

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

Budget Estimates 30 May

Question: **BET 53**
Topic: **Personal Services Income**
Hansard Page: **Written question**

Senator SHERRY asked:

Aim –

To find out why some independent contractors have not come under the Personal Services Income earner regime.

Background –

Personal Services Income is income that is mainly a reward for an individual's personal efforts or skills (Attachment A). In response to questions asked of the Tax Office in Supplementary Budget Estimates in November 2005, the Tax Office said figures extracted at 11 November 2005 indicate that for the last full year of lodgements (2004) there were approximately 273,000 individuals and 30,400 entities who declared the receipt of Personal Services Income in their returns (Attachment B). ABS statistics show in a February 2006 publication that there were 942,300 "on account workers" who are independent contractors (Attachment C). The majority have not come under the Personal Services Income regime. The question is why and did they make use of the exclusions?

- (1) *According to ATO figures from November 2005, approximately 273,000 individuals and 30,400 entities who declared the receipt of Personal Services Income in their returns. How many of these individuals and entities identified themselves as being independent contractors?*

Answer:

All of the taxpayers included in the Tax Office figures were in receipt of personal services income that is, income that is mainly a reward for an individual's personal efforts or skills. The term "independent contractor" does not form part of the personal services income legislation or taxation legislation generally.

- (2) *How many were identified as being independent contractors through auditing?*

Answer:

Up to the 30 June 2006, the Tax Office had conducted 335 personal services income reviews for the 2005-06 year. These reviews resulted in an additional amount of tax and penalties of \$2.4 million being payable. Adjustments were made in 46% of the cases examined as a consequence of non-compliance with the personal services income legislation, with the majority found not to have satisfied the requirements of the results test. The high rate of adjustments is not reflective of the general level of non compliance but rather, is the result of targeted audit case selection practices.

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- (3) *According to ABS statistics from February 2006 there were 942,300 "on account workers" who are independent contractors. Why is there a gap between the number of contractors and the number of individuals and entities who declared the receipt of PSI in their returns?*

Answer:

The figures provided by the Tax Office in a question taken on notice at Supplementary Budget Estimates hearings in November 2005, represent those taxpayers (individuals and entities) who were in receipt of personal services income and who completed the relevant personal services income labels in their tax returns. It is not possible to directly compare these figures with the figures for "on account workers" published by the Australian Bureau of Statistics (ABS).

For example:

- there are a large number of home based businesses which may receive only a very small amount of contract income in any year which can distort the figures. Many of these taxpayers may not need to lodge tax returns as their income is below the tax free threshold; or
- some taxpayers in receipt of personal services income may have returned this income at other business income labels on their income tax returns.

The main reason why the majority of independent contractors have not come under the Personal Services Income regime is because they are in receipt of income from a business structure, rather than the provision of personal services

- (4) *How many of the 638,900 contractors not declaring the receipt of Personal Services Income in their returns should be but are making use of exclusions?*

Answer:

The Tax Office does not agree that there are 638,900 contractors who fail to declare their income as personal services income. As indicated at 3 above, it is not possible to directly compare the ABS figures with the number of taxpayers who complete the personal services income labels on their tax returns.

- (5) *How is the ATO proposing to widen the net, to catch some of these contractors?*

Answer:

The Tax Office has maintained a focus on personal services income as part of its overall compliance program for 2005-06. The information provided at 2 above indicates the level of activity undertaken in the 2005-06 year. The Tax Office plans to undertake 270 personal services income reviews during the 2006-07 year.

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(6) *What is the annual benefit to revenue from the Personal Services Income regime?*

Answer:

It is not possible to estimate personal income tax collections attributable to the alienation measure for various reasons. These include:

- the inability to adequately identify those taxpayers that have changed behaviour as a direct result of the measure. For instance, rather than showing personal services income, the income may now show as salary and wages income and deductions will not in whole be distinguished from salary and wage deductions; and
- the inability to accurately determine those taxpayers that did not enter into arrangements that would be caught by the alienation measure due to its introduction.

Similarly, we are unable to distinguish the amount of company tax attributable to the alienation measure from the general company tax revenue base for the above reasons.