

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 2013

5 June 2013

Question: BET 50

Topic: Define rent and on-licence lease agreements

Hansard Page: Wednesday 5 June 2013, Page 67-68

Senator COLBECK asked:

Senator COLBECK: It is just something I am trying to get to the bottom of. It is something that has cropped up with other departments, so I am asking the question here. In a significant list of lease properties it included a square metre rate that said nil. When we asked some questions around that, the answer was: 'Annual rent is nil. The Department of Agriculture, Fisheries and Forestry is charged a licence fee and not rent for some properties.' So I am just trying to get a sense of what the difference is between being charged a licence fee and rent. And I would like to know whether you have properties in that category too.

Ms Cawthra: We do not have any properties in that category. All of our properties have a per square metre fee.

Senator COLBECK: Can you tell me what the difference might be between the two categories?

Ms Cawthra: No, I would have to take that on notice. Ours are all square meterage.

Mr Jordan: The only thing I could suggest here is that perhaps if the building is not solely used by the particular department there might well be some other tenants. Sometimes you might find that for common areas, like the ground floor and lifts, there might be a licence to use or occupy and there is no particular charge because you might have different tenants going through. I am just suggesting, from prior experience, that that might be part of that license type arrangement. That is all I can think of. But, as the CFO has said, we do not have any such licences.

Senator Wong: You are asking a question about an answer DAFF gave; is that right?

Senator COLBECK: It is a different categorisation—

Senator Wong: I suspect it is a question of finance.

Senator COLBECK: My next question was going to be: is there a difference in the tax treatment of the two?

Senator Wong: That might be a question for Mr Jordan, but he just indicated that he does not have a lot of knowledge about this particular issue to which you are referring.

Mr Jordan: I am not sure I am authorised to give tax advice in this way.

Senator Wong: The government property framework is a matter for the Department of Finance and Deregulation.

Senator COLBECK: But I was asking whether this agency had any properties in this category. The answer is no, so I am satisfied with that. That is not an issue. If the answer had been yes then we could have explored it further. We have had some explanation of what it might be.

Mr Jordan: Whether it is a licence fee or a lease agreement, it should be assessable in the hands of the recipient taxpayer. There should not be any difference between a licence fee and a lease payment.

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Answer:

The ATO has no office space under licence arrangements. The ATO leases premises from building owners and makes payments agreed in the lease at an annual rate, which is normally calculated at a rate of dollars per square metre. The terms of lease provide for exclusive use of the premises where only the ATO has access to the area under contract.

Many sites also contain parking, storage and ancillary facilities that are located outside the office premises, such as in common areas or basements. In some of these cases the landlord charges a licence fee for accessing or using these including:

- Car parks, this is normally an annual rate per car space or for storage, a rate per square metre.
- Rooftop facilities where storage or communication equipment might be located. In these cases arrangements are licenced and through the payment of this license fee, grant a right to use the area for an annual fee with no formal space measurement determined.

The ATO has a number of leases which contain or are supplemented by licence charges for ancillary services, storage and car parking bays. A list of these is provided below.

ATO property related Licences as at 18 June 2013

State	Location	Licence type	Lease expiry	Area	Spaces	Per annum (\$)
ACT	Canberra	Car Park Licence	30 June 2013	N/A	10	23,712
NSW	Grafton	Car Park Licence	30 Nov 2015	N/A	1	858
NSW	Parramatta	Car Park Licence	28 Feb 2017	N/A	60	254,459
NSW	Parramatta	Roof Top Licence	28 Feb 2017	1	N/A	43,024
NSW	Parramatta	Storage Licence	28 Feb 2017	295.5	N/A	24,585
NSW	Parramatta	Services Licence	28 Feb 2017	1	N/A	1
NSW	Penrith	Telecomms Licence	7 Dec 2016	N/A	N/A	0
NT	Alice Springs	Car Park Licence	Currently in holdover	N/A	1	540
QLD	Brisbane	Car Park Licence	30 June 2013	N/A	6	52,205
QLD	Brisbane	Car Park Licence	28 Feb 2014	N/A	30	248,252
QLD	Cairns	Car Park Licence	15 Aug 2013	N/A	4	2,700
QLD	Chermside	Car Park Licence	30 June 2014	N/A	10	14,000
QLD	Townsville	Car Park Licence	28 Feb 2015	N/A	10	19,871
QLD	Brisbane	Storage Licence	25 Mar 2014	77.64	N/A	34,945
QLD	Southport	Car Park Licence	31 Jul 2015	N/A	13	12,480
VIC	Melbourne	Car Park Licence	28 Feb 2017	N/A	46	270,480
VIC	Melbourne	Roof Top Licence	28 Feb 2017	N/A	N/A	9,700
SA	Adelaide	Roof Top Licence	31 Oct 2027	N/A	N/A	1