

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

Topic: Early access to Superannuation **Supplementary Submission No. 1.1**
Hansard Page: PA 32
Question: 3 **Biannual Hearing with the Commissioner of Taxation**

Mr Peterson: All of this is in fact administered by APRA and is in transition to Centrelink at present. The tax office does not make those sorts of determinations. Interestingly enough, at a recent consultative forum we had I think someone from the Law Reform Commission come along to talk about access to superannuation in the context of domestic violence. We had a number of fund representatives in the room at the time. I can tell you that they were all quite adamant that they are very responsive to the cases they see where there is a need for people to have money quickly. So, undoubtedly, there are very tough cases where people are suffering and are delayed. I know that funds themselves who actually make the payment out are certainly alive to the issue and insist that they are every bit as responsive and as quick as they can be. They were talking timeframes of a couple of weeks, I think. That might not be quick enough for some, but those were the timeframes they were talking about a fortnight ago.

Mr CHEESEMAN: I must say—

Ms O'NEILL: That is not what I hear.

Mr CHEESEMAN: No. As a representative, I must say that is certainly not demonstrated in practice. I would be interested to know what the professional associations think. My experience is that it is months.

Mr Duncan: That is my experience as well.

Mr CHEESEMAN: It is certainly not weeks. I have had people literally living in the back of a car as a consequence with mental illness and all sorts of other issues being at play as well. It is certainly not days or weeks. It is months more often than not.

...

Mr D'Ascenzo: I thank the committee for its constructive line of questioning. It has been a worthwhile exercise. We have heard that the ATO's role is a complex and important one, and the consensus is that by and large we do that well, or we try to do that well. It was interesting when Mr Duncan said that we have a heart. I often say that tax administration and super administration is not for the faint-hearted, but nor is it for the heartless. One of the things that is a takeaway for us out of this meeting is that the ATO deals with a lot of numbers in terms of a lot of people—people in millions of different circumstances. It also deals with large numbers. We have operations that try to do that. One of the things that came out very clearly from this committee is: do not forget those who are vulnerable, and make sure that you have processes in place that protect them as best you can. We will take that away. One of the things that we will do, for instance, in that super area is to see whether or not there is anything we can do from our processes to speed up those situations.

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

Mr CHEESEMAM: Take that on notice and come back to us.

Answer:

The ATO is not directly involved in the process of administering early access to superannuation in the case of financial hardship or on compassionate grounds. Early access to superannuation is administered by the trustee of the relevant superannuation entity in the case of severe financial hardship. Early access to superannuation on compassionate grounds has been administered, since 3 February 2011, by Medicare/Department of Human Services.

Generally members cannot access their superannuation before they reach their preservation age, which at the earliest is 55 years. Members can access their superannuation earlier in very limited circumstances including:

- severe financial hardship
- compassionate grounds.

To be considered for an early release of superannuation on the basis of severe financial hardship, the trustee of the relevant superannuation entity must be satisfied:

- in the case of a member who has not yet reached preservation age plus 39 weeks:
 - based on written evidence from a relevant Commonwealth department/agency (i.e. Centrelink, Department of Veteran's Affairs or Commonwealth Community Development Employment Projects), that the member has received income support payments for a continuous period of 26 weeks
 - that the member was in receipt of those payments on the date the written evidence is provided by the relevant department/agency, and
 - that the member is unable to meet reasonable and immediate family living expenses.
- in the case of a member who has reached preservation age plus 39 weeks:
 - that the member is not gainfully employed, on a full time or part time basis, at the date of the application, and
 - based on written evidence from a relevant Commonwealth department/agency (i.e. Centrelink, Department of Veteran's Affairs or Commonwealth Community Development Employment Projects), that the member has received relevant income support payments for 39 weeks or more since reaching preservation age.

Restrictions apply to how much may be released by the trustee to a member who has not reached preservation age. A trustee may, in any twelve month period, release one lump sum payment. The lump sum payment will be no more than a gross amount of \$10,000 and no less than \$1,000 (or the balance of the member's benefit if it is less than \$1,000).

D. Brown
11/11/11

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

If a superannuation fund, other than a self managed super fund, refuses early release, the individual can lodge a complaint with the Superannuation Complaints Tribunal. These proceedings generally aim to resolve a complaint through conciliation. If conciliation is unsuccessful, a formal review of the decisions or conduct relating to the complaint may be undertaken by a panel of Tribunal members and a determination issued.

