



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

ESTIMATES

(Supplementary Budget Estimates)

THURSDAY, 3 NOVEMBER 2005

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SENATE
ECONOMICS LEGISLATION COMMITTEE
Thursday, 3 November 2005

Members: Senator Brandis (*Chair*), Senator Stephens (*Deputy Chair*), Senators Chapman, Murray, Watson and Webber

Senators in attendance: Senators Brandis, Chapman, Murray, Sherry, Watson and Wong

Committee met at 9.03 am

TREASURY PORTFOLIO

Consideration resumed from 2 November 2005

In Attendance

Senator Nick Minchin, Minister for Finance and Administration

Senator Helen Coonan, Minister for Communications, Information Technology and the Arts

Department of the Treasury

Dr Ken Henry, Secretary

Outcome 1: Sound Macroeconomic Environment

Output Group 1.1: Macroeconomic Group

Dr Martin Parkinson, Executive Director

Mr David Parker, Alternate Executive Director

Dr David Gruen, Chief Adviser, Domestic

Mr David Pearl, General Manager, International Economy Division

Mr David Turvey, Manager, International Economy Division

Mr Nathan Dal Bon, Manager, International Economy Division

Mr Phil Garton, Specialist Adviser, International Economy Division

Dr Steven Kennedy, General Manager, Domestic Economy Division

Mr Jason Allford, Manager, Domestic Economy Division

Mr Luke Yeaman, Domestic Economy Division

Dr Gordon de Brouwer, General Manager, G20 and APEC Secretariat

Mr Graeme Davis, Manager, Macroeconomic Policy Division

Mr Adam McKissack, Manager, Macroeconomic Policy Division

Outcome 2: Effective Government Spending and Taxation Arrangements

Output Group 2.1: Fiscal Group

Mr David Tune, Executive Director

Mr David Martine, General Manager, Budget Policy Division

Mr Matthew Flavel, Manager, Budget Policy Division

Mr Jason McDonald, Manager, Budget Policy Division

Mr Frank Di Giorgio, Principal Adviser, Industry, Environment and Defence Division

Mr Rob Heferen, General Manager, Social Policy Division

Mr Peter Robinson, Principal Adviser, Social Policy Division
Mr Michael Willcock, General Manager, Commonwealth-State Relations Division
Mr Ian Robinson, General Manager, Corporate Services Division

Outcome 3: Well Functioning Markets

Output Group 3.1: Markets Group

Mr Jim Murphy, Executive Director
Mr Chris Legg, General Manager, Financial System Division
Mr Andre Moore, Senior Adviser, Financial System Division
Ms Kanwaljit Kaur, Manager, Financial System Division
Ms Vicki Wilkinson, Manager, Financial System Division
Mr Trevor King, Manager, Financial System Division
Mr Damien White, Manager, Financial System Division
Mr Olaf Schuerman, Senior Adviser, Financial System Division
Ms Caroline Walker, Senior Adviser, Financial System Division
Ms Kathryn McCrea, Financial System Division
Ms Kerstin Wijeyewardene, Acting General Manager, Corporations and Financial Services Division
Mr Matt Brine, Manager, Corporations and Financial Services Division
Ms Ruth Smith, Manager, Corporations and Financial Services Division
Mr David Love, Manager, Corporations and Financial Services Division
Mr Andrew Sellars, Manager, Corporations and Financial Services Division
Mr Steve French, General Manager, Competition and Consumer Policy Division
Ms Sandra Patch, Senior Adviser, Competition and Consumer Policy Division
Ms Louise Seeber, Acting Manager, Competition and Consumer Policy Division
Mr David Hall, Manager, Competition and Consumer Policy Division
Mr Stewart Jones, Manager, Competition and Consumer Policy Division
Mr Chris Lyon, Competition and Consumer Policy Division
Mr Simon Vickery, Competition and Consumer Policy Division
Ms Jane Benson, Competition and Consumer Policy Division
Mr Brad Archer, Competition and Consumer Policy Division
Mr Gerry Antioch, General Manager, Foreign Investment and Trade Policy Division
Mr Mike Rosser, Manager, Foreign Investment and Trade Policy Division
Mr Peter Martin, Australian Government Actuary
Mr Peter McCray, General Manager, Financial Literacy Foundation
Mr Grahame Crough, Manager, Financial Literacy Foundation
Mr John Riley, Financial Literacy Foundation

Outcome 2: Effective Government Spending and Taxation Arrangements

Output Group 2.2: Revenue Group

Mr Mike Callaghan, Executive Director
Mr Bruce Paine, General Manager, Board of Taxation Secretariat
Mr Paul McCullough, General Manager, Tax System Review Division
Mr John Lonsdale, General Manager, Superannuation, Retirement and Savings Division
Mr Nigel Ray, General Manager, Tax Analysis Division
Mr Phil Gallagher, Manager, Tax Analysis Division

Mr Colin Brown, Manager, Tax Analysis Division
Mr Peter Greagg, Manager, Tax Analysis Division
Mr Neil Motteram, General Manager, International Tax and Treaties Division
Mr Patrick Colmer, General Manager, Indirect Tax Division
Mr Colin Johnson, General Manager, Business Tax Division
Mr Geoff Miller, General Manager, Individuals and Exempt Tax Division
Mr Patrick Boneham, Senior Adviser, Superannuation, Retirement and Savings Division
Mr Alan Mallory, Manager, Superannuation, Retirement and Savings Division
Mr Nigel Murray, Manager, Superannuation, Retirement and Savings Division
Mr Tony Coles, Manager, Superannuation, Retirement and Savings Division

Australian Competition and Consumer Commission

Mr Graeme Samuel, Chairman
Mr Brian Cassidy, Chief Executive Officer
Mr Joe Dimasi, Executive General Manager, Regulatory Affairs Division
Mr Mark Pearson, Executive General Manager, Enforcement and Compliance Branch
Ms Lee Hollis, General Manager, Criminal Enforcement and Cartel Branch
Ms Rose Webb, General Manager, Enforcement and Coordination Branch
Mr Tim Grimwade, General Manager, Mergers and Asset Sales
Mr Scott Gregson, General Manager, Adjudication Branch
Mr Robert Antich, General Manager, Policy and Liaison Branch
Mr Nigel Ridgway, General Manager, Compliance Strategies Branch
Mr Michael Cosgrave, General Manager, Telecommunications Group
Ms Margaret Arblaster, General Manager, Transport and Prices Oversight
Ms Helen Lu, General Manager, Corporate Management Branch
Mr John Bridge, Chief Finance Officer
Ms Lisa Anne Ayres, Executive Branch
Ms Claire Woods, Executive Branch
Ms Colette Downie, Director, Enforcement and Coordination Branch
Ms Tanya Howitt, Director, Finance and Services

Australian Bureau of Statistics

Mr Dennis Trewin, Australian Statistician
Mr Peter Harper, Deputy Australian Statistician, Economic Statistics Group
Dr Sui-Ming Tam, First Assistant Statistician, Information Management and Census Division
Mr Garth Bode, Assistant Statistician, Labour and Demography Branch
Mr Patrick Corr, Director, Demography Section
Mr Mark Whybrow, Chief Finance Officer

Corporations and Markets Advisory Committee

Mr John Kluver, Executive Director

National Competition Council

Mr John Feil, Executive Director
Mr Ross Campbell, Director

Productivity Commission

Mr Bernard Wonder, Head of Office

Mr Garth Pitkethly, First Assistant Commissioner

Dr Michael Kirby, First Assistant Commissioner

Mr Stephen Rimmer, Assistant Commissioner

Mr Ian Gibbs, Assistant Commissioner

Australian Prudential Regulation Authority

Dr John Laker, Chairman

Mr Ross Jones, Deputy Chairman

Mr Steve Somogyi, APRA Member

Mr Brandon Khoo, Executive General Manager, Specialised Institutions

Mr Tom Karp, Executive General Manager, Supervisory Support

Mr Wayne Byres, Executive General Manager, Diversified Institutions

Mr Charles Littrell, Executive General Manager, Policy, Research & Statistics

Australian Securities and Investment Commission

Mr Jeffrey Lucy, Chairman

Mr Jeremy Cooper, Deputy Chairman

Ms Berna Collier, Commissioner

Australian Taxation Office

Mr Michael Carmody, Commissioner of Taxation

Mr Greg Farr, Second Commissioner

Ms Raelene Vivian, Deputy Commissioner

Mr Paul Duffus, Deputy Commissioner

Ms Donna Moody, Chief Finance Officer

Mr Neil Olesen, Deputy Commissioner

Mr Mark Jackson, Deputy Commissioner

Mr Bill Gibson, Chief Information Officer

Ms Stephanie Martin, First Assistant Commissioner

Ms Margaret Crawford, Chief Operating Officer

Ms Frances Robinson, Deputy Commissioner

Mr Geoff Robinson, Deputy Commissioner

Ms Anne Ellison, First Assistant Commissioner

Ms Erin Holland, Deputy Commissioner

Ms Elizabeth Goli, Assistant Deputy Commissioner

Mr Mark Konza, Deputy Commissioner

Mr Michael Monaghan, Deputy Commissioner

Mr Shane Reardon, Deputy Commissioner

Inspector-General of Taxation

Mr David Vos, Inspector-General of Taxation

Mr Rick Matthews, Deputy Inspector-General of Taxation

Financial Reporting Council

Mr Charles Macek, Chairman

Ms Elizabeth Alexander, Deputy Chairman

Productivity Commission

ACTING CHAIR (Senator Watson)—I now call to order this public hearing of the Senate Economics Legislation Committee. I welcome Mr Bernard Wonder and his team from

the Productivity Commission. I understand you have appeared before these sorts of committees before and understand the rules. I invite you to make an opening statement, Mr Wonder.

Mr Wonder—I would like to take the opportunity to make a brief statement. I am the newly appointed Head of Office at the Productivity Commission. I have been there for two months. I joined the Productivity Commission after being a deputy secretary at the Department of Agriculture, Fisheries and Forestry. Mr Pitkethly is the first assistant commissioner in charge of our Canberra office here. Mr Gibbs is assistant commissioner, working with Mr Pitkethly in the Canberra office. Dr Kirby runs our Melbourne office.

The other comment I wanted to make was to refer to our annual report, which was tabled in the parliament on 31 October. It is perhaps useful to refer the committee, if you have not been through the document, to page 31, not to dwell on the content of that page but to refer to the fact that page 31 of the annual report lists the commission's publications in 2004-05. I will not go through that list, but it is a comprehensive list of outputs in 2004-05. I want to quickly mention that, of those reports that I canvassed there in our annual report, there are five that have been completed since the end of 2004-05. The first one is a final inquiry report, *The private cost effectiveness of improving energy efficiency*. The second is a final commissioned research study on *Impacts of advances in medical technology in Australia*. The third is a paper that we have recently put out as a position paper on Australia's health work force. The fourth is a discussion draft, again, which we have recently put out, *Review of the Australian consumer product safety system*. The final publication I wanted to refer to is one in our annual report series which again was released just this week, on 31 October: *Regulation and its review 2004-05*. That concludes my opening statement.

Senator SHERRY—The Productivity Commission's annual report 2004-05 stated:

... the compliance of departments and agencies in 2004-05 ... was lower than in previous years—

referring here to regulatory impact statements. Only 80 per cent had prepared adequate regulatory impact statements compared to 92 per cent in 2003-04, and less than 50 per cent were fully compliant. Would you care to give us some more details?

Mr Wonder—Yes, I can give you some more details. This is the report that I referred to a moment ago, which I have in my hand, *Regulation and its review 2004-05*. In the overview on page 17 there is reference to those numbers you mentioned when the compliance rate fell from 92.1 per cent in 2003-04 to 80 per cent in 2004-05. Table 2 on that page points out that that is compliance at the decision-making stage. Over the page on page 19 of the overview, figure 1 gives by agency the number of proposals that required a regulatory impact statement. It then breaks that down into those RISs that were prepared and adequate, those that were prepared and inadequate and those that were not prepared at all. In 2004-05 there were 19 departments and agencies that developed regulatory proposals that triggered the government's requirements to prepare an RIS. Of those 19, 10 departments and agencies were fully compliant with the government's RIS requirements at the decision-making stage. That compared to 18 of 24 in 2003-04.

Senator SHERRY—In terms of the information available, which departments had effectively deteriorated in their performance?

Mr Wonder—I do not know that I have a comparison between 2003-04 and 2004-05 in terms of individual department deteriorations. I might turn to my colleague for that. But the figure referred to does give by agency ‘adequate’, ‘inadequate’ and ‘not prepared’, but it does so for 2004-05. I just need to check with my colleague whether we have a comparison with 2003-04 by agency.

Mr Pitkethly—What I can say is that two of the departments that deteriorated were Treasury and Health and Ageing. There may be more. Like my colleague, I do not have the full list in front of me.

Senator SHERRY—In respect of Treasury, let us look at one specific area: taxation legislation. What is their compliance rate in respect of taxation legislation and RIS?

Mr Wonder—The figure that I referred to on page 19 of the overview gives the compliance, Senator, at 67 per cent. Of the nine RISs concerned, six RISs that were prepared were adequate and three were not prepared, thereby giving an outcome of 67 per cent.

Senator SHERRY—In terms of ensuring full compliance, or as near as possible to full compliance, what does the PC recommend for improvement in what has been observed to be a deteriorating compliance in some areas?

Mr Wonder—This issue is addressed in the report. There is a section on RIS compliance on pages 26 to 29 of the report and there are a number of initiatives suggested there. For example, if I could quote from the report at the bottom of page 28, under ‘To facilitate further improvements in regulation making’, it states the intention to:

- raise minimum adequacy standards for RIS, with a particular focus on documenting regulatory compliance costs and improving the quality of cost/benefit analysis within RISs.

I am paraphrasing a little. The second is to ‘monitor and report on the quality and timeliness of the service it provides to regulators’. The third is to enhance our training efforts for departments and agencies. The fourth is:

- meet with senior officials from poorly performing departments/agencies to discuss performance and ways to improve outcomes;

The fifth is:

- explore the scope to use information technology to improve communication with regulators;

The final few are:

- report on regulation review and reform developments in other jurisdictions;
- explore options to improve regulation review and reform processes and systems employed by the ... Government ...

So we are working to see what we can do to improve our compliance with and adoption of best practice.

Senator SHERRY—There has been a great deal of public debate, particularly in the last few months, about regulatory red tape. Is the Productivity Commission going to make a submission to the investigation into this? I think Mr Banks is to head it.

Mr Wonder—Yes, Mr Banks is, as you would be aware, Senator, Chairman of the Productivity Commission and is conducting the review announced by the Prime Minister and

the Treasurer on 12 October. The commission is involved inasmuch as the secretariat that has been put together to service the task force includes an interdepartmental whole-of-government membership, as outlined in the Prime Minister's and Treasurer's press release, including a couple of officers from the Productivity Commission. But officers from other agencies are involved as well. So our involvement lies more in assisting colleagues from other departments to contribute to the task force report, rather than preparing a submission.

Senator SHERRY—I understand the perception of a conflict of interest into which Mr Banks and some of the staff could perhaps be drawn. So the PC itself will not be making a submission?

Mr Wonder—We are not planning to make a submission, no. But we are significantly involved, as I outlined.

Senator SHERRY—Yes. There was a recent Senate Economics Legislation Committee inquiry into the national access regime—that is, the Trade Practices Amendment (National Access Regime) Bill. The PC was invited to discuss its report on the national access regime at that Senate inquiry and Mr Banks declined. He is not here today, obviously, but what are the PC's reasons for declining?

Mr Pitkethly—I think I recall a conversation about this, and I think we made it in accordance with our ongoing practice—that is, that we are consultants to government, if you like. We are asked to prepare a report. We prepare a report, deliver it to government and then do our best to keep out of the marketing of that report and to avoid engaging in subsequent debate. I believe it was that sort of background tradition which led Mr Banks to decline the invitation. I also think there might have been mechanics involved there with the timing, but you are stretching my memory a little bit.

Senator SHERRY—I do not agree with that approach. If there is a timing issue, there is a timing issue and that is perhaps understandable, depending on the circumstances. But the parliamentary process and the Senate process does I think have a reasonable expectation that an organisation like the PC—and I can think of other organisations—should be available for some questioning on issues that are directly relevant to it.

The pricing principles in the PC report of 2002 relating to the price of access to a service are:

- (a) that regulated access prices should: (i) be set so as to generate expected revenue for a regulated service or services that is at least sufficient to meet the efficient costs of providing access to the regulated service or services; and (ii) include a return on investment commensurate with the regulatory and commercial risks involved.
- (b) that the access price structures should: (i) allow multi-part pricing and price discrimination when it aids efficiency; and (ii) not allow a vertically integrated access provider to set terms and conditions that discriminate in favour of its downstream operations, except to the extent that the cost of providing access to other operators is higher.
- (c) that access pricing regimes should provide incentives to reduce costs or otherwise improve productivity.

I refer to two lines: 'at least sufficient' in principle (a)(i) and the notion of regulatory risk in (a)(ii) that I just referred to. Are these lines essential? If they are essential, for what reason?

Mr Gibbs—Starting with the regulatory risk, I guess for some of these major regulated infrastructure investments, there are very considerable uncertainties in advance of the event as to what judgments the regulator may come to on future prices. That risk will be priced into investment decisions. Therefore, if there is no provision in the pricing structures that can accommodate that sort of risk, potentially you may see some worthwhile projects not proceeding.

Again, the focus in talking about ‘at least sufficient’ is that the commission took a position in that national access report that the regulatory regime overall had tended to give insufficient weight to the returns required to sustain service provision into the longer term to encourage investment. So there was this perception that it had perhaps focused a little too heavily on ensuring pricing and ensuring efficient use of existing infrastructure, as distinct from looking at what might be required to encourage investment to sustain services over the longer term. Underlying those principles was a view that, given that there are a lot of uncertainties in setting prices, if anything there should be a tendency to err on the side of encouraging investment.

Senator SHERRY—Are you able to give us a specific example of this in operation?

Mr Gibbs—I guess the commission, when it was putting forward these pricing principles, was looking forward at what it thought agencies should do. How you would give effect to those particular principles would depend on the specific piece of essential infrastructure you had. Our intention was that regulators—those involved in setting prices for regulated infrastructure—would be guided by those principles rather than us setting it down in black-letter law in great detail.

Senator SHERRY—I understand that, but presumably in examining the principles you would have looked at some practical working examples.

Mr Gibbs—I guess we couch them more in terms of looking back at examples where perhaps those principles had not been applied. I said, for example, investors in infrastructure had perceived that too much emphasis had been placed on encouraging efficient use of infrastructure rather than encouraging investment. So there were quite a range of examples provided to that inquiry both of decisions to invest that had been deferred—and I would say that those arguments are widely debated out there—and of the fact that the pricing structures at times caused people to change the way in which they invested. So the actual nature of the way investments they made were altered.

Senator SHERRY—Thank you; that is all.

[9.22 am]

Australian Bureau of Statistics

ACTING CHAIR—I welcome the representatives from the Australian Bureau of Statistics. Would you like to make an opening statement?

Mr Trewin—No.

CHAIR—Then we shall proceed straight to questions.

Senator SHERRY—On, I think, page 153, the ABS annual report refers to the ABS holding funds that were technically in breach of section 83 of the Constitution. That follows on from a report from the Auditor-General. For what period did the ABS hold these funds without the required legal authority?

Mr Trewin—I will answer your question but I will start with a little bit of history, if I may. Back in 1988 as a budget saving measure we were allowed to retain revenue earned from the sale of publications and other statistical services. In turn, our budget was reduced. In those days, they were known as section 35 agreements. There was an agreement between the ABS and the department of finance at that time and it was updated a few times between 1988 and the introduction of the amended financial management act. When the new financial management act was introduced in 1988-89, we signed another agreement with the department of finance. It was actually signed by the First Assistant Statistician who was responsible for financial matters. At that time, we thought it was a valid agreement. We were not aware that, with the changes to the financial management act, it required ministerial endorsement.

Senator SHERRY—Just before you go on, you said the First Assistant Statistician?

Mr Trewin—It was at that level that agreements had been signed from 1988 up until that time.

Senator SHERRY—Did he take advice on that issue?

Mr Trewin—I cannot answer that. He has left the organisation so I have not been able to ask him those questions.

Senator SHERRY—You might not have been able to ask him but is there any record to show that he did ask for or seek advice on that matter?

Mr Trewin—There were discussions with the department of finance but, beyond that—

Senator SHERRY—So you were relying on the department of finance for advice on that matter.

Mr Trewin—That is the normal arrangement on those sorts of issues.

Senator SHERRY—That is what I am asking. You were relying on the department of finance for advice on that issue.

Mr Trewin—That is my understanding.

Senator SHERRY—I am sorry; go on.

Mr Trewin—From that period until we were notified earlier this year, we were technically in breach of the Constitution. As soon as we found out there was a breach, we corrected the matter. I should say that all our financial statements during that time were prepared on the assumption that we did have a valid agreement in place.

Senator SHERRY—You said ‘earlier this year’. When did this error come to light?

Mr Trewin—I understand it was in March.

Mr Whybrow—We signed a new agreement in March this year. The error that came to light has been investigated and there was a great deal of work undertaken by the Audit Office

to actually determine whether, legally, our agreements, along with those of a range of other departments, were valid or not. So there was a great deal of time when they were establishing the rules and seeking legal advice about whether they were legal or not.

Senator SHERRY—That was prior to March?

Mr Whybrow—That was prior to March, yes.

Senator SHERRY—Then the matter was drawn to the ABS's attention. A decision had been made that it was illegal—

Mr Whybrow—Yes.

Senator SHERRY—technically or otherwise it was illegal—back in March.

Mr Whybrow—Yes. I guess this was a whole-of-government issue. We were not alone in having a technically ineffective agreement or a series of ineffective agreements. We relied on advice from the department of finance and also the Australian National Audit Office in working forward regarding a way to resolve that issue.

Senator SHERRY—Was the \$122 million returned to consolidated revenue once the error was discovered?

Mr Trewin—No, it was not.

Senator SHERRY—Why not?

Mr Trewin—This revenue was collected in accordance with an agreement that was in place but it was not a valid agreement.

Senator SHERRY—So why wasn't the revenue returned to consolidated revenue?

Mr Trewin—That would have been a very significant chunk of our budget. We would have had to close down—

Senator SHERRY—I understand that but you were holding moneys illegally.

Mr Whybrow—At that point in time, the ABS had something in the order of \$14 million that it was holding in cash reserves. There was not capacity; the money had already been spent in those subsequent years in line with budget papers and in line with annual reports.

Senator SHERRY—So you could not return the money because you did not have it—you had spent it—but you had \$14 million. Was that returned?

Mr Whybrow—No, that was not returned. The process that took place was that the secretary of the department of finance issued an instrument, which was to commence from 30 June 2005, which varied those previously ineffective agreements so that agencies could spend those funds. It could not actually retrospectively authorise the expenditure but effectively it appropriated those funds, so we were still in breach of section 83.

Senator SHERRY—So effectively the breach had to be ignored because it could not be retrospectively approved.

Mr Whybrow—Effectively, the breach had to be noted. It is a serious matter—spending funds without authorisation. There has been an appropriation of those funds in the future, but it does not excuse the fact that there was a technical error.

Senator SHERRY—Did the ABS seek some separate outside legal advice on this matter or has it simply relied on the department of finance's advices and/or the Audit Office?

Mr Whybrow—We have relied on that Audit Office advice and also the department of finance. We have not sought our own—

Senator SHERRY—Given what was said earlier, the department of finance was largely responsible for the error having occurred in the first place. Do you think it was a good idea to rely on them again?

Mr Trewin—We are not the only agency that was in this position.

Senator SHERRY—I understand that.

Mr Trewin—We treat it as something that you need to have a consistent whole-of-government approach to, and seeking our own separate advice did not seem to be in the best interests of that.

Senator SHERRY—Given the fact that the department of finance was consistently wrong, not just in respect of the ABS but in respect of a number of other agencies, do you think it would have been wise to have sought some separate legal advice just to reassure yourselves operationally, in that 'Finance got it wrong before: we'd just better double-check to make sure the advice they are giving us this time is correct'?

Mr Trewin—We chose not to take that action but we did challenge the Audit Office. We did ask them a few hard questions about whether their advice was actually right or not, but in the end we accepted the ruling.

Senator SHERRY—You came to the conclusion that the Audit Office advice was right?

Mr Trewin—I accepted their ruling, yes.

Senator SHERRY—No, that is not what I asked. You said you accepted their ruling, but were you satisfied that the ruling was correct?

Mr Trewin—I am not very happy about a situation where we are in breach for—I should be able to do my arithmetic—something like six or seven years, and the Audit Office had not told us earlier because the financial statements were prepared and subject to audit on the assumption that a valid agreement was in place. There was absolutely no impropriety here. We were acting in good faith.

Senator SHERRY—No, I understand you were acting in good faith, but the fact is that the department of finance mucked up—that is the bottom line—not just with ABS but with a number of other departmental agencies. The Audit Office uncovered—

Mr Trewin—You could say that we had some obligation to check the financial management act, so I do not think we were completely clean on this.

Senator SHERRY—Okay. Why didn't you?

Mr Trewin—It is a bit hard to answer that question because the people who were around at that time are no longer with us.

Senator SHERRY—Is that an indication of—

Mr Trewin—I have inherited this problem.

Senator SHERRY—But you are the person who is responsible. Whether or not that is fair is another thing. You are sitting here having to explain this.

Mr Trewin—This is one of the most embarrassing things that has happened to me this year.

Senator Minchin—I think it was reasonable for agencies to act on the basis that it was always government policy that these agencies retain revenues. This was all in the context that, as a matter of government policy, agencies like the ABS were able to retain those revenues but that that was given effect to by way of these agreements.

I think the Audit Office and Finance, in the wake of the new financial management act, thought that the nature of the agreements that were being entered into was proper, but it was the Audit Office that found this and came to the view that technically these agreements did not properly give effect to government policy in relation to the retention of revenues consistent with section 83. My department was then persuaded by the Audit Office that that was the case. The agencies involved accepted that this was the case and that, given that Finance were accepting the Audit Office advice on this, and given the Finance and Audit strategy for resolving the matter, I think that agencies like the ABS have acted properly, and the matter is now resolved. It was always consistent with government policy that these revenues be retained, and it was quite proper. But the instrument to give effect to that was found to be deficient by the Audit Office. We have now corrected that matter.

Senator SHERRY—But I think the ABS is saying they essentially had to take—like a number of other departments and agencies—the guidance of Finance on this matter in the initial stage when it was introduced. I think you were essentially relying on Finance at that time.

Mr Trewin—We were, but with the benefit of hindsight we could have done more to check the provisions of the financial management act as well.

Senator SHERRY—I understand this did not start on Senator Minchin's watch or indeed under the current departmental secretary. Both have moved on for other reasons. The Census and Statistics Act 1905 allows an Australian statistician to direct a person to complete a form or answer a question. Under section 14 of the act, failure to comply with this direction may be punishable. I notice the number of directions in this area was 629 in 2001-02 and that dropped dramatically to 26 for the entire three years after 2001-02. Similarly, prosecutions are down. In 2001-02 there were 106 prosecutions and then in the following three years there was just one prosecution. Given the high level of direction notices and prosecution levels in 2001-02, what is the reason for the almost complete failure to prosecute breaches of section 10(4) and 11(2) under the act in the following years—2002-03, 2003-04 and 2004-05?

Mr Trewin—The high number in 2001-02 is associated with the population census. That is the year when we have most contact with Australians. The fact is that some people will only complete the census form if they are given a direction. You will see that five years after 2001-02 we will have another peak. The fact is that our response rates with businesses have remained very strong. In fact, if you look at another part of our annual report, you see that the number of complaints that we have had from businesses has dropped over recent years and there just has not been the need to issue notices of direction. We normally reserve them for the

more significant businesses, and at present, fortunately, we get a high level of cooperation from the largest Australian businesses in our collections.

Senator SHERRY—So what you are saying—you may not have the number—is that the vast bulk of that 629 in 2001-02 were individual in respect of failure or refusal to complete the census form?

Mr Trewin—That is right. It would be over 95 per cent of them, probably.

Senator SHERRY—Maybe take it on notice and let me know what the number was out of the 629. There was a report in the *Financial Review* on 15 October that the ABS would delay its biennial wages and workplace arrangements survey. Can the bureau explain the reasons for the possible exclusion of wage setting methods from its employee earnings and hours survey, which is due to be conducted in May 2006, if in fact that report is correct?

Mr Trewin—There were a number of inaccuracies in the report. Contrary to what the article said, we were always going to run a survey in May 2006. The issue was whether we were going to run the questions on pay arrangements which we had in the previous survey. The reason for that uncertainty was that we thought we might have a mixture of old and new arrangements and whether—

Senator SHERRY—What do you mean by ‘old and new arrangements’? Why?

Mr Trewin—As you know, there are proposed amendments to the Workplace Relations Act.

Senator SHERRY—I have not read it yet. I was in estimates yesterday, so I could not.

Mr Trewin—There are costs involved in collecting and processing this information, not just to us but also to respondents. So we thought that, before we decided to definitely go ahead, we would check with the key users as to whether this information was going to be useful or not. We have now done that. They have confirmed that they would like us to repeat those questions, and we will do that.

Senator SHERRY—So you will be going ahead?

Mr Trewin—Yes.

Senator SHERRY—In your review, are the current questions on wage setting methods suitable?

Mr Trewin—We have no choice. It takes a fair bit of time to develop and test a new set of questions. We will be largely repeating the same set of questions that we asked in the 2004 survey. I think there is one additional question.

Mr Bode—There is the possible addition of a screening question which might enable us to collect, edit and quality assure the data if there are situations where new pay setting arrangements have begun following the legislative changes.

Senator SHERRY—So, as best you can, you will be trying to capture that information?

Mr Bode—That is correct.

Senator SHERRY—You will have the original questions, with an add-on one, if you like, to try and capture anything new that has occurred?

Mr Bode—Yes.

Senator SHERRY—You have come to that conclusion, full stop?

Mr Trewin—Yes. We have a group that we call the labour statistics user group. They met on Monday and confirmed that they thought it would be wise for us to continue with that set of questions.

Senator SHERRY—Who is in that group? What is it made up of?

Mr Bode—We have representatives from government departments, academics from the university sector, the ACTU and the Australian Chamber of Commerce and Industry. They are the main ones.

Senator SHERRY—Could you take it on notice and provide us with a list of those people?

Mr Bode—Sure.

Senator SHERRY—As far as the ABS is concerned, it has finished its consultations and has come to the conclusion that it will go ahead in an attempt to capture the data? That is now set? That is the course that the ABS will take?

Mr Trewin—That is correct. I expect I will make a public statement to that effect within the next few days.

Senator SHERRY—I think you have probably made it now, given the processes of the estimates.

ACTING CHAIR—Thank you very much for your appearance here today.

[9.45 am]

Corporations and Markets Advisory Committee

ACTING CHAIR—We welcome our next witness. I invite you to make an opening statement if you wish.

Mr Kluver—It may be useful to the committee if I quickly outline the current state of various projects that we have at the moment. Currently the advisory committee has four matters under review. The first is the question of personal liability for corporate fault. The advisory committee released a discussion paper earlier this year. It has received submissions on that discussion paper, all of which have been published on the CAMAC web site, and it will soon start its consideration of those submissions. The second project that the advisory committee has at the moment deals with corporate duties below board level. The committee published a discussion paper on that matter earlier this year. It has also received submissions on the discussion paper, which have been published on its web site. The committee will soon commence its deliberations on those submissions with a view to a final report.

The third matter that the advisory committee currently has under review is corporate social responsibility. The committee received a reference on that earlier this year. The committee is now at the stage of finalising its discussion paper on corporate social responsibility. We hope to release that discussion paper, initially on our web site and with bound copies to follow, within the next fortnight, and we are calling for submissions. The committee will then prepare its final report, taking into account all the submissions it receives on its discussion paper as

well as all the submissions that have been given to the parliamentary joint committee in its parallel review in the area of corporate social responsibility.

Finally, the committee has received a reference dealing with long-tail liabilities arising out of the Jackson committee inquiry into James Hardie Industries. The committee has called for submissions to be made by mid-February next year on the proposal that we are asked to review. In light of the submissions received, the committee will decide what its next step shall be, with the purpose of advancing that review. That is a quick summary of our current projects.

ACTING CHAIR—Thank you. We will now proceed to questions. Senator Sherry?

Senator SHERRY—You said you are considering four matters. I take it that they are the four active references.

Mr Kluver—Yes.

Senator SHERRY—There are no others at the moment?

Mr Kluver—Four is sufficient at the moment.

Senator SHERRY—Yes, I am not questioning that, but they are the four?

Mr Kluver—Yes.

Senator SHERRY—You mentioned insolvency and long-tail liabilities for James Hardie related matters. Is this the last of the four that have been referred?

Mr Kluver—This is the most recent reference that we have received.

Senator SHERRY—Does it take any greater priority over the others? How do you prioritise? You get a new reference and you have your three existing references. What impact does it have in terms of time frames?

Mr Kluver—It does not take priority over the others, but, equally, the advisory committee is concerned to ensure that it can advance its review on that matter as expeditiously as possible. So it is a matter of us now trying to ensure that we can report on all four references in a reasonable time, to balance expedition and to ensure that our reports meet the standard that the committee is accustomed to of ensuring public participation through submissions. We also aim to ensure that the report gives full and complete reasoning as to the recommendations and their rationale and takes into account all the submissions received. So we have the task of trying to balance these four references simultaneously.

Senator SHERRY—But that is not necessarily easy, I suspect.

Mr Kluver—That is correct.

Senator SHERRY—You mentioned earlier the February date on the insolvency and long-tail liabilities. What is the target reporting date for this reference?

Mr Kluver—The committee has not yet decided. At this stage we have asked for submissions on the proposal that we have been asked to review. In light of those submissions, the committee will decide whether they will go to a report or whether they may need to publish another document before that process is completed. The committee has not yet reached a decision on a likely target date. It will depend, in part, on two matters: firstly, the

additional work we do on the topic between now and February; and, secondly, what issues, concerns and views are expressed in the submissions that we receive.

Senator SHERRY—So there are basically two paths you can go down when you get the submissions. You may issue another paper, which would obviously put the final date back, or not issue the paper but issue the report. On top of that, I suppose the other possibility is that you might receive another active reference, which would impact on overall workload anyway.

Mr Kluver—Yes, we may receive another active reference. That is a matter for the government.

Senator SHERRY—I understand that. But those are the two most significant factors impacting on the final date?

Mr Kluver—At this stage I would agree that the two most important factors, with regard to the long-tail liabilities, are our further research between now and February and the content of the submissions received.

Senator SHERRY—What is the target reporting date for the reference on directors' duties and corporate responsibility?

Mr Kluver—The advisory committee does not set a target reporting date. Instead, the advisory committee's next step is to review the submissions and, in light of those submissions, move towards a final report. It is impossible to set a particular date because the amount of time required to review the submissions can vary depending upon what is in the submissions, what issues they raise and what further consideration is required. However, with regard to duties below board level and with regard to personal liability of corporate fault, the committee is keen to ensure that, consistent with a thorough analysis of the exercise, the report goes to government as early as possible.

Senator SHERRY—Your web site says a discussion paper will be released in November. When will that release be?

Mr Kluver—The web site reference relates to our corporate social responsibility reference, which is the third of our four references. As I indicated in my opening statement, the discussion paper on corporate social responsibility is now very close to settlement. I anticipate and trust that the advisory committee will be able to publish that discussion paper, hopefully, within the next fortnight, but it is certainly very close. The discussion paper will be published on the web site initially and there will be printed copies available as soon as possible thereafter.

Senator SHERRY—There would be public submissions as a consequence?

Mr Kluver—Yes. The discussion paper will indicate that the advisory committee will take into account all submissions already received by the parliamentary joint committee in its inquiry into corporate social responsibility, without the need for respondents to the PJC inquiry to also send their submissions to us. All of that will automatically be taken into account. In addition, the discussion paper will seek submissions. In that context, the discussion paper will contain a series of questions, some of which may be matters on which people might wish to make submissions in addition to, or for the first time, with regard to the PJC.

Senator SHERRY—So there will be further public submissions. Could you give the committee an idea of the indicative dates for opening and closing—what the normal time frame is for public submission?

Mr Kluver—I think the best answer I can give to that is: the most likely closing date for submissions on the corporate social responsibility discussion paper, taking into account the Christmas season, would be the end of February next year.

Senator SHERRY—Is it normal practice for those submissions to be made public?

Mr Kluver—Yes. All submissions are published on our web site.

Senator SHERRY—And the deliberations of the committee on the corporate responsibility matter?

Mr Kluver—The advisory committee will commence its review of corporate social responsibility in light of both the submissions received to the PJC and submissions received on our own discussion paper. It will be a matter of internal processes within the advisory committee as to the procedure by which we will review submissions on what will then be three discussion papers—that is, on liability below board level, personal liability for corporate fault, and corporate social responsibility.

Senator SHERRY—You touched on some of this earlier, but what are the next steps for the other two references—corporate duties below board level and personal liability for corporate fault?

Mr Kluver—The next step is for the advisory committee to commence its deliberations on the submissions received. At this stage, the most likely next step will be that the advisory committee, at its December meeting—which is the next meeting of the advisory committee—will commence its review of submissions received on both those discussion papers. The timing of a final report will be dependent upon the time taken for the advisory committee to be satisfied as to the nature of its review of those submissions, the position it takes on each of the issues raised, and the reasons that the advisory committee wishes to advance in its final report. So, again, the committee will seek to expedite the matter as quickly as possible, consistent with a thorough and complete analysis of the submissions and the issues on each of the matters in the discussion papers.

ACTING CHAIR—Thank you, Mr Kluver. Before I call the Australian Taxation Office, the committee will break for five minutes.

