

Economics References Committee
ANSWERS TO QUESTIONS ON NOTICE
Australian Taxation Office
Wednesday, 18 November 2015

Department/Agency: ATO

Question: 1-2

Topic: Transparency reporting

Reference: Spoken – 18 November 2015

Senator: Dastyari, Sam

Question:

Senator DASTYARI: Going back to Chevron for a moment, is the audit with Chevron that you are currently undergoing only related to this issue of the debt, or does it go beyond that?

Mr Hirschhorn: I do not think I can really comment on that.

Senator DASTYARI: Why not?

Senator EDWARDS: It is subject to appeal.

Mr Hirschhorn: Obviously the taxpayer has testified that they have an audit in relation to the interest, and I think that confirming or denying anything further would go to their individual affairs.

Senator DASTYARI: How many audits do you have in the LNG space?

Mr Hirschhorn: I would have to take that on notice, but we do have—and I think you had testimony from pretty much everyone here today that we have—pre-compliance reviews, annual compliance arrangements, client risk reviews and audits, which are the phases. We generally go through—

Senator DASTYARI: You do that for pretty much every key taxpayer, though, do you?

Mr Hirschhorn: We do it for every large taxpayer, but oil and gas is, of course, large, so this industry is pretty easy to get your arms around in terms of the number. I think you can safely assume that every significant oil and gas participant is under constant review by the tax office.

Senator DASTYARI: At some point in the cycle. How many current court cases do you have? I know we have talked about the Chevron one, and you obviously classify this with significant or key taxpayers. How many court cases do you currently have?

Mr Mills: I will have to take that on notice. I do not those numbers at my fingertips.

Senator DASTYARI: Are we talking dozens? Are we talking—

Mr Mills: No, probably less than ten.

Senator DASTYARI: That is not including every Tom, Dick, and Harry who—

Mr Mills: No, you are talking large significant—

Senator DASTYARI: I think your second quadrant is the key taxpayers, which means high amount, low risk. How many key taxpayers are there? We have gone through this before, but you have the figures.

Mr Hirschhorn: The [inaudible] is generally companies with more than \$5 billion turnover, and of course that varies but at the moment I think there are about 75.

Senator DASTYARI: Would you take this on notice: how many matters before court do you have with those 75? And you are saying you can get me a final figure, but around 10 or so.

Mr Mills: Less than that number. I would also say that, generally, unless it is a matter which is going to lay down new principle, the Chevron experience would show that even getting to court is a long process. You will have seen separately our settlement statistics. Unless there is a principle to be set down or some behaviour we really want to call out, many of these cases do not go to court because it is such a long drawn out process to finally resolve the matter.

Senator DASTYARI: For both parties.

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Mr Mills: Yes.

Answer:

How many audits do you have in the LNG space?

- The ATO currently has four audits underway in the LNG industry.
 - These audits cover various issues, such as exploration, financing and transfer pricing.
- We also finalised two audits this calendar year that involve taxpayers in the LNG industry.
- In addition to audits, the ATO uses a number of other compliance products, such as pre-lodgement compliance reviews, Advance Pricing Agreements, and Annual Compliance Agreements. Whilst the majority of taxpayers in the LNG industry are subject to these compliance products, the numbers for these products have not been included in this response.

How many matters before court do you have with those 75 [key taxpayers]?

- For 2015, we have 84 key taxpayers¹ (which does not cover all large taxpayers²).
- We do not currently have any active matters before the court involving those taxpayers, but we expect to have three matters relating to one key taxpayer before the court before the end of 2015.
- The ATO currently has three separate matters involving other large taxpayers² currently before the courts.
- We also have one matter involving a legacy issue for a taxpayer that was formerly a large taxpayer.

¹ As at 31 October 2015. For the purpose of the Senate Inquiry, the ATO excluded 10 superannuation funds and PRRT head entities as they are not key taxpayers for income tax purposes.

² Taxpayers with an Australian turnover of greater than \$250m.