

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

23 – 24 February 2011

Question No: AET 24

Topic: OUTSTANDING TAX DEBTS – GARNISHEE ORDERS

Hansard Page: Written

Senator Ryan asked:

1. At present, how much tax debt is outstanding from small businesses with less than \$2 million in turnover?
2. How many garnishee orders did the ATO make during the second half of 2010?
3. How many garnishee orders have been made to Queensland businesses since December 2010?
4. How many garnishee orders have been made to businesses in designated flood affected postcodes?
5. How many penalty notices have been issued to businesses that have been permitted a repayment plan?
6. How many businesses has the ATO put into liquidation or administration due to the failure to pay tax debts?
7. How many times since 1 July 2009 has the ATO initiated litigation against any small business with less than \$2 million in turnover due to the failure to pay tax debts?

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Answer:

1. At 31 December 2010, there were 659,233 small businesses with a total collectable debt of \$8.55 billion. This represents a reduction of approximately 15% in the number of small businesses with a tax debt and approximately 9% in the value of collectable debt owed by small businesses since 1 July 2010.

Small businesses are defined as those businesses with an annual turnover less than \$2 million.

2. Between 1 July 2010 and 31 December 2010 the ATO issued over 7,500 garnishee notices.
3. Between 1 January 2011 and 28 February 2011 the ATO issued 40 garnishee notices in relation to businesses with a Queensland address.
4. Between 1 January 2011 and 28 February 2011 the ATO issued 19 garnishee notices in relation to businesses located in a designated flood affected area.

The ATO suspended its debt collection activities for taxpayers in specific postcodes as soon as the postcode was designated flood affected.

Before the specific postcode was designated as flood affected there were 18 garnishee notices approved for issue. Of these:

- (a) 14 were issued as 'point in time' notices, which expire immediately a bank account is checked for available funds. These notices could not be withdrawn before the banks took action.
- (b) four were standard notices. Three of these notices were subsequently withdrawn and one is currently under review.

One garnishee notice was authorised to continue after the specific postcode was designated as flood affected. In this case it was determined that there was a significant risk to the revenue due to potentially fraudulent activity.

5. The ATO does not issue director penalty notices while a company is complying with a payment arrangement for all their unpaid tax and superannuation debts.
6. Between 1 July 2010 and 31 December 2010 there were 4,926 company liquidations initiated by creditors. The ATO initiated 611 of these. Over the same period, the ATO was also a creditor in 2,417 company liquidations initiated by other creditors.

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The ATO has not put any businesses into administration.

7. Between 1 July 2009 and 31 December 2010 the ATO initiated 9,586 legal actions in relation to small businesses. Major legal actions were:
- (a) summonses/claims – the assertion of a right or a demand to a right to property or to a remedy, a cause of action, the grounds in pleadings upon which relief is claimed.
 - (b) judgments – any order of the court for the payment of an amount of money or costs.
 - (c) bankruptcy notices – enables a creditor to demand payment of the debt or a satisfactory arrangement within 21 days of service of the notice. Failure to comply results in the debtor committing an act of bankruptcy.
 - (d) creditor's petitions – an application to obtain a court order to bankrupt a debtor and appoint a trustee to manage the debtor's estate. The filing of a creditor's petition must be done within six months of the act of bankruptcy.
 - (e) winding-up applications – made to the Federal Court or Supreme Court for an order that the company be wound up, usually following non-compliance with a statutory demand for payment under s459E of the *Corporations Act 2001*.