

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

Topic: Crowdfunding

Hansard Page: 7

Question: 1-2

Dr CHALMERS: In terms of reinventing the ATO, one of the issues, I am assuming, is how you keep pace with changes in the economy and how they relate to the tax system. The one I was interested to read about last week was the issue of crowdfunding. I was interested to see that the tax office has taken a position that crowdfunding needs to be determined on a case-by-case basis. I was wondering if anyone was able to talk us through the sorts of principles that apply to that judgement when it comes to crowdfunding. Is something in the GST net or not in the GST net? What is the difference between one appeal or another?

Mr Jordan: I have to declare I am not in that position, but I might ask if any of the second commissioners are able to speak to that.

Dr CHALMERS: I will refer you to the story in The Age from last Tuesday, 19 August, on page 23 and ask that we get a sense of that on notice if that is okay.

Mr Jordan: Yes, we are very happy to do that.

Dr CHALMERS: I do think there is sufficient interest in the community when they are determining different funding models, including crowdfunding. They might appreciate some certainty in terms of where that falls in the tax net.

Answer:

The ATO is aware of crowdfunding developments and will provide advice around taxation issues. However, there is no single GST answer to crowdfunding as a concept. The tax outcome will depend on particular facts.

We have seen three main crowdfunding models emerge: equity based, debt based and 'donation' based (where the 'donation' provided is not necessarily a gift).

The GST treatment of contributions may vary according to:

- (a) the crowdfunding model adopted
- (b) the GST status of the entity
- (c) whether the entity is in Australia or not
- (d) whether the contributor is in Australia or not, and
- (e) what if anything the contributor gets in return for a 'donation' (giftcard, product placement, goods, product, etc).

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

In general terms, GST is only payable by an entity where it is GST registered or required to be, and it supplies something of value in return for a 'donation' from a contributor in Australia. However, no GST should be payable by the entity where a contributor gets an equity or debt interest in return for the contribution.

Imposition of GST on crowdfunding entities depends on the factors mentioned. Those in any doubt about GST outcomes should contact the ATO for assistance. More public guidance will be considered.

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

Topic: Redundancies

Hansard Page: 10

Question: 3

Mr Jordan: It is quite a significant process. It starts out with a self-rating of the level skills and the criticality of the role. There is a self-assessment process done and then there is a business line assessment of the people and the role as well, and then there is a panel that looks at all these cases. One individually assesses every single case. There is 4/4, which is the highest—the person in the role has no particular skills and the role is not particularly critical. We have gone through the 4/4s, and now there are the 3/3s—if you are a 3, you do not have necessarily particular skills that are very important to the organisation, and if the role is rated at a 3, that particular role is not particularly critical at this point. We have managed mostly with the self-assessed and the panel has agreed on 3/3s—I do not think we have had to dip too far below that rating. We have said to some people who have applied that they have critical skills and they are in a critical role, so, sorry, they can't have a redundancy. There has been a little bit of tension, as people have said they wanted it but we have assessed them as being critical to the organisation.

Senator O'NEILL: How many applications for redundancy did you receive in the end?

Mr Leeper: About 2,200 in the first round, which is the one we opened at the end of January, and 1,361 people left the organisation as a result of that round. Following the budget we then opened a second round, where 2,366 staff expressed interest. We have initially made just over 1,300 offers out of that round. That is all now running through the financial and other approval processes. We will be there by 31 October.

Ms O'NEIL: Could the first round people who did not get an approval reapply?

Mr Leeper: Yes, they could. A number of people in the first round were told no, but the second round was open to anybody who wished to apply, including those who had been rejected in the first round.

Ms O'NEIL: Mr Jordan, you provided us with a report of which parts of the ATO redundancies had been made in. Are you able to provide an update of that for us? You can take that on notice, as you did last time, if you like.

Answer:

For the period 7 September 2013 to 31 August 2014 the following voluntary redundancies have been processed across the ATO:

- 828 in Compliance
- 39 in Law Design and Practice
- 658 in People Systems and Services (of which 113 were in Debt)
- 15 in Tax Practitioners Board
- 2 in Australian Charities and Not-for-profits Commission.

