

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Budget Estimates 30 May 2006)

Question **BET 139**
Topic: **OECD REPORT**
Hansard page **Written Question**

Senator **Ludwig** asked:

The OECD Report, 'The Australia Phase 2 Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions', states that the ATO's response during the preparation of the Report was that the ATO's current view is that the payment of foreign bribes is not a significant occurrence in Australia. Accordingly the claiming of tax deductions for such payments has not been identified as a risk worthy of this specific targeting in the ATO's Compliance Program 2004-2005 as at 84 on page 27.

1. Can the ATO explain for 04/05 and 06/07 whether this statement is still the case?

Answer: The 2006-07 Compliance Program refers to claims for deductions in respect to bribery and facilitation payments as a specific compliance risk.

2. Is the ATO aware of any instances of foreign bribery being claimed as a deduction?

Answer: In May, the Tax Office announced that it will be checking if large businesses with particular international profiles have sound systems in place to detect international facilitation payments. The 2006-07 Compliance Program, launched in August 2006, states that the Tax Office will review "significant, one-off, regular or embedded payments by Australian businesses to entities in jurisdictions where bribes or facilitation payments are said to be 'part of doing business'". One review is currently underway to determine if certain payments comply with the provisions of the Tax Act so that only legitimate expenses are allowed as deductions.

3. What was the estimated value of those claims?

Answer: Subject to outcome of the review.

4. Were those claims granted?

Answer: See answer to questions 2 and 3.

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5. What is the total value of the facilitation payments claimed as deductible?
Answer: This information is not required to be separately reported to the Tax Office.
6. Is the notation of a facilitation payment required to be submitted to the ATO before it grants deductibility for it?
Answer: No.
7. Has the ATO changed the practice since the OECD reports publication or is it planning to do so?
Answer: In giving effect to the recommendations of the OECD Australia Phase 2 Report, the Tax Office is proposing to include a new label on the 2007 company income tax return requiring reporting of facilitation payments. This will require Tax Office and business system changes.
8. Is the ATO drafting interpretative guidelines or advice on facilitation payments as this area is highly technical according to item 89 of the OECD Report?
Answer: The Tax Office has completed in-house guidelines to assist auditors in understanding and dealing with the bribery of foreign public officials. These guidelines provide officers with increased awareness, advice, guidance, information and practical ways to identify bribe transactions.
9. Has the ATO ever been aware of unlawfully claimed deductions for facilitation payments or of deductions for foreign bribery?
Answer: See answer to question 2.
10. Have they forwarded these to the AFP for investigation?
Answer: Not applicable.
11. If not, why not?
Answer: Not applicable.
12. How many instances were there?
Answer: Not applicable.

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13. At item 93, with respect itself initiated disclosures the internal guidelines state that tax auditors should contact a SNC (Serious Non-Compliance) team leader, has this been amended to make it a must contact?

Answer: The Tax Office's internal Bribery Guidelines specify that it is imperative to refer cases of suspected bribery to Serious Non-Compliance.

14. Is the ATO aware of any instances of false accounting relating to foreign bribery?

Answer: One review is currently underway to determine if certain payments comply with the provisions of the Tax Act so that only legitimate expenses are allowed as deductions.