

FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE
MANAGEMENT AND ASSURANCE OF INTEGRITY BY CONSULTING
SERVICES (CONSULTING SERVICES)
ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Confidential settlements
Type: Written
Senator: Barbara Pocock

Question:

1. How many confidential settlements have the ATO and PwC entered into since 2012 to date?
2. How many confidential settlements have the ATO and PwC entered into in the 2022-23 Financial Year?
3. Provide details of all confidential settlements entered into between the ATO and PwC in the 2022-23 Financial Year, including, but not limited to:
 - a. The issue(s) in each settlement
 - b. The position of PwC on the issue(s) in each settlement
 - c. The position of ATO on the issue(s) in each settlement
 - d. The number of meetings and/or discussions that occurred in relation to each settlement and the dates these meetings occurred.
 - e. Names and positions of all PwC parties present during settlement negotiations
 - f. Names and positions of all ATO officers present during settlement negotiations
 - g. Name and position of ATO decision maker(s)
 - h. Name and position of PwC decision maker(s)
4. For each confidential settlement entered into between the ATO and PwC in the 2022-23 Financial Year, provide copies of:
 - a. Settlement offers from the ATO
 - b. Settlement offers from PwC
 - c. All documents in relation to the settlement discussions, including, but not limited to, minutes and notes.
 - d. All correspondence between the ATO and PwC in relation to the settlement, including, but not limited to, emails, text messages and letters.
5. It is understood, that in one confidential settlement entered into between the ATO and PwC in the 2022-23 Financial Year the ATO imposed penalties on PwC for making false and misleading statements in relation to their claims of legal professional privilege.
 - a. Please confirm that such a settlement occurred.
 - b. What was the original penalty the ATO indicated it would impose on PwC in relation to this matter?

- c. At the conclusion of the settlement what was the final penalty the ATO imposed on PwC in relation to this matter?
 - d. Did the ATO reduce the initial penalty? If so, why?
 - e. Did this settlement involve an Assistant Commissioner? If so, please provide their name?
 - f. Provide the names and positions of any other ATO decision maker(s) involved in this settlement.
 - g. Provide the names and positions of all ATO officers present during settlement negotiations in this settlement.
 - h. Provide the names and positions of all PwC parties present during settlement negotiations.
 - i. Provide details of the position of PwC on the issue(s) in the settlement.
 - j. Provide details of the position of ATO on the issue(s) in the settlement.
 - k. Provide the number of meetings and/or discussions that occurred in relation to the settlement and the dates these meetings occurred.
 - l. Provide a copy of the settlement offer(s) from the ATO.
 - m. Provide a copy of the settlement offer(s) from PwC.
 - n. Provide all documents in relation to the settlement discussions, including, but not limited to, minutes and notes.
 - o. Provide all correspondence between the ATO and PwC in relation to the settlement, including, but not limited to, emails, text messages and letters.
6. Did the ATO notify the TPB about confidential settlements entered into between PwC and the ATO in relation to the PwC tax scandal?

Answer:

Providing all documentation and details requested in the question on notice would not be consistent with the ATO's secrecy obligations. However, we recognise the level of interest of the Senate in matters pertaining to PwC and therefore have sought to provide responses to the questions but in a way that balances the ATO's secrecy obligations.

When responding to this Question on Notice we have assumed that the questions are directed to settlements with PwC in the capacity as a counterparty. This can be contrasted to settlements with taxpayers where PwC may have acted as a representative for the taxpayer.

Question One

According to our records, there have been two settlements with PwC since 2012.

For completeness, we note that that we have also entered into two enforceable voluntary undertakings (EVU) with PwC since 2012. Strictly speaking, EVUs are not settlement agreements as they do not bind the Commissioner to take action or to refrain from taking action.

Question Two to Five

The ATO entered into one settlement with PwC during the 2022-23 financial year.

The settlement was conducted in line with the ATO's Code of Settlement. See: [Code of settlement | Australian Taxation Office \(ato.gov.au\)](#). As recognised in the Code, settlements are an important and efficient element of good tax administration. In keeping with general practice, it covers both past and future obligations. Consistent with policy for large business settlements, two senior executive officers were involved in settlement decisions.

The settlement related to a dispute between the ATO and PwC concerning penalties levied on PwC for making false and misleading statements in a response to a compulsory information gathering notice. The settlement did not relate to the breach of confidentiality matters investigated by the Tax Practitioner's Board.

The settlement has been reviewed by an ex-judge as part of the Independent Assurance of Settlement process. The Reviewer concluded that the settlement was fair and reasonable for the Australian community. Relevantly, the Reviewer concluded that the settlement was conducted fairly and properly and was consistent with legal principles.

Question Six

Yes.