

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department of Regional Australia, Regional Development and Local Government

Supplementary Budget Estimates 17-20 October 2011

Question: 95

Topic: Pape Case

Asked By: Senator RHIANNON

Type of Question: Hansard F&PA 118

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Senator RHIANNON: I was specifically interested in the department's response to that High Court case, which was effectively two years ago.

Ms Beauchamp: The Government has not made a response as such. It is still in the court processes, as I understand it. I would have to take that on notice. I think we are still waiting for the outcomes of that process.

Senator RHIANNON: If you could take it on notice, both what the process is and if there has been any response that can be—

Ms Beauchamp: As I said earlier, I would probably have to pass those on to the Attorney-General's Department, who are looking at the court proceedings and the legal proceedings.

Answer:

The Attorney-General's Department has advised that the Government has given careful consideration to the High Court's decision in *Pape v Commissioner of Taxation (2009) 238 CLR 1* (the Tax Bonus case). Constitutional questions and considerations routinely arise in the development of Commonwealth programs, including programs which involve spending. The various judgments in the Tax Bonus Case form part of a larger body of constitutional law which is taken into account where relevant, including in making Commonwealth funding arrangements.