

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 2013

5 June 2013

Question: **BET 67**

Topic: **Rulings timeframes**

Hansard Page: **102-103**

Senator CORMANN asked:

Senator CORMANN: I have a couple of questions—and that will probably be it from me—in relation to the rulings system. Do you have firm time lines within which ATO staff have to finalise various rulings across various categories, like product rulings, class rulings and private rulings.

Mr Olesen: Yes, we do.

Senator CORMANN: Can you talk us through what those time lines are?

Mr Olesen: I would love to if I had the information at my fingertips, but I am not going to rely on my memory. I am happy to take it on notice.

Senator CORMANN: Having taken that part on notice, can you explain what happens if the time line is not complied with when there is a deadline of, say, 30 days?

Mr Olesen: Internally we monitor those standards that we set for ourselves. For example, if we set ourselves a standard of 28 days to produce a particular audit and we aim to get 85 per cent of our rulings done within that period, we track that regularly throughout the year.

Senator CORMANN: What happens if you do not?

Mr Olesen: If we do not hit it we then focus on the rump of cases. They are usually referred to as aged cases. They are cases that have hit the original time line. We then have processes of calling over those aged cases and keeping a close look on them, with a view to making sure that we do not end up with a tail that drags on into the never-never.

Senator CORMANN: Are you going to provide me that on notice?

Mr Olesen: I do not have the information at my fingertips, but I am happy to provide you with that.

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Answer:

Ruling Type	Standard
Private Rulings	80 per cent finalised within 28 calendar days of receipt of all information from the applicant, or by the date negotiated with the applicant.
Class Rulings	80 per cent finalised and published on ATO Legal Database within 28 calendar days of receipt of all information from the applicant, or by the date negotiated with the applicant.
Product Rulings	80 per cent finalised and published on ATO Legal Database within 28 calendar days of receipt of all information from the applicant, or by the date negotiated with the applicant.

Managing delayed rulings

The ATO seeks to complete private rulings, class rulings and product rulings within 28 days of receiving all the necessary information. In 2012-13, the ATO achieved the following:

Ruling type	Passed	Completed	Percent
Private rulings	7341	7840	93.6
Class rulings	120	125	96.8
Product rulings	15	19	78.9

Private rulings form part of the ATO Service Commitment Framework and results against standards are reported to senior executive committees, on www.ato.gov.au and in the Commissioners Annual Report. Class and product ruling results are reported to senior executive committees.

Where there are delays and the ATO does not meet expected timeframes, we monitor their progress so that we can understand and address the reasons for any delays. Senior staff review aged cases to determine whether alternative approaches could resolve the case in a more timely manner.

With regard to private rulings, legislation provides a process for applicants to follow when there has been a delay in making the ruling. If the Commissioner has not made a private ruling, or has declined to make a private ruling, 60 days after the application was made (extended in certain circumstances), the applicant can give a written notice requiring the Commissioner to make the ruling. If the Commissioner does not make the ruling or otherwise decline to make the ruling within 30 days of the notice being given, the applicant then has objection rights under section 359-50 of Schedule 1 and Part IVC of the *Taxation Administration Act 1953*.

In particular, subsection 359-50(3) provides that the applicant may object against the Commissioner's failure to make the ruling. The applicant must lodge with the objection a draft private ruling (subsection 359-50(4)).

The Commissioner must decide the objection by either making a private ruling in the same terms as the draft ruling lodged with the objection or by making a different private ruling (subsection 14ZY(1A)).

If the Commissioner has not made an objection decision by the end of 60 days of the day on which the taxation objection was lodged (or, if relevant, the day on which a decision granting an extension of time was made), then at the end of that 60 day period the Commissioner is taken to have disallowed the objection (section 14ZYB).