

Senate Community Affairs Legislation Committee

SUPPLEMENTARY BUDGET ESTIMATES - 20 OCTOBER 2011 ANSWER TO QUESTION ON NOTICE

Department of Human Services

Topic: Child Support – Memorandum of Understanding with the Australian Taxation Office

Question reference number: HS 17

Senator: Fifield

Type of question: Hansard page 102

Date set by the committee for the return of answer: 9 December 2011

Number of pages: 12

Question:

- a) **Senator FIFIELD:** What information sharing arrangements does the agency have in place with the ATO? Is there a memorandum of understanding between the ATO and the CSA for sharing information?

Ms Godwin: We do have a memorandum of understanding, but some of the exchange of information relies on legislative power for the tax office to send us information about people's taxable income, in relation to tax refunds and things of that sort.

Senator FIFIELD: Is the MOU a publicly available document?

Ms Godwin: I'd have to take that on notice. Obviously, we're not the only party to the MOU.

Senator FIFIELD: If you could do that and if it's possible to provide that.

Ms Godwin: I'll take it on notice.

- b) **Senator FIFIELD:** I guess the MOU has gone through various iterations and changes over the years?

Ms Godwin: Probably. I'm aware that we've recently renewed it. The Child Support Agency actually started out as part of the tax office, so at that point—

Senator FIFIELD: The tax commissioner used to be its registrar.

Ms Godwin: Indeed. So my assumption is that there have been various iterations, because the Child Support Agency moved first from the tax office to what is now FaHCSIA, and then from FaHCSIA to DHS.

Senator FIFIELD: So there would have been a change in arrangements between the CSA and the tax office when it left the tax office.

Ms Godwin: Yes, and subsequently. We used to be supported on their IT system; we are no longer supported on their IT system. When that was all separated a range of arrangements came into place then. I would have to take on notice the detail because, as I say, some of the arrangements between us are based on legislation and don't rely on the MOU, while some other aspects rely on the MOU.

- c) **Senator FIFIELD:** Would you do that, and also outline what the change in the relationship between the CSA and the ATO has been in relation to information sharing since the organisations separated? [page 102]

- d) Is part of the information sharing the provision of tax file numbers by the ATO where a CSA client fails to provide one? I assume that is one of the things that a client has to provide to the CSA.

Ms Godwin: Yes.

Senator FIFIELD: Is it the MOU that governs the provision of tax file numbers or would that be something that requires legislation?

Ms Godwin: I believe it is covered by legislation, but I'll confirm it.

Answer:

a) The Australian Taxation Office (ATO) and the Child Support Program (CSP) implemented a Head Memorandum of Understanding (MOU) in September 2007. This MOU was put in place to set out the process for entering into subsidiary arrangements. A subsidiary arrangement to the Head MOU, "Access to Tax Office Information", was signed in November 2009, a copy of which is attached.

"Access to Tax Office Information" sets out the processes for the provision of CSP direct access to ATO systems, in addition to the provision for transfer of information including:

- information required to manage child support payment obligations (section 150D of *Child Support (Assessment) Act 1989*); and
- information required for the collection of debts (section 16C of the *Child Support (Registrations & Collections) Act 1988*).

b) After disengagement from the ATO IT system in 2009, the subsidiary arrangement "Access to Tax Office Information" was implemented to ensure robust governance was in place to support the way in which information is provided to the Child Support Registrar by the Taxation Commissioner under relevant legislation.

c) The relationship between the CSP and the ATO with regard to information sharing is governed through the Data Access Management Committee. The formation of the Committee predates the MOU and as such the relationship between the CSA and the ATO has not seen any significant change since disengagement. The Committee meets monthly to monitor, evaluate and progress the MOU and its arrangements, while maintaining inter-agency relationships.

d) The ATO provides tax file numbers (TFNs) to the CSP to assist with establishing an accurate income for child support purposes. The provision of this information to the CSP is legislated under:

- sections 150B & 150D of the *Child Support (Assessment) Act 1989*; and
- sections 16B & 16C of the *Child Support (Registration & Collection) Act 1988*.