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

As part of the voluntary redundancy expression of interest process, we have made offers and have negotiated future exits across the ATO to:

- 459 in Compliance
- 41 in Law Design and Practice
- 10 in Tax Practitioners Board
- 655 in People Systems and Services Group (of which 126 are in Debt)
- 2 in Australian Charities and Not-for-profits Commission.

These numbers are subject to change based on remaining opportunities for employees to withdraw from the process.

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

Topic: Voluntary vs. Involuntary redundancies

Hansard Page: 13

Question: 4

Ms BUTLER: No, sorry, it was not a general question. For employees of the Australian Tax Office who elect to apply for a voluntary redundancy instead of taking a lottery to see whether or not they are involuntarily made redundant, is there a financial incentive—do they get an extra four weeks pay, do they get an extra week of pay per year of service? The question that I am driving at is: are they genuinely voluntary or are people just seeing the writing on the wall?—in which case your suggestion that there is this sort of lovely sense that everyone is just going because they want to is undermined.

Mr Leeper: I am sorry, I will have to take that on notice to be accurate.

Answer:

There are no incentives offered by the ATO to take a voluntary redundancy.

The ATO's 2014-15 expression of interest voluntary redundancy process is based on voluntary participation by employees. Interested employees can opt out of the process, up until the point where a formal offer is made.

The ATO enterprise agreement 2011 sets out the redundancy and redeployment provisions. These are

- For employees who are declared excess and accept an offer for voluntary redundancy they are entitled to receive a benefit amount equal to two weeks' salary for each completed year of continuous service, plus a pro-rata payment for the last year of service. The minimum payment is four weeks' salary and the maximum payable is 48 weeks. In addition, employees can seek reimbursement for costs associated with career, lifestyle and financial planning up to an amount of \$2,200.
- For employees who are declared excess and do not accept an offer of a voluntary redundancy they will move into a formal retention period of either seven or 13 months, depending on their tenure and age. This period is used to try to redeploy the employee into a suitable position. If after three months there is insufficient work and there is no reasonable prospect for redeployment, employment may be ceased and the remainder of the retention period paid as a lump sum.

The enterprise agreement ensures that an employee who moves into the retention period would not receive less payment than they would have, had they accepted the offer for a voluntary redundancy.

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

Topic: Use of formal powers

Hansard Page: 15

Question: 5

Ms BUTLER: But last time you spoke to us you expressed concern about people not providing you with enough information at the audit stage and then objections having to be lodged and a large number of those objections being successful because people introduced new information at the objection stage, so does that indicate to you that, while a lighter touch is generally preferable, people are taking a little bit for granted that you will not insist on information being provided?

Mr Olesen: No, I do not think so. For the vast majority of people building a good relationship and being clear in a dialogue about the information you want, as opposed to lengthy questionnaires, will almost certainly get you a better outcome quicker and cheaper. We certainly need our people to be well trained in the facts and the evidence they need to be able to support the decisions they are then asked to make in a manner that might then sustain it in various review processes, so it is combination of making sure our people have the right skills and understanding of the facts and evidence involved—and that involves my people working very closely with Andrew's people, who are the law technicians, to make sure we have a good relationship there, a good synergy there—and having a sensible use of our powers of access. Like Chris, I am not surprised to see the trend decline. I think that is one measure, if you like, of the changes in approaches that we are taking. I do not anticipate it will reflect in the poorer outcomes at disputes though because with the right capability our people will know whether they do or do not have the information they need and if they need to can use those formal powers to access that information.

Ms BUTLER: What level of delegation do you need? How senior do you have to be to decide to use formal powers?

Mr Olesen: I would probably have to take that on notice. It is relatively junior. We push it down to team leaders.

Answer:

The Commissioner has powers to access premises or to require people to provide information or documents in the course of administering the tax and superannuation systems. The Commissioner generally delegates these powers to the ATO Senior Executive Staff (SES) by relevant Instruments of Delegation. Tax officers at various levels of seniority are authorised to use specific access and information gathering powers.

While there are many different levels of authorisation for particular legislative provisions, the following generally apply:

- Tax Officers from the APS3 level are authorised to use various powers to issue notices requiring information to be given.
- Tax Officers from the APS4 level are authorised to use various powers to issue notices requiring attendance to give evidence or to produce documents.
- Tax Officers exercising powers of access to buildings, places, books document and electronic records, do so only where the officer has been issued with a wallet authority signed by a delegate of the Commissioner, generally at the SES level and in some cases, certain EL2 officers.

