

Senate Economics Committee
Inquiry into Centrelink's Compliance Program
ANSWERS TO QUESTIONS ON NOTICE
Australian Taxation Office
DECEMBER 2019

Department/Agency: ATO

Question: 1

Topic: 2015-16 tax refunds garnished by the ATO

Question:

CHAIR: Thank you. We will get into questions. I do want to go to Single Touch Payroll very shortly, but first off I would like to know if you can tell us how many online compliance programs—whether it be the original OCI, the EIC or CUPI, any of those debts—have been garnished via the taxation system?

Mr Hirschhorn: I am not in a position to tell you the source of debts. I can give you information on how many refunds have been garnisheed, but I can't ascribe them to programs.

CHAIR: That's interesting, because neither can the department. Could you tell us, in that case, how many have been garnisheed for the 2015-16, 2016-17, 2017-18 and 2018-19 financial years?

Mr Hirschhorn: I have with me the 2016-17 year to the 2019-20 year to date. I don't have 2015-16.

CHAIR: If you could take that one on notice that would be appreciated.

Mr Hirschhorn: So 2015-16 on notice?

CHAIR: Yes, please.

Answer:

Centrelink

For the 2015-2016 financial year there were 42,689 refunds garnished with a total value of \$32,729,394.

Child Support

For the 2015-2016 financial year there were 97,975 refunds garnished with a total value of \$114,701,934.

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Question: 2

Topic: Monthly breakdown of refunds garnished by the ATO

Question:

CHAIR: Are you able to give us on notice the way the numbers for each of those years flow month by month, so we can get an idea?

Mr Hirschhorn: Yes, I am happy to take on notice whether we can provide monthly data or possibly data to 31 October and then remainder of year. I'll take on notice what we can provide.

CHAIR: I'm trying to look at how it's gone seasonally over the financial years.

Answer:

Centrelink

The figures below represent the number and value of the refunds intercepted. One client can have multiple refunds intercepted.

Year	Month	Refunds garnished	Total \$ value
2015	Jan	1,166	938,141
	Feb	1,099	964,177
	Mar	1,008	876,205
	Apr	853	654,077
	May	1,011	707,081
	Jun	770	581,799
	Jul	13,212	9,900,719
	Aug	10,308	7,594,725
	Sep	5,288	4,074,372
	Oct	3,698	2,784,675
	Nov	2,906	2,320,154
	Dec	1,354	1,109,549
2016	Jan	1,151	1,010,168
	Feb	1,163	920,677
	Mar	1,061	908,066
	Apr	806	711,428
	May	981	818,078
	Jun	761	576,783
	Jul	15,909	13,705,770
	Aug	12,943	10,614,347
	Sep	5,323	4,312,949
	Oct	3,758	2,704,037
	Nov	3,182	2,448,667
	Dec	1,305	1,160,791
2017	Jan	904	847,263
	Feb	422	365,990

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	Mar	1,112	900,931
	Apr	93	64,295
	May	2	-
	Jun	491	505,839
	Jul	11,602	8,941,371
	Aug	9,203	7,130,578
	Sep	3,933	3,113,055
	Oct	3,332	2,682,361
	Nov	2,898	2,370,618
	Dec	1,264	1,044,061
2018	Jan	1,318	1,106,273
	Feb	1,106	937,888
	Mar	1,090	851,777
	Apr	1,223	1,059,279
	May	1,595	1,384,071
	Jun	1,288	1,020,261
	Jul	28,026	23,049,830
	Aug	17,720	15,037,375
	Sep	6,695	5,966,303
	Oct	5,887	5,140,155
	Nov	4,395	3,797,748
	Dec	1,766	1,633,174
2019	Jan	1,910	1,777,456
	Feb	1,556	1,354,814
	Mar	1,442	1,294,331
	Apr	1,408	1,232,257
	May	2,041	1,757,586
	Jun	1,322	1,103,182
	Jul	35,065	37,855,306
	Aug	17,428	19,371,005
	Sep	7,351	7,872,514
	Oct	5,987	6,565,149
	Nov	3,856	4,186,548
	Dec	1,069	1,124,892

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Child Support

The figures below represent the number and value of refunds intercepted. One client can have multiple refunds intercepted.

