

# Senate Standing Committee on Economics

## ANSWERS TO QUESTIONS ON NOTICE

### Treasury Portfolio

#### Supplementary Budget Estimates

20 October 2011

**Question No:** SBT 9

**Topic:** Excess Contributions Tax – classifying cases as complex

**Hansard Page:** 131-132

**Senator CORMANN:** Is there a process by which certain applications for discretion are classified as complex and then go before a senior technical panel?

**Mr Olesen:** I believe there are. The reason why we have had two teams is to keep the decision making over those consistent—so they have only had a very small number of decision makers. I would need to take on notice the detail of the escalation process, depending on complexity. As a rule, they are decided by a senior team leader in every case. There would be some cases where they are escalated to more senior officers.

**Senator CORMANN:** How many senior officers would there be on each team?

**Mr Olesen:** I think there have been two decision makers, from memory. I am happy to confirm that for you.

#### **Answer:**

The ATO's process for the handling of excess contributions tax discretion applications has evolved over time, in line with increasing expertise, a greater body of precedent cases, and increasing numbers of applications received.

For an initial period of several months, all applications were managed by a small number of case officers and considered at the senior executive level.

Over time, the work has been devolved to increasing numbers of case officers and decision makers.

Applications for the Commissioner's discretion in relation to excess contributions tax are now treated in pattern with other interpretative guidance work.

The process applied to work of this kind is as follows:

- Case officers manage the application, undertake research and make a recommendation to an approving officer. For this work the approving officer is generally at the senior technical officer (APS6) classification.
- Requests that involve defined benefit funds and capital gains tax issues are referred to a complex advice team. Other cases that the case officer or approving officer find difficult (e.g. they may not specifically fit existing precedent cases), can also be referred to a complex advice team. Such escalated cases will generally be approved at the senior technical officer (Executive Level 1) classification.
- Requests that contain new elements will generally be considered by a panel of senior officers (at the Executive Level 2 classification) in order to ensure consistency of

decisions. These cases are decided by the Executive Level 2 employee who manages the ATO's complex advice teams, and if appropriate, escalated to the senior executive level. Such decisions are documented and circulated to relevant employees in order to ensure consistency.

Senior executive officers also may seek to be involved in particular categories of cases as they see fit.