The Child Support Acts also enable the ATO to provide the CSP with information for the following purposes (s150D and s16C of the *Assessment Act* and *Registration & Collection Act* respectively):

- to identify a person who is to be assessed for Child Support purposes;
- to make a new Child Support assessment or amend an existing one;
- to ascertain when a Child Support terminating event has happened; and
- to facilitate the recovery of debts.


The exchange of personal information with the ATO enables the CSP to determine when new taxable income information is available for parents. The exchange also allows the CSP to identify when a person has both a tax refund amount due and a Child Support debt owing, so it may require the ATO to pay the amount to CSA to be applied to the debt.

Subsidiary Arrangement – Access to Tax Office Information

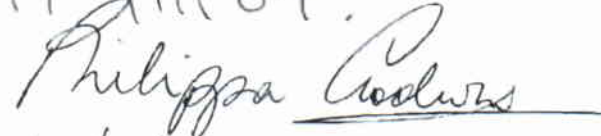
Arrangement Details	
Arrangement reference No.:	Tax Office: 07.014 - 01 CSA: TBA.
Commissioner:	The Commissioner of Taxation.
Tax Office:	The Australian Taxation Office (ABN 51 824 753 556).
Commissioner's MOU Manager:	Name: Scott Hooper Position: Assistant Commissioner, Client Account Services Client Register Postal address: PO Box 9977, Civic Square, ACT 2608 Telephone: (02) 621 66464 Facsimile: (02) 621 62872 E-mail address: scott.hooper@ato.gov.au
Child Support Registrar:	The Child Support Registrar.
CSA:	The Child Support Agency, being that part of the Department of Human Services that administers the Child Support Program (ABN 90 794 605 008).
Child Support Registrar's MOU Manager:	Name: Rhod McDonald Position: Assistant Secretary, Business Design and Support Postal address: GPO Box 1903 Canberra City, ACT, 2601 Telephone: (02) 621 89674 Facsimile: (02) 621 89783 E-mail address: Rhod.McDonald@csa.gov.au
Head MOU:	The Memorandum of Understanding bearing Tax Office MOU reference No. 07.014 and CSA MOU reference No. 08CSA004.
This Arrangement replaces:	Nil.
Termination notice period:	180 days.
Frequency of meetings:	To be held quarterly and otherwise as required.

Accepted and agreed

Signed by Frances Robinson,
Deputy Commissioner, Client
Account Services, Australian
Taxation Office

Signature 
 Date 17/11/09

Signed by Philippa Godwin,
Child Support Registrar and
Deputy Secretary, Child Support
and Planning, Department of
Human Services

Signature 
 Date 19/11/09

Subsidiary Arrangement – Access to Tax Office Information

1. Parties

This Arrangement is between:

- the Child Support Registrar, and
- the Commissioner, including in his capacity as Registrar of the Australian Business Register

2. Purpose of this Arrangement

This Arrangement identifies:

- mechanisms through which Legislated Information is to be provided to the Child Support Registrar by the Commissioner, and
- arrangements under which the Commissioner will provide Legislated Information to the Child Support Registrar.

In this Arrangement, the term "Legislated Information" means information about individuals, companies and other entities acquired by the Tax Office as a consequence of reporting obligations contained in tax law.

3. Background

Under the *Child Support (Registration and Collection) Act 1988* and the *Child Support (Assessment) Act 1989*, the Child Support Registrar may request the Commissioner to provide particular information about a particular taxpayer and the Commissioner is required to provide the requested information irrespective of any applicable tax law secrecy prohibition.

The bulk of information requested by the Child Support Registrar is Legislated Information. The Child Support Registrar's continuing access to Legislated Information is essential in order to enable CSA to carry out its functions

Tax Office information is currently provided to the Child Support Registrar via multiple channels, applications and systems, including direct access to Tax Office systems. These arrangements will be reviewed and modified over time to move to a position where the Tax Office provides Legislated Information to the Child Support Registrar exclusively via automated systems rather than by Direct Access.

Over time, it is intended that Legislated Information will be provided via a tailored batch application. Moving to such a model will require systems development in both the Tax Office and CSA and business process changes by CSA. This model will be progressed as opportunities arise

4. Scope

This Arrangement for the provision of information from the Tax Office to the Child Support Registrar applies only to Legislated Information.