Proceedings suspended from 9.58 am to 10.07 am

Australian Taxation Office

ACTING CHAIR—I welcome the Commissioner of Taxation, Mr Michael Carmody, and his team. I invite you to make an opening statement, Mr Carmody.

Mr Carmody—I have no statement, Acting Chair.

ACTING CHAIR—I have a short question. What were the reasons for some financial institutions issuing low-documentation or inadequately documented loan agreements?

Mr Carmody—Perhaps you need to ask them the reason for issuing them. As I understand it, they refer to the fact that there are many contractors and others who would not have the

traditional papers that might be associated with the normal loan agreements. I think it was just a market competitive issue in attracting a client base for their loans.

ACTING CHAIR—Were there any tax consequences as a result of the manner in which these loans were usually constructed?

Mr Carmody—There is no direct tax consequence of taking out a loan. The issue we have found, however, is that they do not require traditional documentation—in previous situations tax records, for example, were required for loans. Low-documentation loans do not require any of that traditional documentation so if you were attempting to conceal yourself from the tax system then a low-documentation loan would perhaps be a vehicle that would be attractive to you. But the fact that it is a low-documentation loan of itself is not the issue. We did a pilot exercise and found that there was very substantial evidence of nonlodgment by people who took out low-documentation loans.

ACTING CHAIR—Nonlodgment of tax returns?

Mr Carmody—Yes. There was also some evidence, although it was a small pilot, of understatement of income. We have indicated that we will be extending that pilot, and I think we have just recently gazetted a number of institutions whereby we will be requiring them to provide details of lenders to us and we will be running those against our database to identify people who have not been lodging returns.

ACTING CHAIR—So there are no consequences to revenue in terms of the manner in which the loans are worded? It is only that you are using this as a means of picking up people who have not lodged returns or who may have returned insufficient income forms.

Mr Carmody—They have understated income. That is right, because the information that they need to provide is not the traditional sort.

ACTING CHAIR—So there is no consequence in terms of querying between ‘private capital’ or ‘business expenditure’ in the conditions under which the loans are taken out?

Mr Carmody—I think it is just the traditional tax questions, once you get into that, of loan borrowed funds. The mere fact that they are obtained through low documentation is not directly relevant.

ACTING CHAIR—So the action that you have taken is to compel certain institutions to provide further information to you?

Mr Carmody—Yes, about the users of low-documentation loans. We are using that to match for lodgment purposes. Where we find a distinct mismatch, for example, between the amount borrowed and the repayments and the amount of income that they return for tax purposes—where there is a significant gap in that—we will also be naturally asking the question: how is it you can afford to make those loan repayments if you are returning that income? There may be explanations—a lot of bequests and things like that—but that is the sort of question we will be asking.

Senator SHERRY—I have a couple of questions in respect of the annual report which really cut across different programs. Could I firstly ask some question about consultancies?

Mr Carmody—You can.

Senator SHERRY—Thank you, Mr Carmody. On this issue of consultancies: looking at appendix 4 of the annual report, which lists the consultancies, there is Analysis Group Economics with, under ‘Description’, ‘provide economic opinion and advice on transfer pricing arrangements’ and, under ‘Contract price’, ‘\$126,500’. As far as we can determine, the corporation, at least under that name, does not have an ABN. Does the ATO have a policy of requiring consultants to have an ABN?

Ms Moody—When we engage people we obviously comply with the relevant tax law. Most places would have an ABN. If one does not, then we would go through a withholding regime associated with payments to that company. But I am not familiar with the individual case so I would have to take detail about an individual case on notice.

Senator SHERRY—I would have thought that the tax office would certainly be checking on ABNs for its own consultants, would it not?

Ms Moody—Yes. But we engage people, for instance, as individuals and we would engage people as companies, and each of those sorts of engagements would come with a range of checking requirements which might involve withholding if they did not have the appropriate number. It does not necessarily mean you would not engage them if they did not have an ABN, but you would then employ some other—

Senator SHERRY—But can I be assured that the tax office is checking that its own consultants have an ABN as part of the process?

Ms Moody—I would take that on notice.

Mr Carmody—I think you can be confident—and we will confirm this—that where they are required to have an ABN and that comes to our attention we would be checking that. But where they are not required to have an ABN, then the no-ABN withholding arrangements would be applied.

Senator SHERRY—Right, but you can assure me that the tax office, above all else—

Mr Carmody—I have every confidence that we would fully comply with that. If not, I will put my hand up and lash my back.

Senator SHERRY—In this case we cannot find the ABN for this group.

Mr Carmody—I think that question was about international organisations, and I think this may be one of them. It was the transfer pricing consultancy that we may have had done overseas. I think there was probably good reason in that case, and I am sure there would be in any other cases.

Senator SHERRY—I look forward to the answer on notice.

Mr Carmody—I have every confidence.

Senator SHERRY—There is one other consultancy which did raise some eyebrows when we saw it. It is called Benchmark Toxicology Services, which provided a toxicology report of the 2004 tax return documents. In the dictionary ‘toxic’ is defined as ‘a poison, especially one secreted by a microbe and causing some particular disease’.

Mr Carmody—I take your advice on that.

Senator SHERRY—We were a little fascinated by the tax office seeking a toxicology report on the 2004 tax returns.

Mr Carmody—It was for good occupation, health and safety reasons. There was an issue with those particular returns. Individually, there was no question. There were no issues for an individual return being used. There was a question raised when we stored these returns—and I think there was some suggestion of odours and other things being emitted from the stored returns—so we had to make sure that there was no significant health issue, and I imagine that that report was as a consequence of that. There was a question about the paper.

Senator SHERRY—It did not go to analysing consumer toxicology, did it?

Mr Carmody—No, it actually concerned the paper used for the tax returns when they were stored in bulk. There were some questions and we had to assure ourselves that there was no problem.

Senator SHERRY—I still find that a bit bizarre, frankly. You spent \$14,000 on analysing whether the bulk storage of tax returns was potentially poisonous. I have never struck this situation in any government department yet.

Mr Carmody—We take our occupation, health and safety responsibilities seriously.

Senator SHERRY—There is no question about that.

Mr Carmody—If it was a case of odours coming from stored returns and some concerns were being expressed by staff then it was incumbent on us to make sure that there were no significant issues.

Senator SHERRY—Has this situation arisen anywhere else in any other government department?

Mr Carmody—I do not know of any other government department. It has never arisen, as far as I can recall, within any of our returns. It was just the particular paper used for those returns that raised concern.

Senator SHERRY—The paper or the ink or was there some—

Mr Carmody—The returns in their paper form. I think it had something to do with the paper. There were questions of concern and we had to clear that up.

Senator SHERRY—How did this come to the attention of the tax office—through staff complaints?

Mr Carmody—Staff raising issues of concern.

Senator SHERRY—Can we have a copy of the toxicology report? Can you take that on notice?

Mr Carmody—We will take that on notice.

Senator SHERRY—There are a couple of other consultancies. There were two to The Campaign Palace that I want to refer to. One was with respect to undertaking creative concept development for the super co-contribution campaign. There were two of them: one for \$221,925 and the other for \$697,444. What was the nature of these consultancies? It is a total of \$919,369.

Ms Vivian—The nature of those consultancies were tied up with the co-contribution campaign and also the choice campaign.

Senator SHERRY—What is ‘creative concept development’?

Ms Vivian—A creative concept development is where they undertake some of the testing of the concept to see whether it will work in the actual campaign—that is, the key theme of whatever the advertising campaign was.

Senator SHERRY—It was hard to miss.

Ms Vivian—Some concept development is done in terms of considering the tenders that have come through for the ads, checking out some of the different concepts and seeing which one was going to work better with the public.

Senator SHERRY—So the agency comes up with ideas about how to sell—or spin—and then presumably tests it with focus groups?

Ms Vivian—That would have been some of the testing that was done.

Senator SHERRY—Were you overseeing this? Were you involved in any of this process?

Ms Vivian—No.

Mr Carmody—No. You might have noticed I have a new superannuation deputy.

Senator SHERRY—Yes, I had noticed.

Mr Carmody—You wear them out very quickly. They can only take a couple of estimates hearings and I have to change them. So Raelene is only just recently into the role.

Senator SHERRY—Okay. Do we have an officer who can explain more about this? I hate to think I wear out people in the superannuation area! I hope they go on to better and greater things.

Mr Carmody—In this case they went on to GST, so I will leave it to you to determine whether it is better and greater. I do not know that we have a lot more detail, but these were significant initiatives. We needed the campaigns. Our responsibility was to make sure the campaigns got the message out to the community, and I think it is fairly standard procedure to test creative concepts and evaluate that concept as to whether it will get the correct message across to the community. I do not know that we can give you too much more detail here about that.

Senator SHERRY—The officer behind you—

Mr Carmody—Mark is dying to come to the table.

Senator SHERRY—I never want to knock back an opportunity.

Mr Jackson—I am feeling very worn out but I am here nonetheless.

Senator SHERRY—How do you think I feel!

Mr Jackson—What happens generally with these creative briefs is that a company is engaged to come up with a series of alternative solutions or proposals for public education campaigns. Those are then referred through the normal governmental processes for review and assessment, and then there will often be a shortlist or a revised list. That list will be

further developed, because it starts off as a series of basic concepts—sketches or whatever you call those things on the corflute. It is not developed as a full-scale campaign in the first instance. So the alternatives are developed and some decisions are made about which are the likely ones. Those materials are then developed further and then there would be various sorts of testing, including focus groups.

Senator SHERRY—I do understand all this. It seems to be a pretty standard pattern, certainly for this government now. Were you involved in oversighting the material as it was developed?

Mr Jackson—Broadly speaking, yes. Not in a hands-on way on individual campaign items.

Senator SHERRY—I noticed that for DBN Consultants Pty Ltd there are three items: ‘undertake developmental communications research for the Super Choice campaign’, ‘undertake concept testing research’ and ‘undertake communications research’. There were further amounts of \$157,100, \$109,010 and \$459,890. Substantial sums of money were spent even before the advertising commenced on this campaign.

Mr Jackson—These are significant education campaigns. We are looking to make sure that they achieve the desired effect and deliver the message to the community. I think that particular company was engaged across the co-contributions and choice campaigns, so there were multiple sets of testing of the material for the different campaigns.

Senator SHERRY—Yes, because there is an approximate total of \$1.6 million or \$1.7 million just on testing and developing the communications concepts and creative concepts. It is a very significant amount of money involved, even before one ad appears.

Mr Jackson—Major public education campaigns like that are not cheap. When the campaign is run out there is a significant investment in the campaign. Costs include the placement of advertisements—whether they are on television, in newspapers or journals or wherever they might be. It is important that an appropriate amount of effort is put into ensuring that the product that is delivered achieves the desired outcomes. It is no good going away and spending some millions of dollars on public education and then finding out it did not achieve its desired outcome. So the development of those materials, the testing of them and the assessment of their impacts are very important parts. And we are dealing with a number of different campaigns there, so I do not think those costs—I do not have the actual detail in front of me that you have—are across only one campaign.

Senator SHERRY—Who had access to this research material outside the tax office regarding the development and consulting on the ads? There is a central government oversight committee, isn't there?

Mr Jackson—The Ministerial Committee on Government Communications.

Senator SHERRY—Yes. Did they have access to this material?

Mr Jackson—I am not sure whether they had access to the costing material. They certainly would have had access to the different concepts and would have had a view on those concepts.

Senator SHERRY—So they would have had access to the research around those concepts.

Mr Jackson—They would have had access to the findings of the research, yes.

Senator SHERRY—It seems to me, Mr Carmody, that this is yet another major political propaganda campaign that we are getting so used to now.

Mr Carmody—I would have thought it was informing people in the community about the benefits that were available to them. Implementation of major changes like this often involves educating the community. It is an important part of the implementation.

Senator SHERRY—At least in this case it occurred after the legislation passed parliament, didn't it?

Mr Jackson—That is correct, yes.

Senator SHERRY—Has the tax office been involved in any other campaigns in the past financial year where a propaganda advertising campaign occurred before the legislation passed parliament?

Mr Jackson—Propaganda is a strong word—

Senator SHERRY—It is appropriate, though.

Mr Jackson—and I am sure we have not been involved in any propaganda campaigns. We have certainly been involved in public education campaigns around the introduction of new measures in superannuation—in particular, co-contributions and choice.

Senator SHERRY—But in those two cases it was after the legislation had passed the parliament.

Mr Jackson—To my knowledge, that was after the passage of the legislation. I am not aware of any other public education that has been undertaken preceding the passage of legislation.

ACTING CHAIR—The concept of co-contribution around the world is relatively new. We have had concepts of tax credits. During the break, I spent a little bit of time with British Treasury. They were most interested in this concept and how it was developing. I can understand the need for some research prior to it seeing the light of day.

Mr Jackson—We have certainly had visits from both the UK and New Zealand looking at some of the aspects of the operation of the superannuation system quite broadly, of which co-contributions is a part, and how they may or may not see an advantage in some of the approaches that are used here.

Senator SHERRY—Except that the concept of a co-contribution is not new, is it?

Mr Jackson—No, I do not believe so. I believe there were some manifestations of that—the different approaches towards it—before the ultimate one was decided on and passed.

Senator SHERRY—I can recall the concept of a co-contribution being raised back in 1995. I have a series of questions that I will place on notice about this in relation to dates, documents et cetera. We will do that on notice. While I have got you, before you escape back to GST, in relation to the final all-up cost of this campaign—the research, the advertising, the whole caboodle—what are we looking at in terms of the super choice campaign and the super co-contributions campaign? I am assuming it is now completed.

Mr Jackson—It would be. The choice campaign was a major activity up until 30 June and there was a smaller follow-up campaign after 30 June when people were in a position to make a choice, to remind them of that. I think the co-contributions campaign concluded in about May of this year.

Senator SHERRY—What is the all-up cost?

Ms Vivian—In choice, it was roughly about \$20 million in public education.

Senator SHERRY—Does that include the research, the consultancies—

Ms Vivian—That includes research, consultancies, advertising, some of our staff costs in doing that public education and printing a mail-out. So that is the whole caboodle that we put under the heading of public education.

Senator SHERRY—So that was \$20 million.

Ms Vivian—That was over choice. For co-contributions, we are talking about \$15.5 million.

Senator SHERRY—And both of those are largely completed in terms of the advertising?

Ms Vivian—Both of those are now completed.

Senator SHERRY—I imagine there would have to be some more work done on 1 July next year in the context of choice, won't there?

Ms Vivian—Yes. We are just starting to look at what we might do towards some extension of choice.

Senator SHERRY—In these two programs, we are looking at a very substantial sum. Almost \$36 million was spent on propaganda and education campaigns in the last two years. It is a very significant sum of money. It is not far behind the money being spent on the industrial relations WorkChoices? There is that word again.

Senator Minchin—I do not know that we can make those value judgments.

Senator SHERRY—It is a reasonable question.

Mr Carmody—We have explained the nature of the education campaigns. As my colleague said, these do not necessarily come cheaply but, if they are to be effective, it is important that we do them in that way.

Senator SHERRY—I have another question on the choice campaign. Was any of the research material from that being referred on to the group that is coordinating the WorkChoices campaign?

Mr Jackson—Not to my knowledge. We have not referred any through.

Senator SHERRY—Can you take it on notice and please let me know of the research or communications documents of any type that have been used from these two previous campaigns in the WorkChoices campaign—if any have been.

Senator SHERRY—There a couple of other consultancies. Worthington Di Marzio researches into the small- to medium-enterprise market sector, undertakes research on the Making it Easier to Comply booklet, conducts concept testing for the super co-contribution

campaign and undertakes communications benchmarking research for the super co-contribution campaign. With regard to the first one on the small- to medium-enterprise market sector and the second one on the making it easier to comply booklet, was that part of the super choice campaign?

Mr Carmody—I do not believe so.

Senator SHERRY—They are separate issues?

Mr Carmody—Right.

Senator SHERRY—What was the research that Worthington Di Marzio conducted into small- to medium-enterprise market sector all about?

Mr Carmody—I am not sure but, seeing it is linked with the Making it Easier to Comply booklet, it may well be linked. You know we have a very extensive change program introducing things like portals and different ways of dealing with the tax office under the general banner of Making it Easier to Comply. We do have research being conducted as we roll out and progress that program, so I imagine that it has to do with that broad area.

Senator SHERRY—Can you take that on notice to provide us with details about what that is all about?

Mr Carmody—I can provide you with details, but I imagine that is the broad area.

Senator SHERRY—with regard to each of those four, the last two are certainly part of the super co-contribution campaign.

Mr Carmody—The Making it Easier to Comply document is that, as part of our commitment under that banner and the significant investment we are making in doing that, we produce what is in a sense an annual report of what our commitments are and what commitments have been delivered. We produce a document called the Making it Easier to Comply booklet. It is a form of accountability and keeping across the issues. I am aware that we have just reshaped that document as a result of research that was undertaken with the readers of that document to make it clearer. That is what that would be about. I believe the small business one is associated with the general area of understanding ease of dealing with the tax office, but I can provide you with more detail on notice.

Senator SHERRY—We do not need to deal with it in detail here. I suspect it will be after lunch anyway. There are three projects by The Research Forum: ‘Undertake research into the departing Australia superannuation payment’, ‘Undertake research on the effectiveness of online services marketing activities’ and ‘Undertake research into client reaction to the Tax Office mailout flyer’. Is there someone who could give us some detail on those immediately after lunch?

Mr Carmody—We will see what we can do.

Senator SHERRY—There are lots of other revenue and other issues to deal with before that anyway. On an issue of staffing in the tax office, when I read your annual report, there is some data on staff changes but I could not get the exact staff turnover rate. Some annual reports publish it. Is there an overall staff turnover rate available?

Mr Carmody—There should be. My understanding and recollection—just confirmed—is that the overall rate is around four per cent.

Senator SHERRY—That is very low, compared to some.

Mr Carmody—They have a great boss; it is a great organisation—

Senator SHERRY—Are you receiving refugees from finance, with their 22 per cent turnover?

Senator Minchin—They have gone looking for an easy life in Tax!

Mr Carmody—Sorry, it is there.

Senator SHERRY—What page?

Mr Carmody—It has gone up. I must not have been as nice this year. On page 260, ‘Workforce Demographics’, it is the fourth point:

- turnover continued to be low, with a 5.2% separation rate for ongoing employees, compared with 4.5% last year.

Senator SHERRY—That is a correction.

Mr Carmody—It is a correction.

Senator SHERRY—It is still low, though.

Mr Carmody—It is still low. In the ballpark.

Senator SHERRY—I would not admonish you for that. Do you have a breakdown by salary band?

Mr Carmody—I do not know that we have it here. We will take it on notice.

Senator SHERRY—I must say, that is very good. On issues relating to revenue collection transfers, there is a reference to this in the annual report, at page 12 and figure 1.9, I think. The figures show, despite a downward trend in cost to collect revenue between 1994-95 and 1998-99, it has since been trending upwards. What factors have resulted in the increased efficiency to collect revenue between 1994-95 and 1998-99? Why are costs now trending upwards?

Mr Carmody—During the period that you referred to, I think you will find that our staff numbers were reducing. In the intervening period, some of the factors that would impact on that is that there have been a number of specifically funded compliance initiatives by government. The bulk of revenue collection is, of course, companies and others just normally complying, and it is a matter of us processing the payments. When you get into compliance activities, while the returns are significant and it is important we undertake them, they get down to a lower return of revenue because you are dealing with complex issues and audits. One of the factors that would be relevant there is that there has been a number of investments in compliance activities, which are important but do not return at the same rate as people who are just naturally paying their withholding arrangements and so on.

Senator SHERRY—Isn't it true to say that decreased efficiency is directly related to the GST? Look at that graph; it is quite stark.

Mr Carmody—There was the introduction of the GST; certainly that had an impact.

Senator SHERRY—The cost to collect the \$100 in figure 1.9 jumps very sharply from about 75c to just over \$1.05, doesn't it?

Mr Carmody—That was including the GST, yes. You will notice that it is trending down as we have become more efficient in our GST operations, and the revenue has increased significantly.

Senator SHERRY—It remained on a plateau until about 2003-04 and then trends down a little.

Mr Carmody—I think that is a natural consequence of implementation and the growth in the economy.

Senator SHERRY—Are there any further steps being taken by the ATO to decrease the cost of collecting revenue?

Mr Carmody—We have an efficiency dividend coming up so naturally we are decreasing the costs of collecting revenue. We are investing in significant technological improvements and significant advancement in the use of electronic dealings with the tax office. There is an investment cost in that but we would expect that to return efficiencies as well as improved service to the community over the period of implementation.

Senator SHERRY—Based on current forward estimates of taxation revenue and your anticipated planned resourcing, is it possible to project anticipated collection cost ratios into the forward estimates?

Mr Carmody—It would be possible but I do not know how reliable they would be. The world moves on. I imagine it would be possible but it may have to be a little bit rough.

Senator SHERRY—It is just that you have graphed it historically. I just wondered whether you had looked at what you believe it would be going forward.

Mr Carmody—I do not have that calculated at the moment but I imagine it would be possible to get a rough estimate.

Senator SHERRY—Could you take that on notice?

Mr Carmody—Certainly.

Senator SHERRY—I move now to the annual report. By the way, I think the colouring and the set-out of the tax report—and, in a sense, its readability—are good.

Mr Carmody—Thank you.

Senator SHERRY—I know it is a tough area to read for many people but it actually struck me as one of the better annual reports from that point of view.

Mr Carmody—Thank you; I will pass that onto my people.

Senator SHERRY—In the annual report the ATO described the quantum and reasons for tax revenues increasing significantly more than the 2003-04 year in the 2004 budget forecasts. On page 37 it details an excess of approximately \$7 billion in revenue compared to the 2004 budget forecasts: PAYG withholding, \$3 billion; other individuals, \$2.9 billion, company tax, \$1.4 billion; excise, \$0.7 billion; and GST, \$0.6 billion. What liaison is undertaken with

Treasury and Finance and what specific information is provided in relation to revenue forecasts and revisions to ensure their accuracy?

Mr Carmody—We have close liaison with Treasury but perhaps my colleague from Treasury might want to comment on that.

Mr Callaghan—As the commissioner said, we have close liaison. It is a difficult game to forecast anything, including the question of where the economy is going, the relationship that has to revenue and all the uncertainties that are involved in that. We continue to work on trying to have a the better understanding of what is happening to the revenue base and a better understanding of the relationship between what is happening in the economy and the revenue intake.

You will see in the budget that there was additional money directed to revenue forecasting and looking at enhancing our revenue forecasting. We are working on that. Part of that is backtracking to get a better data set to see what has happened and how that can be impacting on the revenue. That is under way now and we do that in close consultation with the tax office.

Senator SHERRY—Let us take PAYG—\$3 billion. That is a very significant figure from any layman's point of view. Can you give a reason specifically in respect of PAYG?

Mr Callaghan—I do not have the numbers in front of me but that is comparing it to what it was in the budget time forecast. You would have to go back and have a look at what has been happening with growth in employment, and wages and income. We have been seeing a much stronger economy and we have seen surprises in the strength of employment. So that alone is going to be a very significant indicator of what is happening to the revenue base you are getting from this head.

Senator SHERRY—What about other individuals—\$2.9 billion?

Mr Callaghan—Again, other individuals can be picking up a flow-through from the stronger corporate income, the dividend payments, the capital gains tax, and the other individuals moving into self-employment. We are seeing some very strong movements in that—all part of the strength in the economy. The nominal economy has surprised very significantly on the upside. I think that that is one of the most important things to look at. It is the strength in the nominal economy—not just looking at what is happening in real growth in production but looking at the nominal economy.

Senator SHERRY—You have touched on what I think are some obvious factors but are you looking at these factors throughout the course of 2004-05?

Mr Callaghan—Yes, we are. We are always trying to improve the revenue forecast. As I said, what was indicated in the last budget was that there are specific resources devoted to trying to improve our revenue forecasting ability. Even in the last budget, it was outlined that, in going back and trying to have a better understanding of what is happening in the relationship between revenue and the performance of the economy, there was a change in our revenue forecasting methodology, and this was outlined in the budget. This is a consequence of us trying to get a better assessment of what is happening to revenue.

Senator SHERRY—When you are looking at tax revenue—and in this case there was an increase above budget forecast—presumably one of the things you are looking at is the actual flow of the revenues compared to, say, the previous year?

Mr Callaghan—That is right. As you say, it is obvious forecasting. Where the economy is going to go is going to be a very significant indicator of your revenue base—so how good is your performance in terms of picking and forecasting where the economy is going? The other factors, of course, are the relationship between the economy and the revenue intake and the responsiveness of revenue to movements in the economy. It is not that easy to try to work these out. Changes are taking place within the tax system and within the economy that can be impacting on that relationship. These are the things that we continue to look at. As I say, some of it is going back and trying to work out what the relationship was between the underlying movements in the economy and revenue because, in any of these forecasting arrangements, things are happening, and those things can be clouding what might be underlying relationships. That is part of the challenge that we have at the moment—trying to work out what are those underlying relationships to have a better handle to predict going forward.

Senator SHERRY—Looking back at the 2004-05 financial year, did it become apparent at some point that a judgment call could be made that revenue collection was going to be greater?

Mr Callaghan—We monitor it with the information we have, and it is publicly updated with the budget and the Mid-Year Economic and Fiscal Outlook. But during the course of that, we continue to try, on the basis of what we think is happening to the economy and the information we have on revenue collection to date—these are all feeding into it and it can give confusing signals—to bring it all together at the points in the calendar when they are officially updated and released.

Senator SHERRY—So the ATO presumably is the major determining factor in the Treasury's revision, if there is any, in terms of revenue forecasts?

Mr Callaghan—It is the ATO in terms of revenue collections to date, but the other important aspect of the revision is what is happening to the economy and where the economy is going. There is a lag between the information you have on the economy and the national accounts that are available. So a range of inputs have to go into any revenue forecast update.

Senator SHERRY—Is it possible to quantify the impact of the factors: wages growth, employment, dividends et cetera?

Mr Callaghan—As you are reading out them out, you are quantifying them now in terms of those different revenue heads. But in trying to isolate what all the elements are that are going on—isolating how of much this is the result of wages and strong growth in employment, how much is strong growth in wages, how these are impacting on the relationship between those—it is not that easy.

Senator SHERRY—To give you an example: in the 2004 budget the outcome for the forecast of average wages growth in the 2004-05 year matched the forecast in the 2004 budget. So presumably it is other factors than the average wages growth?

Mr Callaghan—It can be the strength of employment.

Senator SHERRY—Distribution of wages growth?

Mr Callaghan—It can be distribution of wages growth.

Senator SHERRY—Taxpayer population—those sorts of other factors that intersect. Does the ATO estimate the income distribution of taxpayer population across the forward estimates, or is that a matter for Treasury?

Mr Callaghan—To estimate the income distribution across the forward estimates? How it might be changing?

Senator SHERRY—Yes, how that might change and the impact that would have on forward estimates.

Mr Callaghan—I would have to check with my colleagues but I am not sure that we would be doing that to that degree of detail.

Senator SHERRY—Does the ATO provide any assistance to Treasury on this issue?

Mr Callaghan—The assistance it provides is the data on what has happened. I think that is all that the ATO can be expected to provide.

Mr Ray—We estimate the distribution of taxable income across the forward estimates.

Senator SHERRY—Does Treasury have any input into that, Mr Ray?

Mr Ray—We do the estimation.

Senator SHERRY—You make the final call. I understand that. You do the estimate, but are you reliant on tax officers' data and judgment in this area or is it basically your call?

Mr Ray—The base data that we use comes from historical tax return data. Then we up-rate that using the wages forecasts and projections.

Senator SHERRY—In the case of individual taxpayers and CGT events that may have resulted in additional revenues, would those that have occurred in 2003-04 be consistent for 2004-05?

Mr Callaghan—Sorry, be consistent? Different events are taking place. If we are looking at CGT events, it is the growth in property prices, asset prices, bigger capital gains which may be being made or an increase in the capital gains revenue take.

Senator SHERRY—There was a reference earlier to other individuals, \$2.9 billion. What factors would be evident to the ATO to explain the increase in revenue in that area? Are they the same as those we were talking about earlier, or are there other issues that we have not touched on?

Mr Greagg—'Gross other individuals' is a group of taxpayers who derive their income from investments, shares, dividends and sales of capital gains tax and it also includes the self-employed—the unincorporated sector of the economy. Changes to what the macroeconomist calls gross mixed income would impact on gross other individuals tax revenues.

Senator SHERRY—In the course of 2004-05, when did it become apparent that there was likely to be a significant increase in revenue pick-up from other individuals?

Mr Greagg—The 2004-05 MYEFO revised revenue up by a significant amount. Gross other individuals was revised up by about \$1.8 billion at MYEFO last year.

Senator SHERRY—And it finally reached \$2.9 billion for the whole year? You had revised it up by \$1.8 billion?

Mr Greagg—Yes.

Senator SHERRY—It was not apparent at that time that it would be significantly higher?

Mr Greagg—MYEFO last year would have had the benefit of three months of the financial year.

Senator SHERRY—What I am suggesting is that you had the benefit of three months. You revised it up by \$1.8 billion but it turned out to be \$2.9 billion.

Mr Greagg—That is right.

Senator SHERRY—At that point in time, it was not clear that, notwithstanding the revision, there was going to be substantial additional revenue?

Mr Greagg—The macroeconomic outlook at that time would not have supported the final outcome.

Senator SHERRY—Of \$2.9 billion?

Mr Greagg—Yes. It is fair to say that, over the course of 2004-05, the view about where the economy was going to finish up certainly developed. What we saw was unexpected strength in the economy, mainly showing up in strong employment and stronger profitability, which of course would show up in the gross other individuals and company tax revenue heads.

Senator SHERRY—That was the next issue I was going to come to. So there were similar factors impacting on the company tax, \$1.4 billion?

Mr Greagg—As Mr Callaghan mentioned before, over the last few years the economy has proved to be a lot stronger than we or anybody else was thinking, and that has shown up in very strong employment outcomes and stronger profitability.

Senator SHERRY—The figures suggest the increases in company tax relative to the original estimates were somewhat smaller than those arising from income tax paid by individuals. Is that a reasonable conclusion?

Mr Greagg—Are you talking about the final outcome?

Senator SHERRY—Yes; relative.

Mr Greagg—During 2004-05, the strongest element was unexpected strength in employment. Of course that shows up in income tax withholding and gross other individuals.

Senator SHERRY—That had fed into company tax collection?

Mr Greagg—No.

Senator SHERRY—What was the explanation for the company tax?

Mr Greagg—Stronger profitability in general, and part of that were the stronger than expected commodity prices.

Senator SHERRY—There has been quite a bit of speculation, suggestion and discussion that soaring company profits are the main reason for total revenues in the area of company tax being well above the estimates.

Mr Greagg—That is correct.

Senator SHERRY—Is your answer an agreement with that contention or an agreement—

Mr Ray—That is certainly correct if you compare the estimates for 2004-05 in the 2005-06 budget with the final budget outcome. That is explained in the final budget outcome.

Senator SHERRY—It is the major factor?

Mr Greagg—Yes.

Mr Ray—It is the major factor.

Senator SHERRY—The tax on contributions and earnings from superannuation funds—the \$512 million—was very substantially above the original estimate. Was that because of the earnings tax reflecting company earnings?

Mr Greagg—I think the two main contributors to the higher-than-expected outcome were the stronger employment growth, of course, which would feed into more contributions, and—

Senator SHERRY—The resulting tax.

Mr Greagg—the strong performance of companies and their profitability and the attendant dividends that would then flow to the funds.

Senator SHERRY—Yes, but the forecast for average wages growth in the 2004 budget matched the outcome for the 2004-05 year. That was originally projected in the 2004 budget. So I do not see how the employment growth impacted—

Mr Callaghan—That is wages; that is not—

Senator SHERRY—That is wages.

Mr Callaghan—The number of people actually in work was much higher in the outcome than going back into the budget. There was stronger employment growth.

Senator SHERRY—You obviously do an estimated breakdown of tax from contributions and tax from superannuation fund earnings.

Mr Greagg—We certainly consider all the streams of revenue that feed into the particular revenue head.

Senator SHERRY—Do you have that estimated breakdown?

Mr Greagg—No. We can take that on notice.

Senator SHERRY—Did the ATO provide any advice to Treasury indicating that the revenue estimates in this year's budget for the current financial year, 2005-06, might be exceeded?

Mr Greagg—We have continual contact with the tax office, on a daily basis, in terms of collections against expectations.

Senator SHERRY—Yes, but does there come a point in time where the tax office is able to say, ‘We believe, with confidence, that there will be a significant additional collection in this year in this particular area’?

Mr Callaghan—The tax office can be looking at the contributions coming through and they can be making assessments as to how those contributions line up with the forecasts—are they ahead; are they below?—but because we are dealing with the future it is not as easy as that. So much depends on where we think the economy is going, where we think these contributions are heading. As Mr Greagg said, there is a limited amount of information available when we release the MYEFO. When the budget comes, we still do not have all the national account information; it is still estimates for the current year, not to mention the forthcoming budget year. So it is very late in the piece that you would have very clear actual revenue collections to date to say, ‘Yes, it is well above.’ We are trying to bring together all these different pieces, and one of the most important ones is: where is the economy going; is it very clear that the economy is growing much more strongly than we thought it was? They are judgments that have to be made all the time, and then when we do come for revenue update it is very much a judgment call. It is only if you are exceedingly off-line that you can say, ‘Yes, it is quite clear.’ So much of it is predicting the future with any of these forecasts or estimates as to where revenue is going.

Senator SHERRY—I understand that it is predicting the future, but you are well-qualified officers. You are required to do that quite regularly.

Mr Callaghan—I go back to it. You were starting from the tax office looking at what the revenue collections are to date, and, as I said, you can say ‘How are these revenue collections to date going against what you assumed they would be at that time if the forecasts were on track?’ That is one variable that goes into the equation. The rest relates to how the rest of the economy is going, whether it is in line, the other changes that are taking place and whether we are updating our parameters that feed in to the future in determining those revenue forecasts. They are all the other factors that have to go into it. So it is simply saying that there are a range of aspects and a range of judgments that have to be made in any revenue estimate.

Mr Ray—If you look at the final budget outcome, the difference between the 2005-06 budget estimate for 2004-05 and the outcome was \$0.9 billion in cash terms. It is fair to say that we do not know that that is the outcome until we settle the final budget outcome. We need to wait for audited accounts for the tax office.

Senator SHERRY—Would it be reasonable to assume, given this recent experience, that the estimates of revenue will again be revised in the MYEFO?

Mr Callaghan—We do not know at this stage until we have completed all the process.

Senator SHERRY—You must have some reasonable idea.

Mr Callaghan—We do not know.

Senator SHERRY—I am not asking for individual figures.

Mr Callaghan—We honestly do not know until the process is completed. We are always looking at it. We bring it all together when the MYEFO is produced, but, up until that point, we are still just looking at it, making judgments and making assessments.

Senator SHERRY—Do you receive monthly statements of revenues collected to date for each area?

Mr Ray—We receive daily cash statements.

Senator SHERRY—Is the accumulation of the daily cash collections—the total revenue collections—ahead of that which was forecast at this point in time?

Mr Ray—I would need to take that on notice.

Senator SHERRY—Why?

Mr Ray—I do not have that information with me.

Senator SHERRY—I am not asking for the precise figures yet. I am asking if it is a matter of fact that they are ahead.

Mr Callaghan—That is information that is not published on that daily basis. The government does not publish it—

Senator SHERRY—Yes, that is why I am asking for it. That is the purpose of estimates—to gather information.

Mr Callaghan—and that is why I think we should take that on notice.

Senator SHERRY—To your knowledge, are the aggregates collected to date based on the data that you have seen ahead?

Mr Callaghan—Again, the government chooses to publish that in MYEFO. It is its choice if it wants to release revenue updates. That is why I think I have to take those questions on notice.

Senator SHERRY—No doubt we will get the answers the day after the publication of MYEFO. The graph on page 93 of the annual report shows tax revenue for individuals and companies is growing considerably faster than gross domestic product. That is figure 2.11. That is a correct observation, isn't it?

Mr Callaghan—Sorry, I do not have the ATO annual report.

Mr Carmody—Yes, it is. The trend is certainly up.

Senator SHERRY—The trend is that PAYG withholdings are growing faster than wages. The trend is up too, isn't it, Mr Carmody?

Mr Carmody—They are broadly in line, I would say.

Senator SHERRY—Oh, but look at the last—

Mr Carmody—Well, the last little bit.

Senator SHERRY—Little bit? I can see a gap opening up.

Mr Carmody—It is a rounding error!

Senator SHERRY—I can see a gap opening up after 2002-03. The lines definitely merge up until then. Green is on top of the yellowy-brown, but it starts to diverge from that point on, doesn't it?

Mr Carmody—Slightly.

Senator SHERRY—There seems to be a much bigger gap opening up in 2004-05. It is quite a discernible white gap between the green line, the PAYG withholding, and the compensation of employees.

Mr Carmody—There is a gap.

Senator SHERRY—A growing gap?

Mr Carmody—Over a two- or three-year period it seems to be growing.

Senator SHERRY—Not ‘seems’. There is a growing gap over a two- to three-year period.

CHAIR—I must say that this is not very scientific, Senator Sherry!

Senator SHERRY—I can only rely on my visual observance of the graph.

CHAIR—If it were a bigger piece of paper, you would probably say it was a bigger gap.

Senator SHERRY—At least on this graph, the gap that is emerging with the PAYG withholding seems to be repeating the pattern that started back in 1995-96. You can see the gap starting to emerge there, Mr Carmody?

Mr Carmody—Certainly a gap emerged more significantly over a longer period.

Senator SHERRY—Yes, it is over a much longer period. We get to 1999-2000 and it quickly readjusts back by 2000-01? That is a ‘yes’?

Mr Carmody—It is.

Senator SHERRY—Are you able to project that graph out to the forward years?

