

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Budget Estimates 29 May 2007)

Question **BET 100**
Topic: **ANAO report –administration of CGT in the individuals market segment**
Hansard Page: **E60-62**

Senator **Murray** asked:

I would like to ask you about the Australian National Audit Office *Report into the administration of capital gains tax compliance in the individuals market segment*. That is audit report No. 16 of 2006-07. As you know, Commissioner, the ATO has the capital gains tax project, which commenced in July 2004 and is a four-year project focusing on capital gains arising from real property and share disposals. My take on that is that essentially the tax office felt, and the government supported you in that feeling, that you were being duded; people were not coughing up all the tax they should. Page 61 of that report, paragraph 3.46—you probably do not have it before you, so I will read it—refers to a figure. It states: Figure 3.1 indicates that during 2005-06 approximately 70 per cent of individuals with real property disposals in the data sample used had their identities partially matched with ATO records and were subsequently available to be risk assessed for administrative action (although consistent with 2004-05 these individuals were only matched to a low or medium level of confidence). Of these, a significant proportion, approximately 74 per cent, did not warrant further action and were being risk assessed at the time of the audit.

I think that indicates that we still have a long way to go in this matter. **What I would like from you, if you would not mind, is a brief encapsulation of where we are and what the weaknesses are that still need to be addressed, and then we can ask some further questions.**

Ms Granger—We do not have the specific information with us here. In very general terms in relation to the data- matching projects that that was reviewing, from memory one of the issues for us is the quality of data from the various registries and land titles acts.

Senator MURRAY—Are you referring to the states and territories registries?

Ms Granger—Yes. We have been working through a process of refining and improving that. It is one of those areas where we expected that, as we went along, we would be able to improve it.

Senator MURRAY—Are there any states that are must better than others?

Ms Granger—I do not have an answer to that question here. ...

Senator MURRAY—To use the phrase Senator Faulkner likes, my sense of things is that there is a motza of money out there to be raised in this area. **Is there any limitation on how far you can go back? Is this one of those circumstances under part 4A where you can go back as long as you like? Or are you restricted back six years or what?**

Ms Granger—The normal restrictions would apply in most of these cases without generalising it, absolutely. ... I am not sure that we would be applying part 4A, for example in many of the cases, although there are some penalties in some. ...

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Budget Estimates 29 May 2007)

...

Ms Granger—*In 2006, 6,000 risk reviews and audits resulted in \$40 million in revenue being raised. In 2007 we are conducting a further 6,000 risk reviews and audits. That is in that market. That does not include the micro business market, which we are also looking at as well.*

...

Senator MURRAY—**Is that less or more money than you would expect?** Six thousand is a lot of people for raising \$40 million.

Ms Granger—*I do not know how that went against our estimate of targets. I would have to check. That for you. I do not have the information with me.*

Senator MURRAY—I do not recall seeing in either your annual report or in budget figures – I might not have remembered – **an estimated of expected revenue increases from this project. Is there one out there?**

Ms Granger—*I would have to check.*

Senator MURRAY—**When you come back to the committee, I wonder if you could come back not with just a paragraph but a decent summary of the whole area.** I tell you why I am asking. When I read these reports I get a sense of things; I read the polite language of the audit office and I think they are reflecting real concern. There are seven recommendations that you agreed with. But the substance of the report indicates that you have a long way to go. If part 4A does not apply, to me that means a massive loss of revenue, because these problems go back a long way. The question to me would be whether the ATO might want the government to look at any legislative measures to address this area. I think compliance is very low. That is my sense of it.

...

Senator MURRAY—That is why I asked about the relationship between the 6,000 and the \$40 million.

...

Senator MURRAY—Apart from my being concerned when I read this report, one of the reasons I wanted to raise it with you is that I have seen, as you would have, an acreage of reports on the effect of the government's superannuation reforms on a very high sale of assets and their shifting into superannuation funds. ...

...

Senator MURRAY—Do you have the resources to deal with this expected surge in activity?

...

...

Senator MURRAY—Because the records are so frequently held with respect to asset purchases in state registries, what incentive is there for them to help you? Why would they invest moneys on improving their data availability for your purposes? Has the federal government provided money to the states and said, 'Do this for us. Here is the money', knowing of course you will get a better return if you do so from a capital gains tax perspective?

...

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Budget Estimates 29 May 2007)

Answer:

Property Data

The Australian National Audit Office's audit of *The Administration of Capital Gains Tax Compliance in the Individuals Market* was undertaken in the 2005/06 financial year reviewing data relating to the 2004/05 and 2005/06 financial years.

In July 2004 the Tax Office received additional funding for four years in order to improve compliance with capital gains tax provisions. Part of this funding was for the collection of data from both State Revenue Offices and Land Titles Offices and the development of a technology system to automate the matching of this data with income tax returns. The development of this system has recently been completed.

The Tax Office now has property data for all States and Territories. Over the past 12 months the Tax Office has received data (for the first time) for South Australia, Tasmania and Northern Territory.

The quality of data received from external sources has significantly improved over the past 3 years. Additionally the Tax Office has improved the systems and processes used to match this data to tax returns.

The data received from State Revenue and Land Titles Offices does not have a unique identifier such as a Tax File Number or Australian Business Number, and this reduces the effectiveness of matching activities. The Tax Office undertakes various manual processes to match data that is not able to automatically match with a degree of confidence in the initial process.

The data quality varies from state to state.

Targeted Audit Program

Following the matching process, taxpayers who have already returned a capital gain on the disposal of the identified property are removed from the potential audit case numbers.

6,000 higher risk cases are selected for audit and an additional 6,000 medium risk cases receive a pre lodgment awareness letter. This letter issues to taxpayers who have most likely made a capital gain during the prior year. This letter is sent to taxpayers prior to the lodgment of their return to ensure they include the capital gain in their income tax return.

Of the 6,000 cases selected for audit and review not all taxpayers will have adjustments made to their income tax returns.

The general anti avoidance provisions of Part IVA are not usually applicable to capital gains tax individual cases. The Tax Office has found that taxpayers often fail to report a gain because they do not understand the capital gains tax legislation and the strategy is aimed to increase awareness of the requirement to return capital gains on the disposal of assets.

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Budget Estimates 29 May 2007)

The income tax legislation provides that capital gains tax adjustments can be made to the current year and three prior years. However, if the taxpayer is impacted by the Review of Self Assessment legislation this period is reduced to a two year period. For these taxpayers, we select and deal with cases in a way that allows us to finalise them within the shorter period of review.

Results from Active Compliance against Target

The table below sets out capital gains tax targets and results of Tax Office audits and reviews:

Income Year	Targets		Results	
	Cases	Revenue	Cases	Revenue
2006/2007	6,000	\$34.0 million	Not yet available	
2005/2006	6,000	\$32.6 million	9,500	\$40.0 million
2004/2005	6,000	\$14.8 million	3,354	\$30.4 million

Compliance Strategy to Address Non Compliance – Sale of Assets into Superannuation.

For 2007/2008 the Tax Office will look at superannuation contributions to check:

- contributions are supported by income sources;
- capital gains tax on sale of real property or shares have been addressed;
- transfers between closely held entities and Self Managed Superannuation Funds have been correctly accounted for; and
- interest on borrowings to invest in superannuation is not claimed as a deduction.