This Arrangement does not contemplate the disclosure of bulk data acquired by the Tax Office under a formal information gathering notice. Requests for Tax Office information other than Legislated Information need to be made via the Assistant Commissioner - Data Acquisition and Matching, Micro Enterprises and Individuals.

5. Head MOU

The parties entered into the Head MOU identified in the Arrangement Details. This Arrangement:

- is a Subsidiary Arrangement to that Head MOU, and
- includes the **Common Provisions** set out in Part 1 (administrative provisions), Part 2 (operative provisions) and Part 3 (data exchange provisions) of the Schedule to the Head MOU.

Subsidiary Arrangement – Access to Tax Office Information

6. Duration of this Arrangement

This Arrangement continues until terminated:

- by the parties at any time by mutual agreement, or
- by either party giving the other a notice of not less than the termination notice period identified in the Arrangement Details.

7. Existing arrangements between the parties

This Arrangement revokes and replaces the existing arrangements (if any) identified in the Arrangement Details.

Providing and using Tax Office Information

8. Providing Tax Office Information

Schedule A describes:

- the information interfaces (and interface methods) through which the Child Support Registrar may request, and the Commissioner will provide, Legislated Information;
- arrangements for access to and use of Tax Office information under this Arrangement, and
- governance processes to ensure protection of the integrity and confidentiality of data provided under this Arrangement.

The Child Support Registrar acknowledges that the Commissioner will not disclose information to the Child Support Registrar if the disclosure would be contrary to law.

9. Using Tax Office Information

The Child Support Registrar must only use Legislated Information disclosed under this Arrangement in accordance with law. The Child Support Registrar is responsible for assessing the suitability of Legislated Information provided under this arrangement for the purposes of carrying out the Child Support Registrar's functions.

10. Fees

No fees are payable by the Child Support Registrar or CSA to the Commissioner or the Tax Office for the provision of, or for access to, Legislated Information under this Arrangement.

Administration

11. MOU Managers

A party's **MOU Manager** is the person identified as such in the Arrangement Details, or such other person (or person in such other position) as that party otherwise notifies the other party from time to time in writing

12. MOU Managers to administer Arrangement

The parties' MOU Managers are to monitor and evaluate the operation and progress of this Arrangement through the Data Access Management Committee established by clause 13.

As soon as practicable after each annual anniversary of this Arrangement, each party's MOU Manager is to provide:

- a statement as to that party's compliance with this Arrangement (including its compliance with Item 9 [Audit logging] and Item 10 [Incident management] of Schedule A, and Common Provision c15 [Data

Subsidiary Arrangement – Access to Tax Office Information

Integrity, confidentiality and protection] of the Head MOU) during that period to the other MOU Manager, and

- a brief report on the operation and progress of this Arrangement (including its achievements and any outstanding issues) to that party's MOU Manager for the Head MOU.

In addition to the specific reporting and meeting requirements contained in this clause and clause 13, the MOU Managers will establish working arrangements between the two parties for the effective ongoing management of each of the items in Schedule A.

13. Meetings

In accordance with Schedule B - Data Access Management Committee Terms of Reference, the parties' MOU Managers are to meet at the frequency indicated in the Arrangement Details.

14. Variation

All variations to this Arrangement must be in writing, signed by an officer of each party having at least equal seniority to the signatory to this Arrangement.

Schedule A – Operation and management of information interfaces

Item 1. Background

Taxpayer information disclosed to or obtained by the Commissioner under a tax law is generally protected by a tax law secrecy provision. Each secrecy provision prohibits the disclosure of a given type of taxpayer information (other than to the taxpayer concerned) unless an exemption allows that particular disclosure.

Where the Child Support Registrar requests the Commissioner to provide particular information about a particular taxpayer by way of a notice under section 16C of the *Child Support (Registration and Collection) Act 1988 (Section 16C)* and/or section 150D of the *Child Support (Assessment) Act 1989 (Section 150D)*, the requested information must be provided irrespective of any applicable tax law secrecy prohibition.