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014

Topic: Tax agent portal chart

Hansard Page: 19

Question: 6

CHAIR: Moving on to Tax Institute submission questions, tax agents are becoming increasingly reliant on the tax agent portal. What steps are being taken to ensure the portal is operational as often as possible, especially during peak periods?

Mr Leeper: The tax agent portal is relatively old, and I think we are having trouble maintaining the infrastructure to a state or a degree that is satisfactory from the tax agents' point of view. Nevertheless we have adopted an internal service standard that the portal should provide three seconds or less response time 95 per cent of the time. That is measured daily. I have a chart I can provide on notice that shows we have had intermittent problems in the past 12 months, but, of course, this is on a per-day basis. Within a day you might have periods of difficult access, followed by periods of relatively rapid access. Overall, it meets the three-second standard. I do myself no favours here, but a chart I could provide to the committee is probably the best picture, rather than the worst picture, of access.

Answer:

There is no community service level agreement (SLA) associated with the Portals, but the ATO has set its own performance standards. The ATO aims for 95% availability during both Business and non-Business hours¹, and a Portal response time 3 seconds or less.

The graph below shows the average response times for all Portals transactions that are monitored² per day. This high level view tends to indicate that the Portal is operating within the set standards, however given that the values are averaged across each day it may not reflect the user experience for specific transactions at specific times.³

¹ Business hours are defined as 7am to 7pm. Non-business hours are defined as 7pm to 7am.

² There are over 200 pages in all three Portals and the monitoring is only applied to pages included in core transactions.

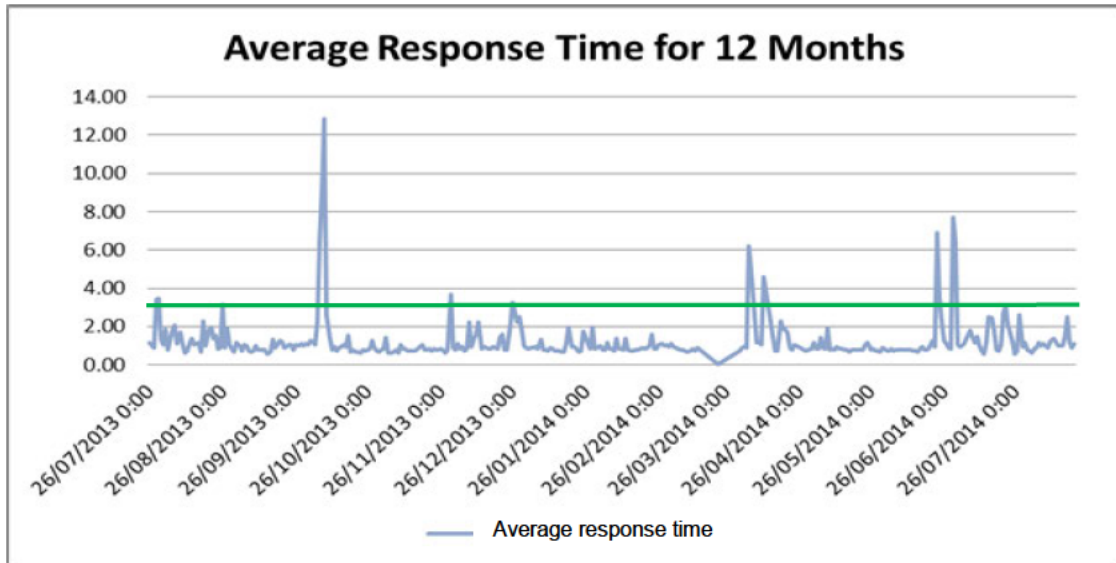
³ The data provided is from the perspective of the Portals [including Portals calls to the mainframe] but does not include interactions prior to reaching the Portals application, such as Internet Security Framework and Access Manager [including Access Manager calls to the mainframe].

STANDING COMMITTEE ON TAX AND REVENUE

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

27 August 2014



Spikes near or above the intended response time of three seconds indicate that we may be experiencing intermittent issues with Portal performance, resulting in increased errors, timeouts and slower response times