

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

Question No. 152

Senator Siewert asked the following question at the hearing on 18 November 2013:

For the financial years 2011-12 and 2012-13:

1. How much of the Director of Public Prosecutions financial resources (amount and percentage) was dedicated to tax fraud?
2. What are the financial savings to Government of this expenditure?
3. How many staff working on projects related to tax fraud?
4. How many convicted for tax fraud?
5. For the financial periods 2011-12 and 2012-13 please provide a breakdown of the sentencing outcomes of recipients convicted [for tax fraud offences] by the CDPP by type of sentence (eg. custodial sentence, good behaviour bond, community service order, etc). Please provide a breakdown of the sentencing outcomes by:
 - i. Age
 - ii. Gender
 - iii. State and Territory, and
 - iv. Indigenous/non-Indigenous background.
6. 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:

1. In 2011-2012, 2.5% of defendants dealt with before the courts were referred by the Australian Taxation Office (ATO). In 2012-13, 4.2% of defendants dealt with before the courts in cases conducted by the CDPP were referred by the ATO. Detailed information about tax fraud prosecutions is at (4), (5), and (6) below. CDPP resource usage is at (3) below.
2. This is a matter for the Australian Taxation Office.
3. On 30 June 2012, 65 CDPP staff had open tax fraud files. On 30 June 2013, 47 CDPP staff had open tax fraud files.

4.

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

FINANCIAL YEAR	NUMBER OF TAX FRAUD CONVICTIONS
2011-12	90
2012-13	116
TOTAL	206

*Tax fraud prosecutions are defined as those matter referred to the CDPP by the Australian Taxation Office or sourced from the Australian Taxation Office.

5(i). Age

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

AGE	HIGHEST PENALTY	2011-12	2012-13	TOTAL
20-29 years		4	8	12
	Gaol	1	0	1
	Gaol (Fully Suspended)	1	2	3
	Fine	1	0	1
	Community-based orders and Intensive correction orders etc.	0	2	2
	Recognisance Order	1	3	4
	Young Offender - Other	0	1	1
30-39 years		14	14	28
	Gaol	7	4	11
	Gaol (Fully Suspended)	3	2	5
	Fine	4	4	8
	Community-based orders and Intensive correction orders etc.	0	1	1
	Recognisance Order	0	3	3
40-49 years		29	39	68
	Gaol	15	8	23
	Gaol (Fully Suspended)	2	7	9
	Fine	8	18	26
	Recognisance Order	4	6	10
50-59 years		18	28	46
	Gaol	7	12	19
	Gaol (Fully Suspended)	1	2	3
	Fine	6	9	15
	Recognisance Order	4	5	9
60-69 years		17	16	33
	Gaol	7	3	10
	Gaol (Fully Suspended)	2	1	3
	Fine	5	9	14
	Community-based orders and Intensive correction orders etc.	0	2	2
	Recognisance Order	3	1	4
70 years or over		4	1	5
	Gaol	1	1	2
	Fine	2	0	2
	Recognisance Order	1	0	1
Unknown		4	10	14
	Fine	3	8	11
	Recognisance Order	1	2	3
TOTAL		90	116	206

*Tax fraud convictions are defined as those matters referred to the CDDP by the Australian Taxation Office or sourced from the Australian Taxation Office. '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.

5(ii). Gender

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

GENDER	HIGHEST PENALTY	2011-12	2012-13	TOTAL
Female		23	27	50
	Gaol	9	7	16
	Gaol (Fully Suspended)	4	3	7
	Fine	7	9	16
	Community-based orders and Intensive correction orders etc.	0	1	1
	Recognisance Order	3	7	10
Male		63	79	142
	Gaol	29	21	50
	Gaol (Fully Suspended)	5	11	16
	Fine	19	31	50
	Community-based orders and Intensive correction orders etc.	0	4	4
	Recognisance Order	10	11	21
	Young Offender - Other	0	1	1
Company		4	10	14
	Fine	3	8	11
	Recognisance Order	1	2	3
TOTAL		90	116	206

*Tax fraud convictions are defined as those matters referred to the CDPP by the Australian Taxation Office or sourced from the Australian Taxation Office. '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.

