

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

23 – 24 February 2011

Question No: AET 42

Topic: HIGH COURT RULING ON GST AND FOREIGN CURRENCY

Hansard Page: Written

Senator Ryan asked:

1. When will the ATO provide a decision impact statement on the high court decision regarding the GST treatment of foreign currency?
2. How much revenue has the ATO generated from GST that has been paid on the purchase of foreign cash at airports and other locations, that the High Court recently ruled were not transactions that should incur goods and services tax?
3. Is the ATO liable to refund GST that has been paid on the purchase of foreign cash? What procedures are in place to refund GST that has been paid on these types of transactions? What is the ATO's liability on this issue?
4. Has the ATO paid refunds in the past following court decisions regarding the incorrect application of taxes on some goods or services?

Answer:

1. The Decision Impact Statement on *Travelex Ltd v Commissioner of Taxation* was publicly issued on 20 December 2010 and is available on the ATO Website (www.ato.gov.au).
2. There has been no revenue generated from GST paid on purchase of foreign cash.

Prior to the decision in the *Travelex* case, supplies of foreign currency at airports and other locations were treated as input taxed for GST purposes. The GST consequences of this treatment were that a registered entity:

- did not charge GST on the supply of foreign currency to customers; but
- was not entitled to claim the GST paid on costs incurred in making those supplies (for example, costs of operating currency booths).

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The outcome of *Travellex Ltd v Commissioner of Taxation* is to now treat supplies of foreign currency at airports and other locations as GST-free. That means a registered entity will continue to not charge GST on the supply of foreign currency but will now be entitled to claim the GST paid on costs incurred in making those supplies.

Accordingly, affected registered entities have under claimed the GST paid on costs related to making those supplies in the past.

3. As GST has not previously been charged on the supply of foreign currency, the issue of refunding the GST to purchasers does not arise. However, there are established protocols for affected registered entities who will be entitled to lodge revised Business Activity Statements (generally going back four years) to claim as a refund the GST paid on the costs incurred in making supplies of foreign currency.

The ATO estimates that the total refund liability is approximately \$25 million for the past four years and will be approximately \$10 million per annum going forward.

4. Yes, there are established procedures and protocols for addressing such situations.