

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

**Question No. 93**

**Senator Siewert asked the following question at the hearing on 16 October 2012:**

Penalties for tax fraud

For the financial year 2011-12:

- a) How much of the Director of Public Prosecutions financial resources (amount and percentage) was dedicated to tax fraud?
- b) How many staff working on projects related to tax fraud?
- c) How many convicted for tax fraud?
- d) For the financial periods 2011-12 provide a breakdown of the sentencing outcomes of recipients convicted by the CDPP by type of sentence (eg. custodial sentence, good behaviour bond, community service order, etc) and provide a breakdown of sentencing outcomes by type of income support payment, age; gender: state and territory, and Indigenous/non-Indigenous background
- e) For all custodial sentences, detail the length of sentence and the value of the fraud involved.

**The answer to the honourable senator's question is as follows:**

- a) In 2011-2012 the CDPP dealt with 3,623 defendants before the courts, with 88 (2.4%) of those defendants having been referred by the Australian Tax Office (ATO). CDPP resource usage is provided below.
- b) CDPP resource usage as at 30 June 2012: 59 CDPP staff has open tax fraud files.
- c) See below

**NUMBER OF 'TAX FRAUD' CONVICTIONS PROSECUTED BY THE CDPP, BY FINANCIAL YEAR**

<b>FINANCIAL YEAR</b>	<b>NUMBER OF TAX FRAUD CONVICTIONS</b>
2011-12	89
<b>TOTAL</b>	<b>89</b>

\* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office. As at 29.10.2012.

d) See below

(i) Age

**TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND AGE\***

<b>AGE</b>	<b>HIGHEST PENALTY</b>	<b>2011-12</b>
<b>20 to 29 years</b>		<b>4</b>
	Gaol	1
	Gaol (Fully Suspended)	1
	Fine	1
	Recognisance Order	1
<b>30 to 39 years</b>		<b>13</b>
	Gaol	7
	Gaol (Fully Suspended)	3
	Fine	3
<b>40 to 49 years</b>		<b>29</b>
	Gaol	15
	Gaol (Fully Suspended)	2
	Fine	8
	Recognisance Order	4
<b>50 to 59 years</b>		<b>18</b>
	Gaol	7
	Gaol (Fully Suspended)	1
	Fine	6
	Recognisance Order	4
<b>60 to 69 years</b>		<b>17</b>
	Gaol	7
	Gaol (Fully Suspended)	2
	Fine	5
	Recognisance Order	3
<b>70 years or over</b>		<b>4</b>
	Gaol	1
	Fine	2
	Recognisance Order	1
<b>Unknown</b>		<b>4</b>
	Fine	3
	Recognisance Order	1
<b>TOTAL</b>		<b>89</b>

\* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office. The concept of 'highest penalty' is calculated by taking the most severe penalty imposed on the defendant. For example, if a defendant received a fully suspended gaol sentence as well as a fine, only the fully suspended gaol sentence will be captured in this table. In this regard, the table is a count of defendants sentenced for tax fraud offences, not actual penalties imposed as at 29.10.2012.

(ii) Gender

**TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND GENDER**

<b>SEX</b>	<b>HIGHEST PENALTY</b>	<b>2011-12</b>
<b>Female</b>		<b>23</b>
	Gaol	9
	Gaol (Fully Suspended)	4
	Fine	7
	Recognisance Order	3
<b>Male</b>		<b>62</b>
	Gaol	29
	Gaol (Fully Suspended)	5
	Fine	18
	Recognisance Order	10
<b>Company</b>		<b>4</b>
	Fine	3
	Recognisance Order	1
<b>TOTAL</b>		<b>89</b>

