

**Joint Committee on the Australian Crime Commission**  
**Inquiry: Legislative arrangements to outlaw serious and organised crime groups**  
**Answers to Questions on Notice**  
**Australian Taxation Office**  
**6 November 2008**

**Topic:** Money laundering and tax fraud

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**CHAIR**—What difficulties, if any, do you face in investigating and prosecuting incidents of money laundering and tax fraud?

*Mr Cranston*—The difficulties—

**CHAIR**—If any.

*Mr Cranston*—It is a very broad question.

**CHAIR**—I do not know whether you want to take that on notice and reply to us in writing? It is up to you.

*Mr Cranston*—I think we will take it on notice, but I could offer that where difficulties could arise it very much depends on the factual situation. In some of our work that we do under Project Wickenby getting access to information has been problematic. In relation to other investigation work, like I spoke about in refund fraud, sometimes identifying the perpetrator of a particular attack can be difficult in an investigation. They are some examples of the difficulties in getting the evidence to a position where the Commonwealth Director of Public Prosecutions can take it further into the courts.

*Mr Barlow*—Two things come to my mind. One is getting information from offshore jurisdictions. That is a particular concern for us—not only the process, but the timing of that and the extended time that it takes. One of the particular issues that we face in refund fraud investigations at the moment is abuse of identity. Identity crime is quite a difficult crime to investigate.

**Answer:**

There are a number of difficulties the Tax Office currently encounters in investigating incidents of tax fraud that include but are not limited to:

- **Obtaining information from offshore jurisdictions in admissible form in a timely manner** - Requests for seeking evidence from overseas jurisdictions can take a long time and at a substantial resource cost that may impact the progress of criminal investigations and prosecutions. Requests under the *Mutual Assistance in Criminal Matters Act 1987* require the involvement of the Australian Federal Police and the Attorney-General's Department. The timeframe and costs associated with completing Mutual Assistance Requests varies significantly in each case depending on the type of assistance which is the subject of a request, the laws and processes for mutual assistance in the other country and any treaty requirements.

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The timeframe can vary from a few days or weeks in urgent and/ or less complex cases to several months or years in cases which require the collection of extensive material, or which relate to complex investigations. Most tax fraud falls into this category. This is not as problematic in cases where the information is being sought under exchange of information articles using double taxation agreements. However, there are many non-OECD countries where we do not have any information sharing agreements.

The Tax Office and other agencies are working closely with the Attorney General's Department to develop approaches that will reduce unnecessary delays in the future that include law reform such as the recent introduction of a bill into Parliament to amend the Foreign Evidence Act.

- **Refund Fraud** - Where refund fraud involves identity creation or identity takeover it can be complex and difficult to investigate – such frauds can occur either by a person entering the tax system having assumed the identity of a legitimate taxpayer and committing fraud or a person entering the system as a new fictitious taxpayer and committing fraud. It can be difficult locating these people. The use of technology may involve attacks from offshore locations; through internet cafes or by scanning for wireless internet access through innocent third party ISP accounts. Prepaid mobile phone technology can make tracking end users difficult. The Tax Office has also seen perpetrators of tax fraud use serviced office providers to give an air of legitimacy to their identity and make access to them more difficult. In addition, we are seeing an increasing trend to low value/high volume attacks involving identity related fraud. It can be difficult to detect this as a pattern quickly especially when they individually involve very small amounts aimed at staying under refund threshold controls.
- **Access to Law Enforcement Agencies** - Access to law enforcement investigative resources (human and legislative) can be difficult. These resources are required for warrant actions, joint investigations in some cases, telephone intercepts and surveillance. Competing resource priorities means at times these resources are not available and this makes it difficult to progress some matters. Allowing third party warrants on financial institutions to be executed by the Tax Office would help resolve this to some extent, but the Tax Office itself has resource constraints.
- **Organised criminal activity** – As investigations of tax fraud unfold they can result in identifying links to other criminal activity. The groups are usually organised, adaptive, innovative and appear to have a good knowledge of systems and the control environment.

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- **Restrictions on information sharing and exchange between agencies** – While Section 3G has allowed the Tax Office to improve information sharing with other agencies for Wickenby taskforce purposes, agencies continue to have different information sharing provisions that do restrict the flow of information sharing that can occur more generally.