

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Additional Estimates 14 February 2006)

Question **AET 144**
Topic: **Range of tax treatments on the closure of a business**
Hansard Page: **E74**

Senator **Sherry** asked:

I would like you to take on notice what is the range of tax treatments on the close of a business. I suspect we can reasonably apply that to any circumstances, including the circumstances of the Beaconsfield mine closure.

CHAIR—I do not think this witness can answer that. What you take out of the information that is provided will no doubt be used by you.

Senator SHERRY—Yes, but it is quite reasonable to provide the information of tax treatment for employees' payments on the close of a business.

CHAIR—That is a de facto way.

Senator Coonan—That is a generic matter.

Senator SHERRY—It is a generic matter; that is right.

CHAIR—I do not think that you could then extend it and say that we can therefore assume that would apply to these people.

Senator SHERRY—Well, the tax office can't.

CHAIR—I think you will take out of it what you want.

Answer:

Payments made by a business, administrator or liquidator of the business to employees following closure of the business can take various forms. The tax treatment of those payments will vary according to the nature and circumstance of each payment.

Some payments made in consequence of the termination of employment will qualify for special tax treatment as eligible termination payments (ETPs). Examples are payments made in respect of unused rostered and sick leave and in lieu of notice.

Other payments made to employees on the closure of the business are not eligible termination payments – for example, payments for unused annual or long service leave or salary and wages. The tax treatment of these payments can vary, depending on the nature and circumstances of the payment.

Information about payments to employees on the closure of a business is necessarily quite detailed. The Tax Office publication *Eligible termination payments – an employee's guide to lump sum payments from your employer* (Form No. NAT 2700) provides this detail.