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(iii) State and Territory

**TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND STATE\***

<b>STATE</b>	<b>HIGHEST PENALTY</b>	<b>2011-12</b>
<b>NSW</b>		<b>38</b>
	Gaol	12
	Gaol (Fully Suspended)	1
	Fine	16
	Recognisance Order	9
<b>VIC</b>		<b>10</b>
	Gaol	3
	Gaol (Fully Suspended)	4
	Fine	2
	Recognisance Order	1
<b>QLD</b>		<b>26</b>
	Gaol	18
	Gaol (Fully Suspended)	1
	Fine	3
	Recognisance Order	4
<b>SA</b>		<b>1</b>
	Gaol (Fully Suspended)	1
<b>WA</b>		<b>9</b>
	Gaol	4
	Fine	5
<b>TAS</b>		<b>1</b>
	Gaol	1
<b>ACT</b>		<b>4</b>
	Gaol (Fully Suspended)	2
	Fine	2
<b>TOTAL</b>		<b>89</b>

\* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office. The concept of 'highest penalty' is calculated by taking the most severe penalty imposed on the defendant. For example, if a defendant received a fully suspended gaol sentence as well as a fine, only the fully suspended gaol sentence will be captured in this table. In this regard, the table is a count of defendants sentenced for tax fraud offences, not actual penalties imposed as at 29.10.2012.

(iv) Indigenous/non-Indigenous background

**TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND INDIGENOUS STATUS\***

<b>INDIGENOUS STATUS</b>	<b>HIGHEST PENALTY</b>	<b>2011-12</b>
<b>INDIGENOUS</b>		<b>0</b>
<b>NOT INDIGENOUS</b>		<b>28</b>
	Gaol	19
	Gaol (Fully Suspended)	2
	Fine	4
	Recognisance Order	3
<b>UNKNOWN</b>		<b>61</b>
	Gaol	19
	Gaol (Fully Suspended)	7
	Fine	24
	Recognisance Order	11
<b>TOTAL</b>		<b>89</b>

\* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office. The concept of 'highest penalty' is calculated by taking the most severe penalty imposed on the defendant. For example, if a defendant received a fully suspended gaol sentence as well as a fine, only the fully suspended gaol sentence will be captured in this table. In this regard, the table is a count of defendants sentenced for tax fraud offences, not actual penalties imposed as at 29.10.2012.

e)See below

(i) Length of sentence

**TAX FRAUD CONVICTIONS RESULTING IN CUSTODIAL SENTENCE, BY FINANCIAL YEAR MATTER FINALISED BY HEAD SENTENCE\***

<b>Head sentence</b>	<b>2011-12</b>
1 year	3
2 years	12
3 years	5
4 years	11
5 years	3
6 years	2
7 years	2
<b>TOTAL</b>	<b>38</b>

\* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office. The 'head sentence' was calculated by rounding the maximum custodial term of imprisonment to the nearest whole year as at 21.02.2012.

(ii) Value of Fraud Involved

**TAX FRAUD CONVICTIONS RESULTING IN CUSTODIAL SENTENCE, BY FINANCIAL YEAR MATTER FINALISED, BY FRAUD AMOUNT AND HEAD SENTENCE\***

<b>Value of Fraud Proven</b>	<b>Head Sentence</b>	<b>2011-12</b>
<b>Between \$50,000 and \$100,000</b>		<b>6</b>
	1 year	1
	2 years	5
<b>Between \$100,000 and \$250,000</b>		<b>3</b>
	2 years	2
	4 years	1
<b>Between \$250,000 and \$500,000</b>		<b>7</b>
	1 year	1
	2 years	1
	4 years	5
<b>Between \$500,000 and \$750,000</b>		<b>1</b>
	5 years	1
<b>Between \$1 and \$5 million</b>		<b>10</b>
	3 years	2
	4 years	4
	5 years	1
	6 years	1
	7 years	2
<b>Between \$5 and \$10 million</b>		<b>1</b>
	5 years	1
<b>Not defined</b>		<b>10</b>
	1 year	1
	2 years	4
	3 years	3
	4 years	1
	6 years	1
<b>TOTAL</b>		<b>38</b>

\* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office. The 'head sentence' was calculated by rounding the maximum custodial term of imprisonment to the nearest whole year as at 30.10.2012.