Mr Carmody—I do not have it with me. I could take that on notice.

Mr Ray—If you look at table G2 in Budget Paper No. 1, you will see major categories of receipts as a proportion of gross domestic product.

Senator SHERRY—Is this graph based on that?

Mr Ray—It is the same base.

Senator SHERRY—It is the same data?

Mr Ray—Yes. This is not as a proportion of COE; this is as a proportion of gross domestic product. Each revenue head is shown as a proportion of GDP, including estimates for both the then current year, 2004-05, and the forecast year, 2005-06.

Senator SHERRY—Could you take that on notice, if you have the graph extension? As I said to you earlier, the visual in the annual report for the tax office does illustrate it very well.

Mr Carmody—I think I thank you.

Mr Ray—If I may help, our estimate for the proportions of gross domestic product for 2004-05 was 11.3 at budget time and for 2005-06 it was 10.8. That reflects the tax cuts.

Senator SHERRY—The graph shows that they start to diverge again. There is a tax cut, they narrow, and then they start diverging gradually.

Mr Ray—We do not have forecasts beyond the forecast year at the moment.

Senator SHERRY—Yes, but the historical data show that is the movement.

Mr Ray—That is correct. The historical data show that.

CHAIR—Mr Carmody, I want to ask a few questions about the valuation of trading stock. Would there be an officer in the room who is familiar with draft tax ruling TR 2005/D11?

Mr Carmody—I do not know that I have anyone here who is familiar with it in detail.

CHAIR—You might take these points on notice. Can I explain the issue to you. It is an issue about which I have received some representations from retailers. I am told that the principles according to which deductions are allowable in relation to trading stock have been altered by the ATO, with the consequence that retailers and wholesalers have been put to the great expense of carrying out inventories and revaluations of their trading stock. I am told that that change to the principle upon which trading stock was to be valued for tax purposes was made in a fashion that was unannounced to retailers and wholesalers, and varied the practice under which they had conducted their businesses for many years.

I am also told that, although it is now merely a draft public ruling, your office has already corresponded with a number of taxpayers affected by the change in your office's position, insisting that they comply with the new principle, albeit that the ruling is only a draft ruling. I have, for instance, a letter of 29 September 2005 from your office to a particular taxpayer—the addressee has been obscured on the copy I have—which makes that demand.

Your letter sets out the principle for the valuation of trading stock for tax purposes which is now being enforced by your office. It says:

The cost of an item of trading stock for retailers and wholesalers is its fully absorbed cost. This means that freight insurance and other costs incurred in the normal course of operations in bringing articles of trading stock to their point of sale should be added to the invoice cost of the articles to determine their actual cost. This includes costs of operating off-site warehouses and distribution centres. In respect of the calculation of the cost of trading stock for tax purposes, costs stop being absorbed once the goods are located in the final selling location.

I am told that that is a change from the office's antecedent position in relation to this which had been the position as understood by members of the wholesaling and retailing industry for many years, and that it has subjected them to very great cost in adjusting to the new ruling. Can I ask you, or an officer familiar with it, to respond to those observations.

Mr Carmody—I can give you a general response. As you went into the details I realised that there have been discussions on this matter in a forum at which I have been present. Certainly, our view expressed there is that full absorption costing is the correct approach. I will give you some observations but I will take any further observations on notice.

CHAIR—Sure.

Mr Carmody—I would need to confirm whether this is a change in our practice or whether it is a change in the way people have been returning. We have certainly been conscious that a number of retailers have not been returning on that basis. It was put to us that part of the reason they were not returning on that basis was that the costs of adjusting to do that might be significant. We have confirmed that, where their trading stock accounts are prepared in accordance with the Australian accounting standards—

CHAIR—Is that AASB 102?

Mr Carmody—I will take your word on that.

CHAIR—That is what your letter says so I assume that is the standard you are referring to.

Mr Carmody—Our position reflects the position under the Australian accounting standards and we have said—particularly to businesses with a turnover of less than something like \$10 million—that, as long as we are satisfied that their accounts have been prepared in accordance with the Australian accounting standards, we will accept the product of the application of their normal accounting standards.

CHAIR—Even though it might not be prepared on the footing of the full absorption cost of the trading stock?

Mr Carmody—I think we have gone through the accounting standard and been satisfied that that would reflect the absorption costing. So to that extent we are not asking them to do anything additional, as long as their accounts are being prepared in accordance with the Australian accounting standard.

CHAIR—I must say that is not what they say to me. In particular, I can say I have received representation from the Australian Retailers Association, which is the peak body, who complained to me that that is not what your office has been saying to its members.

Mr Carmody—I am talking about a discussion that I had. We have a national tax liaison group with the accounting and legal professional bodies. I am operating from memory, but I am sure this was a matter discussed at the last meeting. There was some question because of the timing of this, but we confirmed, to the best of my recollection, that for under \$10 million, I think it was, we are satisfied that if they prepare their accounts in accordance with the Australian accounting standard then we will accept the product of that so as to minimise the cost of compliance. I will confirm that and provide any other information that I can on notice.

CHAIR—Thank you, Mr Carmody. I wonder if, when you look at this, you will please take steps to make sure that the approach you have just indicated is communicated to the industry through the peak bodies, because that, as I have said, is not what I understand to be their understanding of the position.

Mr Carmody—To repeat it, that is my understanding. We will confirm that and we will take steps to, if it has not already been done, confirm that with the industry.

CHAIR—Thanks, Mr Carmody. I will put some questions to you which you might care to take on notice to sharpen the issue. The questions are these: is it the case that the ATO's position in relation to the valuation of trading stock by reference to full absorption cost is a variation of the practice that had antecedently been the case? If the answer to that question is yes, is it the case that that change to the ATO's practice was made without prior discussion with the industry? If the answer to that question is yes, why not? If the answer to the second question is no, can you tell us what prior discussions with the industry took place to acquaint it with the variation in practice? Finally, can you explain to us why draft public ruling TR 2005/D11 is now the subject of correspondence and, evidently, enforcement action by the ATO against taxpayers affected by it while it remains merely a draft public ruling?

Mr Carmody—To ensure the accuracy of each sequence of that, I will take it on notice and get back to you.

CHAIR—Thanks, Mr Carmody.

Senator SHERRY—I have some issues on compliance in respect of fringe benefits tax. I refer you to page 143 of the annual report. Can officials outline the ATO's compliance activity in relation to FBT?

Mr Konza—The ATO has an FBT program that operates in different parts of the market. We examine the returns that we receive and follow up inconsistencies in those returns. We have a field force in our GST area and also in our small-business line that I look after who conduct simple FBT examinations in conjunction with the inquiries that they make on other tax products. We follow up on more complex FBT issues in large business and other places when they are identified. FBT being a fairly small tax product, the compliance activities in that area are mainly conducted in conjunction with other tax products. Then, if an FBT issue is identified, we take more specific action.

Senator SHERRY—I noticed that the office says on page 144:

... we did conduct 171 audits where we detected non-compliance with the legislation, resulting in an increased fringe benefits tax liability ...

You conducted 171 audits where you found increased liability. Out of how many audits conducted on this issue was that?

Mr Konza—I do not know that off the top of my head. As I said, that may be a difficult question to answer in the way you may seek. When we are conducting pay-as-you-go withholding reviews, for example, we will also check for prima facie evidence of fringe benefits tax obligations and, where we have that evidence, we will pursue a quick review of whether the FBT obligations have been met. Again, if there is a problem, we will do an FBT audit. FBT audits are the final outcome, if you like, of an increasing range of risk assessments.

Senator SHERRY—Have you changed your compliance activity in respect of FBT in the last financial year compared to previous years?

Mr Konza—In the last financial year?

Senator SHERRY—Yes.

Mr Konza—Only in that we received some government funding for increased work on pay-as-you-go withholdings. We have a more specialised work force now who are able to chase up pay-as-you-go withholding issues. That work force has taken up FBT issues, as I said, in conjunction with that work.

Senator SHERRY—In respect of my earlier question about the number of audits the tax office completed in respect of FBT affairs, I understand there were approximately 250 audits carried out—is that correct?

Mr Konza—Where are you getting that from—the annual report?

Senator SHERRY—It is not from the annual report. It is what I understand that figure to be.

Mr Konza—I do not know off the top of my head.

Senator SHERRY—Is there anybody else here who does?

Mr Konza—Not who is here.

Senator SHERRY—If there were approximately 250 audits carried out and 171 cases of noncompliance according to the annual report, that is a strike rate, if you want to use the term, of 68 per cent. There seems to be a very high rate of noncompliance discovered as a result of the audits conducted in respect of FBT.

Mr Konza—You could reach that conclusion if you thought that audits were conducted on a random basis. In fact, I would probably be urging my officers to get a better rate than that 68 per cent, because audits are costly and time consuming for both the office and the taxpayers. As I said, we normally engage in a range of increasing review activity so that we have a prima facie view that there is a problem before we begin an audit.

Senator SHERRY—Do you have any indication of what the number of audits is likely to be on FBT affairs this financial year?

Mr Konza—Only that I am not expecting a significant change from previous years.

Senator SHERRY—In terms of both the audits conducted and the audits that result in increased fringe benefits tax liability?

Mr Konza—We are intending to increase the number of FBT reviews that are conducted, and we do that by trying to increase the level of training in our general field force staff so that they are able to make some FBT inquiries in conjunction with their other duties. We have a strategy of trying to increase that capacity. The actual number of audits is something of an outcome of that review activity. At this stage I do not have any knowledge that there is any great increase expected in either of those figures.

Senator SHERRY—Isn't it the case that the ATO recently reported the results of its FBT audit to the National Tax Liaison Group?

Mr Konza—I am not sure that I know what you are referring to. When you say an FBT audit, do you know what they meant by that?

Senator SHERRY—Exactly what we have been discussing.

Mr Konza—The FBT audits generally?

Senator SHERRY—And the results. There was an ATO report to the National Tax Liaison Group. Are you aware of that?

Mr Konza—That would be the Fringe Benefits Tax Subcommittee of the National Tax Liaison Group. I am not aware of the detail of those meetings. I was not at that meeting.

Senator SHERRY—Who is aware of this audit if you are not—other than in a general sense that it occurred and there was a report?

Mr Konza—I am not sure of the terminology you are using. You have referred to an audit.

Senator SHERRY—I am referring to the 2005 FBT audit results.

Mr Konza—That would be a report that was given by one of my officers in the course of consultation with the professionals who specialise in FBT and who attend that subcommittee. Those officers are not here today. I do not attend the meeting, so I cannot tell you what the report said.

Senator SHERRY—To come back to my earlier question: does the ATO have any strategies or is it considering any strategies to detect FBT not declared by employers outside the current program? Is it considering anything additional?

Mr Konza—We have no plans to change our basic strategy. Our basic strategy is to use our very large field force which is engaging with many employers on either their goods and services tax or pay-as-you-go withholding tax obligations. Our strategy is to use that work force, which has extensive coverage, to conduct reviews of fringe benefits tax obligations, identify instances in which there are prima facie issues with whether people are meeting their fringe benefits tax obligations and then they would refer those instances to more specialised officers who can conduct the actual audits.

Senator SHERRY—They are the strategies. What about compliance mechanisms as such?

Mr Konza—I am not aware of any substantial change to the compliance mechanisms being considered either.

Senator SHERRY—Are you aware of any change? You prefaced it with the word ‘substantial’.

Mr Konza—Yes.

Senator SHERRY—Are you aware of any change that is less than substantial?

Mr Konza—We are working with small business people, for example, to improve the quality of our advice products so that they are more readily able to understand that there are fringe benefits tax obligations, and we would expect increased compliance to come from those. We are looking at the data that we get from those risk reviews that I spoke of earlier, and we shape our response to the intelligence that we get from those reviews. When I say substantial, I mean, to borrow an old phrase, there is a process of continual improvement and we are undertaking that. It is an area we are active in, but there is no radical change that I am aware of.

Senator SHERRY—We have just gone from ‘substantial’ to ‘radical’. The qualifications you use keep hedging around the response to the questions that I am trying to get through.

Mr Konza—I am unable to guess what you might have in mind.

Senator SHERRY—No, I am not asking you to guess. I think I am asking the questions pretty clearly, actually. It is the hedged answers I am getting back that I am trying to penetrate.

Mr Carmody—Mr Konza has just reflected that in all of these areas we continually review our approaches to compliance, and we outline those each year. That is the only reason he is putting a descriptor around his answer. It would apply across the whole range of our activities. You could look at what we did five years ago and now and, because of continuing refinement in those two points, there might have been radical change, but that is because we are continually looking at those.

Senator SHERRY—You have touched on the risk reviews. What would those that have been carried out to date indicate in this area?

Mr Konza—We have identified that there is a significant level of lack of understanding of the tax and that has led us to greater efforts to explain certain aspects of the tax that people find confusing.

Senator SHERRY—Lack of understanding—non-compliance?

Mr Konza—There is some non-compliance as well, but I am not able to estimate that for you today.

Senator SHERRY—Are there any particular sectors?

Mr Carmody—If you do not already have the information in front of you, I do not think we are going to be able to provide that level of detail here. If you do not already have it, we will take it on notice and provide it to you.

Senator SHERRY—I do not know until I ask whether you have got the detail there or not.

Mr Carmody—We do not have that level of detail here. We certainly do not have the report that you have here, so we would have to take any questions of detail of that sort on notice if you do not already have it in front of you there.

Senator SHERRY—Are individual employers currently required to report directly to the ATO reportable fringe benefits of specific employees?

Mr Konza—No. They report them on the employees' payment summaries. That payment summary data comes to the ATO. In a sense therefore they do directly report it; it is on the payment summary data.

Senator SHERRY—And that summary data is the key for revenue collection?

Mr Konza—The payment summary data is the salary and wage income and tax instalment deductions. Using the old parlance, it is the old group certificate. The reportable fringe benefit amount appears on that.

Senator SHERRY—Does that include TFN? Or do employers only declare and remit the aggregate collection, without reference to the particular employee?

Mr Konza—No. They are required to put on each employee's payment summary, the old group certificate, the person's salary and wage income; pay as you go withholding deductions, which are the old tax instalment deductions; and the reportable fringe benefits tax amount that applies to that employee. The payment summary has both the employers ABN and the employees TFN on it.

Senator SHERRY—Do you examine the reportable fringe benefits statement issued by the employers to employees with their group certificates? Is that declared to the ATO when the employee submits their tax return?

Mr Konza—Yes.

Senator SHERRY—Were there any FBT compliance audits carried out on government organisations?

Mr Konza—I would need to take that on notice. I think it is likely that there were.

Senator SHERRY—I am informed that there were two audits of government organisations.

Mr Carmody—Perhaps we should go back and get a copy of our report to this committee and then we would be able to give you the right answers.

Senator SHERRY—That would be great. If you could do that over the lunch break that would be appreciated. I must say I was somewhat taken aback that government organisations had not paid FBT correctly, according to the two audits that were completed. Perhaps you could have a look at that over the break and get me some further information. I would suggest that it is a concern if we have government organisations not paying FBT correctly.

Mr Konza—The situation is that we have found in our audits that some government organisations have not paid enough attention to taxation compliance with their employment obligations. We work with them. We are working with the ANAO to produce a guide for government organisations so that they can meet their obligations. That is a major compliance mechanism, we believe, for government organisations that we are working on at the moment. Also, we have found that some government organisations have what we would regard as some Spanish customs about the treatment of various allowances and benefits. I do not know that I could, even with the benefit of the lunch break, be able to supply you with much greater detail about those two audits, because any greater detail would risk identifying the taxpayers involved.

Senator SHERRY—So you do not think it is reasonable to name the government organisations that failed in their obligations in this area?

Mr Carmody—In the same way the law prohibits naming any taxpayers.

Senator SHERRY—You mentioned the work being done with ANAO. Why are you doing that with the ANAO? Has the ANAO in its normal course of duties been observing noncompliance within government organisations? Is there a specific project being carried out in this area by the ANAO?

Mr Konza—My recollection is that they have done a couple of audits on organisations' compliance with their employer obligations. We collaborated with them a couple of years ago and produced a guide for government organisations superannuation compliance, and that was very well received. So we felt that was the appropriate response here as well. Government organisations are very keen to be compliant, both in terms of keeping the Commissioner of Taxation on side and keeping the ANAO on side. So those products were very well received.

Senator SHERRY—I do recall discussion—I am sure Mr Jackson would—on non-compliance by a number of government organisations in paying the superannuation guarantee.

Proceedings suspended from 11.47 am to 1.22 am

ACTING CHAIR (Senator Watson)—I call this public hearing to order. The proceedings this afternoon could be interrupted by a combination of divisions and quorums, and I apologise for that. In the meantime, we will continue with the Australian Taxation Office. I invite Senator Sherry to address some questions.

Senator SHERRY—Returning to the issue we were discussing before the break, do we have any further information?

Mr Carmody—On which issue?

Senator SHERRY—There are two issues. I flagged consultancies from the research forum.

Mr Carmody—We do have some information for you here, Senator. There was research into departing Australian superannuation measures. The research objectives were about confirming the best ongoing communications to target eligible people.

Senator SHERRY—Is that the departing Australian measure?

Mr Carmody—Yes—a matter that I notice there has been interest in before.

Senator SHERRY—From whom?

Mr Carmody—I think from other there somewhere.

Senator SHERRY—Is there to be any change to the notification to the departing temporary residents?

Mr Carmody—The information I have here is that, after the focus group and other discussions, the conclusion was that the best ongoing method was to target through the departure card.

Senator SHERRY—When I left Australia a couple of weeks ago, I picked up that departure card. I looked at the back of it and thought: ‘Gosh, I can’t get away from it. There it is; the question.’

Mr Carmody—It will haunt you.

Senator SHERRY—So there is to be no change to the current method?

Mr Carmody—That is the research outcome.

Senator SHERRY—Why was the research done in the first place?

Mr Carmody—I think just to make sure that we were best targeting the information to potential beneficiaries of it.

Senator SHERRY—Was it because there was concern about the effective take-up of the transfer?

Mr Carmody—I think it would probably have arisen because, as you know, there have been some discussions here and there has been questioning as to whether it has been effectively communicated. I have no doubt that that would have led to the research being undertaken.

Senator SHERRY—And the extent to which it has actually been taken up. Are you able to provide us with an update? Maybe not you specifically, Mr Carmody, but one of your officers may be able to give us an update.

Mr Carmody—I do not know that we have that information here.

Ms Vivian—We do not. In terms of the research, though, we were moving from an implementation phase into an ongoing business phase. So the research was really about looking at what the best method was to target those people. That was the aim of the research.

Senator SHERRY—Did you receive information on the response and uptake?

Ms Vivian—The information that I have is in terms of the online applications. That is about the extent of the information I have. There are other sorts of indications, like increases in web site access and those sorts of things.

Senator SHERRY—When you say ‘online applications’, ultimately the applicant has to go to the fund, haven’t they?

Ms Vivian—That is correct, but it is channelled through the ATO.

Senator SHERRY—So what does your information indicate on that for, say, the last financial year?

Ms Vivian—In the last financial year we had approximately 6,500 online applications. I should also say that departure card notifications were up. That is another indicator. They were up by 63 per cent.

Senator SHERRY—Up from what to what?

Ms Vivian—They were up from about 98,000 passenger cards completed in 2003-04 to about 154,000 in 2004-05.

Senator SHERRY—As a consequence of the notification, the fund sends the moneys to that individual wherever they are around the world. What was the revenue collected from that in the last financial year?

Ms Vivian—I would not know, Senator.

Senator SHERRY—Who would know?

Mr Carmody—I do not think we have that information here. We can take it on notice and provide it if we can.

Senator SHERRY—Can you take it on notice for that last financial year?

Mr Carmody—Yes.

Senator SHERRY—Thanks for that.

Mr Carmody—You also asked about the research forum consultancy.

Senator SHERRY—Yes, the second one—the online service marketing activities.

Mr Carmody—This morning you asked about efficiencies to reduce costs of collection. We do have an extensive range of online transacting ability and information available to businesses and other taxpayers. We embarked on a marketing campaign to promote those services and the uptake of them. We sent out mini CDs which had promotion and examples of the sorts of electronic services you could use with the tax office. The purpose of this consultancy was to evaluate the effectiveness of the use of that CD and promotional tool.

Senator SHERRY—That was generally, wasn’t it? It was not for a specific service?

Mr Carmody—We provide a range of electronic services—lodgment, access to portals and other things—and to promote people taking them up we produced a mini CD which was mailed out to a number of businesses. The purpose of this research was to evaluate the effectiveness of that.

Senator SHERRY—And the third one?

Mr Carmody—Which is that?

Senator SHERRY—To ‘undertake research into client reaction to the tax office mail-out flyer’.

Mr Carmody—We were developing a two-page flyer that would feature topical articles and information relevant to businesses—upcoming dates et cetera—and we were testing how that would be received and whether it would be useful. The notion was that, when a business rings up for a particular publication, we would include in the mail-out the flyer promoting the current arrangements. So that was the research that was undertaken.

Senator SHERRY—Was that some sort of market research using focus groups to see how that group would respond to it?

Mr Carmody—We looked at what the response would be, whether it would be useful for business and so on.

Senator SHERRY—Just going back to the ‘departing Australia’ research by the research forum, that is a lot of money given that nothing has eventuated. It just confirmed that what you had in place was going to stay in place.

Mr Carmody—In one sense, if your research confirms you are on the right track that is a positive result.

Senator SHERRY—We will know if we are on the right track in terms of outcome when we see the figures, won’t we?

Mr Carmody—That is right. All we can do is—

Senator SHERRY—That does not mean the current system is effective; it just means that there is no better way to do it. That is the conclusion that has been reached.

Mr Carmody—That is a statement that could be made. As we have said, there has been some discussion about this and we just wanted to make sure we were using the most effective tools. To that extent, it was worth while.

Senator SHERRY—Do you have any information on that question about Analysis Group Economics and their lack of an ABN?

Mr Carmody—I do not know whether we have that. I do not have that. There are questions about trading names and other things and whether they might have an ABN. But we will certainly follow that up. I have already committed us to that. There was another question that you raised, and I want to clear it up while we are here. You asked whether DEWR had access to the ‘choice’ campaign research materials. We have not been asked for them and we have not provided the research materials to DEWR. It has been pointed out to me that there was a cross-government steering committee on the ‘choice’ campaign. DEWR were on that. The material was never provided, but there would have been discussions about it. That is the extent of my understanding.

Senator SHERRY—It could have been provided via that conduit but as far as the tax office is concerned no direct—

Mr Carmody—As far as we have ascertained in the time available, there was no direct approach. In relation to the steering committee, we understand that it was never formally tabled there, but there would have been discussion about it.

Senator SHERRY—But members of the steering committee could have had access to the research that was carried out, couldn't they?

Mr Carmody—The only information I have is that it was never formally tabled. However, there would have been discussions about it.

Senator SHERRY—Presumably, in order to have discussions you would have to access the document or documents.

Mr Carmody—There might have been some discussion around the executive summary or something without the material being provided.

Senator SHERRY—Do you have anything extra on the issues we were covering just before the break—the FBT compliance activities?

Mr Carmody—We went to our web site and downloaded the minutes that you obviously have.

Senator SHERRY—And it was there.

Mr Carmody—If that is an update!

Senator SHERRY—I was getting a bit puzzled as to why getting information on this issue was like extracting teeth.

Mr Carmody—We were just amused that you were questioning us when you had the answers there in front of you, that is all!

Senator SHERRY—I did not want answers—

Mr Carmody—It is a public document. It is on our web site.

Senator SHERRY—I did not just want the answers that were on the public document; I was exploring the reasons and rationale. I want to go back to this revenue-tax issue we were exploring a little earlier before the luncheon break and discuss the forecasting of tax revenue. From the Treasury point of view, if we look at the revenue forecast for individuals and other withholding, in the budget in 2004-05, it was \$102.69 billion. Then in the MYEFO for 2004-05 it went to \$105.06 billion. In the budget of 2005-06, the projected figure was \$107.93 billion and the 2004-05 outcome was \$108.519 billion. They are the correct figures, aren't they? I am not going off a budget paper; I am going off a summary document I have in front of me of those figures.

Mr Callaghan—We would have to check those, Senator.

Senator SHERRY—Does that sound approximately right, though?

Mr Greagg—Certainly the MYEFO number is right—

Senator SHERRY—So in the 2004-05 budget we went from \$102.69 billion to an outcome of \$108.519 billion, a difference of \$5.829 billion approximately, wasn't it?

Mr Greagg—Yes.

Senator SHERRY—I will not go through the figures in terms of companies in the same level of detail as I have just done, but the outcome was an extra \$3.708 billion. Superannuation was minus \$0.5 billion—and I think that has more to do with the surcharge abolition which would have had an impact there. We had a total revenue increase from the budget through to the outcome of some \$9.399 billion extra approximately—is that right?

Mr Callaghan—It sounds roughly right to me.

Senator SHERRY—So we had an under forecast of approximately that figure. Isn't it the case that in terms of the raw figure the largest revenue variations are those in relation to individuals and other withholdings?

Mr Ray—From the 2004-05 budget to the 2004-05 FBO, that is correct. My answer this morning was from the 2005-06 budget to the FBO.

Senator SHERRY—Has any work been done to disaggregate the factors responsible for the variation?

Mr Greagg—Yes, for each estimates update when we assess the performance of the previous forecasts we dig down to see how the economy unfolded relative to what we were expecting. In that way we can work out what has caused the change. The government publishes those reasons in the particular budget papers.

Senator SHERRY—Are there any views on whether the sensitivity analysis, which was published in the 2004 budget in relation to revenues, was accurate?

Mr Greagg—When it was done at the time it was the best estimate that was available.

Senator SHERRY—Let us look at that sensitivity analysis that was published in the budget—

Mr Greagg—This is the 2004-05 budget?

Senator SHERRY—Yes, 2004-05.

Mr Greagg—I do not have those budget papers with me, Senator, but I am very familiar with the methodology.

Senator SHERRY—In that table at C1, 'Sensitivity of fiscal aggregates to changes in economic parameters', in terms of revenue, the sensitivity analysis plus one per cent variation for employment shows in 2004-05 the sensitivity analysis for employment of plus \$960 million, almost \$1 billion. If you look at that sensitivity figure and match it against the final outcome of revenue, we have got almost a \$5 billion discrepancy if we take into account the sensitivity in respect of employment.

Mr Callaghan—But that is just employment.

Senator SHERRY—That is correct.

Mr Callaghan—You are comparing the final figure, which would be reflecting multiple changes—

Senator SHERRY—Yes. So given the significant variation in the final outcome—\$5.8 billion plus—employment on the sensitivity analysis was almost \$1 billion. Based on that sensitivity analysis, what were the other factors?

Mr Greagg—To properly answer your question, you need to know what the forecast employment was for the 2004-05 budget and what the forecast employment outcome was for that 2004-05 financial year. I do not have the figures with me, but I think you will find that at the 2004-05 budget we expected employment to be a bit lower than it turned out to be. I think for the 2004-05 year we had an employment outcome number with a ‘3’ in front of it.

Senator SHERRY—The employment figure I have in front of me here is 1.75, the current economic forecast.

Mr Callaghan—That is the growth in employment.

Mr Greagg—And that was at the 2004-05 budget, Senator.

Senator SHERRY—Yes. The outcome was 2.94 growth. That is the figure I have in front of me. So that is 1.19; it is just over a one per cent variation.

Mr Greagg—Yes.

Senator SHERRY—We know that with employment there was a better outcome, but if you look back at the sensitivity analysis, which factors in a one per cent variation, on the employment side—which I gave the earlier figure for—there was a one per cent variation, \$960,000; almost a \$1 billion increase in revenue. So presumably, as the variation final outcome in employment was 1.19, let us say 1.2, we would get approximately a \$1.2 billion increase in revenue from that variation factor. That is approximately right, isn’t it?

Mr Callaghan—Sure. On that point, though, Senator, if it is the same in the warning at the top of the sensitivity analysis it will say, ‘This is a rough rule of thumb based on the change of one variable and does not take into account the interaction between the change of that variable and other elements.’

Senator SHERRY—I am going to explore this. We know that employment outcome was greater. We have dealt with that. The budget forecast in 2004-05 was wages 3.75 and the final outcome was 3.75—so no change there. So the sensitivity analysis in that area at least did not have an impact. GDP was forecast in the 2004-05 budget at 3.5; the outcome was 2.3. When you look at those outcomes against the budget forecast and you look at the sensitivity analysis table, you come up with part of the answer in respect of the increase in revenue but certainly nowhere near \$6 billion.

Mr Callaghan—For example, you are just quoting parts of it. You quoted real GDP, but as we said this morning in the discussion, real GDP is not the driving force on revenue; it is what is happening to nominal GDP. So you would have to go back and have a look at what was the change in the deflators from the assumptions in the 2004-05 budget with the outcome. You would have to look at what final demand is there, in the sensitivity analysis, and the profit share. You have to look at that.

Senator SHERRY—If you look at the sensitivity analysis, you have private final demand, profit, employment, wages, prices. Let us look at that private final demand. With a one per cent variation in private final demand you had in the sensitivity fiscal aggregate \$270 million, in terms of its impact. Okay? I don’t have the outcome of the private final demand figures in front of me, but, combined with the employment increase variation there, they can’t explain

why it ended up an almost \$6 billion outcome difference in terms of individuals and other withholding. It just doesn't explain it. So are there other factors that you are looking at?

Mr Callaghan—Yes, there are always other factors. Even the ones you are looking at—you have to look at what happened to profit over that period. It is a rule of thumb. You have to look at the responsiveness of revenue to these changes. Elements can come down. They are only estimates and there is always the implication of further compliance activity that is taking place. So a range of factors need to be taken into account. With those sensitivity analyses it is very much a rule of thumb with lots of qualifications.

Senator SHERRY—I accept that but the fact is that the sensitivity analysis was published in the budget and, if you look at the impact on revenue based on that sensitivity analysis and you look at what changed in those components of the sensitivity analysis, it just does not add up. That leaves me to ask whether—and this is a historic reflection—the sensitivity analysis published in the 2004 budget was as accurate as it could have been.

Mr Callaghan—It is as accurate as it could have been because it is also what we put in for our revenue estimates. At the time we think it is as accurate as it can be. As we were saying this morning, and it is on the public record, we have been chasing up the revenue with our forecasts. Even in the current budget it was made quite explicit that we have seen a greater responsiveness, particularly from companies, to any change in economic activity, and we have been collecting more revenue. What you are outlining is the process we have to go through to try to estimate how we can get better revenue forecasts. We go back and try to look at what might be the factors driving it. We try to make adjustments for the future, as there was an adjustment in the 2005-06 budget.

Senator SHERRY—The total outcome of the 2004-05 budget—I refer to the items individual and other withholding, which is \$5.829 billion—the total outcome was \$9.4 billion in extra revenue. That is a significant figure.

Mr Ray—From the 2004-05 budget?

Senator SHERRY—Yes.

Mr Ray—We published revised estimates twice in that period.

Senator SHERRY—I know. It is a significantly different figure. Total taxation is \$10.672. It is a significant additional figure from that which was published in the 2004-05 budget final outcome. What are the answers?

Mr Ray—The government published in the 2005-06 budget the variations that had been taken from the 2004-05 budget. So you should not have been surprised.

Senator SHERRY—Are you saying that the \$10.672 billion extra in total taxation revenue is the norm? We can expect this every time a budget is handed down?

Mr Ray—I am saying that we published variations in the 2005-06 budget which add up to \$9.5 billion for the 2004-05 year. That is the summation of the changes in MYEFO and in the budget.

Senator SHERRY—There was six per cent difference in taxation outcome. Do we normally see a six per cent variation?

Mr Callaghan—Everything you are saying now is all in the budget. I can quote what is in the current budget. It states that in recent years revenue has grown more strongly than forecast. It talks about the two principal factors that may be behind this: nominal GDP has grown more strongly than forecast because of the stronger than expected housing cycle in 2002-03 and stronger than expected growth in the terms of trade in 2003-04; and taxation revenue from companies, small unincorporated businesses and personal investors has been growing at an unexpectedly faster pace relative to growth in underlying incomes. Yes, revenue has been much stronger than we forecast. We are always looking back to try to understand what is happening. We agree with you that revenue has been growing more than previously forecast. Yes, it is acknowledged in the budget papers and, yes, we have been looking at it and trying to ascertain what may be driving it. What was outlined in the budget papers was that as a result of this, and of the fact that history has shown that revenue has been growing faster, we changed some of our underlying methodology.

Senator SHERRY—Does that include a review of the sensitivity analysis?

Mr Callaghan—I think, offhand, it has been updated.

Mr Greagg—Just to clarify, I can certainly confirm that—and Mr Ray made the same point before—the sensitivity analysis is developed using the same models that we use to estimate revenue. For example, if, as you mentioned, you increased employment by one per cent and you were expecting employment of two per cent, you would use the model for forecasting the revenue and you would add one per cent to that. So you would put three per cent in for employment and look to see what the model generated as an estimate. Then you would take the difference of the two, and that is where the number for the sensitivity analysis comes from. As Mr Callaghan said, we have changed the way in which we have forecast those taxes, and we use the same model to generate the sensitivity analysis.

Senator SHERRY—Can the ATO advise whether the tax receipts so far this year are ahead or below projected receipts?

Mr Greagg—We have taken that question on notice. You asked us that this morning, and we said that we would take that on notice.

Senator SHERRY—Okay. Isn't it reasonable for the parliament to have basic information such as whether or not tax receipts so far this year are running ahead or below projected receipts? That seems to me to be pretty basic and fundamental. I have not asked for the figures; I am just asking whether it is yes or no.

Mr Greagg—The minister for finance releases the monthly financial statements, and there are some commentary and numbers in that which answer that question you are asking.

Senator SHERRY—But we are dealing here with revenue, and I am asking the tax office that.

Mr Carmody—The answer before was that those figures are released by government, and we will take it on notice.

Senator SHERRY—Senator Minchin, doesn't the government want taxpayers to know how much tax they are paying?

Senator Minchin—We are a very transparent government, as I think you have seen from our press releases refuting the accusations of Mr Tanner. We are much more transparent than any previous government. The flow of information is very strong. We do the monthly financial statements, which include revenue and the budget position on a monthly basis. We have MYEFO, which is just about to come out. So taxpayers and parliamentarians are well aware of the government's financial position on an ongoing basis.

Senator SHERRY—Senator Minchin, putting your finance hat on, we discussed this in Finance estimates from an expenditure point of view, and that was not too crash hot for 2004-05 either, was it?

Senator Minchin—It was actually very good in accrual terms; it was spot-on in accrual terms. In cash terms, once again, we find that departments are underspending in the way that my finance officials reported. It does disturb them, and we are doing our utmost to ensure that we do know what departments are doing. But, in accrual terms, it was spot-on. The officials have gone into great detail about the difficulty of estimating revenues when you do have a strongly growing economy. It is a luxury that this nation does have with such strong growth in the economy. I would always prefer that Treasury underestimated rather than overestimated revenues. Yes, we want them to be as accurate as possible but, if there is going to be error, I would rather that they underestimated than overestimated.

Senator SHERRY—Can I be assured that, when we are sitting here in a year's time, we will not be discussing another \$10.6 billion change in the blow-out in tax revenues? Do you stand by the accuracy of the figures that have been developed?

Mr Callaghan—The only assurance we can give is that we continue to do our best job at providing the revenue estimates and revenue forecasts.

Senator SHERRY—I do not think it is a bad thing; but it is important, from the point of view of the public debate about what happens to surpluses and revenues, that we get accurate forecasts. That has not happened on either the revenue or the expenditure side over the last year. It has not been as accurate as it could have been.

Senator Minchin—The government shares your desire to ensure these estimates are as accurate as possible. We do not want to tax any more we need to. Therefore we, at a cabinet level, are anxious to ensure that we get the best possible information. Treasury is well aware of that, as are the spending departments. We are doing all we can to improve that. But as they say, this nominal growth phenomenon, which is particularly causing corporate tax revenues to be stronger than can be anticipated, is quite a phenomenon.

Mr Callaghan—Who would have predicted we would see the growth that is coming out of China? Access, in the *Budget monitor* for 2005-06, comment on the very point you are raising. They state: 'This is no Treasury conspiracy to hide money from politicians who lack self control. Our own forecasts have been similarly slow to catch up.' They go on to say: 'Rather, the river of revenue comes from (1) China's emergence as an industrial giant and the strong domestic cycle'.

It is these underlying factors. Who would have predicted we would see the enormous growth in commodity prices and in contract outcomes for coal and iron ore? They are all contributing to the profitability of the companies. That is flowing through into employment

growth in particular areas. So there have been developments occurring that no-one had predicted. In 2005-06, I think, from MYEFO to the last budget, we saw a 1¾ percentage point increase in nominal GDP. This enormous growth in commodity prices leading to this very strong growth in the nominal economy is a development that no-one predicted and it has a significant impact on the revenue estimates.

Senator SHERRY—So next time around we can put a new factor into the sensitivity of fiscal aggregates—the China factor—can we? I say that in all seriousness. Will you equate the China factor as a sensitivity?

Mr Callaghan—It is an underlying cause.

Senator SHERRY—From what you are saying, it seems to be the reason for such an inaccurate forecast figure.

Senator Minchin—I took it to be by way of example of the difficulty for Treasury on an ongoing basis to be deadly accurate.

Senator SHERRY—I am not suggesting deadly accurate. One or two billion, maybe—but 10 billion?

Mr Callaghan—In mentioning the China factor, we are going back to identify some of the causes that have seen such a strong growth in nominal GDP. If you look at it, you see that we have nominal GDP growing very strongly, significantly above real GDP. What has been driving it? We have seen this very strong growth in commodity prices. What is behind this very strong growth in commodity prices? All we are saying is that it has been the strong growth in demand for resources coming from China. These are all parts of explaining what has been happening to the Australian economy; what happens to the Australian economy has a bearing on the revenue.

