

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates, 2 June – 4 June 2009

**Question: bet 169**

**Topic: ASIC Fees & Charges**

**Hansard Page: E90**

**Senator Ronaldson asked:**

**Senator RONALDSON**—I do not know whether or not you have it available, but can you provide me with a table of ASIC fees and charges, including fee-for-service charges, filing charges and annual or periodical fees?

**Mr D'Aloisio**—Yes, we can. I should mention of course that in a strict sense they are fees that are levied by government that ASIC collects, so we are simply a collection agent. We do not actually set those fees and we certainly do not specifically tie them to fee for service and so on. But we can provide you with the full schedule of that.

**Senator RONALDSON**—Can you break down the fee revenue by business size; is that possible?

**Mr D'Aloisio**—The revenues are collected for specific functions, if you like, so there are filing fees. For example, a significant percentage of those fees would—from memory—come from the registration of companies. They would come from filing certain forms that companies are required to lodge each year. For example, the annual return would have a fee. We can list those and give you a break-up of how the percentage of fees relate to those. We can also then give you separately the functions that ASIC performs and what its expenditure is, but the two exercises are not interrelated. They are two separate exercises.

**Senator RONALDSON**—Can that be done by way of small, medium or large business as to the revenue of those—

**Mr D'Aloisio**—No. We could not just look at how—the way we are divided up it has not gone through a structure. We run the organisation with what we call stakeholder teams and deterrence teams and we have a real economy group. Then we have the shared services that support the organisation. We could provide a break-up around those businesses if you like.

**Senator RONALDSON**—That would be good. Could you provide me with the total revenue forecast for ASIC fees and charges for 2009-10, 2010-11, 2011-12 and 2012-13, please?

**Mr D'Aloisio**—That is an extra four years. We will do that and we will speak to Treasury, because I think Treasury may want to provide that information direct to you rather than through us, because, as I say, we are an agent for the government in collecting those fees. We will speak to Treasury and provide that.

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#### **Answer:**

ASIC fees are imposed pursuant to:

- the Corporations (Fees) Regulations 2001 (the Fees Regulations) made under the Corporations (Fees) Act (2001) (the Fees Act); and
- the Corporations (Review Fees) Regulations 2003 (the Review Fees Regulations) made under the Corporations (Review Fees) Act 2003 (the Review Fees Act), as defined in Part 9.10 of the Corporations Act 2001 (the Act).

ASIC is the statutory body established to, amongst other functions, regulate corporations and collect these fees on behalf of the Commonwealth.

In general, the Fees Act imposes fees for things done under the Act (such as registration of corporations, lodgement of documents and applications and search fees), and for related matters. The Review Fees Act imposes review fees in relation to the Act and for related purposes.

The fees imposed under both the Fees Act and the Review Fees Act are imposed as taxes and need not bear any relationship to the cost of providing any service.

#### **The Fees Act**

The Fees Act provides that the Fees Regulations may prescribe fees for chargeable matters. The prescribed fees for chargeable matters are listed in Schedule 1 to the Fees Regulations.

Chargeable matters are listed in section 4(1) of the Fees Act , and include:

- (a) the lodgment of a document under the Act;
- (b) the registration of a document under that Act;
- (c) the inspection or search of a register kept by, or a document in the custody of, ASIC under that Act;
- (d) the making available by ASIC, under that Act, of information (whether in the form of a document or otherwise);
- (e) the production by ASIC, under a subpoena, of such a register or document; and
- (f) the issuing of a document or of a copy of a document, the granting of a licence, consent or approval, or the doing of any other act, under that Act, by the Minister or ASIC.

The Fees Regulations may prescribe, in relation to a chargeable matter, different fees having regard to whether the matter is complied with by electronic means.

The Fees Regulations also impose late fees where the fees are paid outside the prescribed period, usually 28 days. The late fees are, where the document is:

- lodged within one month after the prescribed time \$65; or
- lodged more than one month after the prescribed time \$270

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A copy of the Fees Regulations and the fees as listed in Schedule 1 are available at [www.comlaw.gov.au](http://www.comlaw.gov.au)

#### The Review Fees Act

The Review Fees Act provides that the Review Fees Regulations may prescribe review fees. Review fees are annual fees required to be paid within two months of the bodies' review date as prescribed in the Review Fees Regulations.

The review date for a company or registered scheme as specified under s345A of the Act is the anniversary of the company's or scheme's date of registration, or a different date with ASIC's approval under s345B of the Act.

Imposition of review fees are prescribed under s5 of the Review Fees Act in relation to the review dates of the following:

- (a) companies;
- (b) registered schemes;
- (c) registered Australian bodies;
- (d) natural persons registered as auditors under Part 9.2 of the *Corporations Act 2001*;
- (e) natural persons registered as liquidators under Part 9.2 of the *Corporations Act 2001*; and
- (f) persons holding an Australian financial services licence under Part 7.6 of the *Corporations Act 2001*.

While, the Review Fees Act provides that the Review Fees Regulations may prescribe review fees for those bodies or persons listed in (c) – (f) (inclusive) above, the Act makes no provision for these bodies or persons to pay review fees and for this reason a review fee has not been prescribed.

The Review Fees Regulations impose late fees where:

- paying the review after the date on which it becomes due and payable, but within one month after that date \$65
- paying the review fee more than one month after the date on which the fee becomes due and payable \$270

#### Revenue collected for specific ASIC functions

\$551.728 million in revenue was raised by ASIC in 2008/09 on behalf of the Commonwealth from the following revenue sources.

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Source	Amount	Percentage of total
Annual review fees	\$332,380,000	61%
Annual return fees	\$2,359,000	0%
Incorporation fees	\$55,203,000	10%
Late lodgement fees	\$23,101,000	4%
Late payment fees	\$49,149,000	9%
Other prescribed fees	\$39,540,000	7%
Search fees – collected over the counter or by mail applications	\$642,000	0%
Summary prosecution fines	\$476,000	0%
Search fees – collected from Information brokers	\$48,878,000	9%

#### Cost of administering ASIC functions

ASIC as an organisation is structured into groups that can be broadly categorised as:

- Financial Economy;
- Real Economy;
- Deterrence; and
- Shared services.

The 2008/09 actual expenditure information for these groups is as follows:

Financial Economy group	\$30.9m
Real Economy group	\$26.1m
Deterrence group	\$31.0m
Shared Services group	\$53.1m