

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

**Treasury Portfolio**

Supplementary Budget Estimates

2015 - 2016

**Department/Agency:** Australian Taxation Office  
**Question:** SBT 197-99  
**Topic:** Staffing - Employment of Non-Australian Citizens  
**Reference:** written - 30 October 2015  
**Senator:** Ludwig, Joe

**Question:**

I refer you to section 22 (8) of the Public Service Act 1999 which says:

"An Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so."

197. Does the department have guidelines or similar to assist Agency Heads to assess when it is appropriate to hire non-Australian citizens? If no, do individual agencies have their own guidelines? If yes to either:
- a. Please provide a copy.
  - b. When did they come into effect?
  - c. Can Agency Heads decide to go against the advice? If yes, under what circumstances?
198. Are Agency Heads required to provide a reason to anyone for hiring non-Australian citizens? If yes:
- a. Who are they required to report the reason to?
  - b. Does this reporting happen before or after the hire has been made?
  - c. Is this reason provided in writing? If no, how is it provided?
  - d. Can you please provide a list of reasons that have been used since the Federal election in September, 2013.
199. Are there any provisions to over-rule a Head of Agency's decision to hire a non-Australian citizen? If yes:
- a. Who can over-rule this decision?
  - b. Under what circumstances can it be over-ruled?
  - c. How many times has this occurred since the Federal election in September, 2013.

**Answer:**

197. a. Yes. The Australian Taxation Office policy on Recruitment and selection Chief Executive Instruction 2015/05/01 and the Conditions of engagement guidelines. Refer to attachments.
- b. The policy came into effect on 1 July 2015, when it replaced the Conditions of engagement Corporate management procedure and instruction 2009/01/01.
- c. No.

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198. a-c. The delegates for engaging non-citizens are Second Commissioners and National Program Managers. The delegation cannot be exercised without first obtaining written approval from the Deputy Commissioner ATO People.
- d. The essential skills, knowledge or qualifications required for the job were so specialised that they could not be sourced from applicants who were Australian citizens.
199. No.