Senator SHERRY—Is the source data for tax receipts that is recorded in the national accounts done on a survey basis? Or is it actuals from the ATO based on the progressive collections?

Mr Greagg—That is a question for the ABS, but I understand it is based on survey. We could take that on notice if you like.

Senator SHERRY—Okay.

Senator SHERRY—I just wanted to come back to another compliance issue: salary sacrifice. Page 143 of the annual report says that the ATO is unaware of the number of employees who receive benefits that are not taxable because they are below the \$1,000 threshold, they are FTB exempt or the employer contributes towards the cost of the benefit. Has the ATO undertaken any surveys to examine the prevalence of salary sacrifice arrangements?

Mr Carmody—I am unaware of any such surveys. The officer who might know, although I doubt it, is trying to check out another question you asked.

Senator SHERRY—Maybe I should leave that until that officer gets back. Should compliance capital gains tax be addressed to the same officer? I am referring to page 119 of the annual report.

Mr Carmody—Capital gains tax—this is in the individuals tax market. We have an officer here. Whether they can help you, we will see.

Senator SHERRY—As we were discussing in that lunch break, we do read the annual report.

Mr Carmody—I am going to have to cloud this!

Senator SHERRY—A very good annual report, as I said earlier, in terms of the layout. On page 119 of the annual report the ATO says it is concerned by the number of taxpayers who are failing to declare sale of property and shares. What is your reason for this concern? Why have you become concerned?

Mr Carmody—I think this concern would have arisen because of two factors. We generally look at macro factors like market sales and compare that with our micro data in returns. It is not wholly accurate, but it gives you an indication of risk. Typically we do some sample data matching and, if we find evidence of nondisclosure, they are the sorts of things that generally raise our concerns in areas like this.

Senator SHERRY—How do you pick up that with data matching?

Mr Carmody—There is a range of avenues that we can go down for data matching to get details of disposal of shares and disposal of properties, sale of properties. I think we have been quite transparent—it might even be on our web site—that we have made it clear that we are undertaking more extensive data matching through those sorts of avenues this coming year. Indeed, as you can see in the annual report, for the 2004-05 year, we matched property sales data with the tax returns of about 25,000 individuals and raised \$30 million in tax.

Senator SHERRY—That was the next issue I was going to come to. You data matched 25,000 individuals. In the year there must have been a hell of a lot more property sales than 25,000.

Mr Carmody—Yes. We have not done a comprehensive data match. But this was an area where we were exploring issues, and we will continue to look at those this year. If we see it is a major issue, then we will expand our data matching.

Senator SHERRY—Presumably, if you did 25,000 individuals approximately, and obviously property sales are significantly greater than 25,000 in a year, there would be significant additional revenue that would be calculated?

Mr Carmody—As I have indicated, we do everything on a risk basis and attempt to identify where the major risks are. Obviously one of the factors is the size of the potential revenue gap. We put our toe in the water—it was a little bit more than our toe in the water here—with the data matching we did last year. We will continue that this year. If we are getting similar results, we will expand that program. I think in the compliance program we published we foreshadowed that continuing activity.

Senator SHERRY—How were the 25,000 selected?

Mr Carmody—I am not sure. I imagine it would be on the basis of those institutions that we approached. We selected relevant institutions and took a number from those. I do not know that there was a particular science to it.

Senator SHERRY—It was just a random sort of selection, random representative selection?

Mr Carmody—When you do data matching, ultimately if it is a major risk you do not do it on a random basis because you actually find a small number comparatively to the total field. We can look to determine whether there are factors that might indicate that particular matches would be relevant and try to home in on them. It is like our income-matching system now, whereby we get almost all financial institutions reporting interest. If we can get an efficient income-matching system, it is easier to match the whole range and take out the ones that need to be actioned. I think it is fair to say in this area we are refining the sources that we can get information from in a readily available way. With interest from a bank account, people either have reported it or have not. With capital gains you have to actually find the purchase data and the sales data, but that does not tell you how much money people might have spent in enhancing the asset and enhancing the cost base. So it is not quite as simple a data-matching exercise as in our traditional interest area and so on.

Senator SHERRY—So there is another step effectively?

Mr Carmody—Yes.

Senator SHERRY—Once you identify it, you have to get further details.

Mr Carmody—Let us take investment properties. We might get details of the purchase and the sale. There might be a big gap, but we do not know whether people have spent money on alterations or whatever.

Senator SHERRY—So there is a further consequential detail of—

Mr Carmody—There needs to be, yes.

Senator SHERRY—When you are doing that data matching, what are you data matching with in the case of property sale?

Mr Carmody—We are matching information we get from Land Titles—I think the land titles and state revenue offices are able to give us information, the purchase price and the sales price. But, as I said, that is just the first step.

Senator SHERRY—That is obviously state based data.

Mr Carmody—Yes.

Senator SHERRY—Is that now with all states that you are able to do that?

Mr Carmody—I understand it is. But certainly we are looking at that.

Senator SHERRY—Of the 25,000 that were selected, what proportion had capital gains tax discrepancies?

Mr Carmody—I do not think I have that information. We can take that on notice and see what we can provide.

Senator SHERRY—We have had a talk about the state land titles offices in the case of property. What other specific agencies does the ATO data match with for property sales?

Mr Carmody—I think it is the land titles and the state revenue offices. I am not sure of others. I think they are the two major sources in that area. As you know, we do a lot of data matching for a whole range of reasons. It is a very effective compliance tool.

Senator SHERRY—What about the status of data matching of share sales?

Mr Carmody—Certainly we have commenced in that area. I do not believe we have comprehensive data matching at the moment. But, again, that is an area where, if we find significant compliance issues, we would look to expand.

Senator SHERRY—What would you data match with in the case of share sales?

Mr Carmody—I knew you would ask me that question. It would be various share registries that are available.

Senator SHERRY—So that is work just commencing?

Mr Carmody—I think we did it last year.

Senator SHERRY—So it is in development stage—is that the best way to describe it?

Mr Carmody—We have done work and, as I have indicated, whenever you start this work, particularly in these areas, it is not as easy a data-matching exercise as our traditional—

Senator SHERRY—Yes.

Mr Carmody—I think our early work in this area involved transferring data to spreadsheets to work through. Obviously, that is not the efficient model for the future, and that is why we are taking these steps and we will continue to enhance it.

Senator SHERRY—Of the work being done with respect to share registries, do we have any figures and proportion of share sales subject to that data matching last year?

Mr Carmody—If I can put it this way, I think it was a more manual exercise last year. We are looking to see the extent to which we can automate it this year, and that is where we will see the major enhancements.

Senator SHERRY—We have talked about the data matching with the state property registers. Are there any issues of access to share registries?

Mr Carmody—We have extensive access powers, and I am not aware that we have any particular difficulties. It is more a matter of the mechanics of making it work.

Senator SHERRY—Do you have MOUs with agencies that you data match with?

Mr Carmody—I am not sure we have specific memorandums of understanding. We exercise our access powers. We would go through protocols, once we get into automated data matching with them, to enable the accurate transmission of the information.

Senator SHERRY—Presumably, there would have to be some exchange of some document of some type.

Mr Carmody—In these areas we look towards moving to electronic exchange of information, and that is why I say there would need to be some protocols about that transmission.

Senator SHERRY—Could you take on notice our having copies of the protocols?

Mr Carmody—I will take on notice to see what we have.

Senator SHERRY—Sure; that exist.

Mr Carmody—With various agencies. It might make it easier if I give you the typical sorts of protocols and issues that we enter into in these areas.

Senator SHERRY—If so, a list of where they are applying to?

Mr Carmody—Is this in only these areas?

Senator SHERRY—With respect to CGT.

Mr Carmody—I will give you those. As I said about share sales, this sort of level of transmission is being developed now, I think.

Senator SHERRY—I have some issues relating to service trusts. Before I get to that, the officer who went—

Mr Carmody—Here he comes.

Senator SHERRY—Perfect timing. Perhaps he can give us an update on the information he went to search for.

Mr Carmody—No. He has been interrupted by your questioning, Senator, so he cannot help you.

Senator SHERRY—Do you have anything further for us?

Mr Konza—No, not definitively yet. I like to be accurate, as you know.

Senator SHERRY—That is fair enough. The Petruolias investigation, Mr Carmody: the DPP has indicated \$1.6 million was spent on the prosecution. Has there been any estimate of the costs involved for the ATO?

Mr Carmody—Not as far as I am aware.

Senator SHERRY—Is any work being done?

Mr Carmody—Not as far as I am aware, no.

Senator SHERRY—Why not?

Mr Carmody—Because the Director of Public Prosecutions took a decision to prosecute the case, and our responsibility, be it in witness time or whatever, is to attend to the requirements of the prosecution. So we have not seen it as necessary to separately attempt to cost that.

Senator SHERRY—I understand further legal action is expected in the near future.

Mr Carmody—I do not know.

Senator SHERRY—I have read that there is to be further legal action.

Mr Carmody—I do not know. The jury was unable to reach a unanimous decision in the trial and it is up to the DPP to determine whether he wishes to undertake a retrial. That is my understanding of the process.

Senator SHERRY—So you can anticipate further callings on the Taxation Office? If that occurred, there would certainly be further Taxation Office input into the prosecution in terms of evidence.

Mr Carmody—If a decision were taken to go to a retrial, to the extent that witnesses had to appear, that is the duty of any citizen, including us.

Senator SHERRY—I am a little surprised you have not assessed the cost of this from a Taxation Office point of view. The DPP has indicated \$1.6 million so far. What about the legal bills for the Taxation Office?

Mr Carmody—I am not sure what those legal bills are. We are appearing as witnesses in the prosecution.

Senator SHERRY—I understand that, but surely at some point the tax office would have taken legal advice. This goes back a fair time, as we know.

Mr Carmody—The process is: we did an investigation, that was handed over where there was felt there was at least cause for possible—

Senator SHERRY—Prima facie.

Mr Carmody—Prima facie. The AFP investigated, the AFP laid charges and the Director of Public Prosecutions takes decisions to prosecute or not. In this case our responsibility, as I see it, was to investigate the issues raised and, if there was reasonable cause, to refer that to the appropriate authorities. A magistrate has found, for example, that there was reasonable cause for a trial.

Senator SHERRY—The small business debt initiative: at what threshold of debt for a small business entity does the ATO judge that an aggressive compliance strategy needs to be adopted?

Mr Carmody—At what level of debt?

Senator SHERRY—Yes.

Mr Carmody—I am not sure it is at what level of debt. Once a debt is established, then we go through a range of procedures to seek to have that debt paid. If, for example, people ignore our approaches, then we are obliged to take—I do not know whether it is more aggressive—firmer action.

Senator SHERRY—But a judgment must be made. Let us say it was a few hundred dollars versus \$20,000. There is a point of judgment, is there not, about how far you would go—

Mr Carmody—For example, if it is a few hundred dollars, yes, there is and there are write-off arrangements and things like that. For example, for very low-level debts you would not go through bankruptcy or litigation.

Senator SHERRY—Just on the write-off issue, do you publish write-off data in terms of—

Mr Carmody—Where debts are written off is included in our statements.

Senator SHERRY—Is that disaggregated in terms of sector? I am asking you specifically here about small business.

Mr Carmody—No, it is not disaggregated.

Senator SHERRY—Could you take on notice, please, whether you can disaggregate it?

Mr Carmody—We could see if we could disaggregate it. Typically, the bulk of write-off debt is very small level debt. There is a bit of a balancing act here also. Certainly on an individual debt level you might say, ‘Well, that’s not worth pursuing,’ but if the community comes to believe that you can go to a certain level and try to find out what that level is then you magnify the problem. So there is a little bit more complex response we need in this area.

Senator SHERRY—How many liquidation actions have the ATO been a party to in the last 12 months?

Mr Carmody—If I can give you wind-up petitions as an example: according to the figures I have, 786 wind-up petitions were issued in 2004-05 and 443 winding-up orders were granted. Comparing the first quarter of last year to the first quarter of this year, 265 winding-up petitions were issued in the first quarter of 2004 and 581 winding-up petitions in the first quarter of 2005.

Senator SHERRY—581 is almost double.

Mr Carmody—You will find that across the activities we are undertaking. If you remember, with the small business debt initiative we gave small businesses an opportunity on reasonable terms to come forward and clear their debts. But we did make it clear that if they did not do that we would have to take firm action and, if we do not take firm action, then the sort of compliance effect that I have talked about will be there.

Senator SHERRY—Those figures you gave were specifically for small business or for all entities?

Mr Carmody—They were not broken down, but I would imagine that small business would be a fairly significant proportion of those.

Senator SHERRY—Could you take on notice the breakdown—

Mr Carmody—Yes, certainly.

Senator SHERRY—Of small business and—I think you use ‘medium-large’?

Mr Carmody—I hesitate to say this, because of further refinement, but we use ‘micro’ and then ‘small-medium’.

Senator SHERRY—Do you have any take on small businesses that are deemed to be a risk of liquidation action due to persistent tax debts?

Mr Carmody—I do not know that we have exactly that category, but certainly we are increasingly refining our approaches such that, where someone has a history of not meeting their obligations, we are continuing to tailor our approaches. Just the sheer number of smaller debts and how we manage those is the issue most exercising our minds. As I have indicated, and as was evident from those figures, we have firmed up that action. That includes winding up and bankruptcy where appropriate. We have firmed up our garnishee action. We have taken

steps to garnishee not only trade creditors but also merchant card facilities. These are taken not as first steps. So we are firming up at that end. The best way of collecting debt is to get onto it very early, particularly for smaller amounts. The big challenge for us is the sheer number of those smaller amounts of debt.

Senator SHERRY—What is the number, approximately?

Mr Carmody—I think it is in the annual report.

Senator SHERRY—Sorry, I missed that.

Mr Carmody—It might give some break-up of where the debt is. If not, I might have it. I have an example here of collectible debt holdings. I am told case and value by market segment. Micro businesses account for over 800,000 cases as at 30 September 2005.

Senator SHERRY—That is a big number.

Mr Carmody—Yes. They are typically not huge amounts, and this is the challenge we face. As I said, we have firmed up on the end processes. The challenge is how we actually get quicker or earlier across that broad number. This is where we benefit from international dialogue. The Japanese tax administration faced similar issues. They have introduced, and are reporting success from introducing, very automated telephone campaigns, whereby the system just produces cases to their operators. It automatically dials and produces cases with case details. Typically you expand your hours of operation to outside normal business hours. We are embarking on pilots of that. To do that we are going to compare whether we can develop that capability or whether we can get some of it. There are providers who do that, subject to strict protocols of course. So an initiative we have at the moment is to start testing that sort of approach to these smaller debts to see whether we can get across a lot more earlier in the piece and reduce the number where we have to take firmer and more costly action.

Senator SHERRY—Just so I am clear on this, what does the telephone approach from Japan that you have looked at mean? Are the debtors called?

Mr Carmody—Yes. The traditional approach is to send notices. Some people just do not pay any bill until they get a final notice. We send out a notice. A large proportion pay, but then substantial numbers still do not. Then there is the issue of how much you invest and can invest in the follow-up actions. So, as I have said, we have started the firm-up and follow-up action. We are looking to test more, and we have done a bit of this because we do use the phones. This is almost a mass campaign where you have systems that are automatically dialling potential cases and, once they get a person on the phone, it comes to one of our operators who has the details there and speaks directly to them. As I said, one of the ways to do that is outside normal business hours.

Senator SHERRY—Wouldn't it be a bit sensitive, though? You are ringing people, presumably, at home in some cases.

Mr Carmody—It will not be at 1 am or whatever.

Senator SHERRY—I am not suggesting it would be at 1 am. You could be at home, your partner is making dinner and the Taxation Office is on the debt line. Cold-call canvassing is a pretty sensitive issue.

Mr Carmody—As I said, we are testing these issues.

Senator SHERRY—It might work in Japan. I am not sure that there would be a lot of—

Mr Carmody—I do understand the sensitivities of what you are saying. But at the end of the day these people are not paying debts. Almost everyone pays their taxes—

Senator SHERRY—I understand that. But you are not just going to get the debtor at the end of the phone line; you might get their spouse or their kid.

Mr Carmody—First of all, we would not talk to anyone but the taxpayer. You would understand that we cannot talk to anyone but the taxpayer. We have to work through as to how it operates. We will find out how our pilots go, but at the end of the day it does not seem unreasonable to me for people who are just not paying their taxes to face what might be the inconvenience of a tax officer ringing them. That is reasonable.

Senator SHERRY—It is pretty sensitive, Mr Carmody. Sure, you are going to talk to only the taxpayer, but what if the spouse is in the middle of making tea and looking after kids? I am a bit more sensitive to this than I used to be. If the phone goes and my spouse answers it but it is for me, I have to tell you that if there is activity going on with kids and other things it is not particularly convenient.

Mr Carmody—Yes, and I am sure we will have to take those factors into account. But the level of debt that we have at the small end of the market is just not acceptable at the moment. We will be testing and piloting it and making sure that, to the extent we do it if we continue with it, that is done to the highest professional standards.

Senator SHERRY—So next year we will see another consultancy on the list?

Mr Carmody—Testing the results; testing the reactions.

Senator SHERRY—Testing the sensitivity of cold-call canvassing of people on their after-hours numbers.

Mr Carmody—There might be.

Senator SHERRY—You mentioned that figure of 800,000 for micro. What was it for small business?

Mr Carmody—For small to medium business, it was 27,496.

Senator SHERRY—What is your definition of ‘micro’?

Mr Carmody—Micro is generally under a \$2 million turnover, I think. The other large segment is individuals. That is about 471,000.

Senator SHERRY—They are big numbers.

Mr Carmody—They tend to be even smaller value debts.

Senator SHERRY—I am not sure whether this is the area in which to raise the foreign income concession under sections 23AF and 23AG.

Mr Carmody—What in particular do you want to raise? I will watch people squirm!

Senator SHERRY—It might surprise you that I actually have read the tax office report but I have not read sections 23AF and 23AG. There is a concession—the disaggregation of the cost of the foreign income concession.

Mr Carmody—I do not know whether we have anyone here who can help you—from my office anyway. Is it a question of the policy or its application?

Senator SHERRY—A concession under 23AF does require approval from the minister. I am just seeking what the cost of the concession is.

Mr Carmody—A tax expenditure issue.

Senator SHERRY—Yes.

Mr Carmody—It is a Treasury issue, then.

Senator SHERRY—It is an expenditure issue. I should probably leave it.

Mr Carmody—It is a tax expenditure issue, as I understand it from the way you are putting the question.

Senator SHERRY—We will come back to it later. The taxation statistics indicate work related deductions by income bands and also by industry, but they do not cross-tabulate the income bands by industry. Could you take on notice the provision of that?

Mr Carmody—I will take that on notice.

Senator SHERRY—Turning to the rules of personal services income, the rules associated with the alienation of personal services income deny deductions where 80 per cent of income is obtained from one source. Can I have an update on the oversight of this provision?

Mr Konza—I am not quite sure what you mean by ‘oversight’ of it.

Senator SHERRY—Observation.

Mr Konza—Observation, okay. Our assessment of the personal services income measure is that it is working satisfactorily. We have observed movement in the return of income and declines in relevant claim amounts consistent with the legislation having effect. We have been undertaking a number of audits in this area, which I just need to find. In the compliance program we report against that topic. In the building and construction industry we have not seen high levels of noncompliance because often the results test is satisfied within that industry. However, we have been concentrating on the information technology industry because the way that industry operates generally prevents people being able to pass the results test. So the personal services income measure applies to those people.

Senator SHERRY—Are you concerned about some industries more than others?

Mr Konza—We have been concentrating on and will continue to concentrate on the information technology industry.

Senator SHERRY—Is there any estimate of revenue that has been saved by the application of these provisions in the last four years?

Mr Konza—There may be, but I am not aware of it. I would need to take that on notice.

Senator SHERRY—How many taxpayers have been affected?

Mr Konza—We have those figures, but I am unable to supply them right now. We know how many people have returned personal services income in their returns, for example.

Senator SHERRY—Will you take that on notice?

Mr Konza—Yes, I will.

Senator SHERRY—Operation Wickenby: why was it called ‘Operation Wickenby’?

Mr Carmody—I cannot help you with that.

Senator SHERRY—Is there anyone here who can help us? I actually have some questions about it.

Mr Carmody—I do not know why it was named ‘Operation Wickenby’.

Senator SHERRY—You obviously knew what it was. I did not before I read the brief.

Mr Monaghan—The names of operations are just taken off a list. They have no significance.

Senator SHERRY—What list? You have operational lists?

Mr Monaghan—It is just something that the AFP or the ACC have. All I know is it is a random list of words that—

Senator SHERRY—The tax office did not give it that name?

Mr Carmody—No.

Senator SHERRY—What resources is the ATO currently spending on this operation—staff allocations et cetera?

Mr Monaghan—It is about 50 at the moment.

Senator SHERRY—That is a fair number. What about the budgeted expenditure?

Mr Monaghan—At the moment we are examining a large amount of information to ascertain the full scale of the work. So we are still trying to calculate what the full range of work will be. At the moment we have 50 working on it.

Senator SHERRY—Can you give me an indicative cost? I am not going to hold you to it in the sense of precise figures. But, with 50 staff, it seems it is going to be a reasonably costly operation.

Mr Monaghan—Fifty is about \$4 million and a bit, I think—\$4 million to \$5 million a year.

Senator SHERRY—Which classes of taxpayers are being targeted under Operation Wickenby?

Mr Monaghan—They are individuals and entities. Again, there is a very large number of participants, potentially. They are people who have sufficient wealth to make it worthwhile to enter into these sorts of arrangements.

Senator SHERRY—Other than sufficient wealth, is there any other characteristic?

Mr Monaghan—In the matters that we know something of at the moment, and there is a large number where we do not know very much, typically they are people who have offshore and domestic interests.

Senator SHERRY—Bank accounts, trusts and things of that nature—interest ownership?

Mr Carmody—The nature of these arrangements is that they rely typically on the establishment of entities offshore to conceal or transact the business.

Senator SHERRY—Have you made an assessment yet of the expected number of cases to proceed to the DPP?

Mr Monaghan—At the moment nine groups of cases are being examined by the Australian Crime Commission. So they are matters where the decision has been taken that there is sufficient evidence of criminality to warrant ACC investigation.

Senator SHERRY—You say nine groups.

Mr Monaghan—There are about 30 individuals in that.

Senator SHERRY—Do you have an estimated leakage of revenue associated with the operation that you are targeting?

Mr Monaghan—The current estimate is about \$300 million in revenue.

Mr Carmody—That is a broad at-risk figure. As was indicated, we have varying levels of information about participation in these. So it is that sort of macro estimate that is made at a very early stage.

Senator SHERRY—Has the ATO requested the use of phone tapping as part of the investigation?

Mr Monaghan—No; we do not have that power.

Senator SHERRY—It does actually lead to another issue I have discussed with APRA and ASIC: money laundering. Has the tax office been liaising with A-G's about the money laundering bill? I think it is being publicly released later this month. Have you been doing that?

Mr Monaghan—Yes.

Senator SHERRY—Is that you or your unit?

Mr Monaghan—It is my area, yes.

Senator SHERRY—What is your assessment of the difficulties in this area of actually tracking money laundering per se? I know we have AUSTRAC doing it. What are the difficulties of doing it in a practical sense?

Mr Monaghan—As in all our work, we operate within the laws as they exist. Ultimately the change in the policy or the law is a matter for policy agencies. But in a practical sense it is obviously going to be quite difficult to trace financial flows. AUSTRAC, as you mentioned, is a very important tool that we use to help us do that. We as an agency that operates within the law have participated in the discussions with Attorney-General's through Treasury.

Senator SHERRY—I am not going to go into what is in it. The government will release the legislation in due course. This is a very difficult area to effectively largely close off, isn't it? You are dealing with similar types of issues with these offshore entities, aren't you?

Mr Monaghan—Yes, it does pose a lot of challenges in tracing flows, certainly.

Senator SHERRY—Presumably the ATO has liaison with tax equivalents in other countries about the issues that you confront in terms of tax revenue?

Mr Monaghan—Yes, that is right. We have treaty agreements with a range of countries that are part of the picture here.

Senator SHERRY—I would have thought, in respect of money laundering, that getting whatever regime we end up with in Australia applied or similarly applied across every country in the world would be somewhat difficult, wouldn't it?

Mr Carmody—I think it will be a challenge, yes.

Senator SHERRY—The same way in terms of tax.

Mr Carmody—Yes.

Senator SHERRY—It is hard when there are some jurisdictions in the world or some countries that are essentially 'tax havens'. I know you have taken some interest in this issue. We have discussed it before. I suspect or believe that those same countries, or many of them, would be very reluctant to be involved in money laundering tracking.

Mr Carmody—I cannot speak for other countries, but whenever you attempt at an international level to get consistency of approaches, country-specific issues always arise.

Senator SHERRY—You are a person of eminence, Mr Carmody, and long experience.

Mr Carmody—Don't smile when you say that!

Senator SHERRY—No, I think you are. I do say that with considerable respect. But these tax havens, the countries we have talked about, Nauru, Monaco, Bermuda—what else do we have?

Mr Carmody—There is a whole range that we are currently negotiating information exchange arrangements with.

Senator SHERRY—Have any been successfully concluded in the last year or two?

Mr Carmody—Mr Duffus might be able to give us the most current update.

Mr Duffus—Over probably the last year and a half we have been negotiating with 10 tax havens, with varying degrees of success. We are close to signing two agreements. We are hoping to conclude those by the end of this calendar year.

Senator SHERRY—What are those 10 countries that you have been negotiating with?

Mr Duffus—Antigua and Barbuda, Jersey, Guernsey, Isle of Man, Bermuda, British Virgin Islands, Cayman Islands, Anguilla, Netherlands Antilles and Grenada.

Senator SHERRY—Are you able to indicate the two that you will be shortly signing off on?

Mr Duffus—They are in that group. I would be reluctant to indicate what havens they are because those countries might not have yet made that public within their countries.

Senator SHERRY—Fair enough. Jersey and Guernsey are separate jurisdictions for tax purposes, are they?

Mr Duffus—That is right.

Senator SHERRY—I know they have their own little parliaments. Have you been involved in the work in respect of money laundering?

Mr Duffus—No, I have not.

Senator SHERRY—Wouldn't there be some correlation between countries that are seen as tax havens, if you like, and countries that would be reluctant to impose money laundering requirements?

Mr Duffus—The work that we have been doing flows out of the work from the OECD, Thirty-odd tax havens committed to a program of transparency and exchanging tax information with us. So the process we have embarked on is identifying what havens are of high priority for Australia and starting our negotiations with those countries. Every one of those countries I mentioned has indicated to us that, once we reach agreement on the exchange agreement, they are prepared to exchange information with us on tax issues relating to Australian citizens.

Senator SHERRY—Doing that, effectively you can track the money movements.

Mr Duffus—That is right.

Senator SHERRY—Whereas at the moment you cannot do that for tax purposes. What I am getting at is the issue of money laundering, if you like, is at least to some extent related to tracking money for tax purposes. That is correct, isn't it?

Mr Duffus—That is right. Obviously it will provide us with a lot more data than we have had before.

Senator SHERRY—Presumably AUSTRAC will have access to that data?

Mr Duffus—We have access to the AUSTRAC data. We work very closely with them, looking at how we match data and pattern the data.

Senator SHERRY—But these treaties being signed would presumably be useful for AUSTRAC as well?

Mr Duffus—At this stage the agreement is just between—

Mr Carmody—I think the issue is more the other way around. We can sometimes get information about money moving to one of these tax havens. The issue that these exchanges will help us with is what has actually been transacted, what the business is.

Mr Monaghan—At some point the picture shifts from tax administration into the criminal justice system, I guess in terms of Attorney-General's responsibility. My particular area happens to sit on the border between the two. That is why I have a particular interest in that framework, the money laundering framework.

Senator SHERRY—There are some significant practical issues in terms of the impact for consumers and financial institutions here.

Mr Carmody—Yes. They are the sorts of balances that all communities, all governments, will have to make.

Senator SHERRY—Yes, that is right. Do you have an approximate figure for the total movement of moneys in and out on an annual basis for those particular 10 countries that you have read out?

Mr Duffus—Not those 10, but I think the total money movement out of Australia to the 30-odd tax haven countries is around \$5 billion.

Mr Carmody—As we have been through before, there are some legitimate transactions and substantial ones.

Senator SHERRY—I am sure there would be some.

Mr Carmody—Some of them, because of their particular financial and other arrangements, are quite significant financial centres used by the legitimate economy.

Senator SHERRY—But to some extent used by the illegitimate economy.

Mr Carmody—And that is the distinction we have to draw, yes.

Senator SHERRY—Do you have any estimate as to what, of that \$5 billion in movement, could be illegitimate as distinct from legitimate?

Mr Duffus—Not really. We have done a lot of profiling of every haven, looking at the major transactions that are flowing out of Australia, looking them up through our own records, to see whether we believe they are legitimate or not. It is probably fair to say that the majority of transactions that we look at are legitimate trade. It could be buying Australian currency, legitimate trade between parent and subsidiary companies and a whole range of other reasons. Obviously with the AUSTRAC data that we get we look at all the major transactions to see what could be classed as suspicious transactions. We look at those on a very regular basis.

Senator SHERRY—I have some issues in respect of the GST compliance program—not many issues, but some.

Mr Carmody—Mr Jackson has recently moved into GST from superannuation.

Senator SHERRY—I get you going both ways. I have plenty of super issues coming up.

Mr Jackson—That is excellent! Ms Vivian will be delighted!

Senator SHERRY—The Auditor-General indicated recently that some \$425 million in additional GST has been levied on the large business segment of corporate taxpayers as part of this compliance program. Is that correct?

Mr Jackson—That sounds about right, yes.

Senator SHERRY—It sounds like a very large figure. It is almost half a billion dollars.

Mr Jackson—That is what the figure is.

Senator SHERRY—In 2004-05 there was a sizeable jump in that figure, from \$320 million to \$425 million. What is the explanation for the big jump?

Mr Jackson—I am not aware of any particular single factor that has caused that jump. Nothing in our audit activity stands out and says there has been a completely different body of findings compared to last year; just a growth in what we were doing. We have been working very hard to improve the targeting of our work to ensure that we are able to get to cases which will produce an audit result.

Senator SHERRY—The figures include penalties. What is the figure with the removal of penalties or disaggregated from that data?

Mr Jackson—That is on page 72 of the annual report.

Senator SHERRY—It is the Audit Office report I looked at on this matter.

Mr Carmody—You should go to the source of information.

Senator SHERRY—The fount of all knowledge. What page is that again?

Mr Carmody—Page 72, table 2.29. You will see it is for large business. Tax is \$381 million; penalties and interest, \$44 million.

Senator SHERRY—It just shows I should have read that annual report more closely. Doesn't it indicate, with the extra tax and penalties being collected, that some big businesses or large businesses are struggling to comply with the GST system?

Mr Jackson—I do not believe so. You can always draw that conclusion. The jump is not enormous. I have the numbers here. It was \$297 million. The year before it was \$381 million. As I said, we have been working hard to improve our risk management framework and our targeting of cases to ensure our resources produce the best outcome. The GST system is still a relatively new system compared to the income tax system, which has been around for a long time. There are still some cases where people are adjusting, getting their operations right, and we are continuing to work with them to do that. But we have been progressively, since 2001-02, toughening up our compliance approaches as well.

Mr Carmody—In another of our publications in our compliance program we actually outline in relation to the large business segment the sorts of issues that we are finding. There has been some evidence of what we would call reasonably aggressive tax planning in the property industry, second-hand goods, the interposition of entities to take advantage of credits or non-liability and so on. So we have outlined a range of issues that contribute towards those results.

Senator SHERRY—In respect of employers and PAYG tax withholding, what is the legal position if an employer fails to transfer moneys?

Mr Carmody—If they have withheld the amount?

Senator SHERRY—Yes, withheld it but failed to transfer it for whatever reason.

Mr Carmody—I think the position is that the employee gets the benefit of the credit and the employer is then subject to pursuit of the amount withheld but not remitted.

Senator SHERRY—So it is not the employee who would suffer as a consequence?

Mr Carmody—No.

Senator SHERRY—I have some issues relating to income tax reform. Before I get to that, I will deal with the superannuation issue that came out of the report, Mr Carmody. Page 79 of the report contains the lost members super register. It is indicated that 743,000 accounts were removed from the register. However, 1.2 million new accounts were added. Every year we talk about this and just about every year the figure keeps going up. The tax office has run a variety of campaigns. We have SuperMatch, super online seeker, SuperSeeker. There have been advertising campaigns et cetera. Is the tax office looking at any other way in which this issue can be minimised because the growth is just enormous at the moment, despite what I think is best efforts. Are there any other ways you are looking at to deal with this growing issue?

Ms Vivian—In addition we are doing mail-outs to people on the lost members register. I think in about March-April this year, or somewhere between February and March, we did about 500,000, so I will be looking to see how those results are shown or what has been the impact of that when the super funds report at the end of October, to see if there has been any reduction from that mail-out. I suppose the other areas that we are looking at is working a bit more with the funds to see if we can work together a bit more here about trying to get some better sense of who these people are and how we can identify them. In addition to that, we are also using whatever matching that we can in the tax office, and the tax office has started to assist in identifying these people as well.

Senator SHERRY—I am not being critical of the tax office, but it seems to me we have discussed this on many occasions and the tax office has implemented a number of new programs over a number of years, but the problem is worse. That is not your fault; it just seems to me that, in getting to the actual fundamental problem itself, there is nothing new being considered.

Ms Vivian—They are some of the areas. I suppose, not to trivialise the matter, on the good news side is that, as a proportion of total superannuation assets under management, it is simply becoming a lesser percentage.

Senator SHERRY—I do not know about that. I would have to have a look at that. Certainly, the last time I looked at the APRA quarterly figures, that was being driven by—I am not sure it is a lesser number in the proportion of accounts.

Ms Vivian—I suppose in terms of value—

Senator SHERRY—In terms of value, what is driving value at the moment is both the compulsory SG and earnings. If you were to use that observation at a time of earnings decline, the figure would go up very significantly.

Ms Vivian—As I say, it is something we are looking at and exploring different ways with the industry.

Senator SHERRY—Frankly, I do not know what else you can try, given the various efforts over the years. As I say, I think the tax office has done its best. It is not a criticism. It is just a very, very high figure. Do you deal with the self-managed superannuation fund area?

Ms Vivian—Yes, I do.

Senator SHERRY—I do not know whether you are aware that I put some questions on notice about this a few weeks back. They may not have got to you yet. Has the tax office done any work on a sort of overall and representative data gathering on what is happening in this area? We know the number of funds, but with respect to within the funds themselves, where the money is invested, the average size of funds—those sorts of things? That sort of data is available in respect of other super funds but I cannot get any in respect of self-managed super funds—none that I can find.

Ms Vivian—In terms of looking at our compliance program there are different areas that we look at. One of the things that we are looking at is things like the percentage between individual trustees, corporate trustees. Yes, we have been doing some work on that.

Senator SHERRY—But is there any data that has been published in this area? I cannot find any.

Mr Carmody—There is a very broad break-up, from memory. We produced a publication on self-managed super funds called *It's your money ... but not yet* and there is a very macro break-up of their investments, I think. It might not go to the level you are after.

Senator SHERRY—I put some quite specific questions on notice a few weeks back. The tax office is administering the area; it is difficult to get any clear picture of what is happening in what is a very major area of the superannuation sector. Are you overseeing the super choice campaign?

Ms Vivian—I am now.

Senator SHERRY—The hotline and those sorts of issues?

Ms Vivian—Yes,

Senator SHERRY—You have got a web site?

Ms Vivian—Yes.

Senator SHERRY—I think there was a call centre as well for people to contact?

Ms Vivian—That is correct.

Senator SHERRY—What number of calls and contacts have been made?

Ms Vivian—Since the info line or the call centre opened on 11 April, overall there have been about 82,000 calls to that info line. In terms of our web site, since that has been live from 11 April, there have been about 425,000 visits, which translates into about 13 million hits in terms of different elements of that web site.

Senator SHERRY—Are you able to identify in either case whether that has been from employers—if so, how many—and employees, and how many?

Ms Vivian—In terms of the info line, we can identify data there. What we have found is that about 44 per cent of the calls are from employers, about 50 per cent are from employees and about five per cent are from tax agents or financial planners. In terms of the web site, all I can tell you is that the most popular web pages are the employees introduction, the employers introduction and downloading the form.

Senator SHERRY—With respect to the handing out of the forms by the employers, what has happened there?

Ms Vivian—In terms of whether it is successful or not?

Senator SHERRY—By law, under federal awards, employers had to hand out forms to millions of employees.

Ms Vivian—In terms of the number of employers, in addition to the original mail-outs we have sent out about 920,000 forms, but we also made the form electronic as well and a number of employers would have downloaded the form through the web.

Senator SHERRY—But that does not indicate how many were actually given out.

Ms Vivian—No, we would not have that information.

Senator SHERRY—Has there been any work done by the inspectorate to see how many were given out within the prescribed time?

Ms Vivian—As part of the implementation campaign of choice, we did make about 30,000 outbound calls since the end of May through to about October, focusing probably on the areas that we thought were most noncompliant in the super guarantee area. In those phone calls we found that 87 per cent had heard about choice, 87 per cent were aware that they were required to offer choice and 85 per cent were aware that they had to keep records. I suppose the only other indication I can give you is that, to date, we have only had one complaint into the office about a form not being handed out, so we have followed up on that.

Senator SHERRY—But you have not actually checked to see how many employers handed it out?

Ms Vivian—In terms of those outbound calls they would have been checks to employers about whether they had fulfilled their choice obligations.

Senator SHERRY—But you do not know yet. There was a survey by Star fund that indicated a substantial proportion of employees had not received their forms from the employer by the prescribed date.