Members may also apply to access their superannuation early on the basis of specified compassionate grounds. Compassionate grounds include payment for medical treatment or medical transport, preventing foreclosure of a mortgage, funeral costs associated with a death of a dependant, palliative care and modifications to your home or vehicle. This requires the member requesting the 'Regulator' to assess their eligibility and then the member making the necessary application to the trustee of the superannuation fund to release the superannuation money.

The supporting evidence required to meet the specified compassionate grounds is prescribed in the Superannuation Industry (Supervision) Regulations. It is prescriptive, and includes certification from two medical practitioners, one of whom is a specialist.

The amount that can be paid is limited to what is reasonably required or, in the case of the payment of a loan in relation to a member's house, an amount equal to or less than three months repayments or twelve months interest on the outstanding balance.

Authority to decide applications for access to superannuation on compassionate grounds previously rested with APRA and the ATO (as Regulators), and Medicare (under delegation from APRA and the ATO). Following recent enactment of legislation, from 1 November 2011 general administration of the relevant provisions transferred to the Chief Executive Medicare and authority to decide applications now rests solely with Medicare/Department of Human Services.

Applications for access to superannuation on specified compassionate grounds have been assessed, since 3 February 2011, by Medicare/Department of Human Services under a Service Delivery Agreement from APRA, and delegation from APRA and the ATO. Prior to this time, applications were determined by APRA, who acted under their own authority, and under delegation from the ATO.

APRA's published commitment to service standards were as follows:

We will send you an acknowledgement letter within 5 working days (approximately a week) of receiving your application.

We aim to have all applications assessed within 10 working days (approximately a fortnight). In busy times, it takes longer for applications to be assessed (e.g. up to 30 working days).

The number of days shown above are from the time we receive all the information we need to assess your application. Assessments take longer if not all the necessary questions have been completed, or some of the required supporting documentation is missing.

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

In relation to its delegation and Service Delivery Agreement, Medicare/Department of Human Services adopted these service standards over the transitional period from February to November 2011. From 1 November 2011, Medicare is continuing with these service standards.

Members who are unhappy about the actions of the Regulator may, after they exhaust their internal review processes, request that the Commonwealth Ombudsman review the matter.

The ATO provides education and advice to self managed super fund trustees for the role they have in relation to potential early release of superannuation.

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

Briggs
11/11/11

Topic: Ceasing super co-contributions letters

Hansard Page: PA 27

Question: 2

Mr BRIGGS: When did the ATO stop sending letters to members of superannuation funds advising that the government had made a co-contribution to their fund?

Mr D'Ascenzo: I am not aware that they have stopped sending notification of co-contribution. I am sure they are still sending letters out.

Mr Peterson: It was a couple of years back that we ceased the letters. It was on the basis that they were costing a substantial amount of money and people were getting that advice directly from the superannuation fund at least once a year and probably twice a year. We only pay the co-contribution once a year in any event. So, people were getting the advice directly from their own fund.

Ms Granger: I think that we did some testing of that.

Mr Peterson: We certainly discussed that with funds and with some other consultative groups, and the level of concern was pretty low.

Mr BRIGGS: Did you publicly announce that you were going to do it?

Mr Peterson: No. Not that I recall, no.

Mr D'Ascenzo: We would have done it through our consultative forums and in this way it becomes public.

Ms Granger: We will check on that. We would like to take that one on notice, because I think we can explain this more.

Mr BRIGGS: Could you also take on notice whether there were any discussions with the government about that decision?

Answer:

The ATO ceased sending its standard co-contribution notification letters to taxpayers in November 2008 on a trial basis as an efficiency measure. The co-contribution law does not require notification letters to be sent in standard cases. No significant community reaction to this change was detected.

The ATO also consulted its external Superannuation Funds Working Group in relation to impacts for the superannuation funds and to establish what feedback they had from

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

individuals. They advised that the absence of letters over the period had not caused any major impacts in their call centres and that cessation of the letters had a low impact on recipients.

In light of this feedback, the letters were discontinued from August 2009 for 12 months. The issue was raised with the Super Funds Working Group on a quarterly basis. No issues were identified and the decision to discontinue the letters on a permanent basis was confirmed in August 2010. The ATO's conclusion was that individuals appeared to find the details currently provided by the superannuation funds in their superannuation statement to be sufficient notification of their co-contribution payment, and that the ATO letters were not justified on a community cost benefit basis. It is relevant that although the payments are important, they are of low immediate impact for almost all recipients.

The ATO has not seen an increase in the number of complaints lodged as a result of ceasing the co-contribution letters.