If the Child Support Registrar requests the Commissioner to provide particular information about a particular taxpayer other than by way of a notice under Section 16C and/or Section 150D, the Commissioner will assess whether the tax law secrecy provisions prohibit the disclosure of that information to the Child Support Registrar.

Item 2. Types of interface

Legislated Information may be requested and provided under this Arrangement through the following types of interface:

Interface type	Description of information request and response method
Direct Access (least preferred)	Where CSA Officers have direct user access to relevant Tax Office systems from their CSA workstations, enabling them to request, and be supplied in near real-time with, relevant Tax Office Information from the Tax Office.
System-to-System (preferred)	Where relevant CSA systems have access to corresponding Tax Office systems, so that CSA Officers with workstation access to those CSA systems can use them to request, and be supplied in near real-time with, relevant Tax Office Information from the Tax Office.
Batch Request (most preferred)	Where CSA sends a batch of requests for specified Tax Office Information items for specified clients for subsequent (e.g. nightly) processing and batch return by the Tax Office.
Periodic Batch (most preferred)	Where CSA requests a standard set of specified Tax Office Information items for specified clients to be provided periodically (e.g. weekly) by the Tax Office as a batch.

The Tax Office and CSA recognise that the Direct Access interface is the least preferred method for CSA to access Legislated Information. The Tax Office and CSA have a shared ambition to move, over time, to a system where Legislated Information is provided through the System-to-System, Batch Request and Periodic Batch Interfaces, wherever possible, to better manage access to Legislated information.

Item 3. Requests for Tax Office Information

Each request from CSA to the Tax Office for Legislated Information made through a System to System, Direct Access, Batch request or Periodic Batch interface must be covered by a notice under Section 16C and/or Section 150D. Such a notice must be issued by: (i) the Child Support Registrar; (ii) an authorised delegate of the Child Support Registrar; or (iii) a person authorised by the Child Support Registrar or his/her delegate to issue the notice in the name of the Child Support Registrar or delegate (collectively, a **CSA Authorised Officer**).

Each request from CSA to the ATO for Legislated Information made through the Periodic Batch interface will be accompanied by a notice substantially in the form of the notice set out below (**Long Form Notice**), issued by an identified CSA Authorised Officer.

The Commissioner is required by this notice – under section 16C of the Child Support (Registration and Collection) Act 1988 and section 150D of the Child Support (Assessment) Act 1989 – to provide information in the possession of the Commissioner about the person or persons directly or indirectly identified in this notice.

I am authorised to give this notice under an instrument of delegation signed by the Child Support Registrar or under an authorisation issued by the Child Support Registrar or a delegate of the Child Support Registrar, and I confirm that the requested information will be used only for the purposes authorised by Section 16C or Section 150D.

Schedule A – Operation and management of information interfaces

Each request from CSA to the ATO for information made through a System to System, Direct Access or Batch Request interface will be accompanied by an electronic message (**Short Form Notice**) in an agreed form, generated by an identified CSA Authorised Officer. Each such Short Form Notice is taken to be in the form of the Long Form Notice.

If CSA requires Tax Office information that is not Legislated Information, it will make the request via the Assistant Commissioner - Data Acquisition and Matching, Micro Enterprises and Individuals.

The Child Support Registrar acknowledges that the Commissioner will not disclose information to the Child Support Registrar if the disclosure would be contrary to law.

Item 4. Privacy and Security

The provision of Legislated Information to CSA in accordance with this Arrangement is a disclosure of personal information for the purposes of the *Privacy Act 1988*. However, the disclosure of personal information under this Arrangement is within Information Privacy Principle 11 because the disclosure is "required or authorised by or under law" through the operation of Section 16C and/or Section 150D.

CSA and the Tax Office must each ensure that reasonable security measures are in place to ensure that information provided by the Tax Office to CSA in accordance with this Arrangement is protected in transmission from one agency to the other, and after receipt, against loss, unauthorised access, use, modification or disclosure and other misuse.

Item 5. Change control

The Tax Office will distribute to DHS-ICT-Change each week:

- the CAB pack (as issued by EST Change Management for its weekly meeting), and
- any relevant out of session Requests For Change,

so CSA can provide EST Change Management with possible impacts on CSA.