Ms Vivian—Yes. We were concerned when we saw that survey, so we had a look at it. That survey was across 400 employers. The way that they chose people was that they were employers with Star employees, so there is probably an element in there that some of those people were ineligible for choice out of those 400. There were some other positive findings from that, but it was difficult to draw some conclusions from that survey.

Senator SHERRY—When is the tax office itself and its inspectorate going to be liaising with employers on this issue?

Ms Vivian—We have already conducted about 905 visits and over the year we are looking to conduct about 9,000 visits. As part of super guarantee work we would also be looking at the choice work.

Senator SHERRY—Of those 905 visits, what has been identified in terms of compliance?

Ms Vivian—It was supporting the feedback that I was giving to you from the call centre: that there was a relatively strong level of compliance.

Senator SHERRY—Sorry, ‘relatively strong’ does not tell me.

Ms Vivian—I do not have the actual break-up. I do not know that we have pulled it all together. We are waiting to do a few more visits but, just in asking about what they were finding, they seemed to support the same sorts of figures that I was giving you: about 87 per cent of employers seemed to be doing the right thing in terms of choice.

Senator SHERRY—But does that mean that 87 per cent of employers had handed out forms?

Ms Vivian—Certainly the employers that needed to hand out forms have indicated that they have. We have not actually rung the employees or checked with them. It was more about an awareness campaign. At this sort of stage in terms of choice, we are focusing on how we educate the employers—getting the information out there. So the calls were taken in that vein as well to make sure that employers were doing the right thing. If they did not know about it, it was to make sure that we gave them the right information to do the right thing.

Senator SHERRY—That presumably includes employers who are not yet covered by the legislation.

Ms Vivian—In terms of our outbound calls we tried to target people that would have been covered by the legislation.

Senator SHERRY—You ‘tried’—that is the operative word.

Ms Vivian—Yes, to the extent that we could tell from the information we had available, yes.

Senator SHERRY—Yes. That was not easy the last time I discussed this with the ATO because you did not have a breakdown of state-federal employers on your database. I am not critical of that; it was just a practical problem.

Ms Vivian—Yes.

Senator SHERRY—We discussed the issue of clearing houses yesterday in the superannuation context. It raised the broader issue of clearing houses generally and what their status is. This was raised from a regulatory point of view with APRA and ASIC in the context of super clearing houses, super choice, greater use of clearing houses and their inclusion in, or in this case exclusion from, the regulatory regime and the potential risk that poses. If there is no direct transfer of moneys to funds there is a greater level of risk; they are not regulated. Does the tax office have any experience not so much in the superannuation context but with the issues relating to clearing houses?

Ms Vivian—In terms of superannuation, we are developing a draft practice statement. The main issue tied up with superannuation has been with the superannuation guarantee. Some employers have been paying into the clearing houses just before the due date and there has been a question about it and about across the quarters—when does the money get counted? That has probably been the main area that I have seen in the super guarantee side.

Senator SHERRY—When does it get counted? The employer has an obligation. Is it pay to the clearing house—bang, that’s the date—or is it actually into the fund?

Ms Vivian—No, the obligation is when it reaches the fund, so we will be looking to put something out there. One of the things we are trying to do is educate employers so that they understand the time frames that the clearing house might need to clear the money through to the fund and to make sure that they make the payments in that time frame.

Senator SHERRY—So some employers are assuming that, by paying into the clearing house, that satisfies the obligation; it is actually the money going from the clearing house to the fund.

Ms Vivian—Into the actual fund. Yes, that is correct.

Senator SHERRY—From that point of view is there greater use of clearing houses now as an intermediary for payment?

Ms Vivian—I do not have any statistics. All I know from talking to the industry and the media is that there seems to be some greater usage there.

Senator SHERRY—Yes, but it is what would be expected, I think. From a legal point of view, Mr Carmody, if a clearing house fails—goes out of business, goes into bankruptcy or receivership or whatever—who is legally liable for payment in those circumstances?

Mr Carmody—For payment of what?

Senator SHERRY—Let us take the super guarantee. It is sitting in the clearing house and the clearing house has not sent it to the fund. Is the employer still liable?

Mr Carmody—As Ms Vivian has indicated, the obligation is for the money to go into the super fund. If that has not occurred, on the face of it the employer has not met that obligation but no doubt there would be legal action between the employer and the clearing house. In our approach to this, we would have to take those factors into account. This is not a researched answer but, given that the obligation is for the employer to pay it into the fund, at a legal level, that obligation has not been met if the clearing house does not—

Senator SHERRY—It is not just an SG issue. There are also salary sacrifice payments. From a convenience point of view, employers would presumably send the salary sacrifice payment, where it exists, through to the clearing house with the SG for clearance to the particular funds later on.

Mr Carmody—It could well be the case.

Senator SHERRY—And the issue that arose with APRA and ASIC was that a lot of clearing houses, whilst they are part of super funds or part of life companies, are regulated, but there are many clearing houses that are not regulated by APRA or ASIC because they are not financial institutions as such. There is a potential issue there about compliance in the case of super, but I would have thought there is also some broader experience in the case of other contributions. Are you aware of any work generally by the tax office on clearing houses, aside from the super issues we have discussed?

Mr Carmody—I am not aware that it has come up as a major risk factor for us.

Senator SHERRY—Perhaps you could take that on notice and see if there is anything that you have available on that.

Mr Carmody—Sure.

Senator SHERRY—I was going to ask earlier about service trusts and I think you sent someone—

Mr Carmody—He actually came to the table and you did not ask.

Senator SHERRY—No; I thought he indicated that he did not have the information available.

Mr Carmody—No, that was in relation to the earlier issue about ABNs.

Senator SHERRY—Sorry, there has been confusion. You responded to questions—not you personally, presumably—at last estimates on this issue of the service trusts. When were they signed off by the ATO?

Mr Carmody—I certainly do not have that detail here.

Senator SHERRY—Can you take that on notice?

Mr Carmody—Yes, certainly.

Senator SHERRY—Previously I think you have stated that you would be applying the ruling retrospectively to situations where the gross income of the firm is more than \$1 million and more than 50 per cent of the gross income of the firm is directed into the service entity.

Mr Carmody—That is true.

Senator SHERRY—Have you taken into account taxpayer concerns and adjusted the latter part of this criterion so that the retrospective application is limited to situations where more than 50 per cent of the profit of the combined firm and the associated service entity is directed into the service entity?

Mr Carmody—That is correct. In fact Senator Watson raised those issues in a question on notice, and our answer indicated we have added that to the criteria.

Senator SHERRY—Has there been reconsideration of the safe harbours set out in the draft booklet?

Mr Carmody—The feedback we got—we put it out as a draft so we would get feedback—is that smaller firms were looking for a simpler, more readily accessible guideline and in particular were looking at whether we could give indicative mark-up figures rather than net return figures. We have been in discussion with representatives of the profession and we have had some of our economists involved, and we are striving to find a way that will meet that request.

Senator SHERRY—Does the tax office have any data on the proportion of businesses that are incorporated?

Mr Carmody—I imagine we would have data on businesses. We must be able to get it from somewhere, I imagine.

Mr Konza—Yes.

Senator SHERRY—But from a tax point of view it is obviously important.

Mr Konza—Yes, that is right, but we do not have the data here.

Senator SHERRY—That is fair enough; I would not expect you to have it here. I was just interested. I assumed you would have data on that. Would you take on notice the proportion of primary producers who are currently incorporated?

Mr Carmody—I will take that on notice, yes.

Senator SHERRY—What is the current amount of tax concession related to infrastructure bonds?

Mr Carmody—That is a tax expenditure issue, I imagine. Colleagues from Treasury might have to take it on notice.

Mr Callaghan—I am not sure if we would have it here. We could take that on notice.

Senator SHERRY—Sorry, it is more appropriate to deal with it a bit later. This is for Treasury. I have some questions on income tax—

Mr Callaghan—By the way, I think we have found that question on infrastructure bonds.

Mr Brown—That is in the tax expenditure statement 2004, item B90, and the level of tax expenditure for 2004-05 was \$20 million.

Senator SHERRY—Presumably the concessional investment projects are still operating, given there is a tax expenditure.

Mr Brown—There is an expiry date on that. It only applies to schemes before 1997.

Senator SHERRY—Therefore they are effectively being phased out?

Mr Brown—That is correct.

Senator SHERRY—Do you have a number on the actual number of projects still operating?

Mr Brown—No, I do not.

Senator SHERRY—Would you take that on notice. There was a recent report in the *Australian Financial Review* that investment institutions were using access to these still operating investment schemes as a mechanism to attract new clients. Are you aware of any issues around this report?

Mr Brown—It is not an issue that I have dealt with.

Senator SHERRY—Has anyone else in Treasury examined this matter, or the tax office?

Mr Callaghan—What aspect, what question in particular?

Senator SHERRY—It was reported—I do not have the report with me—in the *Financial Review* and the *Australian* that an investment institution was using claimed access, or access, to these residual investment mechanisms—the infrastructure bond schemes which have been closed down—to attract new clients. I just wondered whether the tax office or Treasury have any observations to make about whether that is an accurate report.

Mr Callaghan—I am trying to recall that article; I think I saw it. I thought it was making the point that they were closed down but they were still out there and financial institutions were trading in these and were still able to get the benefit of trading in them to attract people. They are basically selling a bond that is already out there.

Senator SHERRY—Who would oversee the trading of those?

Mr Callaghan—I do not know.

Senator SHERRY—I am just trying to think. Is it an APRA responsibility?

Mr Callaghan—I am not sure what the oversight is in that.

Senator SHERRY—No; that is what I am wondering—where an infrastructure bond would fall? Anyway, thanks for that.

Proceedings suspended from 3.26 pm to 3.54 pm

Mr Callaghan—We think we have an answer to your section 23AF and AG and we could get that out of the way.

Mr Brown—The amount of income that has been subject to those two provisions is \$1,029 million. There is not a split available between section 23AF and section 23AG, as the information on income exempted by those provisions is collected on the same item, or the same label, in the tax return form. It is not possible to derive a split between them. Information on those two sections has been provided to Mr Fitzgibbon in a letter which was sent yesterday.

Senator SHERRY—Is it correct that modelling of income tax options has been carried out in Treasury?

Mr Callaghan—We do that all the time.

Senator SHERRY—Where does this modelling take place?

Mr Callaghan—Within the revenue group, which is the output we are looking at now, 2.2.

Senator SHERRY—There is another issue on superannuation matters, a surcharge issue. It goes to the answer that I received to a question that arose at the last estimates, an answer from Treasury, question No. 541. On notice on 13 April I asked Senator Minchin representing the Treasurer about the case of an employee who receives financial compensation for a period of wrongful termination that extends over more than one financial year. Provision can be made under the Income Tax Assessment Act for the lump sum payment to be split between the financial years for income tax purposes. That is possible, is it, Mr Carmody?

Mr Carmody—That is a level of detail I cannot help you with.

Senator SHERRY—Is there anyone who can help us with that?

Mr Carmody—It does not look like it.

Senator Kemp—I think they would like to help you, but they are unable to.

Senator SHERRY—Anyway, my advice was that, if you get a lump sum after being wrongfully terminated, you can split it between the financial years for the purposes of income tax assessment.

Mr Carmody—Presumably that would require a particular provision but, as I said, I do not have direct knowledge of that.

ACTING CHAIR—That sounds a bit unusual.

Mr Carmody—As I say, I imagine if that were the case it would have required a particular provision of law to enable it, but I do not have the detail here.

Senator SHERRY—I am certainly advised that it does not apply in surcharge tax assessment. Anyway, that was question No. 541. I got what I thought was an incredibly flippant and arrogant response and I am not sure where it emanated from. It concludes with a sentence saying, ‘Consequently the treatment of lump sum payments received from that date for surcharge purposes is irrelevant.’ The date referred to is 1 July 2005 because of the abolition of the surcharge. My question was obviously not irrelevant because it pertained to a surcharge assessment prior to 1 July 2005, which is why I considered the last sentence of that answer particularly arrogant and flippant and not addressing my question. Was this answer prepared in the tax office, Mr Carmody?

Mr Carmody—I do not have any—

Ms Vivian—I would have to go back and have a look. It is certainly not one I saw in preparing for this session, but I am happy to go back and have a look at it.

Senator Kemp—I think that seems to be an unduly sensitive response from you, Senator.

Senator SHERRY—On the contrary; I think the answer betrays an incredibly sensitive response. I asked a question about someone who was assessed a surcharge tax purposes prior to 1 July 2005 and I got the response that the question is irrelevant because of the ending of the surcharge from 1 July 2005, which is clearly not the case, so the question was not answered. That is my concern. So will you have a look at this again, please, Mr Carmody?

Mr Carmody—Yes, I will.

Senator SHERRY—I am not blaming you. I suspect it got changed somewhere through the system. Whilst I am on this issue, on the previous occasion we discussed the ANAO’s observations of the tax office collection of the surcharge tax. Where are we up to with the collection?

Ms Vivian—This is in terms of, I suppose, the exception work that we had on hand.

Senator SHERRY—Yes, very considerable exception work.

Ms Vivian—We have actually made substantial progress in that work. The ANAO report talked about \$323 million as potential outstanding revenue. In looking at roughly 10 million or 11 million work items we did some risk assessment not to proceed in some cases and narrowed it down to those cases that we thought were going to have a surcharge debt. There are approximately 200,000 cases in which we have sent out ‘please quote TFN’ letters. Depending on what year the surcharge might apply to, there are some processes we need to go through before we can automatically raise a surcharge debt. So we are in the process. We have sent out roughly 180,000 letters. So that is effectively all the backlog. We are now just waiting for responses to come in or non-responses to then take the next step: raise surcharge assessments.

Senator SHERRY—Obviously, if a response comes in and you have the TFN number, you can do the required assessment. It may or may not be payable. If a response to that letter does not come in will it be automatically applied?

Ms Vivian—Yes. There are two parts there. If the account was opened after 7 May 1997 they have 90 days. We send out a letter asking them to quote their TFN. They have 90 days to quote their TFN. If they do not quote it within that period of time we then need to send them a further reminder letter where they have another seven days and then if we do not hear at that point of time that is when we can go through and raise an automatic surcharge assessment of 12.5 per cent. If it was before 7 May 1997 they have 28 days to quote their TFN. If they do not fill it within that time then we can raise the assessment at that point of time.

Senator SHERRY—In the case of the non-provision of TFN and your application of the tax, would that apply back to 1997 for each and every year?

Ms Vivian—No. It could apply if it was an initial assessment but in terms of looking across this work because of the backlogs, we are applying it mainly from the year 2000 onwards.

Senator SHERRY—From 2000 onwards?

Ms Vivian—Yes.

Senator SHERRY—But you could apply it back to 1997.

Ms Vivian—We could do but it was seen that, since the backlogs were caused by us—and also in saying that, in going back that far there are a number of issues there in that the member may no longer be alive; they may have been retired. What we did in reducing these backlogs seemed to be the most important thing. We took some risk assessment across that way.

Senator SHERRY—So you have taken discretionary power in this area, Mr Carmody?

Mr Carmody—Yes.

Senator SHERRY—Is that because of what you consider to be the onus on the tax office because of the problems that were—

Mr Carmody—That was certainly be part of it.

Senator SHERRY—Is it correct that over the last eight or nine years, of people who failed to provide a TFN number no one has been assessed during that period?

Ms Vivian—I would need to check that out.

Mr Jackson—I think we did cover this before, but every year we get a considerable number of reported member contribution statements without TFNs. We have soft matching techniques which have progressively improved over the years and we match a very large percentage of those now and are able to issue the surcharge assessments where that is appropriate. There are some where there is not a TFN. Those ones without a TFN, we have not been able to soft match from the core of that pool, of the 10.5 million exceptions.

Senator SHERRY—So they are the core of the cases. They are now the hardest cases, if you like?

Mr Jackson—They are. But it is important to note that a large number of those, somewhere between 7 million and 8 million, I think, just off the top of my head, would have a level of contribution which would suggest to us that there was never going to be an assessment anyway. Whilst they had no TFN and whilst we did not match them, they were

never going to give rise to an assessment in any case. There are some factors around that. At one level it sounds simple as a lot of things were unactioned, but in fact most of them had no fiscal consequence anyway.

I just might add to a comment Ms Vivian made a minute ago. With some of those cases that are pre-2000, there is an issue—that is a little complex to describe—of a nil versus null assessment. A nil assessment is where we have never looked at the thing and therefore never made an assessment. A null assessment is where we have looked at it and at first blush it appears that there is no assessment due. So you have got a mix of these things in there. The ones where there are null assessments would be an amendment to an original assessment, if you like, with a nil assessment. There are some complexities in there around the operation of the law that make it quite difficult to go back beyond that point, combined with the issues that were mentioned earlier.

Senator SHERRY—But presumably the approximately 200,000 cases are cases where you have determined that, based on contributions, there is a likelihood that they are at surchargeable tax income levels.

Mr Jackson—These are the ones without the TFN?

Senator SHERRY—Yes.

Mr Jackson—Yes, that is right. We went through and effectively worked back and said what level of member contribution would suggest a likely assessment, and they are the ones that we started to write out to people requesting TFNs. The process was just explained.

Senator SHERRY—In that case, if it goes back to 2000, at least some of them would have an application going back five years—

Mr Jackson—That is right.

Senator SHERRY—There seems to be, at least with some people, a misunderstanding that with the abolition of the tax the accrued debt is gone as well. That is not case, is it?

Mr Jackson—No, that is not the case.

Senator SHERRY—So would the tax office have ongoing work with funds in terms of the ongoing debt accumulation, if you like, in defined benefit funds, for example?

Ms Vivian—Yes, we will have.

Senator SHERRY—How many people approximately have an ongoing debt notice as a consequence of the tax?

Mr Jackson—I just do not know off the top of my head exactly, but it is quite a significant number. It is in the hundreds of thousands.

Senator SHERRY—That would be DB funds, rather than people who have not paid. Some would have paid their—

Mr Jackson—ComSuper, PSS.

Senator SHERRY—There would be a few in the private sector, too.

Mr Jackson—Yes, there could be a couple, yes.

Senator SHERRY—So who issues that notice? Will it be the fund itself ongoing?

Mr Jackson—Yes, the fund has responsibility. It is reporting to their members.

Senator SHERRY—Could take on notice that I would like that number? Presumably that number will just decline over time?

Mr Jackson—Yes, that is right.

Senator SHERRY—Is that reflected in the ongoing revenue collection figures?

Mr Jackson—That is really a question for Treasury.

Mr Lonsdale—That is correct; it would be.

Senator SHERRY—That would come about as a consequence of (a) people retiring and paying it, (b) dying; or (c) at some point in time before they retire paying the debt off?

Mr Lonsdale—That is correct, a combination of all those things.

Senator SHERRY—Presumably you have an estimate of that number, because you have got an estimate of revenue going forward?

Mr Lonsdale—An estimate of the combination of all these things?

Senator SHERRY—Yes.

Mr Lonsdale—I think it would be joined not only with the revenue tailing off but also the compliance activity, the increase in interest adding to the debt account, so the biggest offsetting effect happening. As to whether we have a disaggregation, I would need to take advice on that.

Mr Carmody—While there is a break, can I advise that the tax office was not involved in preparing the response to question 541, the surcharge question.

Senator SHERRY—Would a question like that normally come to you in the first instance? I just assumed that all issues relating to tax matters of that type would come to the tax office.

Mr Carmody—I think there is some division between Treasury and ourselves on particular issues.

Senator SHERRY—Who in Treasury would be responsible for drafting answers in this area?

Mr Callaghan—It would have been within the revenue group.

Mr Lonsdale—It would have been my division, but I cannot recall the question, to be honest, so I would like to take that on notice and come back, if I could?

Senator SHERRY—Could you, yes, take it on notice and see who prepared that.

Mr Lonsdale—Sure.

Senator SHERRY—I have a particular constituent issue. A co-contribution voluntary employee payment was made via the employer in their SG payment and sent to the tax office with their SG payment but apparently arrived late and the tax office would not credit the co-contribution. It arrived after the end of the financial year, together with the SG contributions. Who is liable in those circumstances? It was not paid, because it was late.

Mr Jackson—I just do not quite understand your question. Co-contribution payment—

Senator SHERRY—A thousand dollars.

Mr Jackson—No, but it would not be paid to the tax office. It would be paid into the superannuation fund by the employer. I am just not quite sure what your question is.

Senator SHERRY—Sorry, the SG payment, the nine per cent, arrived after the cut-off date with the fund, together with the co-contribution payment. Is there any liability on the employer in those circumstances?

Mr Jackson—That is really a question taking me out of my area of expertise. It is something to do with the relationship agreement between the employer and the employee. But if the payment to the fund arrived late, then the super guarantee charge would arise in terms of that.

Senator SHERRY—Yes.

Mr Jackson—If the co-contribution payment similarly arrived after the end of the financial year, then the law would not operate to provide a co-contribution payment for that year. That is not to say that it would not produce a payment in the next year.

Mr Jackson—It could, depending on their circumstances

Senator SHERRY—Well, depending on their income circumstances. I suppose they might have changed.

Mr Jackson—Correct.

Senator SHERRY—The application of the SG, for example, only applies to the SG but not in respect of a penalty provision if the co-contribution arrives late?

Mr Jackson—The co-contribution is not the subject of the provisions of the super guarantee act. It is simply a payment made by the employer on behalf of the employee into a fund. When that arrives, it arrives.

Senator SHERRY—Just coming back to SG enforcement for a moment briefly, has the tax office put extra resources into SG enforcement over this calendar year, or is it intending to put extra resources?

Ms Vivian—We have put in some resources. Our compliance approach this year has been both in terms of direct audits actioning the complaints but also about putting in some resources across our field force in terms of their visits that they are undertaking and trying to get some wider coverage there and looking at SG.

Mr Carmody—I think we did get additional resources from government over a two-staged period that we have been putting into this work.

Senator SHERRY—Can you recall what the extra resources are?

Mr Carmody—No, but we have provided details to you before, because I remember answering questions on it before. We can provide it again, if you would like it.

Senator SHERRY—Since that date, Mr Brough has given a speech about extra resources and a crackdown on SG payments that are reported in the ASPA newsletter.

Mr Carmody—As I said, we got additional resources from government. I do not have it in my head exactly what they were. We can provide that to you.

Senator SHERRY—One other issue, Mr Carmody. There has been a fair amount of publicity about the transition to retirement rulings.

Mr Carmody—Yes.

Senator SHERRY—I almost missed this one. There has been a lot of publicity about it. A wide range of articles in newspapers, financial columns and specialist financial publications advising clients to salary sacrifice a portion of their salary under these transition to retirement provisions and then draw on their super by converting part of their superannuation to an income stream and pointing out the financial advantages to an individual for doing so.

Mr Carmody—Yes.

Senator SHERRY—Have you given this issue any consideration?

Mr Carmody—Yes, we have.

Senator SHERRY—What is your conclusion?

Mr Carmody—Our position, subject to finalisation, is on the face of it we see that as a straightforward application of the law and we would not see grounds for the anti-avoidance rules applying in those circumstances.

Senator SHERRY—Have you examined the likely number of people to engage in this practice?

Mr Carmody—No. The question before us was a question at law as to whether we would see part 4A applying. We will be formally announcing our position, but I would be surprised if it varies from what I have just said to you.

Senator SHERRY—You have not made any announcement on this yet?

Mr Carmody—No, not yet.

Senator SHERRY—I suspect you now have.

Mr Carmody—Breaking news.

Senator SHERRY—It is always good to have a bit of breaking news at estimates.

Mr Carmody—That is right.

Senator SHERRY—Have there been a substantial number of inquiries from planners and funds about this particular provision and the way it can be utilised?

Ms Vivian—I would not say substantial. We have had a few private rulings. We run a consultative forum with the industry. They have raised it with us as well. That was one of the reasons why we were having a look at it and looking to make an announcement.

Senator SHERRY—This may be more a question for you, Mr Lonsdale. Has there been any reassessment of the revenue implications of this measure since the promotional campaign about this practice has commenced?

Mr Lonsdale—I think, as Mr Callaghan outlined earlier, during each budget process and MYEFO process we regularly look at the revenue estimates, including costings around particular measures. This measure is no different to any of those.

Senator SHERRY—Where is the revenue cost of this measure in the budget papers? Which program would it be included in?

Mr Lonsdale—I can come back to you quite quickly on that. I do not have the budget paper in front of me.

Senator SHERRY—I turn to some questions on specific problems that arose with tax bills, TLAB bills. Is that you, Mr Lonsdale?

Mr Lonsdale—Which TLAB bills in particular?

Senator SHERRY—TLAB retirement villages, TLAB GST non-reviewable contracts, TLAB 7, 1, 2 and 3.

Mr Lonsdale—No, no and no, I think.

Senator SHERRY—And if you are not, who is?

Mr Lonsdale—We will get somebody.

Senator SHERRY—Thank you.

Senator Kemp—Are there any more questions for the tax office or have we dealt with the tax office?

Senator SHERRY—I think we are just about there.

Senator Kemp—I think you would make yourself very popular, Senator, if you could say that that is it. You would be even more popular than George Brandis, and that is saying something!

Senator SHERRY—Okay. That is it.

CHAIR—Thank you very much, indeed, Mr Carmody, and officers of the Australian Taxation Office. You are all excused. We will see you next February.

Senator Kemp—Senator Sherry, if you could give the same answer for the Treasury you would be incredibly popular.

Senator SHERRY—We have a long way to go with Treasury. I will start with the TLAB retirement villages. You are the officer, Mr Colmer?

Mr Colmer—Yes, I may be able to help you.

Senator SHERRY—What was the purpose of the TLAB retirement villages bill?

Mr Colmer—The purpose of the bill was to make sure that people who were in serviced apartments in retirement villages were given treatment equivalent to people who were in similar situations in other retirement arrangements. There are a variety of complications around retirement villages versus nursing homes versus private accommodation. The aim was to maintain GST-free treatment.

Senator SHERRY—Did this bill constitute a clarification of an ambiguity caused by the Treasurer's statements in respect of it in the House of Representatives? There was a question mark over its impact?

Mr Colmer—I think the bill was trying to clarify the arrangements. I think that is certainly true. I think that arose as a result of some draft rulings that the tax office was working on at the time.

Senator SHERRY—Do you recall the statement made by the Treasurer in the House of Representatives to questions on this matter?

Mr Colmer—Not in detail. I do recall that the Treasurer made a statement, but I do not recall the detail of it.

Senator SHERRY—TLAB GST non-reviewable contracts. In the Senate, I understand, the maximum time period for arbitration was amended?

Mr Colmer—That is right.

Senator SHERRY—Why was that issue not considered in the original legislation?

Mr Colmer—There was a considerable period of consultation on that bill, and there were a number of conflicting views put by industry at the time. At the time the decision was made that the bill in the form that it went was appropriate. The Senate subsequently decided that it would like a longer time for arbitration.

Senator SHERRY—But was the arbitration time period in the original bill?

Mr Colmer—Again, that was earlier this year. I have not—

Senator SHERRY—February.

Mr Colmer—I do not have it with me and I cannot remember the precise detail of it. The issue around that bill was that there was a question around what happened if arbitration was not completed. It was thought—and a claim was made—that there needed to be a longer time period, as I recall, and that was what the Senate took on board in the end. I would have to refresh my memory on the precise detail of it.

Senator SHERRY—The Senate took it on board, but apparently it was not in the original bill, as I understand it? Do you have any recollection of that?

Mr Colmer—I recollect that there was a long period of consultation over this bill and that there were differing views put by different sectors of the community on that. We actually consulted on the draft bill. There was an issue raised that it was one thing to have arbitration but if the arbitration was not completed then there was a question about who might have the liability for the GST. I do not believe that we thought it was a significant issue at the time, but the Senate took a contrary view.

Senator SHERRY—The TLAB7, again in February, that went to, in part at least, a government correction of a timing issue?

Mr Colmer—Sorry, which one is TLAB7? What is the measure you are referring to?

Senator SHERRY—The non-commercial loans.

Mr Colmer—I cannot help you on that one, Senator.

Senator SHERRY—There is another officer looking it up. Does that mean he has some knowledge?

Mr Johnson—We do not have the experts with us at this time to answer any detailed questions on that. But we could either take it on notice or, if you could give us the information, we might be able to get back to you shortly.

Senator SHERRY—I did not have any further questions other than the issue relating to its application to the correction of a timing issue.

Mr Johnson—Sorry. I am not sure which timing issue you are actually referring to.

Senator SHERRY—In respect of provisions relating to the operation of non-commercial loans,.

Mr Callaghan—Sorry, the timing? There was a threshold issue in terms of which loans would be deemed as debt treatment. I am not sure of the timing. The issue in there was one of a threshold.

Senator SHERRY—Take it on notice. This was one of the issues that was cleared up in TLAB7.

Mr Johnson—Yes.

Senator SHERRY—There was some doubt about it.

Mr Johnson—Yes.

Senator SHERRY—Can you recall whether there was actually a timing date for application in the original bill?

Mr Callaghan—I cannot remember a timing date. The issue that I can recall was the threshold level. It was a measure that was to make it easier for small business when they did not have the documentation available. The only timing issue that I can recall was that the measure was not announced before the end of the financial year.

Senator SHERRY—Well, take it on notice but that is the issue that I am going to in the question.

Mr Callaghan—Yes.

Senator SHERRY—Is anyone familiar with TLAB1 in May 2005?

Mr Callaghan—Which measure, Senator?

Senator SHERRY—GST on foreign tour operators.

Mr Colmer—Yes, Senator.

Senator SHERRY—For what reason was there a rewrite on the schedule of the GST on foreign tour operators in May 2005?

Mr Colmer—There was a problem in that if supplies of services to be used in Australia—accommodation, hire cars, tours and similar sorts of things—were supplied by foreign tour operators, they could be provided GST free. We took a view that as people offshore were able to be registered and claim input tax credits and yet not remit tax, the solution was to make it clear that those services would be taxable. So if they were going to claim input tax credits,

they could also pay the GST. That bill was amended as a result of representations from both offshore and onshore tourist interests. That bill was also the subject of an inquiry by the Senate. The view was put by foreign tour operators that it was too onerous to expect them to be registered and pay GST, so an alternative mechanism was put in place that allowed them to become deregistered on the basis that they would neither be claiming input tax credits nor remitting GST.

Senator SHERRY—This presumably was an issue that was considered back when the GST was introduced.

Mr Colmer—When the GST was introduced, there were explicit provisions to allow offshore people to be registered. A variety of offshore entities are registered for GST. But in this case the tourist industry made representations that they did not like the obligation to become registered that was applying once we changed the law, and an alternative mechanism was put in place.

Senator SHERRY—With TLAB2 in June, the provisions on the GST margin scheme, were in large part or in total—I am not sure—pulled or taken out. Where is that issue up to? Are they going to come back in another TLAB bill at some later stage?

Mr Colmer—We are still working through some of those issues around that, Senator. We expect that there will be a need for further amendments.

Senator SHERRY—And wasn't part of TLAB3 in June to correct matters around the international tax bill? I think it was in schedule 2.

Mr Callaghan—I am not sure. We would have to check with the measures. I cannot recall them all.

Senator SHERRY—Take that on notice. Amendments to the consolidation regime since it was introduced in 2002 seem to have been a fairly ongoing consideration in terms of legislation on many occasions over the last three to four years. Are we to receive any more amendments to the consolidation regime in the near future?

Mr Callaghan—I think that that is likely. There is an ongoing process of working with industry to ensure that the law is operating as efficiently as possible. This is part of an ongoing process. A number of issues are being discussed with industry now involving consultation. It has to work through the issues and recommendations we make to government as to whether the law should be amended and it is up to the government to decide whether to take forward any legislative amendments. As part of our consultation efforts, we are working through a number of aspects.

Senator SHERRY—That is fine, but I think the number of amendments we have dealt with on this in three to four years is now in the double figures.

Mr Callaghan—I do not have the figure, but I think it would be double figures.

Senator SHERRY—Why is it so difficult in respect of the consolidation regime to get the legislation bedded down?

Mr Callaghan—We do not have the experts here, but it is a very complex piece of the law, a very important aspect business welcomed very much when it was introduced. But I think the

magnitude of it is very significant. In some respects, it is perhaps not surprising that consequential amendments are necessary to address all the issues that have come up. It is a very, very large undertaking.

Senator SHERRY—Over the last year, how many tax bills have been circulated under confidentiality agreements?

Mr Callaghan—I do not have the exact note here, but we publish on our web site three times a year a report to the Board of Taxation on our consultation arrangements. We can get some information for you on that if you like, Senator, but it is publicly available on our consultation efforts.

Senator SHERRY—Including confidentiality agreements?

Mr Callaghan—Some of our consultations are undertaken under confidentiality agreements, yes.

Senator SHERRY—Is that indicated on the web site?

Mr Callaghan—I think it is the total number of bills that we are consulting on. Some of them will be where we are consulting on—

Senator SHERRY—My question went to the issue of confidentiality agreements that apply. If that is not indicated, and I am advised it is not—

Mr Callaghan—We can take that on notice.

Senator SHERRY—Take that on notice. Over the last 12 months as compared to the previous 12-month period.

Mr Callaghan—We will take that on notice.

Senator SHERRY—What are the principles involved in applying confidentiality agreements to tax bills? How do you make a call about whether a confidentiality agreement should or should not apply?

Mr Callaghan—Usually we start off trying to ensure that we have a very frank exchange of views on a particular measure as it is being developed. Sometimes, indeed most of the time, it is to ensure that we focus the consultations on the particular tax bodies—it can be tax professionals or particular representatives of the tax industry—to try and work through the measures in detail before going to a more public consultation. One of the advantages of this is that it does not create unnecessary uncertainty as to the measures as they are being developed. We consult at a very early stage in terms of some of the principles to try to get a very candid discussion going. Working it in confidence is usually the fastest way. At many stages we will reach a stage where it will go to a public consultation. Sometimes we put out at a public level principles that we are going to be looking at in terms of taking forward the legislation. But it is a judgment call going forward as to what is the best method to get the fastest and the most efficient consultation arrangements.

Senator SHERRY—I would like to go to some issues relating to modelling of income tax proposals. On modelling of personal income tax changes, what recent work has been done within Treasury on that issue? By recent, I mean in this calendar year.

Mr Callaghan—Part of our policy advising role to government is looking at the modelling of a range of options. It is an ongoing process so I do not think that is a question that really can be answered because it goes very much to the role of the Treasury as a policy adviser to government. It is almost the same as specifying the range of policy advice that we have been giving to the government.

Senator SHERRY—I do not think it is.

Mr Callaghan—You really cannot separate the two because if you do modelling of the costing of policy changes, they are by definition changes and, by definition, changing the policy. So it is all part of our policy advising role.

Senator SHERRY—Where is the modelling carried out?

Mr Callaghan—Within the Tax Analysis Division of Treasury.

Senator SHERRY—And what section of the Tax Analysis Division?

Mr Ray—It depends on the option in question. There are three major modelling teams in the division. One is the Retirement Income Modelling unit, with which you are very familiar. The second is the participation modelling team, which was set up as a specifically funded measure in the 2005-06 budget. The third is the Costing and Quantitative Analysis Unit.

Senator SHERRY—So in examining income tax models, would all three of those groups be participants?

Mr Ray—Most of that work is done in RIM.

Senator SHERRY—What are the current staffing levels in the RIM group, approximately?

Mr Ray—It is approximately 10. I am just trying count.

Mr Callaghan—It is eight.

Mr Ray—I think it is closer to eight, but it is in that area..

Senator SHERRY—Is it given a program budget allocation?

Mr Ray—No.

Senator SHERRY—Has the resource allocation to RIM increased in the last financial year?

Mr Ray—The resource allocation to the Tax Analysis Division has increased in the last financial year.

Senator SHERRY—Can you give me any further detail, please.

Mr Ray—I would need to take that on notice to give you the precise numbers.

Senator SHERRY—Approximately.

Mr Ray—Well, the participation modelling team is \$6 million over four years. That is funded to up to seven FTE, or full-time equivalent, staff.

Mr Callaghan—Just to clarify, Senator, that was a specific new policy proposal—

Senator SHERRY—That has been added in.

Mr Callaghan—that has been added in. It is fluid because the group as a whole depends on where the resources are deployed and depends on where the pressures are and a variety of reasons.

Senator SHERRY—But that is clearly an extra allocation on top of what is the normal resource allocation to Tax Analysis?

Mr Callaghan—Correct.

Senator SHERRY—So has there been any change in terms of staff numbers and resource allocation in Tax Analysis other than the participation team?

Mr Ray—Yes. As Mr Callaghan mentioned this morning, we have added resources into the Revenue Analysis function.

Senator SHERRY—What resources have you added in?

Mr Ray—Three full-time equivalent.

Senator SHERRY—So we have three full-time equivalent there. Refresh my memory. There was six in the participation group?

Mr Ray—We have recruited to six and we have funding for seven.

Senator SHERRY—What is the total staffing in Tax Analysis?

Mr Ray—It fluctuates, but it is around 40.

Senator SHERRY—Around 40. Does that include the seven and the three we have just been discussing?

Mr Ray—Correct.

Senator SHERRY—So you have moved from approximately 30 to 40?

Mr Ray—Approximately.

Senator SHERRY—Good. Thanks for that. I think you can take on notice regarding the staffing in the areas the appointment dates of new staff. Obviously I do not expect you to have that here. Can you take that on notice.

Mr Callaghan—Sure.

Senator SHERRY—Over the last calendar year.

Mr Callaghan—Just in this area, in Tax Analysis?

Senator SHERRY—Yes. Has this extra resource allocation involved additional IT resourcing?

Mr Ray—The participation modelling team has IT resourcing as well.

Senator SHERRY—What about the quantity of analysis in the RIM?

Mr Ray—Their IT resources come out of the departmental IT resources.

Senator SHERRY—Are you aware of a report in the *Australian* newspaper on 14 and 15 October detailing modelling work undertaken by Treasury in late 2004?

Mr Callaghan—Are you referring to the report that was released under freedom of information?