Year	Month	Refunds garnished	Total \$ value
2015	Jan	3,730	4,682,289
	Feb	4,000	5,097,881
	Mar	3,893	4,903,374
	Apr	3,287	3,849,366
	May	4,013	4,672,564
	Jun	3,072	3,925,515
	Jul	22,110	21,392,593
	Aug	21,657	24,935,421
	Sep	13,180	16,192,205
	Oct	9,749	11,715,084
	Nov	7,925	9,569,189
	Dec	4,495	6,085,079
2016	Jan	3,155	4,056,592
	Feb	3,428	4,489,002
	Mar	2,974	4,177,141
	Apr	2,729	3,417,429
	May	3,618	4,639,925
	Jun	2,955	4,032,275
	Jul	20,487	20,382,498
	Aug	23,737	26,669,445
	Sep	12,026	14,631,248
	Oct	9,170	10,988,348
	Nov	8,411	9,928,886
	Dec	3,834	4,824,299
2017	Jan	3,808	5,350,671
	Feb	3,384	4,689,994
	Mar	3,747	5,034,895
	Apr	2,982	3,859,616
	May	4,379	5,417,547
	Jun	3,333	4,358,096
	Jul	24,506	23,847,607
	Aug	25,013	28,699,516
	Sep	12,365	15,070,787
	Oct	10,439	12,544,082
	Nov	9,027	10,978,919
	Dec	3,787	4,933,772
2018	Jan	3,660	4,724,255
	Feb	3,738	5,007,461
	Mar	3,559	4,854,224
	Apr	3,757	5,001,122
	May	5,028	6,542,052

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	Jun	4,086	5,432,539
	Jul	28,886	28,701,883
	Aug	24,465	28,326,456
	Sep	11,511	14,357,614
	Oct	10,275	12,402,782
	Nov	7,858	9,626,939
	Dec	3,539	4,554,727
2019	Jan	3,577	4,816,258
	Feb	3,060	4,017,818
	Mar	3,118	4,194,613
	Apr	3,021	3,672,970
	May	4,324	5,377,902
	Jun	2,922	3,993,346
	Jul	36,105	39,701,093
	Aug	25,106	32,039,317
	Sep	12,766	17,299,649
	Oct	11,100	14,664,092
	Nov	8,608	11,683,380
	Dec	4,161	5,999,280

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Department/Agency: ATO

Question: 3

Topic: Garnishee requests

Question:

CHAIR: Since the government suspended the operation of the income averaging process, have you had any conversations with either your minister or the Services Australia minister about suspending garnishing of income averaging debts or how to establish the number of people who were garnished in relation to income averaging?

Mr Hirschhorn: Not to my knowledge. In a sense, I wouldn't expect us to. If DHS make a decision to garnish or not garnish on a different basis, we would expect to just see that in fewer garnishee requests.

CHAIR: Have you seen fewer garnishee requests?

Mr Hirschhorn: Unfortunately, the only numbers I have in front of me are up to 31 October. I would expect garnishee numbers to drop off—just the nature of seasonality—in any event. I'd have to take on notice what the trends are for this year compared to other years.

Answer:

Refer to question 2.

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Question: 4

Topic: Seasonality of Centrelink flags

Question:

CHAIR: You may get a flag as Centrelink processes somebody's supposed debt. You'd get flags throughout the year, wouldn't you? That wouldn't necessarily be seasonal?

Mr Hirschhorn: I'd have to take that on notice, but I think we do. It's not entirely seasonal in that there is a process in DHS where they do what I think they call a true-up type of process at the end of each year, I think. In July or August they work out the year's results.

Answer:

DHS provides data to the ATO identifying clients who owe a debt to the Commonwealth and are eligible for tax garnishee. The ATO uses this data to place a Client of Interest (COI) indicator on the ATO client record. This can occur at any time during the year.

