entire taxpayer population. At this point in time, we can only accurately provide the total number of high risk refund reviews across the entire population.

In relation to high-risk refund R&D claims we conducted 151 reviews, in the 2017-18 financial year, prior to issuing high-risk refunds.

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Question: 2

Hansard page: 62

Topic: Taxpayer alerts

Question:

Senator DAVID SMITH: You may understand why we have a bit of an issue when integrity is meant to be a driver, and, if we can't actually get some figures back on compliance actions around this, maybe everything's working perfectly well. Can I confirm that there were five taxpayer alerts issued by the ATO and AusIndustry in 2017 regarding the R&D tax incentive?

Mr Day: Yes, that's correct.

Senator DAVID SMITH: Do we know what the impact was of issuing those alerts?

Mr Day: We're still continuing to monitor the impact in terms of claims. There are certainly some positive indicators in the average size of claims that we've received, for example, and we've received positive feedback from industry in terms of those taxpayer alerts better clarifying where we do have concerns, and, coupled with those taxpayer alerts, we've invested in providing better guidance to entities on what kinds of claims they can make.

Senator DAVID SMITH: I'm happy for you to take that on notice to provide, perhaps, a bit more detail in terms of that response.

Answer:

The Australian Taxation Office issues taxpayer alerts to warn the community of our concerns with new or emerging higher risks or risks we have under review. Our aim is to share our concerns early to assist the community in making informed decisions about their tax affairs.

In 2017, we issued four taxpayer alerts and an addendum addressing broader concerns across R&D and in respect of particular industries as follows:

- [TA 2017/2](#) *Claiming the Research and Development Tax Incentive for construction activities*
- [TA 2017/3](#) *Claiming the Research and Development Tax Incentive for ordinary business activities*
- [TA 2017/4](#) *Claiming the Research and Development Tax Incentive for agricultural activities*
- [TA 2017/5](#) *Claiming the Research and Development Tax Incentive for software development activities*
- [TA 2017/5A – Addendum](#) *Claiming the Research and Development Tax Incentive for software development activities.*

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These R&D taxpayer alerts were co-developed with AusIndustry and highlight concerns with claims:

- being made for activities that do not meet the eligibility requirements for undertaking R&D activities
- involving expenditure not related to eligible R&D activities.

These taxpayer alerts align with the [AusIndustry guidance](#) on getting specific claims right released in late 2016.

We are evaluating the effectiveness of these R&D taxpayer alerts and are analysing income tax returns lodged to identify and monitor changes in behaviour. Through our engagements with companies and their advisers we are seeing better awareness of the risks outlined in the taxpayer alerts and a change to correctly claiming of the R&D tax incentive. We expect to see a greater change for the 2017–18 year. However, as companies are yet to lodge their 2017-18 income tax returns (they generally have between October and June after the end of their relevant income year to lodge their tax return) we are unable to measure the extent of this impact at this stage.