Senator SHERRY—Yes. FOI.

Mr Callaghan—Yes.

Senator SHERRY—And then a report on 14 and 15 October?

Mr Callaghan—Yes.

Senator SHERRY—You are aware of that?

Mr Callaghan—Yes.

Senator SHERRY—Are you able to provide details of the number of briefs prepared by RIM and/or Tax Analysis over the last 12 months?

Mr Callaghan—Again, that is really going to the issue of our role in providing advice to the government.

Senator SHERRY—I said number.

Mr Callaghan—Well, I will take it on notice. Again, I think it is moving into the territory of our policy advising role.

Mr Ray—Briefs to whom?

Senator SHERRY—The number of reports, documents, briefs, analysis and titles.

Mr Ray—In general—

Senator SHERRY—What the titles are.

Mr Ray—We do many hundreds of costings in a year.

Senator SHERRY—In respect of tax modelling and tax analysis?

Mr Ray—Yes.

Mr Callaghan—There are measures that are in the budget, measures considered for budget. The total policy development role ultimately comes down to having to do some costings associated with it. So it is a very large body of work.

Senator SHERRY—I will get more specific. Has modelling been undertaken by RIM showing the change in tax levels since 1996 to the present for single taxpayers on various multiples of average weekly earnings?

Mr Ray—We will take that on notice.

Senator SHERRY—Surely you would be aware of it if it has been done.

Mr Callaghan—There is so much done. As we said, there is a great deal of work done. A lot of it goes to our ongoing role in providing this policy advice. It is hard to recall.

Senator SHERRY—The response of Mr Ray is to take it on notice. It does not indicate whether it was done or not. I am after a yes or no answer.

Mr Callaghan—We do not know. We are taking it on notice.

Senator SHERRY—You say you do not know. Mr Ray has not said he does not know. He says he is taking it on notice. There is a difference.

Mr Ray—I do not know. I will take it on notice.

Senator SHERRY—Have projections of tax averaged tax rates for various multiples of AWE been provided into the forward estimates periods in the budget papers?

Mr Callaghan—I do not think so.

Mr Ray—No.

Senator SHERRY—They have not?

Mr Callaghan—No.

Senator SHERRY—Can they be provided for the committee?

Mr Callaghan—Can you repeat the question.

Senator SHERRY—The projections of the tax level, tax collected and average tax rates for various multiples of AWE, or average weekly earnings.

Mr Ray—We can take it on notice.

Senator SHERRY—Are you able to make any observations about the average tax rate of those who are on AWE and below since 1996?

Mr Callaghan—Well, it is certainly possible to do the work to make observations on that, yes.

Senator SHERRY—You do not have any observations can you make here and now on that?

Mr Callaghan—No. I cannot.

Senator SHERRY—I have a specific issue relating to the costing of the super splitting provision. Do you have a response to that earlier question I asked, Mr Lonsdale, while you are here?

Mr Lonsdale—Yes. The 2004-05 budget published the budget impact of the transition to retirement measure as stars, which is unquantifiable over the forward estimates period. That is the latest publicly available costing that I am aware of.

Senator SHERRY—That is publicly available. Has there been any work done on the costings since that publication?

Mr Lonsdale—We would have to check. As I mentioned before, it would be our usual process to look at each measure and see whether a revision would be necessary as part of the budget and MYEFO process.

Senator SHERRY—And it would be published if a revision were carried out?

Mr Lonsdale—No. Not ordinarily.

Senator SHERRY—Why not?

Mr Lonsdale—It would normally be a parameter change to the measure. So what is usually published in the budget papers are new measures. But in terms of whether any revised costing happens that would be fed into the forward estimates, it would be published.

Senator SHERRY—In the aggregate?

Mr Lonsdale—In aggregate.

Senator SHERRY—So we would not be able to find out, if there were a revision of the costing, what the revision was?

Mr Lonsdale—Ordinarily that would be true, yes.

Senator SHERRY—So how do we know what the cost of a measure is going forward if the cost changes, if you will not tell us. If it is not disclosed and it is in the aggregate how do we find out?

Mr Lonsdale—All I am indicating is that the usual process is that parameter changes are not published in the budget.

Senator SHERRY—So how do we find out?

Mr Lonsdale—Well, you have asked on previous occasions for additional information, and we would usually take that on notice. If you would like me to do that in this case, I am more than happy to do that.

Senator SHERRY—Thank you. This will save a bit of time in considering the legislation itself. There is obviously a costing to the super splitting measure. Is that correct?

Mr Murray—That is right.

Senator SHERRY—On what basis has it been costed in terms of the number of beneficiaries?

Mr Murray—I do not have the details of number of beneficiaries. Broadly it takes account of the fact that couples will get the benefit of two reasonable benefit limits and two ETP thresholds.

Senator SHERRY—Well, how many? There must be a number because there is a costing in the legislation.

Mr Murray—I would have to take that on notice.

Senator SHERRY—Why?

Mr Murray—I do not have the information with me at the moment.

Senator SHERRY—Mr Gallagher is here. Does he have that information?

Mr Murray—Ask Mr Gallagher.

Senator SHERRY—Frankly, I am only asking today because otherwise we will just refer it off to a committee and have a full hearing and spend a couple of hours on it at a hearing. This is just to save some time.

Mr Gallagher—Unfortunately, I do not have a copy of that costing with me. I do not know the underlying basis of the numbers. But the basis of the costing is as described by Mr Murray.

Senator SHERRY—Okay. We are not going to get very far today, then. Do you have any indication, just on this issue, of how many people actually reach the RBL limit?

Mr Gallagher—The RBL is identified in taxation statistics. The most recent statistics are 2002-03. I have a copy in my bag, but that is essentially where you would look to see who is exceeding their RBL.

Senator SHERRY—If you could take it on notice, I would like the actual number of people who are beneficiaries of the super tax splitting. There must be a number going forward over the forward estimates period at both the RBL and at the ETP.

Mr Gallagher—Yes. But the ETP will be far more common because you have a threshold which is a bit above \$100,000 as opposed to one which is—

Senator SHERRY—Which is \$1.3 million or something, yes. If that can be provided. Otherwise I want to deal with it in the chamber or in a committee referral to the bill. I just want to save some time. They are the two pieces of information I was seeking. On modelling methodologies, there is STINMOD. Is that the correct title?

Mr Gallagher—Yes.

Senator SHERRY—Is that the only computer model used by Treasury in respect of income tax and transfer payment reforms?

Mr Gallagher—It is the main static microsimulation model currently in use for production costing. Clearly, the participation modelling project is also investigating in the quality of the Melbourne Institute tax and transfer stimulation model, which comes in both a static microsimulation model and is enhanced with some behavioural change. So it is being investigated. But STINMOD is the one generally used for costing purposes on transfers.

Senator SHERRY—STINMOD is the main model?

Mr Gallagher—We have a modified version of STINMOD. But the original version of STINMOD comes from the National Centre for Social and Economic Modelling, or NATSEM. We actually recompile it and reweight it inside RIM so that it gives estimates which we feel happy with in terms of our corresponding to the forward estimates and the size of client populations. So we make modifications to it.

Senator SHERRY—You use the term ‘reweighting’. Why do you reweight it?

Mr Gallagher—So that it better hits client population numbers than the original. This is an issue that was raised in the 2004 election costings. The detail of that we have discussed. We will have differences from NATSEM’s original costings.

Senator SHERRY—So in terms of costing, NATSEM’s model may give a different result from RIM’s reweighted—

Mr Gallagher—The modified version of it.

Senator SHERRY—They are the same base model but one is modified?

Mr Gallagher—Yes. One is modified.

Senator SHERRY—That is why you will get different results?

Mr Gallagher—It will flow through. But they will be slightly different. The other issue, of course, is timing provisions.

Senator SHERRY—Sorry, what provisions?

Mr Gallagher—Timing. So if we were looking at something like a new proposed rebate for our families or something of that nature, we would take a view on how much of it will be through tax instalment deductions through the year and how much will be on assessment. Our view will be taken on the basis of Taxation Office data in terms of similar rebates in the past and when they have actually been assessed.

Senator SHERRY—So that is an adjustment, looking at it?

Mr Gallagher—That will be another adjustment. So there will be cash flow differences between our version of the model and the way we prepare costings and what NATSEM might prepare.

Senator SHERRY—So that reweighting, if you like, would be data received from the ATO, presumably?

Mr Gallagher—The timing is certainly ATO data. The reweighting often is in terms of family payments, so it is based on both FaCS and ATO estimates of the number of client families.

Senator SHERRY—So that is something that NATSEM would not have access to?

Mr Gallagher—They may have some access. I believe because FaCS is one of the major funders of STINMOD, it provides information through. But I do not know the exact detail of what they pass to NATSEM.

Senator SHERRY—You mentioned the use of ATO data. How often would that be updated?

Mr Gallagher—We update our version of STINMOD every time there is a new base file provided by NATSEM. NATSEM itself will tend to provide new base files each time, after a lag, the ABS has provided a new income and housing survey dataset. In recent times, we have had new versions. We have one which we are processing now. We had one last year. Certainly at the moment it has been once a year. We also do changes to correspond to the forward estimates. The models themselves have to have an accurate forecast to payment rates. To get an accurate forecast to payment rates, we have to put in the new forward estimates on a quarterly basis.

Senator SHERRY—Is there any benchmarking of STINMOD against NATSEM?

Mr Gallagher—I imagine we know what the difference is in estimates, but I do not get a report. What I am more concerned about is how we are benchmarking against the forward estimates of client numbers and expenditure because that is my benchmark for knowing how well we are going.

Senator SHERRY—So it may happen but it is not something for you?

Mr Gallagher—It is not an issue. We will tell NATSEM if we think that there is a significant difference so that they can make a correction as well. Or if we cannot understand

where a particular estimate has come from, we have an agreement with NATSEM that we will pass back information to them.

Senator SHERRY—If there is any dispute about who is right or wrong, you would sit down with them and try and work that through?

Mr Gallagher—I do not think we would try to reconcile it. We are confident. Certainly we will try and work out what the source of the difference is. If we are happy with what we have got, we will stick, and if we are not happy, we will change.

Senator SHERRY—Are there other models besides STINMOD?

Mr Gallagher—Yes. I have described the Melbourne Institute, which work is just starting on. In addition, we have acquired the social security model, ADMOD, which is the administrative data model. We are just experimenting with that. For personal tax, we have a personal tax microsimulation model.

Senator SHERRY—Where has that model come from, the microsimulation model?

Mr Gallagher—It is based on unit record tax file data, as Mr Ray described earlier. It is a completely confidential sample of tax records. It is only a sample so there are no identifiers on it whatsoever.

Senator SHERRY—Presumably a representative sample?

Mr Gallagher—Yes. It is a random sample.

Senator SHERRY—What level of representation?

Mr Gallagher—It is an eight per cent sample as it stands. I think it gives us 863,000 records, which is more than enough to do an analysis on for most things. For anything which is a small population, we refer back to the tax office for advice.

Senator SHERRY—Eight per cent is a pretty big sample, given that number.

Mr Gallagher—Yes.

Senator SHERRY—On access to these models, obviously the NATSEM model is available. I am talking about publicly if people want to access these models. What about the other models?

Mr Gallagher—Well, ADMOD is an issue for the Department of Family and Community Services. MITTS is an issue for the Melbourne Institute and for the Department of Family and Community Services, which is the funding department. The personal income tax model has no particular arrangements for access at the moment. It is something we continue to develop.

Senator SHERRY—So that is something that is not available to anyone outside at the moment in terms of any agreements?

Mr Gallagher—That is correct.

Senator SHERRY—And that personal income model, that is within RIM?

Mr Gallagher—Yes. And you know about our suite of retirement income models in addition to that.

Senator SHERRY—Yes. So all of the models that you have outlined are within RIM in terms of the coordination and inputting of data?

Mr Gallagher—Yes. We get efficiencies so we only have to estimate the social security parameters once by making sure that all models that use the social security parameters are in-house. It is similar for the views of the wages and similar for the view of the population.

Senator SHERRY—We had an earlier discussion about NATSEM and STINMOD. Is there any use, in the other models you have referred to, in checking the accuracy of anything that you run through STINMOD?

Mr Gallagher—Yes. We tend to cross-check any personal tax estimates out of STINMOD against the personal tax estimates out of the personal income tax model. There are some issues that can be dealt with in STINMOD that are not readily available and cannot readily be dealt with in an individual's model. They are issues of the incomes of partners. In a personal tax system, you only have the person's tax. For most purposes you are not required to give your spouse's income. So it only looks at the individual, whereas in STINMOD we can look at both members of a couple. That is a limitation. But it is something which is about personal tax. We will have a look at that. There can be differences which relate to the different data sources. You do not get quite the same distribution from a household income survey that you will get in terms of the taxation itself. That can lead to differences in costings between the sources.

Senator SHERRY—You have mentioned the NATSEM model, which is obviously an outside, private model. What other models are there of comparable nature capable of doing this work within Australia?

Mr Gallagher—Well, the Taxation Office maintains its own capacity to produce costing estimates. They have a different approach. Certainly they have capacity. There are a variety of people with a variety of spreadsheet models. Some of them are based on taxation statistics and some of them are based on the income survey to try to estimate these things to varying degrees.

Senator SHERRY—That last caveat was 'to varying degrees'. Are there any models that are comparable to the level that we have been discussing here in terms of their accuracy and comprehensiveness?

Mr Gallagher—I do not think so in terms of personal income tax issues. On personal income tax and household income taken together, I think we are in a very strong position in Australia in terms of accuracy and comprehensiveness.

Senator SHERRY—But nothing in the private sector outside the tax office, Treasury and NATSEM?

Mr Gallagher—It depends. I cannot comment on the private sector models because I am not privy to their design and construction details. There is the Econtech model, but I do not know what is in that.

Senator SHERRY—I am asking from your experience whether there are some comparable models.

Mr Gallagher—I notice from the papers that HSBC claims they have a model, but I do not know what is in that. Their estimates turn up in the papers from time to time.

Senator SHERRY—Just to make it clear: there is no outside use of these models at the present time by people who are not in Treasury, the tax office and other departments?

Mr Gallagher—Not on the versions we are running. Obviously there is significant use of STINMOD and there is significant use of the Melbourne Institute model.

Senator SHERRY—Significant use of STINMOD?

Mr Gallagher—The original NATSEM version of STINMOD.

Senator SHERRY—Back to the basic model?

Mr Gallagher—I think the Parliamentary Library has a copy, for example.

Senator SHERRY—Yes. But with NATSEM and the Melbourne Institute, those models obviously are used from the outside. But there is no use of the personal income tax model, the tax office's model and the ADMOD model from outside?

Mr Gallagher—Not that I am aware. We are just starting to experiment with the use of ADMOD ourselves. We are not using it for production costings at the moment. We are using it as a check more than anything at the moment.

Senator SHERRY—In the past, was anyone from outside government able to access modelling within the RIM group?

Mr Gallagher—This goes to a question on notice which we have responded to. In the past we have provided modelling to both Senate committees and House of Representatives committees. I think some of the first batches of modelling involved modelling we did on superannuation for housing in 1994 for the Senate Select Committee on Superannuation. There was a whole attachment at the back which was RIM modelling. There was Treasury's submission to the Senate inquiry into the adequacy of retirement incomes. We provided hundreds of modelled cases, having had specifications. Originally there was a list of something like 3,000 modelling requests that we condensed down to about 150 cameos, I think, for the purposes of that committee. There is modelling of the adequacy underlying the submission to the House of Representatives inquiry into superannuation under 40.

Senator SHERRY—That is the current inquiry?

Mr Gallagher—That is the current inquiry.

Senator SHERRY—I had more in mind modelling by the private sector, for example.

Mr Gallagher—Part of the initial set-up conditions of the Retirement Income Modelling Task Force, as it then was, were that we would develop the National Mutual retirement income policy model. They would give it to us and we would return the developed model to them, and we did that.

Senator SHERRY—How many years ago was that?

Mr Gallagher—The modelling work was done between 1993 to 1995. I think we returned it about 1995, about 10 years ago. We switched over to the use of RIM group as our major aggregate projection model for superannuation.

Senator SHERRY—So other than government inquiries, there is no access by private organisations?

Mr Gallagher—There is significant access in terms of results in published papers. Not only do you have the published papers on superannuation which are on the RIM web site, which is www.rim.treasury.gov.au.

Senator SHERRY—Thank you for the ad.

Mr Gallagher—As you know, we try to give at least one colloquium of superannuation researchers paper a year. In addition, we have published in the *Economic Roundup* the recent modelling of net tax thresholds. The article by Kerry Bremner was also a RIM modelling exercise. That one was based on STINMOD. So public information is available in terms of the use of the models.

Senator SHERRY—That was not really what I was going to. If a private organisation, such as the Institute of Accountants or the Law Society or whatever, came to you or came to RIM in Treasury and said, ‘We want modelling done on X’, is it available in those circumstances?

Mr Gallagher—We work for the Treasurer and for the Minister for Revenue and Assistant Treasurer. It is their priorities we respond to. It would depend very much whether it was their priority. There has been an instance where we have commented on another professional organisation’s use of STINMOD and the results that came from it. We gave them some cautionary notes on their results.

Senator SHERRY—Effectively, it is the minister’s call or discretion if that were to happen?

Mr Gallagher—It is the minister’s call. Obviously it is the minister’s priority. We are hard pressed. We are down to eight staff and we are covering a very wide area.

Senator SHERRY—You are down to eight staff?

Mr Gallagher—Yes.

Senator SHERRY—I thought you were holding steady.

Mr Gallagher—We are hoping to get back, I think is the issue. But we have been down to eight staff, as Mr Ray has indicated.

Senator SHERRY—Do you have any actuaries working in the RIM group?

Mr Gallagher—Not certified. I have one staff member who did the Bachelor of Actuarial Studies at ANU, but he is not a qualified actuary in the sense that the Australian Government Actuary and his staff are qualified actuaries. He has not gone through the professional exams.

Senator SHERRY—Is it difficult to maintain staff, other than yourself, of course, Mr Gallagher? Seriously, is it difficult to maintain and get staff in this modelling area?

Mr Gallagher—I think we have been lucky in recent years. There have been issues with the time at which we can get staff. But in fact there have been highly qualified people and highly experienced people who have responded to our advertised positions. We had a recruitment round in April. We had significant numbers of applications with a number of very

highly qualified people, of which we selected some. But there are a number of others I would have liked to have recruited.

One of the things that has happened in terms of the development of a microsimulation modelling market is that NATSEM staff are part of the internal labour market of microsimulation modellers in Canberra. So there is NATSEM, Family and Community Services and, to an increasing degree, there is Department of Employment and Workplace Relations staff working in the area. So there are significantly more staff with experience than 10 years ago.

Senator SHERRY—You touched on Employment and Workplace Relations. Do they have a model?

Mr Gallagher—That I know of? Obviously this question is better directed to them. They have a hypothetical model of the interaction of the tax and transfer system, from which they calculate effective marginal tax rates and disposable incomes. They also have a version of STINMOD which they are capable of running. In addition, they have a number of costings models which I am not familiar with and which I would not attempt to describe.

Senator SHERRY—One of my colleagues will go to them for further detail. I wanted to come to some issues relating to FBT costings—cost changes to the FBT regime. Who should handle that? Does Treasury cost changes to the FBT regime?

Mr Ray—Yes.

Senator SHERRY—Apart from the direct effects of a reduction in the FBT rate, are there flow-through effects from marginal tax rate reductions that lead to behavioural changes in the use of fringe benefits?

Mr Ray—That is a rather broad question, Senator. It would depend on the particular example you are talking about. I might start and Mr Gallagher will probably correct me. In general, we do not model behavioural changes, other than things such as changes in take-up rates and those sorts of things.

Mr Gallagher—And for fringe benefits tax that is somewhat difficult, given that the fringe benefits tax data comes from the employer rather than from the employee and it is hard to know the particular type of fringe benefit which is being received by employees, because all we know about the distribution across people is the reportable fringe benefit amount, and you do not know what constitutes the number that is reported there. So, in terms of behavioural analysis, it is early days in terms of our capacity.

Senator SHERRY—Right.

Mr Gallagher—The Australian Taxation Office would also have some capacity, and it is an area in which we would also seek their advice.

Senator SHERRY—Does Treasury accept the concept of second-round effects flowing from personal income tax and transfer payment reforms? Do they exist, and are they acknowledged by Treasury?

Mr Ray—Senator, I do not think it is a question of whether we think they exist or not. If you look in the ANTS documentation you will see that second-round effects of a very

significant tax reform were modelled—not necessarily modelled; account taken for them would be a better description.

Mr Gallagher—In terms of the department of finance guidelines for official costings, a second-round effect will not normally be incorporated in an official costing because they are normally very uncertain. So it is only in very exceptional measures where significant resources can be applied to get a handle on what the second-round effects may be. But under department of finance guidelines, although you do not include second-round effects in the normal costing, they can be mentioned in the body of a cabinet submission, so they can be raised as an issue by a department in making a submission.

Senator SHERRY—So the one exception is the ANTS—

Mr Gallagher—I think there may have been other exceptions, but I would have to take that on notice. My mind is telling me Australians Working Together, but I would have to check. We will probably take that on notice, but there have been a couple where it has been done.

Senator SHERRY—Are you familiar with any others, Mr Ray?

Mr Ray—I have a vague recollection that there is one other example, but I cannot remember exactly what it is, so we will take it on notice and check.

Mr Gallagher—And that depends on a particular definition of what the second-round effect is. As Mr Ray has already indicated, we believe a take-up effect, where only the first party is affected, is a first-round effect. So if there is a particular new incentive, such as the superannuation co-contribution or a reduction in a superannuation surcharge, and that gave incentives for people to invest in particular ways, we would take that into account in the first round of the costing. It is only when there are two parties and a change in prices in the market concerned that we would treat it as a second-round effect.

Mr Ray—The participation modelling exercise is not specifically directed towards second-round effects but, by definition, it is about the second round—so it is to see what might be the labour market outcome in response to a policy change. So it is early days in that area for us.

Senator SHERRY—Has there been any modelling of the impact of the government's industrial relations proposals that were tabled in the parliament yesterday?

Mr Callaghan—Not within our group, Senator. I can only answer for our area.

Senator SHERRY—On the second-round effects issue, is the Melbourne Institute model the only other behavioural model that can measure these effects, where they are taken into account?

Mr Gallagher—I think there are a number of people with elasticities that they may have got from, generally, the overseas literature who may attempt to make estimates of second-round effects. The Melbourne Institute model is the main example I can think of where the estimation is tied to a static household microsimulation model.

Senator SHERRY—In the case of second-round savings being claimed—for example, business tax reform—that occurred, didn't it, in respect of business tax reform?

Mr Callaghan—In terms of the Ralph exercise, with business tax?

Senator SHERRY—Yes.

Mr Callaghan—Not second-round effects, in terms of the costing of it. It was all based on attempting to be revenue neutral, but it all comes back to the question: you said do we accept it; do we cost it? They are two separate exercises, of course. But within the specific costings they were not incorporating the behavioural responses and how they may impact.

Senator SHERRY—And second-round savings from personal income tax reform, other than the ANTS—and I am not sure whether that was included there, Mr Ray. Is that taken into account?

Mr Ray—It was one of the factors in the ANTS package that was taken into account.

Senator SHERRY—Has it been done in the various changes to personal income tax since that time?

Mr Ray—No.

Senator SHERRY—On the issue of tax expenditures, have those officers gone?

Mr Callaghan—No, Senator; same area.

Senator SHERRY—With regard to the private health insurance rebate, in what way is this exemption calculated? Is an average rate of tax forgone calculated or is a distributional costing model utilised?

Mr Brown—Sorry, Senator, I would have to take that on notice.

Senator SHERRY—With regard to the pensioner and beneficiary tax offset, is this tax expenditure likely to be revised downwards following the reduction in the lowest marginal tax rate?

Mr Gallagher—I think we are coming to the point where we are looking at the tax expenditure statement and the preparation of the tax expenditure statement. I am not personally familiar with what has been done on that, but I expect I will become familiar in the near future.

Senator SHERRY—So it may require in this case—

Mr Gallagher—As you know, the calculation of the rebate will change because of move from 17c as the marginal tax rate down to 15c.

Mr Ray—We are working on the tax expenditure statement now, as you would expect, because the next edition is due to be published by the end of January.

Senator SHERRY—So if these are taken into account it would be included in that update?

Mr Brown—That is correct, Senator.

Senator SHERRY—With the exemption from the Medicare levy for residents with a taxable income below the threshold, is there any work being done on that at the moment?

Mr Gallagher—I think it is one of the ones that will be looked at in the preparation of the tax expenditure statement.

Senator SHERRY—Does the revenue forgone include just those with an exemption, or also those paying a reduced Medicare levy on account of their being in what is known as the shade range?

Mr Gallagher—That will depend on exactly how it has been estimated. If it has been estimated distributionally, you would hope that the shading had been taken into account. But I would expect, in terms of the exemption, that the tax expenditure, if it is labelled as an exemption, would be the exemption, as opposed to the people who pay.

Senator SHERRY—And on the medical expenses tax offset, what is the intersection of the medical expenses tax offset with the Medicare safety net? Does not the Medicare safety net reduce the cost of the medical expenses tax offset?

Mr Ray—You would expect that, Senator.

Mr Gallagher—I am not aware of any analysis of that.

Senator SHERRY—So no analysis done on that to date?

Mr Ray—We are in the process of analysing all of the tax expenditures.

Senator SHERRY—Right, including this one?

Mr Ray—Yes.

Senator SHERRY—Obviously, when you say ‘all’, it must include this one.

Mr Ray—Yes, we look at all of them.

Mr Gallagher—But the fact that you may not be required to pay the Medicare levy does not mean that you will not have expenditure in excess of \$1,500 for which you have not received a refund from your private health fund.

Senator SHERRY—So you said, Mr Ray, there will be a publication updating these—

Mr Ray—Under the Charter of Budget Honesty, Senator, the government publishes an annual tax expenditure statement by the end of January.

Senator SHERRY—That is it for that program.

[5.48 pm]

Inspector-General of Taxation

ACTING CHAIR (Senator Chapman)—We will now move to questions for the Inspector-General of Taxation.

Senator SHERRY—I wonder if Mr Vos would like to update us on any of the issues we covered on the last occasion.

Mr Vos—Senator, since last being here, the only momentous occasion that has occurred is that my then Deputy Inspector-General was promoted to the role of Deputy Auditor-General, and I have been fortunate to recruit a new deputy, Rick Matthews, who is with me today. That is the main change. We have put out an annual report which is a lot thinner than the tax office one.

Senator SHERRY—I do not think you could get a lot thicker than the tax office one, frankly.

Mr Vos—We have finished two years of my five-year appointment. We are spending a lot less than what has been allocated to us. We have a number of projects on the go, and a number of reviews yet to start. Things are bubbling along quite nicely.

Senator SHERRY—On the issue of staffing, where does that stand at present?

Mr Vos—We have five plus myself. That is a Deputy Inspector-General, three technical staff and administration staff.

Senator SHERRY—And the only change is that one you referred to earlier with your deputy.

Mr Vos—Steve Chapman went across to be Deputy Auditor-General, on a promotion. I released him in July, and a week later Rick Matthews came across from the role of First Assistant Commissioner in the tax office.

Senator SHERRY—Yes, I have seen Mr Matthews before.

Mr Matthews—We have met before, Senator.

Mr Vos—Two ex-GST guys together.

Senator SHERRY—Okay. You mentioned the issue of expenditure—the allocation to budget. From what you were saying, you seemed to imply that you have been spending less than has been allocated on an annual basis.

Mr Vos—I have approached the role with a fairly strong responsibility of stewardship. I would always like more money. We could always do with more, but the government has allocated me the princely sum of \$2.2 million per annum. Actually, it is a reducing amount. It was \$2.154 million for the 2005 year and for the 2006 year, with productivity gains, it is \$2.149 million.

We have found that, with the gratuitous supply of information from the private sector, the ability to seek information from the tax office—with the number of reviews that we have currently under way and the watching briefs that we have of the tax office and their involvement with the ANAO, they are really hard pressed to keep up with all of the requests that we are putting to them. So, if we had any more projects on the go at the present time, it would be difficult to expect that the tax office would be able to respond to our requests in the time frame in which they are currently doing it.

Senator SHERRY—Since last estimates, have any additional projects commenced?

Mr Vos—Yes. We announced terms of reference at the beginning of this week for a review into major complex issues that are not being dealt with by the tax office in reasonable time frames. The three case studies that we have indicated that we are going to look at there are the delay in making decisions on the R&D syndication issue, the ‘living away from home’ allowance and the service trusts. We are looking at each of those areas within a broader framework for looking at difficult issues that seem to take a long time for the tax office to deal with.

Senator SHERRY—You say, ‘seem to take a long time for the tax office’. In terms of those three case studies, what indication have you had that there seems to be a delay in the tax

office dealing with those three issues? Where have you drawn that observation/evidence from?

Mr Vos—The review that we had done into the time frames in completing audits, which was a report that was released in July, I think it was, by the government, highlighted those as being examples of groups of taxpayers that the tax office had indicated to us confirmed the information coming from the private sector, that these were cases that seemed to be taking too long to settle. In the case of the R&D syndication, following our involvement with the tax office on the audit program issue, the tax office put out a settlement plan in August 2004. In that plan they basically wrote off 80 per cent of cases below a certain threshold and said that they were not going to follow them up any further. On the 20 per cent above that threshold, they have sought to offer a settlement. Having done so, there are about 40 cases left, and of those 40 cases, they have indicated to me that about 10 have settled but, of the other 30, many are saying that they are taken back 10 years to almost start again. That is what we want to follow through and get to understand.

Mr Matthews—The terms of reference outline a fair amount on each case study. Of course, we have not reached any conclusions on them, because they are under way. But on the R&D syndication arrangements, the key point is that those arrangements started in the early nineties, and there are still issues going on. Each one of those three case studies has a similar history of time behind it.

Senator SHERRY—Is there any estimated time frame for the completion of the studies? I would not hold you to it.

Mr Vos—We indicated in our terms of reference that we may choose to put out reports to the government on each of the individual case studies and then maybe do a supplementary report that deals with the bringing together of the lessons from those three case studies. I would imagine that, in the way it has operated to date, it takes us from now until the time we lodge our report with the government—nearly six months from the time we undertake our review of the information supplied to us from the private sector. I would imagine that in this case it would take a little bit less, because a lot of the information has been sought and gleaned already from the private sector. We really now have to test the information in some detail from the tax office files and get our own assessment of the tax office's conduct in these cases. It is probably, without tying us down to precise times, three or four months that we will be actively involved in these matters and will try to get something to the government towards the middle of next year at the worst and, hopefully, earlier if we can.

Senator SHERRY—Turning to another issue, I do not know whether you heard earlier a discussion I had with Mr Carmody about small business and microbusiness tax debts.

Mr Vos—Yes.

Senator SHERRY—He indicated that there were some 800,000 microbusiness tax debts, and we had some discussion about bankruptcy orders in the first quarter of this year compared to last year. The number has increased. Does the inspector-general have a view about the increasing number of bankruptcy orders that the tax office is pursuing?

Mr Vos—We did a review on this area last year. Our finding was that the tax office, across the board, had been lenient in dealing with small business in granting extensions of time to

pay. Our finding was that you need to separate the cases that are genuine and need time to pay and work those cases carefully through. But the rorters, the serial non-payers, need to be singled out and dealt with. If the tax office is doing that—

Senator SHERRY—But in the case of microbusinesses, there were 800,000 of them. It does seem to be a significant figure.

Mr Vos—But, Senator, if you look at the breakdown of those numbers—and you really need to talk to the tax office about this—500,000 of the 800,000 owe less than \$25,000. Then you break that down further and 300,000 or 400,000 of the 500,000 owe less than \$1,000, so that you have only have a minority—a couple of hundred thousand; still a big number—who owe something like \$5 billion or \$6 billion worth of tax. They are the ones we focused on.

Senator SHERRY—So you do not think the ATO's program is being too aggressive?

Mr Vos—I do not know.

Mr Matthews—Senator, if I could also elaborate. I recall that the commissioner's response was that there had certainly been a significant increase in wind-ups—as I think you put it—over the period of that year. It was about 425 of that population of 800,000. I think the context he also mentioned was the small business debt initiative, where he offered certain concessional arrangements last year. However, as part of that, he made it clear that he was certainly committed to following through with small businesses that did not take up that option. I took his response, and that increase, as being partly consistent with that following through of people who had not picked up the concessional arrangements.

Senator SHERRY—In the earlier discussion, Mr Vos, we were talking about this threshold of debts issue that the tax office has to make a call on. Do you think it would be useful to have an understood threshold below which debts are written off?

Mr Vos—That is an issue of government policy. I really cannot answer that.

Senator SHERRY—I thought it was an issue of the ATO's call.

Mr Matthews—I think the commissioner drew attention to the need to find a balance and to be careful in what signals went to the community if there was a threshold they understood to be an amount below which they would not have to worry. I think he said it that was a reasonably complex issue to think about and not a simple one of simply saying, 'We forgive everything below a certain amount.' He also indicated that there are what I call trivial amounts that are written off in that context. I was going to say, without putting words in the inspector-general's mouth, we would recognise that that is a balancing act.

Mr Vos—Correct.

Senator SHERRY—The tax commissioner today talked about a proposal that is being examined—it has not commenced—that is apparently based on a Japanese-style approach of ringing people who have got outstanding tax debts after hours. There was a bit of discussion between Mr Carmody and me—I do not know whether you heard it, Mr Vos—about some of the possible downsides to that in terms of public reaction. Is that the first you have heard of that proposal, Mr Vos?

Mr Vos—Yes, it is.

Senator SHERRY—Do you have a preliminary assessment of any possible concerns that your office would have about such an approach?

Mr Vos—I would need to find out more about that. Let me say to this committee, though, that in a review I did of a number of other countries earlier in the year, small business debt is a growing problem in almost every country. So, if anyone can find the secret to collecting this small business debt and getting the overall debt down, they will probably win a Nobel peace prize because it is a real problem in all jurisdictions that I have looked at. The tax office has to find novel ways to work on this issue to separate the rorters from the genuine cases, the big amounts from the small amounts. But I would need to spend some time in understanding the alternatives because the overall number of cases and the total amount of tax involved are daunting.

Senator SHERRY—I understand that. But can I just suggest that you keep a close eye on this proposal?

Mr Vos—It is our intention to.

Senator SHERRY—I did raise the issue—it is the first I have heard of it today, and I do not think this Japanese approach has been publicly announced—because I think there would be some reaction by the family members of people who are in debt. You, and Mr Carmody, have raised the issue of people owing debt and having to pay the money that is owed. But phone calls outside hours impinge on family time, and there could be a strong reaction against some of this by people. I do not know whether you experience phone calls at home during dinner hours and outside work hours, but that was a concern that I raised today on this matter.

Mr Vos—In our house we do not take calls during meal times; that is our time. We have an answering machine.

CHAIR—The Commonwealth, in litigation, is obliged to be a model litigant. Do you say the Commissioner of Taxation should be a model creditor?

Mr Vos—They have to be a model litigant; that is for sure. We are in the course of finalising a review into their litigation approach right across the board. It is a very difficult issue. The tax office has a duty—and I think we as a community need to acknowledge it—to collect the tax. I am the first to support that role. How it goes about it, though—and that goes to Senator Sherry's question—is something that needs to be done with professionalism and with regard to taxpayers' situations and rights. It would be improper for me to make any general comment tonight about whether what the tax office wants to do is right or wrong.

Senator SHERRY—Again, we had an earlier discussion about this. The ATO annual report indicates approximately \$425 million in tax from large business GST compliance programs, with \$44 million penalties. Have you had any complaints or concerns expressed to you from large business about the GST compliance program?

Mr Vos—No, not to my knowledge. The answer is no.

Senator SHERRY—In the discussion I had earlier with Mr Carmody, we talked about the extra tax due to GST compliance and the penalties of \$44 million. They are significant amounts of additional revenue raised as a result of tax, aren't they? It is a big figure.

Mr Vos—I guess you could say that. It really depends on how many cases are involved. It might be \$1,000 for 400 clients.

Mr Matthews—I think you would need to look at it in the context of whether it was in proportion to additional revenue raised through active compliance for other types of tax, and so on, before forming a conclusion as to whether it was within the normal range or any larger. A significant proportion of the GST collections will come from large business.

Senator SHERRY—Have you received any ongoing issues of complaint concerning compliance with the GST generally, Mr Vos?

Mr Vos—No. I quipped earlier that I have a GST background. I would dearly love to be doing more work in the area of GST. We did work in the GST refunds; that was one review that we did. But GST is not an area that has cropped up, directly or indirectly, in our ‘requests to undertake work’ program. If it is linked, it is usually linked to a broader tax office approach with active compliance or dealing with the application of penalties and interest. We have done reviews into those areas, but GST per se has not been an area of interest to us.

Senator SHERRY—You said earlier that you would ‘dearly love’ to do some—

Mr Vos—I would ‘dearly love’ because of my background in GST.

Senator SHERRY—Oh, I see.

Mr Vos—I know it more intimately than I know the intricacies of income tax. That was a personal comment. My role is not to do what I want to do but what the community wants me to do.

Senator SHERRY—On the last occasion, Mr Vos, we were discussing the employment benefits arrangement issues and liaison between you and the Treasurer, or assistant treasurer’s, office. I asked you about your meetings in that area. You said, and I quote, ‘To be blunt, I cannot remember,’ when I asked you about the communication. Given that we are now some months on, have you reflected on that and can you remember it?

Mr Vos—After looking at the draft *Hansard*, I wrote to the committee secretary on 9 June and indicated that, with the benefit of further reflection, I could now advise that the telephone call did not come from either of these offices—that is, the commissioner’s office or the Treasurer’s office. Rather, the secretary of the Treasury telephoned me to suggest that I meet with the Commissioner of Taxation. It actually was the secretary of the Treasury’s office who rang me to indicate—

Senator SHERRY—The secretary of the Treasury’s office.

