

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 49

Topic: CDDA scheme for compensation

Hansard Page: 102

Senator Xenophon asked:

Senator XENOPHON: I do appreciate what you have said. On notice, could you provide details of where there was a confusion as to a delay and the standard compensation payable if there is a delay in getting a refund cheque or something going beyond that under the CDDA scheme? I think that would help clarify things.

Ms Granger: I want to clarify what you are asking. I am sorry, but I am not clear.

Senator XENOPHON: In terms of the number of claims made that were clearly not claims related to the compensation payable for a delay. It is the interest that is payable on a delayed refund cheque in terms of, I think, the standard 30 days.

Ms Granger: Yes. That is right. Taxpayers themselves mostly would not be eligible under this scheme for that reason.

Answer:

For the period 24 February 2010 to 20 June 2011, the ATO has received a total of 138 claims from taxpayers and tax agents for compensation in which the impact of the Change Program was considered. Of these claims, 97% have been finalised. The breakdown is detailed below.

Total claims received from 24 February 2010 to 20 June 2011				
Claimants	Claims received	Claims finalised	Claims paid	Claims on hand
Taxpayers	91	88	9	3
Tax agents	47	46	3	1
Total	138	134	12	4

Eighty-four (92%) of the 91 taxpayer claims received allege a loss other than (or additional to) interest for a delayed refund. These claimed losses include: professional fees, financial institution charges, administrative costs (telephone, fax, postage), inconvenience, frustration, stress, and personal time spent. Many of these claims would have been declined even if the ATO had been satisfied that there was defective administration as the claims did not identify compensable losses. This is because under the Compensation for Detriment caused by Defective Administration (CDDA) scheme, compensation is only payable for actual and demonstrable financial loss and outgoings, as distinct from financial disappointment, 'loss' of personal or leisure time, or other types of non-financial loss (including anxiety, frustration, inconvenience, embarrassment, or disappointment).

Of the 84 taxpayer claims referred to above, 9 (11%) have been accepted by the ATO and compensation paid because of ATO errors that should have been rectified sooner but for the Change Program. None of these claims involved a finding that the Change Program itself constituted defective administration. Rather these errors would likely have been accepted as defective administration even if the Change Program had not been implemented. The claims involved issues including: a compromised tax file number, incorrect advice, refund issuing to the wrong person or address, and incorrect offset or refund against a non-existent debt. The heads of loss compensated included: professional fees, financial institution charges, and administrative costs (telephone charges).

The 47 tax agent claims received all allege losses other than interest for delayed refunds. The losses claimed include: cash flow difficulties, lost opportunities, having to deal with disgruntled clients and alleged loss of clients and reputation. Many of these claims would have been declined even if the ATO had been satisfied that there was defective administration because the claims did not substantiate a compensable loss under the CDDA scheme.

Three of the 47 tax agent claims have been accepted and compensation paid because of ATO errors that should have been rectified sooner but for the Change Program. None of these claims involved a finding that the Change Program itself constituted defective administration. Rather these errors would likely have been accepted as defective administration even if the Change Program had not been implemented. The claims arose from: the failure to delete foreign source income in a credit amendment, and further delays associated with other priorities where resolution was delayed; a delay in implementing a manual fix to an incorrect assessment associated with averaging claims for special professional income; and failure to allocate and action a review because of other work pressures. The loss compensated was limited to reimbursement of professional fees.