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Department/Agency: ATO

Question: 5

Topic: Removal of Centrelink flags

Question:

Senator Siewert: Have you ever been asked to remove any flags?

Mr Hirschhorn: I'd have to take that on notice.

Answer:

DHS sends an electronic message (system to system) to the ATO to add and remove indicators, this can occur at any time throughout the year.

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Question: 6

Topic: Changes in Centrelink flagging processes

Question:

Mr Hirschhorn: In our system, we have a flag that DHS may have a debt, or DHS have told us they have a debt that they may wish us to garnish if we do a refund. We give information, when there's a refund due, to DHS, and DHS tell us at that time whether there's a debt that they would like us to garnish. To answer your question, there's no sense that there are past debts lingering in our system waiting to be garnished. All there is on our system is a flag that DHS may be interested in having us garnish a refund.

Senator O'NEILL: Okay, so it's still with DHS. Have you noticed a change in practice? Are they saying, 'Don't follow through,' when you send them a flag? What's the traffic like?

Mr Hirschhorn: I'd have to take on notice the flows of what's happened since.

Answer:

DHS sends an electronic message (system to system) to the ATO to add and remove Client of Interest (COI) indicators, this can occur at any time throughout the year.

The number of client of interest indicators as at the start of each month is below.

Year	Month	Number of COI indicators
2019	Jan	254,197
	Feb	257,021
	Mar	244,532
	Apr	239,316
	May	244,492
	Jun	241,472
	Jul	242,151
	Aug	217,711
	Sep	208,998
	Oct	205,520
	Nov	213,830
	Dec	174,913
2020	Jan	162,839

Note: COI indicators can be removed or added during the month.

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Question: 7

Topic: Automatic removal of Centrelink flags

Question:

Senator ASKEW: Just out of interest, does that automatically remove existing flags if they haven't got a debt anymore? If somebody has been flagged at some point and then the next 12 months come around and they do it, does it drop off for everybody who has had one before?

Mr Hirschhorn: I'd have to take that on notice.

Answer:

DHS sends an electronic message (system to system) to the ATO to add and remove indicators, this can occur at any time throughout the year.

A reason why DHS may remove an indicator is a question for DHS.

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Question: 8

Topic: Garnishing Family Tax Benefit payments

Question:

Senator O'NEILL: So, in the process for the ATO and the Department of Human Services to garnishee someone's tax return or family tax benefit, you only deal with the tax return? Is that correct?

Mr Hirschhorn: I'll take it on notice, but my understanding is that it is only from the refunds. But I'll take that on notice.

Answer:

The ATO processes income tax returns which may trigger a reconciliation of Family Tax Benefit with the Department of Human Services.

Family Tax Benefit credits can be offset against a tax debt.

Income tax credits can be offset against Family Tax Benefit debts.

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Department/Agency: ATO

Question: 9

Topic: Garnishee requests by DHS

Question:

Senator O'Neil: Are there any other payments or entitlements that the ATO would garnish or withhold?

Mr Hirschhorn: I'd have to take that on notice.

Answer:

Any tax credit entitlements payable to taxpayers may be used to meet a garnishee request from DHS.

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Department/Agency: ATO

Question: 10

Topic: Garnishing wages

Question:

Mr Hirschhorn: we would not garnishee wages on behalf of other agencies.

Senator O'Neil: Ok, and how frequently do you garnishee wages?

Mr Hirschhorn: Senator, I'd have to take that on notice, I believe it's extremely rarely, but I'd have to take that on notice.

Senator O'Neil: Ok if you could give me that over the last 4-5years.

Answer:

ATO garnishees on salaries and wages

2017-18	2018-19
528	469

Due to reporting limitations on our systems, data on the specific types of garnishees issued prior to 2017 is not available.

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Question: 11a

Topic: Legal advice - Centrelink Compliance Program

Question:

CHAIR: Have you sought your own legal advice either earlier or since Centrelink has changed their process? Have you sought any legal advice as to the fact that you're garnishing a particular debt, or a so-called debt, based on what is now—and I understand the other court cases are on foot, but this particular debt has been found to be unlawful. Has that not set any flags off for the department about legality of the way you're garnishing tax returns?

