

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Australian Taxation Office

Question No: 261

Topic: Curtis Island

Reference: Written (19 October 2016)

Senator: Ketter, Chris

Question:

- 1) Can the ATO update the Committee on how many tax agents incorrectly advised Curtis Island employees on deductions?
- 2) Why is it that so many taxation agents have made the same mistake at the same time?
- 3) On what basis is the ATO stating its position?

Answer:

- 1) The ATO has identified approximately 1,380 agents who represent employees who have made incorrect claims.
- 2) The ATO is continuing to improve the community's understanding of work-related expense deductions but this is an area where taxpayers and their agents often make mistakes. The individualised nature of work-related expenses makes it difficult to determine entitlements as amounts may be deductible depending on the circumstances of each case.

In this circumstance, incorrect claims were exacerbated by:

- a local tax agent publicly, but incorrectly, challenging the application of the law
- employees not being completely overt about their working conditions when preparing their returns with their tax agent
- market competition being created due to clients migrating to agents who were prepared to lodge incorrect returns
- "crib room" chatter where employees discuss the content of their returns and a belief that the amount of tax paid was excessive
- some employees receiving their notice of assessments and refunds prior to the ATO commencing corrective action.

The incorrect claims made by each client and tax agent were similar but not the same.

- 3) The ATO position is based on applying the relevant taxation laws and precedent from case law to the facts and evidence.

The ATO obtained information from Bechtel (the employer) relating to the duties and employment conditions of Curtis Island employees and amounts of allowances paid and undertook a series of visits to a large selection of tax agents in Gladstone, Brisbane, the Sunshine Coast and Sydney to gather evidence and understand the nature of the expense claims being made. Third party providers (including ferry and kiosk operators) were also consulted regarding the services they provided for employees.

The evidence gathered by the ATO was corroborated across these sources and reaffirmed by a number of employees during initial compliance activities carried out by the ATO.

