

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

2014 - 2015

**Department/Agency: ATO**

**Question: SBT 1829-1832**

**Topic: Legal costs**

**Reference: written - 31 October 2014**

**Senator: Ludwig**

**Question:**

Since Budget Estimates in June, 2014:

1829. List all legal costs incurred by the department or agency.
1830. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external.
1831. List cost spend briefing Counsel, broken down by hours spent briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial).
1832. How was each piece of advice procured? Detail the method of identifying legal advice.

**Answer:**

1829. The ATO's, including Tax Practitioner Board (TPB), legal services expenditure from 1 June to 31 October 2014 are provided in the table below.

<b>Expenditure</b>	<b>ATO (\$) (GST exclusive)</b>	<b>TPB (\$) (GST exclusive)</b>	<b>Total value (\$) (GST exclusive)</b>
<b>External legal services</b>			
Professional fees	6,918,791	149,816	7,068,606
Counsel fees	4,572,579	39,984	4,612,563
Disbursements	6,983,305	16,139	6,999,444
<b>Total external legal services</b>	<b>18,474,674</b>	<b>205,939</b>	<b>18,680,614</b>
<b>Internal legal services</b>			
Total direct staff costs and salaries	9,811,261	462,719	10,273,980
Total overhead costs	4,455,459	282,726	4,738,185
<b>Total internal legal services</b>	<b>14,266,720</b>	<b>745,445</b>	<b>15,012,165</b>
<b>Total legal services expenditure</b>	<b>32,741,394</b>	<b>951,384</b>	<b>33,692,779</b>

Notes for table above:

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- External legal services expenditure excludes costs awarded against the ATO, external expenditure on compensation and the ATO's Test Case Program legal costs.
- Professional fees include fees charged by external legal services providers for the work undertaken by their solicitors.
- Counsel fees include panel counsel briefings and direct briefings (ATO and the Tax Practitioners Board (TPB)).
- Disbursements includes court filing fees, summons fees, expert witness costs, indemnity fees (payments of costs incurred by lawyers or other professionals where the ATO has agreed to provide an indemnity), legal costs for settlement of cases (payments of third party legal costs where a case has been settled) and fees associated with mediating legal disputes.
- Internal legal services expenditure includes ATO (Review and Dispute Resolution and General Counsel) and TPB internal legal services expenditure. We manage tax litigation (under Part IVC of the Taxation Administration Act 1953), debt litigation, general law and freedom of information. There are areas within the ATO where employees perform functions of a legal nature (for example preparation of writs, statutory demands and bankruptcy notices) and provide interpretative advice on the more complex areas of tax and superannuation law. The cost associated with the legal component in these areas is not included.
- Direct staff costs includes direct salary costs, superannuation costs, leave entitlement costs and other salary related staff costs for areas mentioned above.
- Overhead costs include direct overhead costs such as staff travel costs, training and development costs, stationery and other miscellaneous costs such as electronic and hard copy legal information (online database and journals) and indirect overhead costs such as desktop services, accommodation, recruitment services and communication technology services costs for areas as mentioned above.

1830. Legal advice for the ATO is provided by:

- Law firms engaged by the ATO
- Counsel engaged via law firms
- Counsel engaged directly by the ATO (direct briefs), and
- ATO in-house lawyers.

A further breakdown of this information would be an unreasonable diversion of departmental resources.

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1831. Counsel break down from 1 June to 31 October 2014

	<b>Total (\$)</b> <b>(GST exclusive)</b>	
<b>Total Counsel</b>	<b>4,612,563</b>	
Male	3,421,671	74%
Female	1,190,892	26%
<b>Total direct brief</b>	<b>1,479,120</b>	
Male	1,169,838	79%
Female	309,282	21%
<b>Total panel brief</b>	<b>3,133,443</b>	
Male	2,251,833	72%
Female	881,609	28%

Notes to table above:

- Male/female ratios for AGS panel briefs are based on 2013-14 percentages. AGS provides a report to the ATO at the end of the financial year for Office of Legal Services Coordination reporting purposes.
- The cost of briefing counsel is broken down by the manner of engagement. Counsel is either engaged indirectly through a panel firm of solicitors on behalf of the ATO or the ATO directly brief counsel.
- All engagement of counsel was by or on behalf of the ATO – i.e. Departmental.

A further breakdown of this information would be an unreasonable diversion of departmental resources.

1832. Please refer to [tenders.gov.au](http://tenders.gov.au) for the published procurement method. Please note that counsel are not engaged through the tender process and are briefed by the ATO to provide advice or appear on behalf of the Commissioner in accordance with the *Legal Services Directions 2005*.