Mr Hirschhorn: I would say that we certainly read the newspapers and are aware of the discussion. I would have to take on notice whether we've received formal legal advice.

Senator O'NEILL: Did you seek any legal advice?

Mr Hirschhorn: I'd have to take that on notice.

Answer:

Commonwealth legislation requires the ATO to action garnishee notices received from the Department of Human Services (DHS) by garnishing tax refunds to recover social security debts. There are criminal sanctions for failing to do so.

On 19 November 2019, the Government announced debts arising from welfare payment compliance reviews will no longer be raised where the only information used is DHS's averaging of ATO income data. This means debts calculated this way aren't being referred to the ATO for garnishing tax refunds any more.

DHS will recall any online income compliance debts already with the ATO where DHS identifies the debt as one affected by the change.

Under paragraph 10 of the Legal Services Directions the ATO would be required to consult with DHS before obtaining legal advice about legislation administered by DHS. That would include consulting on the proposal to obtain advice, provision of a copy of the brief, opportunity to comment on the draft, and provision of a copy of the final advice. The ATO does not have knowledge of the relevant facts to be able to prepare a brief to obtain advice about the application of DHS administered legislation to DHS clients in relation to the raising of social security debts.

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Department/Agency: ATO

Question: 12

Topic: Social security payments garnished

Question:

Senator O'Neil: With regard to the different social security payments that DHS flags, in addition to the Robodebt matters that you might garnishee, what else do they flag? What's the list?

Mr Hirschhorn: I'd have to take that on notice, but we certainly do some things under child support.

Senator O'Neil: Yes because we got those figures from your earlier. What about Disability Support Pension?

Mr Hirschhorn: I'd have to take that on notice

Senator O'Neil: And what about youth allowance?

Mr Hirschhorn: Again, I'd have to take that on notice

Senator O'Neil: Newstart?

Mr Hirschhorn: I would have to take that on notice but I assume that would be part of Centrelink, sorry Senator this level of detail I don't have with me.

Senator O'Neil: Right, thank you. If you could provide the detailed numbers over 4 or 5 years, with regard to what you have garnished in regards to each of the items that DHS have asked you to recoup funds for.

Senator Askew: Can you take that back to 2011 please.

Answer:

The ATO has no visibility of the debt with DHS, including what type of social security payment it relates to.

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Question: 13

Topic: Employees under substantial and small employers reporting through STP

Question:

Senator O'NEILL: How many are substantial and how many are small?

Mr Lucchese: Substantial employers are around 80,000, and small are around 740,000.

CHAIR: What about the number of employees?

Mr Lucchese: Currently, those transacting in Single Touch Payroll cover about 11.5 million individuals.

CHAIR: Are you able to give us the substantial and—

Mr Lucchese: The number of employees?

CHAIR: Yes, per category. I'm trying to find out how many employees there are under substantial employers and how many are under the fewer-than-20 employers.

Mr Lucchese: I don't have that split with me today, but, yes, we can provide that. We'll take that on notice.

Answer:

As at 15 December 2019, employers are reporting on 11.6 million employees through STP, of these approximately;

- 9.5 million employees have a substantial employer (20 or more employees)
- 2.1 million employees have a small employer (<20 employees).

Please note that some employees may have multiple jobs and be employed by a combination of substantial and small employers.

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Question: 14

Topic: Progression and timing of use of STP data

Question:

Mr Lucchese: No, that's correct. It is to be used for discovery purposes only, so understanding the data. STP data is a new data set that is being reported so it is about understanding what is being reported.

Senator O'NEILL: But what is the intention further down the track and at what point of time will it move from discovery to use?

Mr Lucchese: That is subject to a cross-agency committee that is represented by ATO officials, DHS officials and others to get an understanding and move from each of those particular stages. I don't have with me the timing of progression of those but they must be agreed by that committee before it progresses from each stage.

