

**Joint Committee of Public Accounts and Audit**

**ANSWERS TO QUESTIONS ON NOTICE**

**Australian Taxation Office**

Bi-annual Hearing – 30 March 2009

**Question:** 5  
**Topic:** Proceeds of Crime Act

- 5a. Your Annual Report stated that almost \$30 million was restrained or collected under the Proceeds of Crime Legislation. Is the reported Proceeds of Crime action in the Annual Report 2007-08 undertaken by another government agency on the Tax Office's behalf?
- 5b. The Tax Office has had the legal capacity to use the Proceeds of Crime Act since 2006 to confiscate the proceeds of crime. Does the Tax Office have the internal capacity to use the Proceeds of Crime powers yet?

*(Written questions on notice tabled by Senator Barnett)*

**Australian Taxation Office response:**

- 5a. The \$29.2 million dollars restrained, confiscated and recovered under proceeds of crime legislation in the Annual Report are tax related matters where the investigations were undertaken by the Australian Federal Police and the Australian Crime Commission in conjunction with the Commonwealth Director of Public Prosecutions. These were supported by the Tax Office.
- 5b. The current arrangements with the Australian Federal Police (AFP) are working well and are our preferred approach for future Proceeds of Crime activities. In most circumstances we believe this is the better approach because the AFP have the long standing expertise and experience in conducting proceeds of crime investigations.

The Tax Office was given certain powers under the *Proceeds of Crime Act 2002* (POCA), effective from 5 October 2006. However, these powers are more restrictive than those held by the AFP in that we, unlike the AFP, are unable to take critical action such as the issue of a notice to financial institutions to gain access to financial records or execute proceeds of crime search warrants to gather evidential material or tainted property. As our powers are more restricted, we will still rely on the AFP for assistance in most POCA matters.

We expect that the Tax Office will initiate POCA action on its own only sparingly. In normal circumstances first recourse will be had to our civil recovery processes and where the use of the POCA is required this will generally be undertaken by the AFP.

Nevertheless, to position ourselves in case we do need to use our own POCA powers (for example, where the AFP has other priorities), we have been building our own capability.

Since the Tax Office was given these powers, the following has occurred:

- guidelines for referral and selection of potential POCA cases are being developed
- Case Management Systems and related documentation to support investigations have been developed
- creation of information products to raise general awareness across the Tax Office of the new POCA powers have been developed
- authorised Officers manual to guide the conduct of an investigation and the use of the powers under the Act are being developed
- officers who potentially will exercise these powers have attended training sessions conducted by the AFP (the AFP have indicated that they will continue to provide such training), and
- officers have been seconded to the AFP to build up expertise in undertaking POCA investigations.

## Joint Committee of Public Accounts and Audit

### ANSWERS TO QUESTIONS ON NOTICE

#### Australian Taxation Office

Bi-annual Hearing – 30 March 2009

**Question:** 10

**Topic:** Fitzgerald/Boucher reviews

10a. When the Fitzgerald inquiry is concluded will the Tax Office be releasing any information about the inquiry, for instance, whether the people named in the media did do something wrong?

10b. People's reputations are in limbo over certain matters covered by the Fitzgerald inquiry. Would it be possible to release an abridged version of the report for this purpose?

*(Written questions on notice tabled by Senator Barnett)*

10c. Could you please provide summary of recommendations in the Fitzgerald report and the ATOs internal report and the changes the ATO has made in response. *(PA 47-49, Transcript of 30 March 2009 biannual hearing, Mr Bradbury / Senator Feeney)*

#### **Australian Taxation Office response:**

10a, 10b and 10c.

Please refer to following five documents provided to the Committee addressing the above questions:

1. Commissioner of Taxation's On-line Update: 'Setting a high bar: Update on two reviews commissioned to assure integrity, probity and governance'
2. Boucher Review - Part 1 (*Redacted Report of a Review of Information Handling Practices in the Serious Non Compliance Business Line of the Australian Taxation Office* by Dale Boucher, December 2008)
3. Boucher Review - Part 2 (various Tax Office documents and letter from the Australian Government Solicitor)
4. Boucher Review summation, and
5. Fitzgerald Review summation.