Mr Vos—Correct.

Senator SHERRY—So on that occasion, your recollection was incorrect.

Mr Vos—The recollection was that I could not remember. At the time, I indicated that it was not something that was overly important to me. You may recall that at the time there was quite a deal of discussion going on between the acting chair, the minister and you over whether I should or should not answer the question. That did not help my ability to map back to who had actually made the call. I had to go to my diary to look at what I was doing on the day the call came in. Then I pieced together in my mind who made the call. It was the

secretary's executive assistant that rang and said he was in a meeting but he wanted to talk to me. I was about to go off and do a public speaking engagement. Just before I did that, I spoke to the secretary before going into that meeting. He had mentioned that it was expected that the commissioner and I, being in the same portfolio, ought to agree on this issue.

Senator SHERRY—I just want to be absolutely clear about this. You are now clear in your recollection that you had not received a communication from the office of the Treasurer, or assistant treasurer, in relation to this matter?

Mr Vos—That is correct.

Mr Matthews—The inspector-general's formal response to the secretary was sent on 9 June to that effect.

Senator SHERRY—Unfortunately, I did not see that. I will check anyway. I have asked about phone calls. Do you recall any other form of communication, Mr Vos?

Mr Vos—No. I did not have any contact, directly or indirectly, from either of the ministers' offices. To put the total matter into context, the day after I had the call from the secretary of the Treasury, I ran into the Treasurer in an airport lounge, and he mentioned to me in passing that this was an issue that he would like to see settled. That is something that needs to be put on the platform as being a minute discussion with the Treasurer in an airport lounge indicating that he had an understanding that the commissioner and I were at odds in our understanding of this matter.

Senator SHERRY—So there was a communication in an airport?

Mr Vos—After the phone call from the secretary to the Treasury, yes.

Senator SHERRY—I am intrigued about how the Treasurer would know that there was a difference of opinion between you and Mr Carmody.

Mr Vos—It is because I had written to the assistant treasurer to indicate, in submitting my report, that the commissioner, in his response to my recommendations, had a view different from mine.

Senator SHERRY—So that was communicated in your correspondence to the assistant treasurer?

Mr Vos—Correct. When I lodged my report with him.

Senator SHERRY—That's it, Chair.

CHAIR—Thank you very much, Mr Vos. You are excused. Who do we want next, Senator Sherry?

Senator SHERRY—I have some general questions on the Treasury annual report—things like staffing and a few general issues before we went to the macro.

CHAIR—I will call Treasury officers to speak on the Treasury annual report. If they are not ready to go, we will suspend for dinner and return at 7.45 pm.

Proceedings suspended from 6.18 pm to 7.48 pm

CHAIR—I welcome to the table Dr Parkinson and officers of the Macroeconomic Group of Treasury. We are dealing with outcome 1, Sound macroeconomic environment. Dr Parkinson, do you want to make any introductory remarks?

Dr Parkinson—No, I am happy to go straight to questions.

Senator SHERRY—Does the Future Fund come under outcome 2?

Dr Parkinson—Yes, the fiscal group, who are waiting in the room next door.

Senator SHERRY—In relation to the macroeconomic area, I will start with the industrial relations changes. On the last occasion that we had a discussion, on Wednesday, 1 June, I asked:

Senator SHERRY—We have had the announcement of some industrial relations changes, at least in principle. The specific detail of the legislation has not been released yet. Has the department recently carried out any modelling on various scenarios that eventuate from industrial relations changes?

Mr Tune—Yes, there was some modelling done.

Senator SHERRY—When was that done?

Mr Tune—Over the course of about the last month or month and a half.

Senator SHERRY—That has not been released?

Mr Tune—No.

My question is: since that acknowledgement from Mr Tune that modelling had been done on the impact of industrial relations changes, has there been any further modelling done since that estimates hearing on 1 June?

Dr Parkinson—I am unaware of any modelling having been done, but I would suggest that question would be best directed to Mr Tune, who will be here, as I understand it, when we deal with the next item.

Senator SHERRY—Domestic economic policy?

Dr Parkinson—No, we are domestic economic—

Senator SHERRY—Yes, that is what I thought.

Dr Parkinson—We are international macroeconomic. I am referring to the Fiscal Group.

Senator SHERRY—I will get to that then.

Dr Parkinson—I should say, so that I do not raise expectations, that I understand Mr Tune is on a plane on the way back from Melbourne. There were some delays this morning, but I am assuming that he will be back in time.

Senator SHERRY—I had general questions about the annual report. Are we going to deal with that in fiscal as well?

Dr Parkinson—What sorts of questions about the annual report?

Senator SHERRY—Staffing.

Dr Parkinson—They are questions that are best covered under that item, I think.

Senator SHERRY—I have questions on some consultancies. Perhaps there is one area that you may be able to respond to: the purpose of consultancies by the macroeconomic group relating to the Pacific and Asia regions?

Dr Parkinson—Yes, I am happy to take that. We have employed consultants, basically academics with expertise in the area, bringing them in to work with our staff on some of the issues that we have been tackling.

Senator SHERRY—Such as?

Dr Parkinson—Around improving an appreciation of the difficulties associated with generating growth and development in small Pacific economies.

Senator SHERRY—Where have these people come from, which countries?

Dr Parkinson—Can you give me the reference to what you are looking at?

Senator SHERRY—I am just looking for the specific consultancies. ‘Relating to Pacific and Asian regions’ is the quote on the questions brief. I am just looking down the list.

Dr Parkinson—If you are looking at the annual report, page 121, we have had the Australian National University, Dr Michael Carnahan and Dr Satish Chand, and TFG International. Dr Carnahan and Dr Chand have worked directly with staff in our Pacific and Assistance Division on particular issues. Both of them are widely recognised as having significant professional expertise and experience in the region. Dr Chand is one of the leading academic analysts in Australia on the Pacific. Dr Carnahan has extensive experience in a range of developing countries as well.

Senator SHERRY—In which countries are Dr Carnahan and Dr Chand based?

Dr Parkinson—This was all done here.

Senator SHERRY—They are Australian?

Dr Parkinson—Yes. Dr Carnahan has spent time in, off the top of my head, East Timor and, more recently, has been in Afghanistan and had particular perspectives about how bilateral donors and multilateral donors should operate within country. Dr Chand, who is at the ANU and who is continuing to provide consultancy services to us at the moment, is one of the most respected analysts of the small Pacific island states.

Senator SHERRY—How many hours work would they do, or how many hours is this payment for? Is this over a week or a number of engagements over a longer period?

Dr Parkinson—Can I take that on notice? I have no problem providing you with the information, but I do not have it with me.

Senator SHERRY—That is fine.

Dr Parkinson—I can tell you that Dr Chand’s engagement involved his coming into the department, working with the staff, spread out over a number of months. As to Dr Carnahan, my recollection is that it was something similar.

Senator SHERRY—With respect to page 113 of the annual report, can I confirm that there are two Treasury staff in Paris, one in Beijing, one in Jakarta, one in Tokyo, and one in Washington?

Dr Parkinson—That is right. There are locally engaged staff as well, but they are the Treasury officials from Canberra who are posted there.

Senator SHERRY—Can you take these questions on notice: what is each of their roles, their seniority, the length of their postings, financial assistance they receive for accommodation, return travel et cetera, where they work and the cost to Treasury.

Dr Parkinson—I can take that on notice. That is no problem at all. These positions have been in operation for a very long time, so there is nothing new about them.

Senator SHERRY—Yes, I understand.

Dr Parkinson—The one change—and I think I may have mentioned it to you previously—is that we moved the person who was previously in London, an EL2 position, to Paris, which is why there are two in Paris.

Senator SHERRY—Yes, I remember discussing Paris on the last occasion. Could you take these questions on notice: overseas travel by Treasury staff, number in the last financial year, how many, for what duration and purpose of visit? Are written reports prepared? Are they available? Are staff permitted to take holidays while overseas on Treasury business? How many staff have done so and for what period of time, if it has occurred, and is there a specific policy parameter around that use, if it does occur?

Dr Parkinson—Do you want to know this about every individual trip that every Treasury staff member takes?

Senator SHERRY—Correct, except for New Zealand. You sound a little surprised. Are there lots of them?

Dr Parkinson—I can tell you that I spend far more time overseas than I would like to.

Senator SHERRY—Yes. That is in your case.

Dr Parkinson—Others might like me to spend more time overseas, but I doubt it!

Senator SHERRY—That was the question.

Dr Parkinson—Okay.

Senator SHERRY—In relation to APEC—I would like to deal with this now—what was the number of Treasury officials who attended the recent meeting of APEC?

Dr Parkinson—There was myself—

Senator SHERRY—I thought you might be on that list.

Dr Parkinson—There was Dr de Brouwer. With APEC we had more people there this time because, as you know, Australia is hosting in 2007.

Senator SHERRY—Yes.

Dr Parkinson—So, for the first time, I took some of our staff who will actually be having to organise the logistics of the finance ministers process to expose them to exactly what has to be done. I cannot give you the exact number off the top of my head, but it would be about four, I think. Again, I can get that information for you.

Senator SHERRY—Take it on notice. Can you list their roles and the cost of the Treasury delegation to APEC?

Dr Parkinson—Yes, that is no problem. You will pick that up, anyway, in the overseas trips information.

Senator SHERRY—Yes, of course. I have a few issues relating to matters of trade, the current account deficit and foreign debt. Dr Parkinson, what is your view of Australia's trade performance over the past six months?

Dr Parkinson—In what sense?

Senator SHERRY—Has it been good, bad, indifferent, changing, better, worse? What are your observations? We do have a general chat about these types of issues for a short while on these occasions.

Dr Parkinson—I am happy to invite Dr Gruen to speak to the issue, if that is okay with you?

Senator SHERRY—Yes, that is fine.

Dr Gruen—I guess the answer to that question is that, as you would know, we have seen very substantial increases in prices for some of our major commodity exports. As a consequence of that, the value of exports rose strongly several months ago, so the trade deficit, the size of the gap between exports and imports, narrowed significantly about three months ago. Since then, the size of the gap has remained roughly the same. We have seen a very substantial increase in investment, which we expect will bring forth significant increases in export volumes. The timing of these things is always difficult to forecast, and I think I will pass over to Dr Kennedy to talk about the extent to which there is anything more to say about the detail of the forecasts.

Dr Kennedy—As Dr Gruen said, the current account deficit narrowed substantially in the June quarter, by about \$2.4 billion. That is still around 5.7 per cent of GDP, as it stood in the June quarter. Also, as Dr Gruen said, the trade balance has remained fairly stable through that period, at a bit over one per cent, between one per cent and two per cent, of GDP. Our forecast for export growth for volumes of exports in the 2005-06 budget was seven per cent, and that reflects strong growth in non-rural commodity exports, particularly iron ore and coal exports. As things have played out, the data continues to be consistent with that. The price increases that we are seeing for non-rural commodities is seeing our terms of trade at near 30-year highs—in fact, near 50-year highs. That is providing a substantial boost to the economy, particularly through the income it obviously generates for mining companies and also for other parts of the economy through dividends and profits, and employment growth and construction activity related around the mining sector. Our outlook for exports remains as it is in the budget. We expect this strong boost from prices to flow through. Mining investment increased, I think, by around 60 per cent over the last three years. We think we have not yet seen the full flow-through of that into volumes, but we expect to see that in the period ahead.

Senator SHERRY—I noted Dr Gruen commented that he expected it will bring forth an increase in exports. I am sure you will not want to give a time line, but when would we expect in general terms that to occur?

Dr Kennedy—To some extent, we have already seen iron ore and coal exports grow to date. I have not got the numbers to hand. In part, the fact that non-rural commodities have not grown as rapidly has been offset by declines in oil production, oil exports and gold production, or expected declines, as has been put out by ABARE. But even taking into account the fact that some parts of non-rural commodities have declined a little bit more rapidly than we expect, we are already seeing some of that growth and we expect it, on net, to drive export volumes in the period ahead. We have seen also in the last quarter some growth in elaborately transformed manufactures, which has bounced back. Those volumes have been quite flat over the last three to four years. We are anticipating moderate growth in that area as well.

Senator SHERRY—We did spend some time on the last occasion discussing the manufacturing sector in terms of exports. You just referred to elaborately transformed manufactures. In which areas has that occurred—the increase in exports in ETMs?

Dr Kennedy—I have not got the detailed breakdown to hand.

Mr Allford—I do not have the breakdown, either. We had eight per cent growth in ETMs in the last quarter, but I am not sure of the industry breakdown of that increase.

Senator SHERRY—You don't have some indication of which—

Mr Allford—We would have the information in the ABS publication, so we can take that on notice for you, if you like.

Senator SHERRY—Okay. As I said, we spoke earlier about the generally poor performance of Australia's manufacturing sector in terms of exports. Over the last four years, manufactured exports have recorded an average annual growth rate of minus one per cent. The *Financial Review* recently described manufacturing as the 'sick man of the Australian economy'. Do you think that is an accurate description?

Dr Kennedy—In terms of growing as an industry, rather than thinking about it just from the point of view of exports, we have still seen some modest growth in the manufacturing industry. Manufacturing employment has also continued to rise, although it is true to say it has been modest.

Dr Parkinson—Manufacturing investment is also growing. While the exports of ETMs have not been of the sort that we experienced in the nineties, I think it is still a sector that is important to the economy.

Senator SHERRY—In relation to the earlier comments about mineral prices, did you say 30 years or 50 years? I think you made reference to both.

Dr Kennedy—We are waiting to see how things will play out, so I was referring to the forecasts and they are not known yet. But I believe if the forecasts were achieved at budget, they were 50-year highs or—

Mr Allford—It would surpass the 30-year high; that is right.

Senator SHERRY—Sorry?

Mr Allford—The last high was in the early seventies. If the budget forecasts were realised, we would pass that.

Dr Gruen—The previous high was the Korean wool boom.

Senator SHERRY—Wool is not—

Dr Gruen—Wool is not a big contributor to the rise in the terms of trade now.

Dr Kennedy—The wool prices are not.

Senator SHERRY—That is average mineral export prices, isn't it?

Dr Gruen—No, the terms of trade is the ratio of all export prices to all import prices. It is both strength in export prices and also the fact that we import a lot of computers, whose prices are falling. So it is on both sides that the terms of trade are improved these days in contrast to the past.

Dr Kennedy—For example, outcomes since the budget forecast that might affect the terms of trade forecast are stronger oil prices. We are a net importer, of course, so that may see the price of imports in total go up somewhat, offsetting the large increases in the price of exports.

Dr Gruen—But the big contributors to the increase over the last year or so are iron ore and the two types of coal. Those are the things that have contributed very substantially to the rise.

Senator SHERRY—Observations about the net foreign debt: all the indications are that it will continue to increase?

Dr Gruen—It is certainly the case that we are running a current account deficit—I think the number is 5.7 per cent of GDP currently.

Dr Kennedy—That is right.

Dr Gruen—If that current account deficit were to continue at that level, net external liabilities would continue to increase as a share of the economy. Whether or not it is debt depends on how it is financed.

Senator SHERRY—While we are on the financing, are financial markets taking that into account when assessing risk premium for Australia?

Dr Gruen—Sorry, are they taking into account what?

Senator SHERRY—The net foreign debt growth.

Dr Gruen—These data are all publicly available, so they would be well aware of the likely trends in the financing of the current account.

Senator SHERRY—There was a recent report by Mr John Edwards, an economist, suggesting that, given that a large part of Australian investment in recent years has gone into the housing market, which is not income producing, we should be aiming to stabilise Australia's external liabilities at their current level of around 60 per cent of GDP. Does Treasury believe that we should be aiming to stabilise our net liabilities at around 60 per cent? Is that a reasonable level to ensure we are not exposed to any short-term adverse market reactions?

Dr Gruen—I do not think Treasury has a view on particular levels of net external liabilities. I do not think it is a policy aim to achieve a particular level of net external liabilities. The aims are to have a flexible economy and to be aware of possible risks out there

and to have policy set in such a way as to keep those risks under control. I do not think there are any magic numbers in the net external liability.

Senator SHERRY—Put aside the number. Do you believe it appropriate that they be reduced?

Dr Gruen—The public sector has virtually no net debt. These are the outcomes of private decisions made by individual Australians. One needs to look carefully at the macroeconomic implications of these decisions, but at the end of the day—

Senator SHERRY—Are you saying that it does not matter because it is all private debt?

Dr Gruen—I am saying that that is a relevant consideration. The fact that it is private is definitely a consideration and makes it less of a worry than if this was all public debt. But I also think that it is something that one wants to watch and keep a watching brief on.

Senator SHERRY—I will just indicate the areas in which I have questions left. There are some more general issues.

Dr Parkinson—Can I clarify that? By ‘general issues’, do you mean issues around the annual report?

Senator SHERRY—Yes, which are not in your area, looking at them. I have finished all the questions I was going to ask you..

CHAIR—There being no further questions on outcome 1, thank you very much, gentlemen.

[8.17 pm]

CHAIR—We will now deal with outcome 2, Effective government spending and taxation arrangements. I welcome Mr Tune and officers from the Fiscal Group.

Senator SHERRY—I have a few general questions about some issues in the annual report. I wanted to start with salary scales.

Mr Tune—Certainly.

Senator SHERRY—Turning to pages 113 and 114, can I confirm that the minimum and maximum for APS1 staff rose by eight per cent between September 2003 and September 2004, which is roughly a five per cent real increase?

Mr Tune—Page 114 of the annual report?

Senator SHERRY—Yes, pages 113 and 114.

Mr Tune—I am looking at the numbers here. I have not done the calculation, but that could well be about right.

Senator SHERRY—Can I confirm that the minimum and maximum for staff from APS1 through to EL2 rose by the same percentage?

Mr Tune—I cannot confirm it, but I can see the figures that are in the paper.

Senator SHERRY—They are very similar. Can you explain why the minimum salaries for SES1 increased by 11 per cent between 2003 and 2004 and SES2 and SES3 by 10 per cent?

Mr Tune—Sorry, SES1 by how much?

Senator SHERRY—SES1 increased by 11 per cent between 2003 and 2004, and SES2 and SES3 by 10 per cent.

Mr Tune—Largely there were some pay increases through that period, which flowed through across the board from APS1 to SES3. In addition, the department changed its arrangements around executive vehicles for SES officers, and in essence cashed that out.

Senator SHERRY—Approximately what part of that 11 per cent and 10 per cent is made up of the cashing out of the vehicle arrangements?

Mr Tune—I would have to take that on notice.

Senator SHERRY—You mentioned a change to vehicle arrangements. What were they?

Mr Tune—As for the rest of the Public Service, SES have been entitled to an SES vehicle, which was for many years leased through what used to be known as Dasfleet and became LeasePlan, I think, eventually. A couple of years ago, the Treasury SES opted out of that scheme. People could either take cash or they could organise their own novated lease through a leasing company which was contracted to Treasury for the purpose. So there used to be a fixed amount that was available. There was a value put on the SES vehicle, in essence, that was provided.

Senator SHERRY—A maximum value on a car?

Mr Tune—In essence, yes, and I think it was done on the basis of a Holden Commodore or something like that. Then when it was cashed out, it broadly was cashed out on the basis of what the cost would be of leasing a Holden Commodore through this private leasing arrangement.

Senator SHERRY—Do you know roughly what percentage increase in salary that represents?

Mr Tune—My recollection is that the cash-out value was around \$22,000—something in that order. That would not explain all of that increase.

Senator SHERRY—No.

Mr Tune—A couple of thousand of it, perhaps.

Senator SHERRY—Yes, that is right. So what does explain that increase?

Mr Tune—General salary increases across the board in the Treasury.

Senator SHERRY—Were they the same—that roughly five per cent figure I asked about earlier? Were there higher salary increases at SES1, 2 and 3 than at the levels further down?

Mr Tune—No, I do not think so. My recollection is that they were the same percentage increases.

Senator SHERRY—It is the cashing out of the car that you believe makes the difference?

Mr Tune—Obviously, a percentage increase for someone who is on a higher base is going to provide a higher dollar figure if it is a constant percentage.

Senator SHERRY—I am talking about percentages here.

Mr Tune—Can I take it on notice? We will do the sums and provide you with an explanation of what the breakdown of the increases is.

Senator SHERRY—Okay. On page 115, SES commencements: can you clarify what is a ‘term engagement’?

Mr Tune—I will ask Mr Robinson, who looks after our corporate services division, to explain that.

Mr I Robinson—A term engagement is an engagement for a specific short term as opposed to an ongoing engagement.

Senator SHERRY—What is the likely length of such engagements?

Mr I Robinson—They vary from engagement to engagement. Sometimes people are engaged for a specific project, but typically they would be 12 months or less.

Senator SHERRY—What is the difference between that and an ongoing specific term engagement? That seems to be a bit of a contradiction in terms.

Mr Tune—There is one at the bottom that says ‘non-ongoing specific engagement’.

Senator SHERRY—Sorry, ‘non-ongoing specific engagement’. Can you explain the difference between that and a ‘term engagement’?

Mr I Robinson—No, I cannot. I had understood that all term engagements were non-ongoing.

Senator SHERRY—Yes. We just wondered why they were the only two descriptions used.

Mr Tune—There were none on the non-ongoing specific term engagement, I notice.

Senator SHERRY—Yes.

Mr Tune—The only explanation I can think of off the top of my head—and I will confirm this for you—is that some of the term engagements may in fact have become ongoing after the end of their term.

Senator SHERRY—I have some questions on Treasury health facilities. Are there various programs for health facilities, a gymnasium, training, anything like that, within Treasury that are paid for by Treasury?

Mr Tune—I do not think there is a gymnasium, but we do have health promotion activities. During Health Week, for example, we provide services to Treasury staff.

Senator SHERRY—What is health promotion? What does that include?

Mr Tune—It includes perhaps having someone there who might check your BMI, body mass index. You can have a blood pressure test—those sorts of issues. There might be some seminars from medical practitioners about leading healthy lives, looking after yourself.

Senator SHERRY—What about yoga and things of that description?

Mr Tune—No.

Mr I Robinson—We do under the certified agreement provide a \$400 health bonus payment, which staff are expected to use on healthy lifestyle activities. Some staff may choose to use that money to undertake private yoga or pilates or similar sorts of courses.

Senator SHERRY—But you would obviously require proof that that has been spent in an appropriate way before it is paid, I would assume.

Mr I Robinson—We do not.

Senator SHERRY—You mentioned pilates. What is that all about?

Mr I Robinson—You are asking the wrong person. It is some sort of stretching exercise.

Mr Heferen—If I can help, I actually undertook a pilates course, which was one where we had to pay. It was conducted at Treasury premises. Pilates is like an Eastern European version of yoga. It does not have the sort of slow movements that yoga has, but it is focused on building the inner core strength.

Senator MURRAY—And you wear clothes for this?

Mr Heferen—Certainly full clothed, but loose clothing is recommended.

Senator SHERRY—Is pilates classified as training?

Mr Heferen—I think it is generally classified as exercise.

Senator SHERRY—That took place at Treasury, did it?

Mr Heferen—There were classes run at lunchtimes by registered pilates instructors. Officers expressed an interest and, if they were interested, they would then pay to undertake the courses.

Senator SHERRY—Could this be paid for from the health bonus?

Mr I Robinson—Yes, it could be.

Senator SHERRY—Any other—

Mr Tune—Mr Heferen paid for it out of his own pocket, because the SES do not get the \$400 health—

Senator SHERRY—No, I didn't think you would be sitting at the table otherwise—although that is not always true. So the others would have come out of the health bonus—or some of the others at least, I should say. What other health training courses have been operating within Treasury—or at least on the premises, I should say, as distinct from being paid for directly?

Mr I Robinson—Mostly, as Mr Tune said, it hinges around our health month activities. Each year we put together a range of programs. Largely they are health related seminars, where we invite professionals in to address staff. This year we did the 10,000 Steps program, where we gave staff a chance to buy a pedometer at a subsidised price and entered into a competition where teams were formed and did a virtual race basically by recording the number of their steps. So there is a range of those sorts of—

Senator SHERRY—Is this the number of steps while they are working or—

Mr I Robinson—No, you wear a pedometer.

Senator SHERRY—Yes, I have seen them.

Mr I Robinson—At the end of each day, you tally up the number of steps you have done. The teams made it a race, so they would go out for walks at lunchtime or after work.

Senator SHERRY—So walking while you were at work did not count?

Mr I Robinson—No, it still counted because you put your pedometer on when you got up in the morning and you took it off at night.

Senator SHERRY—Some would have an unfair advantage, wouldn't they? There would be some moving around the offices more than others, I would think.

Mr I Robinson—That is true, yes.

Senator SHERRY—Because of the nature of the work. There is a consultancy by the Fiscal Group titled 'Commonwealth Grants Commission Cost Weights'. Can I have an explanation of what that was about?

Mr Tune—I will start, but I might get Michael Willcock to give a bit more detail. We have been doing some work with the states on simplifying the methodology that the Commonwealth Grants Commission uses to come to a view about the distribution of GST revenues to them. As part of that process, the CGC has now been asked formally to have a look at that over the next few years. But in the lead-up to that, to determine whether there was a case for simplification, we did some work internally within Treasury, and did that in consultation with both the states and the CGC. As part of that, we thought we needed a bit of expert advice on a couple of issues and undertook a consultancy around this issue of cost weights. In terms of the technical detail of these cost weights, I might ask Mr Willcock if he could briefly explain or tell me what it is. Mr Heferen was in charge of this when it was undertaken, so he can give you a bit more detail.

Senator SHERRY—Thank you.

Mr Heferen—Senator, what page are you on?

Senator SHERRY—That is a good question. I have not got it in my—

Mr Heferen—121.

Senator SHERRY—It does not cross-reference to the page number.

Mr Heferen—Yes, I see, 'Dr Arthur John McHugh, Review of Selected Commonwealth Grants Commission Cost Weights'. As Mr Tune said, as part of the simplification of the horizontal fiscal equalisation methodology, the cost weight is essentially the proportion of how important an issue is in figuring out what the level of disability might be for a particular state. It is a highly technical matter, and it got down to the stage where neither people in the Treasury nor indeed the Grants Commission were in a situation to do an independent review of the cost weights that are currently used. Dr McHugh, who is an ex-auditor general from Tasmania, was recommended by one of the secretaries of the state treasuries as a possible authority in this area. He was engaged to do this work and provide a report in either late January or February, and then that report went through for consideration for the simplification program.

Mr Tune—That report became input into the process that was taken in consultation with the states.

Senator SHERRY—Has that been publicly released?

Mr Tune—No, it has not.

Senator SHERRY—Why was that?

Mr Tune—It was internal work that was done. It was just input into a broader process, so it was just to inform us about some technical issues.

Senator SHERRY—Could you take on notice releasing it to the committee?

Mr Tune—I can do that, yes, certainly.

Senator SHERRY—The consultancies on HIH—

Mr Tune—That is a markets group issue.

Senator SHERRY—Yes, I will deal with it there.

Mr Tune—Unless you have a more general question on it?

Senator SHERRY—No. The picture on the front page looks like a fountain.

Mr Tune—It is a fountain, yes.

Senator SHERRY—What is that?

Mr Tune—That is the fountain that sits outside the Treasury building. The Treasury building is almost an H-shape, and in the middle there is a large fountain that was recently renovated and is now operational again after not being operational for quite a few years. It is a bit of a symbol so it was chosen as the cover for the annual report.

Senator SHERRY—For how long has it been inoperative?

Mr Tune—I am not sure, actually.

Mr I Robinson—It would be at least a decade, I think.

Senator SHERRY—What was the cost of renovating it?

Mr Tune—We did not renovate it. It was done by the National Capital Authority, I think.

Senator SHERRY—Treasury did not pay for the renovation?

Mr I Robinson—No.

Senator SHERRY—No leaks in the fountain? There were a few leaks around this place recently—water leaks, I am referring to, not info leaks!

Mr Tune—I am not aware of any leaks. I think the water—

Senator MURRAY—There could be some coins in there.

Mr Tune—There could well be.

Senator SHERRY—But knowing Treasury, they would end up back in Treasury!

Mr Tune—We check it every day just in case!

Senator SHERRY—Why was it left for almost 10 years to fix it?

Mr Tune—I am guessing a bit there, but it was quite a period of time.

Senator SHERRY—Whatever the length of time was, it has obviously been a long time.

Mr Tune—It preceded me, but I have only been in Treasury for a few years.

Senator SHERRY—Does anyone else have any idea? Perhaps you could take that on notice. It did fascinate one of my colleagues.

Mr Tune—It is not a Treasury responsibility. It is a National Capital Authority responsibility.

Senator SHERRY—Yes, but I do not think they would have just fronted up and fixed it up without consultation. It is in front of your building, after all.

Mr Tune—We will ask the NCA. If they have the answer, maybe it is best if they respond directly to you.

Senator SHERRY—We will see how we go. I will accept being palmed off on this one occasion to another area. On the last occasion I asked about the announcement of some industrial relations changes in principle. This was back on 1 June 2005. I quote:

Senator SHERRY—The specific detail of the legislation has not been released yet. Has the department recently carried out any modelling on various scenarios that eventuate from industrial relations changes?

Mr Tune—Yes, there was some modelling done.

Senator SHERRY—When was that done?

Mr Tune—Over the course of about the last month or month and a half.

Senator SHERRY—That has not been released?

Where is it? Has it been released yet?

Mr Tune—No, it was work that was done in the context of advising the government about its industrial relations changes.

Senator SHERRY—Presumably, the document then would have gone to the Treasurer's office or Mr Andrews' office or both?

Mr Tune—I do not think it was a document. There were some outcomes from it and they were incorporated into advice that we provided to the Treasurer.

Senator SHERRY—So there was some advice on this modelling that was carried out. Where was the modelling carried out—within Treasury?

Mr Tune—Within Treasury, yes.

Senator SHERRY—Which model was used?

Mr Tune—The TRIM model, which is the department's macro model.

Senator SHERRY—Yes. Mr Gallagher gave us a full briefing on every model, a very detailed briefing, earlier.

Mr Tune—You could well be more informed than I am, in that case.

Senator SHERRY—Since I asked about modelling in this area back on 1 June, has there been any further modelling carried out?

Mr Tune—No, we have not done any further modelling, not in Treasury.

Senator SHERRY—Has any of the detail of that advice on the modelling been publicly released, that you are aware of?

Mr Tune—I am not aware of it, no.

Senator SHERRY—I am not, either. Can you recall approximately when that modelling took place?

Mr Tune—It would have been in the period about a month and a half before the government made its first announcement about the industrial relations changes, which was pretty close to the budget, from my recollection—just after the budget, I think.

Senator SHERRY—Yes, it was very close to it.

Mr Tune—It would have been in that period between the budget and 1 June, when we gave evidence last time.

Senator SHERRY—You might take on notice the approximate week. Presumably there was some formal request to go to the modelling.

Mr Tune—I can tell you it was May. Is that good enough?

Senator SHERRY—Could you take it on notice and see if you can be more specific about when that modelling commenced?

Mr Tune—Yes, I can.

Senator SHERRY—Was it a request from the Treasurer's office?

Mr Tune—I cannot recall.

Senator SHERRY—Could you take that on notice?

Mr Tune—Yes, I can do that.

Senator SHERRY—You said it was part of a more general brief to the Treasurer?

Mr Tune—Yes.

Senator SHERRY—Was it sent to anyone else in addition to the Treasurer's office?

Mr Tune—We did not send it to anybody else, no. We incorporated it into the advice we were providing to the Treasurer on issues before the cabinet.

Senator SHERRY—It was not cc'ed to the Assistant Treasurer or the parliamentary secretary?

Mr Tune—No, I do not think so. No, it would not have been.

Senator SHERRY—Do you expect any of that modelling to be released?

Mr Tune—I would not have thought so.

Senator SHERRY—Is this modelling going to see the light of day? We have had the release of the industrial relations legislation this week and we still have not seen this modelling.

Mr Tune—As I said, it is a piece of modelling that we did that was input into the government's decision making. We do not provide the advice that we provide to the Treasurer, particularly in the context of discussions that are before the cabinet.

Senator SHERRY—What aspects were modelled in the TRIM model?

Mr Tune—We were trying to look at the impacts on employment in particular and I guess the flowthrough impacts on productivity as well.

Senator SHERRY—The assumptions of the modelling?

Mr Tune—I cannot go into that. We were trying to model various propositions that the government had under consideration and incorporate them into the existing macro model to see what the impacts might be. As in all models, there are assumptions implicit in the models when you build them.

Senator SHERRY—Is Treasury aware of any empirical research that would support an argument that industrial relations reforms will increase productivity? Can you refer me to any research that has been carried out?

Mr Tune—There has been a lot of research done over the years, some of it overseas research.

Senator SHERRY—I am specifically talking about Australia, the Australian context.

Mr Tune—I cannot recall any off the top of my head, but I know there has been some.

Senator SHERRY—Could you take that on notice?

Mr Tune—Yes, certainly.

Senator SHERRY—Also, in respect to employment, can you point me to any empirical research now?

Mr Tune—We will check that as well.

Senator SHERRY—It is a major issue. I am just surprised that you cannot indicate some areas of empirical research now, given the focus that this topic has had.

Mr Tune—As I said, I will check it and we will cover both of those issues.

Senator SHERRY—Has Treasury analysed the industrial relations legislation?

Mr Tune—No. It was only released yesterday.

Senator SHERRY—Yes, but presumably you would have given some advice to the Treasurer's office about that before the cabinet meeting discussion occurred that signed off on it?

Mr Tune—We have provided advice to the Treasurer at various points along the way on the IR changes, yes.

Senator SHERRY—Advice would have been provided in respect to the bill itself?

Mr Tune—Not in its totality, no. The policy underlying it certainly, yes, but the bill itself, no.

Senator SHERRY—Has Treasury come to any conclusions about any changes to productivity as a result of the industrial relations changes?

Mr Tune—We came to some conclusions in the context of that modelling that I mentioned earlier, but I am not at liberty to say what they are.

Senator SHERRY—Okay, and the same in respect to employment, there were some conclusions reached?

Mr Tune—Not as specifically, I think, is the right answer.

Senator SHERRY—What about wages?

Mr Tune—I think the same answer applies.

Senator SHERRY—Income wage distribution?

Mr Tune—No, we would not have done that.

Senator SHERRY—You are quite emphatic about not doing that. Why would you not have done that?

Mr Tune—Because we were looking at the macro consequences rather than the individual consequences.

Senator SHERRY—Are the findings we were just discussing that you could not disclose to me reflected in the future projections in the budget?

Mr Tune—No, not at this stage. They would not be, no. They were done post budget, as I mentioned earlier.

Senator SHERRY—I now have some issues on the Future Fund. I think you will probably be aware—Senator Minchin was there, too—that we had a discussion about aspects of Future Fund at the finance estimates the other day.

Mr Tune—Yes, I am aware.

Senator SHERRY—There is obviously a Future Fund instrumentality authority listed in finance. What is your understanding of the point in which it passes from joint Finance and Treasury or economics to solely Finance? Is it when the legislation is passed?

Mr Tune—Once the legislation is passed, it is then possible to set up the agency. The agency will in essence be attached to Finance but there is always a joint role there for the Minister for Finance and the Treasurer. But the agency itself is within Finance. We would see our role in relation to implementation ceasing at about the time or just before actually the agency is set up, and the day-to-day operation will be through the agency and the board.

Senator SHERRY—At the moment, how many officers are there? You have a working group, presumably? I think we discussed this last time.

Mr Tune—We have a number of people in Treasury working on the Future Fund, yes.

Senator SHERRY—Are they described collectively as anything at the moment?

Mr Tune—They are a part of a unit. We have six working on it.

Senator SHERRY—What is the unit?

Mr Tune—It is part of the Budget Policy Division.

Senator SHERRY—Are you two officers involved?

Mr Tune—David Martine is the general manager of budget policy and Matthew Flavel is the SES officer who is heading the group of six.

Senator SHERRY—The ‘group of six’, that is very distinguished.

Mr Tune—As distinct from the G8 or the G20.

Senator SHERRY—Yes, the G6. At what point are you up to with the issues relating to the Future Fund?

Mr Tune—We have recently concluded a consultancy with a group called Watson Wyatt, who were providing us with some assistance on thinking through the policy implications of the investment mandate for the fund, and we are about to go to the government with some advice about that.

Senator SHERRY—Has that concluded, the investment mandate?

Mr Tune—The consultancy has concluded, yes.

Senator SHERRY—Is that in the list? I did not think I—

Mr Tune—No, it is an 2005-06 one, so it would not have hit the 2004-05 annual report.

Senator SHERRY—That is on the investment mandate. Is any other work being carried out or work completed?

Mr Tune—There is a whole stack of work around legislation and so forth that we are working on.

Senator SHERRY—Is there any other aspect?

Mr Tune—The key issues are working through the investment mandate to assist the government to make a decision about those sorts of issues, getting the legislation together so the government can consider that and, at some point, there will need to be consideration around membership of the board.

Senator SHERRY—Will the G6 be involved in that, receiving applications and matters in relation to that?

Mr Tune—We have provided some advice to the Treasurer about that.

Senator SHERRY—Have you already done that?

Mr Tune—Yes, we have.

Senator SHERRY—About the individual names or about background-type desirable qualities?

Mr Tune—Names. There are also issues around desirable qualities, yes. We provided advice on that quite a long time ago, ensuring you had a mix of expertise on the Board.

Senator SHERRY—Were these people interviewed? Was there an interview process?

Mr Tune—We have not interviewed anybody.

Senator SHERRY—How can you put forward names without their permission?

Mr Tune—I think Senator Minchin mentioned the other day that a lot of people have come forward and presented their names.

Senator SHERRY—I recall that he was being knocked down in the rush. I am just trying to understand how you can put forward names to the Treasurer. These are people who have not been approached?

