

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
TREASURY

Australian Taxation Office

Supplementary Budget Estimates 3 November 2005

Outcome

Topic: Valuation of trading stock (TR 2005/D11)

SBT 84 Hansard Page: E27

Chair asked:

Thanks, Mr Carmody. I will put some questions to you which you might care to take on notice to sharpen the issue. The questions are these:

Mr Carmody—To ensure the accuracy of each sequence of that, I will take it on notice and get back to you.

- (a) Is it the case that the ATO's position in relation to the valuation of trading stock by reference to full absorption cost is a variation of the practice that had antecedently been the case?

Answer:

a) No. The Commissioner's current view on the valuation of trading stock by wholesalers and retailers is longstanding and has not changed.

That view is contained in a law administration practice statement (PS LA 2003/13) released in 2003. The practice statement refers to case law on the subject – the leading cases being a Supreme Court of Victoria decision from 1979 (*Philip Morris Ltd v FC of T* 79 ATC 4355) and a Federal court decision from 1998 (*FC of T v Kurts Development Ltd* 98 ATC 4877).

At the request of practitioners, who wanted more certainty on the issue, the practice statement is being converted into a public ruling. The view in the draft of the public ruling is not intended to be any different from the view expressed in the practice statement.

- (b) If the answer to that question is yes, is it the case that that change to the ATO's practice was made without prior discussion with the industry?

Answer:

b) Although the answer to the previous question is "no", the Committee might be interested to learn that prior to the issue of PS LA 2003/13 and draft ruling TR 2005/D11 the ATO undertook a wide consultation process with industry bodies including the Australian Retailers Association, the National Retailers Association, the National Tax and Accountants Association and the Corporate

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

Supplementary Budget Estimates 3 November 2005

Tax Association. In addition, consultation took place with the Australian Accounting Standards Board and several large, medium and small retailers were directly consulted to ascertain their views on the issue. A large accounting firm also offered significant input on the issue generally and on behalf of several of their clients in particular.

As a matter of course the issue has also been considered by the ATO Rulings Panel which has external membership. The Panel confirmed the view stated in the draft ruling.

Following the release of the draft ruling the ATO has entered into a further consultation process, as is the usual practice, and is considering submissions from associations and taxpayers on the issue.

- (c) If the answer to that question is yes, why not?

Answer: N/A

- (d) If the answer to the second question is no, can you tell us what prior discussions with the industry took place to acquaint it with the variation in practice?

Answer:
Refer (b)

- (e) Finally, can you explain to us why draft public ruling TR 2005/D11 is now the subject of correspondence and, evidently, enforcement action by the ATO against taxpayers affected by it while it remains merely a draft public ruling?

Answer:

- (e) There is a small project involving 100 taxpayers looking at trading stock valuations. The ATO's approach to the project is consistent with that in its practice statement and as expressed in the draft ruling.