

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Additional Estimates 14 February 2007)

Question: **AET 149**
Topic: **Unpaid Superannuation Guarantee - prosecutions**
Hansard Page: **E101(a)**

Senator **Sherry** asked:

How many prosecutions in the last financial year has the ATO actually commenced with respect to unpaid superannuation guarantee?

Ms Vivian—I would need to take that on notice.

Answer:

The Tax Office takes two types of legal action against employers concerning unpaid superannuation contributions: action for failing to provide information and action for outstanding Superannuation Guarantee Charge liability. It should be noted that legal action is only taken in appropriate circumstances. These figures do not reflect the total number of superannuation guarantee cases the Tax Office pursues.

Failing to provide information

In 2005-06:

- (a) 196 employers had summonses issued to them as a result of non compliance with notices issued under section 77 of the *Superannuation Guarantee (Administration) Act 1992* (section 77 notices).
- (b) 242 employers were successfully prosecuted as a result of non compliance with section 77 notices. (Note: some employers prosecuted in 2005-06 were issued a summons prior to 1 July 2005.)

Section 77 notices require a person to provide information in writing to the Tax Office by a certain date for the purposes of administering the *Superannuation Guarantee (Administration) Act 1992*. The Commissioner issues a section 77 notice to obtain information to establish if an employer has a Superannuation Guarantee shortfall. A person who refuses or fails to provide information can be prosecuted in accordance with the *Taxation Administration Act 1953*.

Outstanding Superannuation Guarantee Charge liability

In 2005-06, the Tax Office commenced legal action against 243 employers for outstanding Superannuation Guarantee Charge liability.

This figure for legal action includes garnishee notices, statutory demands and other Tax Office legal actions which are subject to court processes.