Mr Tune—Not by us, no. Names have come to us. We provided a list of names to the Treasurer. We put down briefly their expertise, their experience.

Senator SHERRY—These are people who have actually put a name in to—

Mr Tune—Yes. There have been some other suggestions on that list as well of people we thought may be suitable. But the decision is clearly one for Senator Minchin, the Treasurer and the government.

Senator SHERRY—I am not getting to the decision-making stage yet. I am just interested in how you could put names down. There have been no discussions with these people? They may not even know they are on the list?

Mr Tune—I guess that is possible, yes. I do not know. I do not know what happened to that list once it went to the Treasurer's office.

Senator SHERRY—No, I have not got to that point. I am just interested in how the list was put together. You and others presumably have talked about it and put down a list of names. You have not spoken to people and said, 'Would you like to be considered on the list of names?'

Mr Tune—No, because it is not for us to do that. It is a decision for the Treasurer and the minister for finance.

Senator SHERRY—I understand that it is clearly a decision for the finance minister and the Treasurer. I am just interested to know whether the people on the list you have presented—and I am sure there will be other names that will be considered—

Mr Tune—The government has processes around these things. It is clear that it is not for us to approach people to tell them that they may or may not be on the list.

Senator SHERRY—This is just a list you have drawn up—

Mr Tune—It is not a short list, it is a list.

Senator SHERRY—Just a list of possibles?

Mr Tune—Yes.

Senator SHERRY—Are there any other major issues on the Future Fund?

Mr Tune—No, that is it, basically. There are three issues there: the policies surrounding the investment mandate, the legislation, and this issue around the personnel.

Senator SHERRY—What about CEO staffing issues?

Mr Tune—We have not done any work on that at all.

Senator SHERRY—Will you be doing work on that?

Mr Tune—I would not imagine we would, no. It is an issue of detail that we would expect finance to take up. They may have done work. I do not know. We have not been involved.

Senator SHERRY—Do you know the approximate contract price for Watson Wyatt?

Mr Tune—Yes, I do—\$220,000.

Senator SHERRY—Do you know how many people it had working on this project?

Mr Flavel—They had a small number. I think it was four or five, but whether they were full time or part time, I am not quite sure.

Senator SHERRY—Were they based in Australia or were they taking overseas expertise?

Mr Flavel—I think like a number of ASIC consultants they have a local presence, offices I think in Sydney and Melbourne, off the top of my head. But they are part of a global network. On issues about asset allocation, they quite clearly might liaise with their colleagues—

Senator SHERRY—I know Watson Wyatt pretty well. I have actually been to their headquarters just outside London. These are Australian based people?

Mr Tune—Yes.

Senator SHERRY—Presumably they did some examination of investment mandates internationally?

Mr Flavel—They are aware, yes.

Senator SHERRY—The legislation was on the forward agenda for the spring sittings, but it is not on the agenda for this next week and a half, which leaves just two weeks before the end of the year. Do we know when the legislation will be presented to parliament?

Mr Tune—I do not think we do have a firm date at this stage. We are hopeful that it will be before the end of the year.

Senator SHERRY—The announcement in the budget was that legislation will be introduced into parliament later this year, and there are not too many weeks left.

Mr Tune—As I said, the aim is to introduce it this year.

Senator SHERRY—Minister, do you have any idea when this legislation will be introduced in order to meet the end of the year?

Senator Minchin—We are still desirous of introducing it in that last two-week session, but I think it might be unduly optimistic to believe we would be able to pass it in that two-week session.

Senator SHERRY—Desirous and optimistic. You have a majority in the Senate now.

Senator Minchin—But we have great respect for the Senate, as you well know.

Senator SHERRY—It is obvious—

Senator Minchin—We would not want to rush such an important piece of legislation through without due consideration.

Senator SHERRY—You sound a little more doubtful that the end of the year will be met.

Senator Minchin—I am very hopeful we will introduce it in that last two-week session, but you are well aware of the pressures on the government and the parliament in a whole lot of other areas.

Senator SHERRY—The joint press release on the Future Fund on 10 May said that the amount of the government's initial investment will be finalised once the 2004-05 final budget outcome is known. That was published on 23 September, about five weeks ago now. When will the government's proposed initial investment in the fund be known?

Mr Tune—Probably around the time that the legislation is introduced, I would imagine.

Senator SHERRY—The FBO reported the surplus in 2004-05 was \$3 billion higher than forecast at budget time. Does that mean, consequentially, that the seed funding of \$16 billion will increase by \$3 billion?

Mr Tune—Not necessarily. You have to remember \$2 billion was put aside for a communications fund. It is not that easy to—

Senator SHERRY—Another future fund?

Mr Tune—No, I do not think so. It is quite separate from the Future Fund.

Senator SHERRY—No, I said 'another future fund', the National Party future fund?

Mr Tune—It is a communications fund.

Senator SHERRY—I just hope that has nothing to do with the main Future Fund?

Mr Tune—It is quite separate.

Senator SHERRY—I am glad to hear it. Earlier there was a discussion about the underlying cash surplus for 2004-05. It was \$4.4 billion higher than the \$9.2 billion forecast in the budget on May 2005, which is a substantial variation. Is Treasury comfortable with such variations? Is it concerned?

Mr Tune—We share the concerns that Dr Watt expressed in estimates the other day, that we would like to do better.

Senator SHERRY—I think he was commenting in respect of expenditures.

Mr Tune—Yes. Most of the gap there I think is in expenditure.

Senator SHERRY—It is a significant—

Mr Tune—I think it was 0.9 on receipts, and the rest was on the expenses side.

Senator SHERRY—There was a significant surge in cash surplus. Is Treasury concerned about that? In terms of the budget forecasting, not the surge in cash surplus per se?

Mr Tune—Budget forecasting for the future?

Senator SHERRY—Yes.

Mr Tune—It is an historical figure now. Whether it impacts and flows through to the future is something we are going to have to think through in the context of producing MYEFO.

Senator SHERRY—Is it your group that actually collates and puts together the final budget outcome?

Mr Tune—It is, yes.

Senator SHERRY—That final budget outcome, which was released on 23 September, reported an underlying cash surplus of \$13.6 billion for 2004-05; is that correct?

Mr Tune—That is correct, yes.

Senator SHERRY—That was \$4.4 billion higher than the \$9.2 billion forecast in the budget released on 10 May.

Mr Tune—Yes.

Senator SHERRY—That was \$7.6 billion higher than the \$6.2 billion forecast at MYEFO.

Mr Tune—I am just checking the MYEFO, but I assume that is correct.

Senator SHERRY—On what date was the budget data, the revenue, expenses, budget balance finalised? When was this all brought together?

Mr Tune—Thursday or the Friday before the following Tuesday's budget, we think, that sort of date.

Senator SHERRY—Thursday, Friday, Tuesday; less than a week?

Mr Tune—Maybe 5 May, or something like that.

Senator SHERRY—The latest monthly financial report that the Fiscal Group had received would have been up to the end of April?

Mr Tune—A monthly report. I have just been advised that it is finance that issues those statements. We do not get ourselves closely involved in the production of those.

Senator SHERRY—Yes, but you were responsible for the overall collating?

Mr Tune—The relevant input.

Senator SHERRY—You are drawing it in from finance.

Mr Tune—We do not produce them, but they are relevant input into the way we are thinking about what is happening. But they are not the only factor, I should mention.

Senator SHERRY—The March report underlying cash balance for the financial year to date for 2004-05 was \$2.3 billion?

Mr Tune—I do not know.

Senator SHERRY—It was published on 3 June. You are not aware of that?

Mr Tune—No, I am not. But I am not disputing it, either, but I do not know it.

Senator SHERRY—Are you able to explain why, when there was a modest change in the year to date surplus between February and March, the last report published before the budget cut-off, the forecast surplus was revised up from \$6.2 billion to 9.2 billion?

Mr Tune—Sorry, the explanation for the change from \$6.2 billion to \$9.2 billion; was that the question?

Senator SHERRY—Yes.

Mr Tune—Basically, movements around in revenue and so forth.

Senator SHERRY—It has been a pretty sharp old movement. Have we seen that before?

Mr Tune—I would have to check that to see what the patterns have been. But it is certainly not a linear relationship. Revenue in particular comes in in lumpy sums at various times. It is not even throughout the year, and the same for spending, for that matter, too.

Senator SHERRY—Yes, but is there any other explanation that you can put forward?

Mr Tune—No. It is going to be caused by a change in revenue inflow or expenditures or both.

Senator SHERRY—Was any advice received from the Australian tax office at any time prior to the budget cut-off that indicated revenue was growing faster than projected?

Mr Tune—You would have to talk to the Revenue Group about that. They produce the revenue forecasts, and we just take those forecasts and inject them into our work that we do with finance on sorting through the bottom line. We are not responsible for those revenue forecasts.

Senator SHERRY—I understand that the April report, published on 10 June, showed that the underlying cash balance for the financial year to date for 2004-05 had surged to \$12.3 billion, which was up \$10 billion in a single month. Are you aware of that?

Mr Tune—No, I am not. But the explanation is we take those two figures, we get the revenue data from our Revenue Group, we get the expenses side from the department of finance, and then we put the two things together. In terms of the monthly statements, we are not responsible for those monthly statements, either. We would only do forecasts at certain times of the year. We take account of the historical data when we are doing that. Those times of the year are in the lead-up to budget, and we will also do it again in the context of MYEFO. If there is a change that reflects things that have been going over the last six to eight months, we would take account of that in putting together MYEFO.

Senator SHERRY—You receive that data. I would have thought that what was occurring was fairly unusual. Do you verify that data? Do you go back and query any aspect of the data, not you personally but the group?

Mr Tune—Our Revenue Group would certainly have discussions with the ATO around the revenue side. And finance, as they probably explained the other day, would do so with line agencies to see what is happening on the expenditure side.

Senator SHERRY—Was any explanation offered about the circumstances on that occasion?

Mr Tune—Not that I am aware of.

Mr Martine—The monthly financial statements, as Mr Tune has indicated, are prepared by the department of finance. The underlying cash balance up to the end of March and April should outline the reasons for the movements between those months in quite a bit of detail. As Mr Tune indicated, the year-to-date numbers on the revenue side would feed into the views from our revenue forecasters, and the year-to-date spending trends would feed into the consideration by the department of finance of the estimates that agencies are at that point putting into the estimates system that lead into the budget numbers.

Senator SHERRY—To go back to my earlier question, this seems to have been an unusual circumstance. Was there any particular query or concern about the figures that were being received?

Mr Martine—We certainly, in the lead-up to the budget, as we normally do in any estimates update, ask a lot of questions, both of our revenue colleagues but also the department of finance, about the movements of the numbers. As I indicated, they are essentially responsible in collaboration with departments to come up with the expense estimates, and as part of that consideration they take into account a whole range of factors, which would have included the year-to-date outcomes at that particular point in time.

Senator SHERRY—I understand that. We had a bit of a discussion with finance, of which you may or may not be aware, about their oversighting or attempting to oversight departments and their expenditures at that time. In one sense, you are not directly responsible for oversighting, but you do have a place in the process of consultation.

Mr Martine—Absolutely. We certainly do our best to try to come up with the very best estimates, bringing together both the expense and the revenue side. At the end of the day, we essentially have to rely on the advice that is coming from the department of finance on what the total expense numbers are at that particular point.

Senator SHERRY—Going back to the issue I asked Mr Tune about earlier, are you able to recall a previous year when such a significant variation occurred so late?

Mr Martine—Are you talking about a difference between budget and final budget outcome?

Senator SHERRY—Yes.

Mr Martine—I would probably have to check the last few years. Certainly this year the difference between the outcome and the budget was certainly, from my recollection, higher than in the year before. I cannot remember what the actual figure was, but this year it was certainly higher, particularly on the cash payment side. There was a much larger underspend this year than there was last year.

Senator SHERRY—I certainly cannot remember a year, going back a long time, where such a significant figure emerged. I had a discussion earlier about underlying assumptions. Has your group been involved in any discussions about that?

Mr Tune—In what sense?

Senator SHERRY—About changes to assumptions that could lead to significant adjustments on the revenue side?

Mr Tune—We have not been directly involved, although there is a process whereby, as we let feed into MYEFO, we look at the macro situation and we will include forecasts of the key macro variables in MYEFO, as we always do. That obviously feeds into the estimates of both revenue and expenses. So everything is done on a consistent basis based on the macro forecasts. Those discussions have been going on, and they will be reflected in MYEFO.

Senator SHERRY—That is it, thank you.

CHAIR—Thank you, Mr Tune. Thank you, gentlemen. You are excused. I now invite to the table officers concerned with outcome 3, Well functioning markets.

[9.12 pm]

CHAIR—Ladies and gentlemen, welcome. Senator Sherry?

Senator SHERRY—Mr Murphy, you have an impressive array of staff with you. I am going to have to disappoint most of them, I think. It is not going to be a long session. I asked a general question earlier about the consultancies in respect of HIH, which totalled \$442,853. Can you give me some more detail about these consultancies, please?

Mr Murphy—I think you are referring to the consultancies on page 253 of the annual report. Basically, there was a consultancy for legal advice to the HIH assistance scheme, moneys paid to Clayton Utz commercial law firm. Then there is Watson Wyatt Australia, another \$444,800, which was provided to hire a consultancy to provide change management services for the restructuring of the HIH Claims Support Scheme. If you refer back to page 76 of the annual report, that is where we talk about the HIH Claims Support Scheme and how cabinet directed us to restructure the scheme. The claim support scheme arose out of the failure of HIH, where eligible claimants could seek to have their insurance claims met from the fund which was appropriated by the government to look after eligible claimants. They are primarily individuals or microbusinesses. The Watson Wyatt one was there to restructure the scheme so that now the claim support scheme is actually being managed by Treasury and not by an independent body. Basically, the reason we have done that is that the claims now are gradually reducing so there is not as much day-to-day work in relation to the claims under the support scheme.

Senator SHERRY—In my question I said the three consultancies totalled \$442,000, but it is a lot more than that, when I add it up. It must be almost a million spent on consultancies. What was Prentice Parbery Barilla—‘provide advice on schemes of arrangement in the HIH Group liquidation’—about?

Mr Murphy—I think I know what it is, but I am not certain. I would have to come back to you about that. I do not have the manager for that area with me tonight so I will have to get back to you on that.

Senator SHERRY—Finally, what does Tall Poppies Research and Marketing Pty Ltd do? They ‘provide research for the Consumer Information Program relating to information products’.

Mr Murphy—That would be dealing with the consumer products area. I can get you some information on it. It is no longer with Treasury. It has been transferred to the ACCC. That primarily was dealing with consumer safety issues.

Senator SHERRY—How did you get involved in that in the first place?

Mr Murphy—It was a function within Treasury during this financial year and it has been transferred to the ACCC, as it was felt it was more appropriate to be within there.

Senator SHERRY—Was that transfer announced? I have not seen anything on that.

Mr Murphy—I think there was a press release, because the ACCC was quite happy to receive that function and—

Senator SHERRY—I am sure; they are getting bigger and you are getting smaller.

Mr Murphy—Yes, but it is better suited to that area.

Senator SHERRY—Was a unit transferred?

Mr Murphy—Yes, a small unit. It does the tobacco labelling, those types of issues, and baby cots and car jacks, people being killed in jack collapses, which is a relatively common thing.

Senator SHERRY—I was not even sure you were looking at these things in Treasury.

Mr Murphy—We were, because they were devising safety standards for certain things and consumer standards for them. It was actually quite a topical issue, I think, at last estimates actually.

Senator SHERRY—I must have missed that.

Mr Murphy—Yes, it was.

Senator SHERRY—Anyway, it has been transferred over?

Mr Murphy—Yes.

Senator SHERRY—And Tall Poppies goes with it?

Mr Murphy—It is on our books because, during that financial year, we paid out. I will find out some background for you.

Senator SHERRY—Was there a transfer of staff over?

Mr Murphy—Yes.

Senator SHERRY—How many were involved in that transfer?

Mr Murphy—Between six and eight. It is only a small unit.

Senator SHERRY—Was that part of the competition consumer policy advice?

Mr Murphy—Yes. We still do consumer policy, but we do not do consumer information and consumer safety. The administration of it—we still have responsibilities for policy in relation to some of those matters.

Senator SHERRY—I wish to raise a couple of issues on the financial system and corporate governance. I raised with APRA and ASIC the issue of clearing houses and their place in the financial system. The issue has been raised with me by quite a number of people in the financial services industry. Obviously, the clearing houses that are part of a superannuation fund, a bank or a life company are structurally part of and subject to the regulation of APRA, and obviously, for some of their activities, ASIC. But in relation to a clearing house that clears money from an employer, mainly centred around so-called superannuation choice, where the employer pays the clearing house and the clearing house then clears it to different superannuation funds, have you done any examination into what appears to be a lack of regulation around clearing houses, freestanding clearing houses, and the financial system?

Mr Murphy—The term ‘clearing house’, just to clarify it, is sort of a term of art that is primarily used as in the ASX has a clearing house, the SFE has a clearing house, in terms of trades, share transfers and so on. I think what you are talking about is a clearing house, or a body, that is collecting money and then feeding it out to various investments.

Senator SHERRY—That is correct. Under the so-called super choice, the employer in many cases, probably the vast majority, over time will not be paying into one fund; they will be paying into more. I think that gradually will occur. They do not want to do that, or they want to pay to one point. Therefore, clearing houses are being used. Lots of institutions have established them within funds. But there are freestanding clearing houses, and it raises the issue, particularly given the increasing use of these freestanding arrangements, of the implications of their regulation. What happens if one fails and they are holding moneys? It is not just superannuation assets, but that will be the big growth area and the predominant area of clearing, if you like. Have you not had a look at the implications of this at all?

Mr Murphy—I will just check. I am advised by a colleague that ASIC is looking at whether there should be greater regulation or some regulation of these entities. We have not done much on that. I would say to you that the rules, regulations and duties applying to the employer and anyone handling the money stay, notwithstanding the fact that they might be passing it through to an entity to do a job for them to be passing it on. You cannot avoid your duties and liabilities for the proper handling of either superannuation moneys or other investment moneys by passing them through an intermediary to someone else. But there may be—

Senator SHERRY—That might be the theory, but the reality is that these things are increasing in use.

Mr Murphy—Yes.

Senator SHERRY—It is understandable why. It is a direct consequence of a change to the law.

Mr Murphy—Yes.

Senator SHERRY—I do not think you would be able to maintain a position practically, anyway, where you said, ‘The employer has paid the money. The clearing house has gone broke. The employer has got to pay it again.’ I think there would be a real outcry if this occurred.

Mr Murphy—I would say a couple of things. It may be that, if this becomes the norm, you may seek to license them. The highest amount of regulation would be to license those people to ensure they are fit and proper and they are a viable entity. I go back to my initial point, that the people who are initially involved in the collection of these moneys hold the duties and responsibilities.

Senator SHERRY—Yes, I appreciate that is the legal position. I am just flagging an issue. I have had it raised with me. It seems to me to be—‘weakness’ would be the wrong—

Mr Murphy—It is whether the law needs to adapt to the way the market is developing.

Senator SHERRY—I do not think the law has adapted in the sense of the regulatory oversight.

Mr Murphy—Yes.

Senator SHERRY—Is your group involved in the Productivity Commission's review of regulation?

Mr Murphy—Yes.

Senator SHERRY—I asked some questions earlier about this with the PC. It was this morning or last night. Treasury did not perform well. That was one of the outcomes of this review. I am referring to regulation impact statements.

Mr Murphy—In a few instances—I wouldn't say a great number of instances—on the face of it, from the numbers, regulatory impact statements were either not done or found to be inadequate. That does concern us, and we are reviewing our processes. I would just say that the failure in this regard is not in regard to these people here or our appreciation of the importance of regulatory impact statements. To me, once I look at it, it is more about some of the systems and procedures that we have adopted and some uncertainties and lack of clarity about when some of these impact statements are required. In a couple of instances, statements were prepared but not tabled, for reasons other than lack of interest or whatever.

Senator SHERRY—Sorry; I do not understand that. You prepared them in some cases, but they were not tabled. What is this lack of interest thing?

Mr Murphy—Events overtook the issuing of the RISs. One was to do with the choice, the negotiations in the Senate over the fees and charges. Another was to do with matters relating to the split of the NGF. By that I mean the failing of Treasury has been that, in certain instances, RISs were produced and ticked off at the decision-making process time, and then, on other occasions, when another one had to be prepared when the legislation actually went to parliament, that was not done because of the events as they unfolded.

Senator SHERRY—Was that explained in the parliament itself, that this could not be done for this reason?

Mr Murphy—Explained where?

Senator SHERRY—In the parliament.

Mr Murphy—No, not at that time.

Senator SHERRY—You would appreciate there is a lot of focus on regulation at the present time and red tape.

Mr Murphy—Yes. That is right.

Senator SHERRY—The PC's review was not too flattering of Treasury's performance in this regard.

Mr Murphy—I agree. It concerns me that we do not have 100 per cent compliance. Without making excuses, I am just saying that, in certain instances, it is not that the matter was not considered or it was ignored; it is just that events unfold such that the RISs just don't come into play or they are not tabled. We have to get over that. One of the reasons is there is some uncertainty in relation to requirements. We have to streamline this and look at these issues.

Senator SHERRY—Will Treasury be making a submission to the task force led by Mr Banks on ways to identify and reduce the amount of bureaucratic red tape?

Mr Murphy—We have had meetings with Mr Banks already and talked to him and his committee about what issues they should look at. Also, the parliamentary secretary has had a meeting with Mr Banks on that.

Senator SHERRY—Which parliamentary secretary is that?

Mr Murphy—The Parliamentary Secretary to the Treasurer, Mr Pearce, met with Mr Banks. We are proposing to provide the committee with information that we have been looking at ourselves, and we will also give an undertaking to assist them in any way in terms of anything they would like us to give them advice on.

Senator SHERRY—But Treasury is not providing a secretariat as such, is it?

Mr Murphy—We have provided two people to the secretariat.

Senator SHERRY—Will they be part of the secretariat?

Mr Murphy—Yes.

Senator SHERRY—Where have they come from?

Mr Murphy—One from our Financial Systems Division and one from our Revenue Group, two quite senior people.

Senator SHERRY—That is it from me.

CHAIR—Thank you, Senator Sherry. Senator Wong?

Senator WONG—I have questions for the Financial Reporting Council only.

Mr Murphy—Mr Charles Macek, the chairman of the council, cannot be here tonight. The head of the secretariat is here, and I am a member of the Financial Reporting Council. I spoke to Mr Macek and said I would seek to answer some of the questions, and what I cannot answer we will take on notice.

Senator WONG—Mr Murphy, we did indicate we would have questions for the FRC.

Mr Murphy—Yes. As I am saying, Mr Macek gives his apologies. He had meetings in Tasmania and he will attend the next meeting. He just could not organise himself to be here.

CHAIR—Senator Wong, when was the notice given?

Senator WONG—Last week, I think.

CHAIR—Mr Murphy, that is within the time limit for the giving of notice, according to our secretariat. Ordinarily the Senate and indeed committees of the parliament, including Senate estimates committees, are regarded as a priority over other commitments, certainly commitments of a professional nature. Can you give a fuller explanation?

Mr Murphy—No, I really cannot. I discussed it with Mr Macek and we considered that, in light of the things, it was difficult for him to get back from Tasmania; that, if questions arose, I would seek to answer those questions initially and then what could not be answered I would take on notice.

CHAIR—Mr Murphy, this arose in another Senate estimates committee earlier in the week in relation to the Australian Broadcasting Corporation. Ordinarily there is an expectation that the appropriate officer, who is usually regarded as the senior officer, will appear, and senior officers do the Senate the courtesy of appearing. For example, Mr Samuel, from the ACCC, and Mr Lucy, from ASIC, both of whom are extremely busy people, appear. I do not think this is satisfactory. There is nothing more to be done about it this evening, but I would ask you to have regard to that next time, in the event the matter arises again. Senator Wong?

Senator WONG—I wanted to discuss the international financial reporting standards and get some sense of what the progress of the take-up of the IFRS has been.

CHAIR—Before you get a head up of steam, Senator Wong, the secretary does point out to me that the sitting pattern, including the estimates dates for next year, have been published this week and are available on the parliamentary web site. For next year's estimates, everyone will have plenty of notice as to when the estimates committee hearings will be. Sorry, Senator Wong.

Senator WONG—What is the progress on the international take-up of the IFRS?

Mr Murphy—I can speak in general terms. I cannot give you the list of countries. I would say it has been very positive. You would have to say that the concerns and the questions that arose initially about whether there would be a take-up have not come to pass. The European countries and a number of Asian countries have moved onto international accounting standards. The Japanese now have started to negotiate with the international body on the take-up of international accounting standards. The convergence project with the US, with the Accounting Standards Board in the US, is going very positively. We can get you the list of countries. I think that has been tabled to you before. Overall, it has been quite a positive story.

Senator WONG—I am happy for you to take that on notice. You mentioned the EU. It is the case, isn't it, that quite a number of EU countries have adopted many but not necessarily all of the IFRS?

Mr Murphy—It is a different approach in the EU, because in lots of areas they are only adopting accounting standards for publicly listed companies, whereas Australia has adopted the standards across the board. The point of picking and choosing is that, if you do do that, you basically lose the advantage of being able to sign off your accounts as being to the international accounting standards.

Senator WONG—Yes, I understand that. What I was trying to tease out a bit was, when you say 'very positive', exactly the extent to which the take-up has occurred. The issue of convergence with the US—the US has not taken up the IFRS, has it?

Mr Murphy—No, it is still under the US GAAP. But there is a project being run between the US accounting standards board and the international board on how you can bring about convergence.

Senator WONG—But there has not been agreement as yet?

Mr Murphy—It has come a long way in the last couple of years from what it was. There was agreement to talk. They more than talk; they have joint projects going forward.

Senator WONG—Yes, but there is not agreement on exactly how there will be convergence in terms of the accounting standards in the United States and the international financial reporting standards?

Mr Murphy—No. The answer is that there is not convergence at this point in time, but there is a process in place to work towards convergence.

Ms Wijeyewardene—I think in terms of the take-up worldwide we are looking at over 100 countries that have committed to adopting international standards.

Senator WONG—Of those, how many have adopted all of them?

Ms Wijeyewardene—I could not tell you that.

Senator WONG—Perhaps you could take that on notice, because obviously there have been some suggestions to me of a very low number, other than Australia and a couple of others, that have adopted the entirety. But that is discussions and conversations; I have not looked at the evidence of that.

Ms Wijeyewardene—Sure. In terms of the comments on Europe, as Mr Murphy said, the application of the standards to companies in Europe differs to Australia. They are adopted only by publicly listed companies. In terms of those companies that are applying international standards, they are applying the full body of standards, not picking and choosing. That is my understanding. The other thing that I would say is that the international standards board is looking at a convergence program now with China.

Senator WONG—I do not think either of you were involved in the parliamentary joint committee hearing in relation to these standards, from recollection. There were some significant concerns raised by cooperatives about—I think one accountant described it as a sex change—equity being treated as debt. You understand the issue?

Ms Wijeyewardene—Yes.

Senator WONG—You do not understand the issue, Mr Murphy?

Mr Murphy—Yes, I do.

Senator WONG—The same issue would apply to a mutual structure. Is that correct?

Ms Wijeyewardene—I think that is right.

Senator WONG—There were some recommendations about the impact on cooperatives. Has the FRC implemented or taken any action in relation to cooperatives, about the introduction of this?

Ms Wijeyewardene—I could not answer that in terms of what the FRC has done, but I do know that this is a particular issue in New Zealand.

Senator WONG—I am not interested in that, actually.

Ms Wijeyewardene—But I think that New Zealand is very much taking the lead in—

Senator WONG—I am asking about what the actions of the FRC have been. Are you able to answer that?

Mr Murphy—I cannot recollect cooperatives. A lot of these issues where it gets to the issue of interpretation of standards are matters for the AASB. On the issue of whether there is a need for any guidance to people in relation to how they should act in relation to the international standards, I can find out for you whether the AASB has issued any guidance.

Senator WONG—My recollection of the structure is that the AASB sits beneath the FRC. Is that how it is?

Mr Murphy—Yes.

Senator WONG—That is the context of my question to the FRC. Are you aware of work the AASB is doing, in the context of your oversight role, in relation to mutuals and cooperatives?

Mr Murphy—I would have to go back through the meetings. The FRC plays an oversight role and discusses current issues in the adoption of IFRS. The Chairman of the AASB is in the meetings where these issues are bandied about and, where people are having difficulties in complying, the AASB is put on notice. If there is need for action, they would be the ones to issue guidance—less so than the FRC.

Senator WONG—Perhaps you could take this on notice. I assume, as the oversighting body, you can take on notice not only what the FRC is doing but also what the AASB is doing. Is that right?

Mr Murphy—Yes, I think I understand. The FRC and the AASB work closely together. But the AASB is the actual one making a firm statement as to how companies or cooperatives should act in relation to IFRS.

Senator WONG—I can ask that the AASB to appear at the next round of estimates. Would that be more effective?

Mr Murphy—Oftentimes the chairman of the FRC and the chairman of the AASB appear here together.

Senator WONG—Yes. We may well do that. Are you aware of the concerns that have been expressed by a number of mutual funds about the impact of IFRS?

Mr Murphy—Is this the debt and equity issue again?

Senator WONG—Yes.

Mr Murphy—Yes. A number of people have expressed concerns or issues about this. But realistically, even applying IFRS, it does not change the financial standing of the company in their accounts.

Senator WONG—I understand the technical argument.

Mr Murphy—It is more than a technical argument.

Senator WONG—What I am asking about, though, is: are you aware of the concerns that have been raised?

Mr Murphy—Yes.

Senator WONG—Are you aware of the resolution passed at the International Investment Funds Association meeting in Washington on 20-21 October?

Mr Murphy—No.

Senator WONG—The resolution stated that, whilst IIFA members supported the convergence of financial reporting in a way that would reflect the unique characteristics of investment funds and will result in more meaningful information for investors, the provisions as currently formulated do not meet the needs of 150 million investors who collectively hold more than US\$16.3 trillion in mutual fund assets, and that mutual funds have special characteristics that require different treatment from corporate entities. The resolution goes on to talk about liaison with the IASB accounting and auditing bodies to ensure mutual funds receive treatment that produces meaningful financial reporting for mutual fund investors. Are you aware of that?

Mr Murphy—No, I am not aware of that, but I am aware of similar statements or comments on the same issue.

Senator WONG—It is a reasonably significant group of investors. It is the International Investment Funds Association.

Mr Murphy—Yes. I am not being dismissive of it. What I am saying is that a similar issue has arisen in relation to unlisted property trusts in Australia. It is the treatment of certain assets. It is an accounting treatment which does not go to the actual capital adequacy or the solvency of the institution itself. It is an accounting treatment—

Senator WONG—I understand that. I think the issue that has been raised—certainly, it was raised before the PJC—and what seems to be the point referred to in the resolution is that most lay people or many investors may not understand that it does not actually change the financial position of the company. It is simply an accounting treatment. But, in terms of meaningful financial information, there are difficulties there. Certainly, that is what the investment funds are saying.

Mr Murphy—Realistically that may be so, but it is very much up to the investment funds or any company to put explanatory information in their accounts. There are lots of other areas, like the treatment of intangibles, where we may question the way the international board has determined how they should be treated under international accounting standards. If you want to go to an international body of rules, it is very difficult to have those rules apply in every country without some wrinkles.

Senator WONG—This is a lot more than a wrinkle, though.

Mr Murphy—I do not think it is.

Senator WONG—This is an issue that certainly was raised in the Australian context. Are you aware of IFSA and other bodies raising that issue here?

Mr Murphy—Yes.

Senator WONG—It has been raised in the international context. I am just asking: what are the FRC and the AASB doing, if anything, to try and deal with the concerns raised by a very large section of the investment fund community?

Mr Murphy—I would say that it is one of a number of issues. When you go for uniformity, you go for an international code.

Senator WONG—Mr Murphy, I am not asking that; I am asking what you are doing.

Mr Murphy—Yes, I am just—

Senator WONG—No, you are giving me a commentary. I am asking what action has been taken.

Mr Murphy—I am answering the question.

Senator WONG—With respect, I do not think you are. I am asking what actions have been taken by the FRC and the AASB.

Senator Minchin—Don't badger him. You are not giving him a chance to answer.

CHAIR—Mr Murphy, you finish saying what you wanted to say. If Senator Wong does not consider that a responsive answer, she can repute the question.

Mr Murphy—The FRC and the AASB are well aware of, however you want to describe it, the difficulties in some instances of applying international standards to current market practices, current definitions in law and so on. There has been lots of discussion in the FRC, and advice has been taken from the AASB as to whether Australia should in effect either provide an exception to the international standard in this area and other areas or whether the benefit of applying international standards and adopting international standards is the primary priority or criterion, and that the way to get around some of these issues—and this is not the only one—is for the AASB to give an explanation as to how people can meet international standards without changing their practices or, alternatively, on this equity to debt issue, to give more elaboration in annual reports so that people who are investing or who are interested in the company can read and understand why this is largely an accounting treatment; it does not go to the actual merits or the solvency of the company.

Senator WONG—Do I understand your evidence to be that, in terms of the FRC and the AASB and your actions, you considered an exemption, which you have dismissed—I have to say that I do not disagree with that necessarily—and to suggest to entities in this situation that there should be better explanatory information in terms of the accounting treatment of what used to be presented as equity and now debt in their financial reports? Is that a reasonable summary of the actions taken so far?

Mr Murphy—The other action that has been taken on some of these areas—well, that is part of it, I should add—is that the FRC and the AASB make representations to the international board.

Senator WONG—That is where I wanted to go. What representations?

Mr Murphy—I would have to check. Some of these issues are continually raised with the international board, where they have gone forward with a standard, as I say, in trying to make an international standard, and there are domestic difficulties, put it that way. Other countries have domestic difficulties as well. I will have to check on the cooperatives one, but I know these other issues have been raised. Representations are made to try to get a change in the standard, to try to get a better standard more suitable to Australia. But that is difficult.

Senator WONG—Can we clarify this, then. Could you take on notice to provide advice as to what representations have been made by the FRC or the AASB in relation to the implications of in-principle mutual fund structures and cooperatives?

Mr Murphy—Yes.

Senator WONG—Ms Wijeyewardene, have other countries dealt adequately with this issue of how IFRS impacts on cooperative or mutual structures? You mentioned New Zealand before?

Ms Wijeyewardene—Certainly, the impact on cooperatives in New Zealand is an issue. The Financial Standards Board in New Zealand and I think the AASB in conjunction with them are working with the ISB or making representations to the ISB on the cooperatives issue.

Senator WONG—I see. I suppose this is part of what you have taken on notice, but has the AASB done the same thing?

Ms Wijeyewardene—I think in terms of their work with the New Zealand board they are working together.

Senator WONG—I see.

Ms Wijeyewardene—But it is a much bigger issue in New Zealand, and New Zealand is very much taking the lead on that.

Senator WONG—There was a comment that there were some domestic wrinkles, I think was the phrase you used, Mr Murphy. The fact is this actually affects any jurisdiction where you have a mutuals type structure. It is not unique to Australia, New Zealand or the United States.

Mr Murphy—No, but there are lots of—there would be a better word—exceptions around the place if you go for international codes.

Senator WONG—Can I ask a question in relation to this fact, that Mr Banks, who, as you know is chairing the task force on business regulation, has indicated publicly that amongst the areas to be reviewed in the next three months are accounting standards. Has Mr Banks held any discussions with the FRC or the AASB on that issue?

Mr Murphy—I am not aware of any discussions. To be fair to Mr Banks, the review has just started.

Senator WONG—No, it says among the areas to be reviewed in the next three months.

Mr Murphy—Yes.

Senator WONG—Has there been any discussion about how accounting standards will come into that review?

Mr Murphy—No, I am not aware of that.

Senator WONG—Is there any risk that IFRS would actually be wound back as a result of such a review?

Mr Murphy—I doubt that very much. But that is a matter for Mr Banks. Mr Banks and his committee have said they are going to adopt a very open and consultative process. I think if

the business community felt that that was a big issue that they wanted to bring forward to the committee, they would. I would be surprised. Who knows? But it does not seem to be a big issue at the moment.

Senator WONG—But the issue is this, isn't it: the FRC and the AASB are the ones that set these accounting standards. What is the interaction between this proposed review and either yours or the AASB's standard setting role?

Mr Murphy—Mr Banks's committee is an advisory body that will give advice to the government. I am not even going to speculate what his advice would be, but if the government were to take that onboard.

Senator WONG—Is this right or not? I am not sure about who has the power here? The government could instruct the FRC to instruct the AASB to modify the standards?

Mr Murphy—No, the—

Senator WONG—How would that work, a change in policy?

Mr Murphy—The FRC has a statutory responsibility to monitor and to give advice to the government on adoption of accounting standards. If you had come into that situation where the review recommended something, the government would have to look at that and take it onboard and see what it wished to do.

Senator WONG—Australian business has already made a substantial investment in making the change to IFRS, has it not?

Mr Murphy—That is right.

Senator WONG—IFRS was adopted because it was seen as beneficial in terms of international access to capital essentially?

Mr Murphy—Yes.

Senator WONG—There were some very sound policy reasons for the adoption of IFRS.

Mr Murphy—That is right.

Senator WONG—Any modification or exemption would potentially fly against such objectives?

Mr Murphy—Yes.

Senator WONG—Thank you.

CHAIR—Thank you, Senator, Wong. Thank you, Mr Murphy. Ladies and gentlemen, that concludes this bracket of evidence and that also concludes these hearings on the supplementary estimates for the Treasury portfolio for the budget. Thank you, ladies and gentlemen. You are excused. Thank you, Minister. Thank you to the secretariat and to Hansard for their cooperation. I remind you the date for the receipt of questions taken on notice is 16 December 2005. The proceedings are closed.

Committee adjourned at 9.57 pm