

Senate Economics Legislation Committee Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Bill 2019 [Provisions]

Monday 19 August 2019

Questions on Schedule 5

1. Senator GALLACHER: With the movement from \$10,000 to \$100,000, were both of those measures quantified in terms of MYEFO assessments?

Ms Bondietti: The original threshold figures were published in the MYEFO measure in 2016-17.

Senator GALLACHER: I must have missed that; I was probably doing something else.

Ms Bondietti: And then the difference in the revenue was published in the 2018-19 MYEFO papers. So the content in the explanatory memorandum that Bede just referred to are the figures for the measure as it stands before you.

Senator GALLACHER: So it's \$30 million now. What was it before?

Ms Bondietti: I don't have the figure with me. I can provide it on notice.

RESPONSE:

Tax integrity — improve the transparency of taxation debts

Revenue(\$m)	2015-16	2016-17	2017-18	2018-19	2019-20
Australian Taxation Office	-	-	-	-	-
Related expense (\$m)					
Australian Taxation Office	-	1.4	0.1	0.1	-
Department of the Treasury	-	-	15.0	5.0	5.0
Total — Expense	-	1.4	15.1	5.1	5.0
Related capital (\$m)					
Australian Taxation Office	-	0.4	-	-	-

In the 2016-17 Mid-Year Economic and Fiscal Outlook the *Tax integrity — improve the transparency of taxation debts* applied from 1 July 2017 to businesses with Australian Business Numbers and tax debt of more than \$10,000 that is at least 90 days overdue.

This measure was estimated to have a gain to the budget of \$63.0 million in underlying cash balance terms over the then forward estimates period.

In fiscal balance terms, the cost to the budget was estimated to be \$27.0 million over the then forward estimates period. The estimated fiscal cost is represented by \$25.0 million in GST payments to the States and Territories and \$2.0 million in ATO funding. There is no revenue in fiscal balance terms as the tax liabilities have already been recognised.

2. Senator PATRICK: The answer I got from the ATO in terms of their engagement with you in respect of this legislation was, 'It was very collaborative.' That was the response they gave. The IGT said to us that they didn't have any private meetings with you. Sure, there might have been a public consultation; there may have been an opportunity to make a submission, and they did do that. I just want to be really clear here: did you sit down with the IGT in a room somewhere, flesh this out and talk about what might be good and what might be bad as part of the process for developing this legislation?

Ms Bondietti: As part of the process, the Treasury consulted; the Treasury engaged in face-to-face consultations in late 2017 with a group of stakeholders and they also had meetings with the Inspector-General of Taxation's office.

Senator PATRICK: I don't care about other stakeholders. I'm going specifically to the IGT. Did the tax office consult—that is, get into a room and have discussions with the IGT?

Ms Bondietti: The Treasury certainly had meetings with the Inspector-General of Taxation.

Senator PATRICK: Can you provide the dates of those meetings to the committee, please? Mr

Fraser: Yes, we're happy to take that on notice.

RESPONSE:

Date	Activity	Agencies
21 August 2019	Written submission on public consultation on updated legislative instrument	Treasury, IGT
1 May 2018	Meeting	ATO, IGT
19 March 2018	Full day face to face high level design workshop	ATO, IGT
March, April, May 2018	Approximately fortnightly regular ATO project manager and IGT manager catch up meetings	ATO, IGT
28 February 2018	Meeting to discuss the mechanics of the requirement to consult with the IGT.	Treasury, IGT, ATO
2 February 2018	Written submission exposure draft Bill and Legislative Instrument written submission received	Treasury, IGT
14 December 2017	Meeting	Treasury, IGT
8 November 2017	Consultation meeting	Treasury, IGT, ATO
27 February 2017	Meeting	ATO, IGT

In addition to these formal meetings, there were several phone conversations between Treasury and the former Inspector-General of Taxation and his staff throughout the development of the measure.

3. What's the limit on the CDDA scheme—for payments?

RESPONSE:

CDDA claims are administered by agencies in accordance with the Department of Finance's Resource Management Guide No. 409 Scheme for Compensation for Detriment caused by Defective Administration which can be found at https://www.finance.gov.au/sites/default/files/rmg-409-scheme-for-cdda_0.pdf. Paragraph 68 of Resource Management Guide No. 409 states, "There is no financial limit on the amount of compensation payable under the CDDA Scheme."

