

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 109

**Topic: Tax Laws Amendment (Cross-Border Transfer Pricing)
Bill (No. 1) 2012**

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Senator CORMANN asked:

Senator CORMANN: These next questions are important questions to which we want answers before we are asked to vote on these measures in either chamber. As I said before, you mentioned that this measure has no revenue impact as it is a revenue protection measure. Take this on notice, but please be more rapid in your response than you might otherwise be: what is the amount of tax that is estimated will be collected from the retrospective aspect of this measure, what tax will be forgone if this measure does not proceed, and can the government advise what determinations under the changed transfer pricing laws the ATO is forecasting to make in the next six months—you may or may not be able to do this. You might not be able to answer that question.

Mr T McDonald: We will take those on notice. As I mentioned before the dinner break, one of the challenges in providing an answer to that question is that it requires an assessment to be made on what the current law is and how it applies to these transactions. As many taxpayers have noted, that is a matter that is contested.

Answer:

The ATO has advised that there is \$1.9 billion of primary tax in dispute related to transfer pricing issues in current audits.

It is important to note that the risk to revenue is not the same as the financial impact of not proceeding with the amendments. This is a revenue protection measure and does not raise additional revenue in the Budget.