5(iii). State and Territory

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

STATE/TERRITORY	HIGHEST PENALTY	2011-12	2012-13	TOTAL
NSW		38	50	88
	Gaol	12	6	18
	Gaol (Fully Suspended)	1	6	7
	Fine	16	22	38
	Community-based orders and Intensive correction orders etc.	0	5	5
	Recognisance Order	9	10	19
	Young Offender - Other	0	1	1
VIC		11	12	23
	Gaol	3	2	5
	Gaol (Fully Suspended)	4	2	6
	Fine	3	3	6
	Recognisance Order	1	5	6
QLD		26	30	56
	Gaol	18	12	30
	Gaol (Fully Suspended)	1	5	6
	Fine	3	10	13
	Recognisance Order	4	3	7
SA		1	5	6
	Gaol (Fully Suspended)	1	1	2
	Fine	0	2	2
	Recognisance Order	0	2	2
WA		9	7	16
	Gaol	4	3	7
	Fine	5	4	9
NT		0	2	2
	Fine	0	2	2
TAS		1	3	4
	Gaol	1	3	4
ACT		4	7	11
	Gaol	0	2	2
	Gaol (Fully Suspended)	2	0	2
	Fine	2	5	7
TOTAL		90	116	206

*Tax fraud convictions are defined as those matters referred to the CDPP by the Australian Taxation Office or sourced from the Australian Taxation Office. '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.

5(iv). Indigenous/non-Indigenous background

TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND INDIGENOUS BACKGROUND

INDIGENOUS BACKGROUND	HIGHEST PENALTY	2011-12	2012-13	TOTAL
Indigenous		0	3	3
	Gaol	0	1	1
	Gaol (Fully Suspended)	0	1	1
	Community-based orders and Intensive correction orders etc.	0	1	1
Non-Indigenous		28	24	52
	Gaol	19	12	31
	Gaol (Fully Suspended)	2	5	7
	Fine	4	3	7
	Recognisance Order	3	4	7
Unknown		62	89	151
	Gaol	19	15	34
	Gaol (Fully Suspended)	7	8	15
	Fine	25	45	70
	Community-based orders and Intensive correction orders etc.	0	4	4
	Recognisance Order	11	16	27
	Young Offender - Other		1	1
TOTAL		90	116	206

*Tax fraud convictions are defined as those matters referred to the CDDP by the Australian Taxation Office or sourced from the Australian Taxation Office. '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.

6(i). Length of sentence

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

Head Sentence*	2011-12	2012-13	TOTAL
Less than 1 year	2	2	4
1 year	3	5	8
2 years	12	9	21
3 years	4	5	9
4 years	9	3	12
5 years	3	1	4
6 years	5	3	8
TOTAL	38	28	66

*Tax fraud convictions are defined as those matters referred to the CDPP by the Australian Taxation Office or sourced from the Australian Taxation Office. The 'head sentence' was calculated by rounding the maximum custodial term of imprisonment to the nearest whole year.

6(ii). Value of fraud involved

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

Value of fraud proven	Head Sentence*	2011-12	2012-13	TOTAL
Less than \$5,000		1	0	1
	2 years	1	0	1
Between \$50,000 and \$100,000		6	5	11
	Less than 1 year	1	0	1
	1 year	1	0	1
	2 years	4	4	8
	3 years	0	1	1
Between \$100,000 and \$500,000		10	5	15
	Less than 1 year	1	0	1
	1 year	0	1	1
	2 years	3	2	5
	3 years	0	1	1
	4 years	6	0	6
	6 years	0	1	1
Between \$500,000 and \$750,000		2	2	4
	3 years	1	2	3
	5 years	1	0	1
Between \$750,000 and \$1 million		0	2	2
	3 years	0	1	1
	5 years	0	1	1
Between \$1 and \$5 million		10	4	14
	2 years	1	0	1
	3 years	1	0	1
	4 years	3	2	5
	6 years	5	2	7
Between \$5 and \$10 million		1	0	1
	5 years	1	0	1
Not defined		8	10	18
	Less than 1 year	0	2	2
	1 year	2	4	6
	2 years	3	3	6
	3 years	2	0	2
	4 years	0	1	1
	5 years	1	0	1
TOTAL		38	28	66

*Tax fraud convictions are defined as those matters referred to the CDPP by the Australian Taxation Office or sourced from the Australian Taxation Office. The 'head sentence' was calculated by rounding the maximum custodial term of imprisonment to the nearest whole year.

*Note: All figures have been extracted from the CDPP database on 04.12.2013.