4. Senator PATRICK: Can I go back to something Mr Fraser said? You mentioned that the IGT had been consulted. You then went on to say that they provided a submission. Their evidence to us was that they were not consulted. They provided a submission but were not consulted through this process.

Mr Fraser: We certainly consulted them on the exposure draft legislation. That was a public process. And, as I mentioned, they actually put in a submission to that.

Senator PATRICK: The answer I got from the ATO in terms of their engagement with you in respect of this legislation was, 'It was very collaborative.' That was the response they gave. The IGT said to us that they didn't have any private meetings with you. Sure, there might have been a public consultation; there may have been an opportunity to make a submission, and they did do that. I just want to be really clear here: did you sit down with the IGT in a room somewhere, flesh this out and talk about what might be good and what might be bad as part of the process for developing this legislation?

Ms Bondietti: As part of the process, the Treasury consulted; the Treasury engaged in face-to-face consultations in late 2017 with a group of stakeholders and they also had meetings with the Inspector-General of Taxation's office.

Senator PATRICK: I don't care about other stakeholders. I'm going specifically to the IGT. Did the tax office consult—that is, get into a room and have discussions with the IGT?

Ms Bondietti: The Treasury certainly had meetings with the Inspector-General of Taxation.

Senator PATRICK: Can you provide the dates of those meetings to the committee, please?

RESPONSE:

This question was answered in the response to question 2.

5. On notice, can you, or someone in Treasury, provide the committee with some details as to instances where officials have been prosecuted for breaches in respect of protected information—other than Richard Boyle, which is a well-known case.

Response

Treasury does not have this information, so has obtained the information from the ATO, they have advised:

In the last 10 years the ATO has referred 16 matters to the Commonwealth Director of Public Prosecutions (CDPP) for offences related to unauthorised access to taxpayer records, of which 11 matters resulted in a guilty outcome.

For the more serious offence of *disclosure of protected information*, there have been 3 prosecutions since 1999. The first matter resulted in a criminal conviction and a custodial sentence for the offender. The second matter resulted in an acquittal, and the third matter is currently before the courts.

6. Senator PATRICK: Can you provide the committee with any analysis that was done by Treasury, any information received from the tax office? Obviously that won't have any identifying information in it about individual entities. Can you provide that to the committee, please?

Response:

Treasury and the ATO undertook analysis to estimate the population of entities that are in the over \$10,000 and over \$100,000 thresholds in the costing of this measure. Treasury notes that the ATO has provided the more up to date data in their response to the committee.

7. **Senator GALLACHER:** So you put a menu up of \$10,000 and \$100,000, with costings or savings on both?

Mr Fraser: I'm happy to take on notice what information we can provide on that very issue.

Response

Tax integrity — improve the transparency of taxation debts

Revenue (\$m) - Fiscal balance terms

	2015-16	2016-17	2017-18	2018-19	2019-20
Australian Taxation Office	-	-	-	-	-
<i>Related expense (\$m)</i>					
<i>Australian Taxation Office</i>	-	1.4	0.1	0.1	-
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In fiscal balance terms, the cost to the budget was estimated to be \$27.0 million over the then forward estimates period. The estimated fiscal cost is represented by \$25.0 million in GST payments to the States and Territories and \$2.0 million in ATO funding. There is no revenue in fiscal balance terms as the tax liabilities have already been recognised.

Tax integrity - Disclosure of business tax debts - amendments

Revenue (\$m) – Fiscal balance terms

	2018-19	2019-20	2020-21	2021-22	2022-23
Australian Taxation Office	-	-	-	-	-
<i>Related expense (\$m)</i>					
<i>Department of the Treasury</i>	-15.0	-	-2.5	-2.5	-

The Government amended the 2016-17 Mid-Year Economic and Fiscal Outlook measure *Tax integrity – improve the transparency of taxation debts* at the 2018-19 Mid-Year Economic and Fiscal Outlook to increase the threshold of business tax debts that can be disclosed to credit reporting bureaus from \$10,000 to \$100,000; introduce a requirement that the Minister consult with the Australian Information Commissioner before changes to the reporting criteria are made; and amend the start date of the measure to the day after Royal Assent of the enabling legislation.

This measure was estimated to have a net cost to the budget of \$50.0 million in underlying cash balance terms over the forward estimates period. In fiscal balance terms, the gain to the budget

was estimated to be \$20.0 million, represented by a decrease in GST payments to the States and Territories.

The net gain to the Budget of the original measure and the 2018-19 amendment was estimated to be \$30.0 million in underlying cash balance terms over the forward estimates period.