Individuals receive a superannuation statement directly from their fund, which includes details of their co-contribution payment at least on an annual basis. In the case of self managed superannuation funds, the member is also generally a trustee of the fund and therefore receives a remittance advice and payment to the fund. Additionally, the ATO continues to send correspondence to individuals in those circumstances where it is required by law, e.g. where the payment is made direct to the individual, and where a whole or part recovery is made from the co-contribution entitlement.

Key stakeholders were advised, and the ATO implemented a communication strategy to alert individuals, super funds and intermediaries that the ATO would no longer be issuing letters automatically, except where required by legislation. Specifically, the ATO:

- updated existing co-contribution information on the ATO website, ato.gov.au to alert individuals that they can confirm payment has been made via their superannuation statement which is issued either annually or more frequently in some cases from their fund, including a brief description of the processes/timeframes by which money gets to funds
- included articles in super industry and tax agent communications
- updated advice provided by call centres and
- updated its communication products.

The Assistant Treasurer and Minister for Financial Services and Superannuation was advised of the cessation of letters in September 2010.

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

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11/11/11

Topic: Taxpayers under the \$20,000 income threshold

Hansard Page: PA 18

Question: 1

Mr CHEESEMAN: What portion of the work that the ATO undertakes would be on PAYE income earners who earn less than \$20,000 a year?

Mr Reardon: We would probably have to take that question on notice to give you the specifics. I mentioned earlier in response to a question about us adopting a risk based approach that we apply our people to where we think the risks are, and that is across the whole spectrum of tax compliance from individuals through to large corporates and everything in between. We would have to get back to you with the specifics of the numbers that are assigned to each of those segments.

Mr D'Ascenzo: I can give you the sorts of areas where we would apply that. We spend a lot of time on communication. That communication would apply to a broad church, including people with low incomes. Ms Granger mentioned the work we do with tax volunteers around tax time. They helped about 50,000 people with income under \$40,000 or \$50,000. Another area in relation to that is our matching systems. A lot of the work that we do in that area is around the automated matching systems. Pre-filling allows people to understand whether or not they can apply. One of the benefits of co-location of services with Centrelink is that many of the people in that sort of income range have social security issues and benefits and, therefore, trying to tie it together helps to provide a solution. In that space the reality is that most of our work is trying to assist them and trying to build that communication to allow them to understand what their rights and obligations are.

Mr CHEESEMAN: You might need to take this on notice. Clearly the government's clean energy package will remove a lot of taxpayers from the system. Have the ATO or other agencies started to do any internal work to look at what resources might be freed up internally within your organisations and what you might do with that freed up resource to help increase compliance issues elsewhere?

Mr Reardon: The carbon tax issue is still a matter of policy, so all of those issues are still with the government and in fact the parliament. We are working with the Department of Climate Change and Energy Efficiency to understand the implications of the whole package, including implications on the tax system. But as the law becomes final we will then be able to work through that more specifically.

Mr D'Ascenzo: I know the chair is interested in these sorts of perspectives, but I am not making any comment other than that there is an interplay between the social security system, the transfer payments system and the tax system. Even if people may not have a tax liability, sometimes their access to benefits comes through lodging their tax return.

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

23 September 2011

Answer:

The ATO does not specifically focus on or target pay as you go taxpayers based on their level of income. All taxpayers may be subject to review or audit of their tax affairs and taxpayers are able to utilise the general services and support offered by the ATO, with some additional programs, such as Tax Help, available to low income earners only.

The ATO undertakes a range of compliance activities that may have an impact on taxpayers whose income is under \$20,000. These may include activities such as:

- review of claims made by taxpayers such as deductions, offsets and credits for tax withholding
- data matching to ensure taxpayers report all of their income in their returns
- data matching activities for the temporary flood and cyclone reconstruction levy
- data matching of information received from Centrelink and the Child Support Agency.

The ATO also provides a range of help, education and support activities including:

- Tax Help – a network of community volunteers trained to provide a free and confidential service to assist taxpayers complete their tax returns at tax time (note: this program is available to low income earners who, for this program, are defined as earning an income of \$50,000 or less)
- schools education program – a program that aims to educate secondary school level students about basic taxation and encourage their early engagement with the tax system.
- shopfront services – available to all taxpayers, including from some Centrelink Customer Service Centre locations
- e-tax and pre-filling
- tools and calculators – more than 40 online tools and calculators are available on www.ato.gov.au covering many topics relevant to tax return preparation.