

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Supplementary Budget Estimates 1-2 November 2006)

Question **SBT 92**

Topic: **HIGH-WEALTH INDIVIDUALS INVESTIGATIONS
AND SETTLEMENTS**

Hansard Page: **E67**

Senator Sherry asked

According to question on notice BET131, the ATO is apparently considering applying anti-avoidance provisions to around 12 high-wealth individuals or their associated entities, and 13 additional high wealth individuals have been identified as ‘using complex offshore structures to conceal assets and income’. But BET131 has 36 high-wealth individuals under audit. So what is happening with the 11? Is there a discrepancy there?

Mr Konza—*I do not know as a matter of fact, but I can only speculate that there are other issues in those other cases. Quite often we have issues regarding the purchase and disposal of businesses, for example. If they are domestically based, they may not appear in either of those sets of figures. But I would need to find out what all the issues are.*

Mr D’Ascenzo—*The concern may be not so much a use of an anti-avoidance provision but whether or not the substantive provisions of the law operate in a way that the taxpayer believes appropriate or the commissioner considers appropriate.*

Senator SHERRY—*Of the high-wealth individuals who have been investigated, are there some for whom investigation has ceased and, if so, how many?*

Mr Konza—*I do not know the numbers; I will clarify that up-front.*

Senator SHERRY—*Just approximately; I was not seeking a precise figure.*

Mr Konza—*Yes. But, yes, it does happen. We profile these individuals, as I said before, to confirm that they are in fact high-wealth individuals; we sometimes find that they are not. Indeed, you might be amused to know that we have had occasions where people have asked us to make sure that we do not tell people that they are not in fact high-wealth individuals because their banks might be a bit surprised. Of course on other occasions we find that there is not a tax risk. They can fall out of the process for either of those reasons.*

Senator SHERRY—*Of those who have not fallen out of the process, approximately how many of them have had a settlement as a consequence?*

Mr Konza—*We would have to take that on notice. I thought we supplied some settlement numbers in the last round of questions on notice, but we can check that again.*

Q1 **Senator SHERRY**—*According to question on notice BET131, the ATO is apparently considering applying anti-avoidance provisions to around 12 high-wealth individuals or their associated entities, and 13 additional high wealth individuals have been identified as ‘using complex offshore structures to conceal assets and income’. But BET131 has 36 high-wealth individuals under audit. So what is happening with the 11? Is there a discrepancy there?*

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Answer:

There is no discrepancy. The figures provided relate to two distinct questions posed by Senator Sherry in Question On Notice BET 131, viz:

1. How many high wealth taxpayers are engaged in serious tax avoidance?; and
2. How many high wealth individuals are currently being (a) investigated....?

In providing a response to the first question within BET 131, the Tax Office advised that it was considering applying Part IVA to approximately 12 High Wealth Individuals (or their associated entities) and that 13 High Wealth Individual Taxpayers had been identified as possibly using complex offshore structures to conceal assets and income. These Taxpayers were at the time subject to either audit or dispute. In respect of the 13 high wealth individuals with offshore structures Part IVA might have been considered in respect of some of them.

In providing a response to Senator Sherry's second question within BET 131, the Tax Office advised that at 1 June 2006, 36 High Wealth Individuals were under audit.

In reviewing the 36 audits on hand at 1 June 2006 the Tax Office had considered the application of Part IVA in respect of 12 audits. In 11 of the 36 audits the Tax Office believed high wealth individuals controlled offshore structures. The other 2 offshore cases referred to in the response to question 1, where the Tax Office referred to there being a total of 13 offshore cases, were in respect of disputes and were not, at the time of answering the question, under audit.

As the Commissioner observed during the last hearing the balance of the 36 cases involved disputes over the substantive provisions. This included issues related to such things as:-

- Timing of deductions;
- Calculation of capital gains or capital losses;
- Deductibility of expenses;
- Characterisation of income; and,
- Exploitation of concessions.

Q2 *Senator SHERRY—Of the high-wealth individuals who have been investigated, are there some for whom investigation has ceased and, if so, how many?*

Answer:

In 2005 seven audits required no further action. In 2006 there were six.

These audits were finalised on the basis that during the course of the audit further information was obtained to suggest that there was no tax risk.

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Q3 ***Senator SHERRY**—Of those who have not fallen out of the process, approximately how many of them have had a settlement as a consequence?*

Answer:

12 high wealth individual taskforce audits were concluded by settlement in 2004-05.
There were 56 settlement agreements in relation to these audits.

15 high wealth individual taskforce audits were concluded by settlement in 2005-06.
There were 35 settlement agreements, in relation to these audits.