

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

23 – 24 February 2011

Question No: AET 154

Topic: Compensation Claims Lodged for Delays

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Senator Xenophon asked:

Senator XENOPHON—I will put my question about compensation claims lodged for delays on notice. I do not know whether that is a different category. Perhaps Ms Granger can assist on that. Is there is a distinct category of compensation claims being lodged with regard to delays in returns being processed? I mean in terms of consequential loss. There is the interest payment. That is one aspect, and that is a straightforward interest payment. But there is another category, isn't there, for compensation for any consequential or other losses?

Ms Granger—Certainly, as some of the claims included that ground, you have to specifically have a different process for that.

Senator XENOPHON—Sure.

Ms Granger—We had 104 claims for compensation.

Senator XENOPHON—Was that for 2010?

Ms Granger—Those statistics are as at 17 January this year.

Senator XENOPHON—For the current year?

Ms Granger—Yes.

Mr D'Ascenzo—Those are the total number of complaints we have had.

Senator XENOPHON—I am sorry, compensation claims.

Mr D'Ascenzo—Compensation claims.

Senator XENOPHON—Can you provide details of how that compares with the 2009 and 2010 years, given there is that specific category of compensation as distinct from the interest payments.

Mr Butler—We may not be able to make that comparison. These were compensation claims in respect of a new system. Of course, we did not have new systems in the earlier years. We can certainly give you the detail about the number of claims made for compensation from taxpayers and tax agents.

Mr D'Ascenzo—We could probably give you the details of any that we have actioned as well. I do not think we have actioned any in a way that the claim has been substantiated.

Answer:

Claims for compensation are considered on an individual basis and on their merits, in accordance with the *Compensation for Detriment caused by Defective Administration* (CDDA) Scheme. Under the CDDA guidelines, compensation is only payable if there is no other remedy available (paragraph 23). In cases arising as a result of delayed refunds, there is generally another remedy in the form of interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*. The ATO has been paying, and will continue to pay, interest on any delayed refunds in accordance with that Act at the rate set by Parliament (currently 4.92%) for refunds delayed in excess of 30 days. This is a statutory remedy and applies to all delayed income tax

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refunds. The CDDA Scheme is not available to 'top up' a taxpayer's statutory entitlement of this kind, but can provide compensation where defective administration causes a compensable loss that goes beyond the time value of money.

The category, claims for compensation in which the impact of the Change Program is to be considered, only came into existence in the 2009-10 financial year. Consequently there are no statistics available for the 2008-09 financial year.

For the 2009-10 financial year and 2010-11 financial year to 1 April 2011, the ATO has received a total of 128 claims for compensation from taxpayers and tax agents in which the impact of the Change Program was considered. Of these claims, 95% (122) have been finalised. The breakdown is detailed below.

Total claims received during the 2009-10 financial year and the 2010-11 financial year to 1 April 2011				
Claimants	Claims received	Claims finalised	Claims paid	Claims on hand
Taxpayers	83	77	5	6
Tax agents	45	45	3	0
<i>Total</i>	128	122	8	6

72 (94%) of the 77 finalised claims lodged by taxpayers (to 1 April 2011) in this category have been found to be ineligible for compensation. This was for two principal reasons: the claim did not demonstrate defective administration on the part of the ATO and interest for delayed refunds had been paid to the taxpayer.

42 (93%) of the 45 finalised compensation claims lodged by tax agents (to 1 April 2011) in this category were ineligible for compensation as the claim did not demonstrate defective administration on the part of the ATO. Even if there had been defective administration, the information provided with these claims generally did not substantiate a compensable loss.

8 (7%) of the 122 finalised claims in this category have been accepted and compensation paid. In none of these cases was there a finding of defective administration in relation to the implementation of the Change Program itself. Compensation was paid in these cases because the ATO found defective administration in relation to a particular issue (e.g. payment of a refund to the wrong tax agent) unrelated to the Change Program and a compensable loss was incurred. In some circumstances, these losses may have been exacerbated by delays arising from the Change Program, without being directly caused by it.

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The detailed breakdown of this category of claims for 2009-10 financial year and the 2010-11 financial year (to 1 April 2011) is as follows:

As at 1 April 201 1	2009-2010 FY			2010-2011 FY (to 1 April 2011)		
	Taxpayer Claims	Tax Agent Claims	<i>Total</i>	Taxpayer Claims	Tax Agent Claims	<i>Total</i>
Received	39	29	68	44	16	60
Finalised	39	29	68	38	16	54
Paid	1	0	1	4	3	7
On Hand	0	0	0	6	0	6

The ATO does not currently break down these statistics further into claims relating to delays being processed and claims relating to other issues.