

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 276

Topic: Superannuation Recovery Action Group

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Senator Heffernan asked:

Senator HEFFERNAN: I have a letter here from the Superannuation Recovery Action Group. There is a company called Ruttley transport and they have a history of probably 10 years of not paying child support across to the agency under great sufferance. They have a history of having their payroll on companies that go into liquidation and do not pay their superannuation, and I have a long line of people who have not been paid superannuation for 10 years who have been employed, with their super still outstanding. The letter says:

Dear Senator Heffernan,

Thank you for agreeing to receive this documentation as requested by [a certain person] on 14 February [2011]. After over-viewing the attached documentation you may appreciate this is a very serious problem that all employees at Ruttleys are facing. There have been many attempts by individuals over many years to rectify this problem. They inevitably fail and they are forced to move on to other employment without receiving the unpaid super payments due to them by Ruttleys. We have started a register for all persons who are current and past employees of Ruttleys and their associated shelf companies—

which is how they dodge the business—

that are owed superannuation payments, and I have enclosed a few as samples for you to view. Having been in contact with many of the past and present employees, we envisage that we will eventually collect hundreds of these statements and they will tell the same story of nonpayment. While being engaged in the pursuit of unpaid superannuation we have also become aware of a second and perhaps more serious problem, this problem being the failure of Ruttleys to pass on child support payments they have been deducting from some employees' wages to their ex-wives and dependent children. And so it goes on. What is the history of your division or whatever with a company that could get away with—I have the company names here—over a period of years they simply put the company into receivership and do not pay the money. There is an account here where you have them in the courts for \$7 million from the Taxation Office.

Mr Murphy: Yes. That would be primarily a concern of ASIC, the Securities and Investments Commission, and, if it is with superannuation, the ATO.

Senator HEFFERNAN: But aren't you the superannuation complaints?

Mr Murphy: These officers are from the Superannuation Complaints Tribunal, which primarily deals with conflict between parties over the payment of superannuation.

Senator HEFFERNAN: Isn't that precisely what this is?

Senator Wong: Senator, what I propose—because obviously there are concerns about the facts you have raised—is that, if you provide that information to Mr Murphy, we will take it on notice and we will pass it on to the relevant bodies, which I understand would be the ATO and ASIC.

Senator HEFFERNAN: Can I table this letter now, because I have permission? I did not have permission in the ASIC hearing yesterday to table the letter.

Senator Wong: No, no. If you give it to Treasury, we will ensure it is passed on to the relevant authorities.

Senator HEFFERNAN: Thank you very much, Minister, for your assistance in that matter. I could put on the record the companies that have dodged it but I presume I will pass that on in documentation.

Senator Wong: Yes.

Senator HEFFERNAN: These people are seriously intimidated. There is one guy here who is owed \$40,000 in unpaid super over a period of 10 years. The company has a history of employing people and, when they complain, shunting them. They do occasionally pick up the child support and send some in—I have been talking to the Child Support Agency—and then they put the company into liquidation and start again. I do not think that in Australia today companies ought to be able to get around like that. These are the guys who drive the flashiest cars, go to the races—

CHAIR: Senator Heffernan, this was raised in ASIC yesterday. It will be taken up.

Senator HEFFERNAN: Thank you very much, because I now have permission to table the stuff, which I did not have yesterday.

Answer:

The Australian Taxation Office is charged with oversight of the Superannuation Guarantee Charge (SGC) legislation and is empowered to take action to collect unpaid SGC.

The Child Support Agency is charged with oversight of legislation governing Child Support payments and is empowered to take action to collect unremitted payments

ASIC would require details of the specific companies involved in the allegations of 'phoenix' activity referred to in the letter to Senator Heffernan so that ASIC can investigate and respond more fully.