

ANSWERS TO QUESTIONS ON NOTICE

**Inquiry into Coronavirus Economic Response Package Amendment (Ending Jobkeeper Profiteering) Bill 2021**

**Topic: JobKeeper Clawback Mechanism**

**Senator: Nick McKIM**

**Question:**

**Senator McKIM:** Were you asked by Treasury whether a clawback mechanism would have been implementable?

**Mr Hirschhorn:** The concept of a clawback mechanism was discussed but, given the policy decision not to have a clawback mechanism, the question falls away.

**Senator McKIM:** So you're saying that policy decision is not within the bailiwick of the ATO?

**Mr Hirschhorn:** No policy decision really is, but our expertise is on administrability and not on that sort of policy.

**Senator McKIM:** Did you provide advice to Treasury that a clawback mechanism would have been implementable had that been the policy decision?

**Mr Hirschhorn:** I'd have to take that on notice. These conversations happen very rapidly, as you might imagine, and it was a very intense time. I can't recall exactly whether we discussed the issue of administrability.

**Senator McKIM:** A moment ago you gave evidence that the issue of a clawback mechanism did arise in your discussions with Treasury, and what you're now saying is that you can't recall specifically if the issue of whether it was implementable came up; is that right?

**Mr Hirschhorn:** That is correct.

**Senator McKIM:** And you'll take that on notice and come back to the committee?

**Mr Hirschhorn:** I'll take it on notice, but with the proviso that these were conversations where there was no time for nice, bureaucratic memos. These were all-hands-on-deck teleconferences.

**Senator McKIM:** Understood, but surely there were a few emails bouncing around about this as well.

**Mr Hirschhorn:** I'll take it on notice and see.

**Answer:**

Consistent with the evidence already provided to the Committee, we have not been able to locate written advice provided by the ATO, including via email, on the relative administrability of potential 'clawback mechanisms'.