CHAIR: Could you take it on notice?

Mr Lucchese: Yes.

Answer:

As with any major program implementation, the ATO works within the legislative parameters. The sharing and use of additional data elements under Single Touch Payroll (STP) is subject to legislative change that is yet to be introduced into Parliament.

A Single Touch Payroll Cross Agency Governance Forum has been formed and is made up of Senior Executives from the ATO, and Department of Human Services (DHS). This forum has oversight of the STP program.

In terms of implementation, the ATO and DHS have accepted a program lifecycle approach. This method has a three phased approach towards implementation which allows for the progressive testing of both data sharing systems and process progressively through to the full operational implementation. These phases are:

Discovery:

- The objective of this stage is to identify the feasibility of the use of STP data and to calculate the risks, issues and benefits to agencies, clients and staff.
- Business areas wanting to utilise the data must develop a pilot concept plan and conduct an Ethical Assessment before transitioning into the pilot/test phase.
- There are no client consequences during this phase.

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Pilot:

- The objective of this stage is to;
 - test the assumptions of the risks, issues and benefits to the agency, client and staff;
 - compare the current state to the future state.

Any consequences to our clients are within a controlled and monitored environment.

Production (Use):

- The objective of this stage is to implement the use of STP data for the identified use case within a DHS business area.

Exact timing is dependent upon passage of legislation, identification of appropriate use cases by the Single Touch Payroll Cross Agency Governance Committee, ATO approval processes for appropriate use of the data and DHS' implementation readiness.

At this stage, and subject to the relevant legislation, the sequencing from discovery to pilot to production (use) is projected to be based on a progressive rollout with a 12 month transition period from 1 July 2020.

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Question: 15

Topic: STP phase 2 implementation date

Question:

Senator O'NEILL: Okay. That's quite helpful to understand. I want to check the timing. Discovery, pilot, production: are they the three terms that you used?

Mr Lucchese: Yes, discovery, then pilot, then production.

Senator O'NEILL: Is the 1 July 2020 production or pilot?

Mr Lucchese: That's something I need to take on notice.

Answer:

From 1 July 2020, the ATO is expected to be ready to pilot the collection of Single Touch Payroll phase 2 data from employers.

However, some of the additional data elements to be collected from employers under STP phase 2, cannot be collected or exchanged with the Department of Human Services until legislation is in place to allow the Commissioner to collect this information on behalf of another Agency.

The ATO is currently finalising the design of STP phase 2 with employers and the payroll industry. Given the lead times to develop the Information Technology systems required, if new legislation is not in place by 1 July 2020 the ATO will revisit the proposed start date.

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Question: 16

Topic: MB's on implementation of data sharing

Question:

Senator O'Neil: Have there been any ministerial briefings received on the implementation of data sharing (Single Touch Payroll)? If yes, please provide details. Documents and details on the briefings?

Answer:

No ministerial briefings have been received or provided by the ATO regarding on the implementation of data sharing (Single Touch Payroll).

The Department of Human Services (DHS) has policy responsibility for changes to the Social Security Income Assessment model. The ATO's role is to support DHS with this change of model through the collection and sharing of an expanded STP data set.

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Question: 17

Topic: STP pilot stage of using data

Question:

CHAIR: So the anticipated approach is, on 1 July 2020, you would go into a pilot stage of using data for reconciliation with the compliance system?

Mr Lucchese: Yes. In terms of how DHS would use that information, without being able to articulate exactly the dates because there are different scenarios how the data might be used, that is something I'm happy to take on notice.

Answer:

The Department of Human Services (DHS) has policy responsibility for changes to the Social Security Income Assessment model. The ATO's role is to support DHS with this change of model.

At this stage, the sequencing from discovery to pilot to use of Single Touch Payroll data by DHS is projected to be a progressive rollout with the 12 month transition solution commencing from 1 July 2020.

Exact timing is dependent upon passage of legislation, identification of appropriate use cases by the Single Touch Payroll Cross Agency Governance Committee, ATO approval processes for appropriate use of the data and DHS' implementation readiness.