Those impacts will be reviewed by EST Change Management and appropriate action taken (for example, rescheduling a change so as not to interrupt CSA business). Where appropriate action to minimise an adverse impact on CSA cannot be agreed, the issue will be escalated to the parties' MOU Managers.

EST Change Management means the Tax Office's Enterprise Solutions and Technology Change Management unit, or such other section of the Tax Office which the Commissioner's MOU Manager notifies the Child Support Registrar's MOU Manager from time to time.

DHS-ICT-Change means the Department of Human Services' Information Communications Technology Change unit, or such other section of the Department of Human Services which the Child Support Registrar's MOU Manager notifies the Commissioner's MOU Manager from time to time.

Item 6. Release management

The Tax Office EST Release Management distributes an agenda for each of its Release Planning Forums. These will be distributed to DHS-ICT-Change on a weekly basis for CSA input.

EST Release Management means the Tax Office's Enterprise Solutions and Technology Release Management unit, or such other section of the Tax Office which the Commissioner's MOU Manager notifies the Child Support Registrar's MOU Manager from time to time.

Item 7. System availability

The Tax Office will distribute to the DHS-ICT-Service Desk each week:

- the IT System Outage Notifications,

Schedule A – Operation and management of information interfaces

- the EST Forward Schedule of Change, and
- the Release Management Deployment Calendar,

as published each week by EST Change and Release Management (or other relevant Tax Office section)

Other than as indicated, general supported hours of operation nationally are 7:00AM to 7:00PM Eastern Standard Time and Eastern Daylight Time, with access to Tax Office systems and applications available outside those hours, but without any guarantee as to the availability of services or support.

DHS-ICT-Service Desk means the Department of Human Services' Information Communications Technology Service Desk unit, or such other section of the Department of Human Services which the Child Support Registrar's MOU Manager notifies the Commissioner's MOU Manager from time to time.

Item 8. Provisioning of CSA users with Direct Access to Tax Office systems

Until Direct Access to relevant Tax Office systems for relevant CSA Officers is replaced by an alternative interface, it will be managed through the provisioning of those CSA Authorised Officers with Tax Office UserIDs with access privileges to corresponding systems. CSA is to:

- promptly advise ATO IT Service Desk where there is any change to the access requirements of a CSA Officer (for example where that officer requires, or no longer requires, access to Tax Office systems or to any particular relevant system), providing details of that officer and the change required, and
- each fortnight provide a list to IT Access Assurance detailing all relevant CSA Officers who have ceased requiring access to Tax Office systems, or have commenced long term leave, during that month.

Each party is to regularly review, and cooperate with the other party's reviews of, the access requirements of relevant CSA officers to relevant Tax Office systems.

IT Access Assurance means the Tax Office's Information Communications Technology Access Assurance unit, or such other section of the Tax Office which the Commissioner's MOU Manager notifies the Child Support Registrar's MOU Manager from time to time.

Note:- the policies and processes that apply to the provisioning and maintenance of Tax Office UserIDs for Tax Office personnel will equivalently apply to the provisioning and maintenance of those UserIDs for CSA Officers.

Item 9. Audit logging

The Tax Office remains responsible for its systems and for logging and regularly auditing access to its systems (including by CSA officers under or in connection with this Arrangement). CSA remains responsible for its officers and for logging and regularly auditing access by its officers to the systems, information and data provided by the Tax Office under or in connection with this Arrangement.

CSA and the Tax Office will each develop and utilise their own solutions for audit logging, however:

- the Tax Office will make available to CSA the audit logs made by the Tax Office of access by CSA officers to Tax Office systems via Direct Access interface,
- CSA will use those Tax Office audit logs for its own audit programme (that audit programme is to be similar to that run by the Tax Office in relation to its own staff), and
- CSA is to regularly provide the outcomes of its audit programme (insofar as they relate to those Tax Office audit logs) to the Tax Office.

Item 10. Incident management

Each party must, within 24 hours of becoming aware of an Incident, notify the other party of that Incident by sending a notice by email to:

- in the case of a notification to CSA – both the Child Support Registrar's MOU Manager and DHS-ICT- Incident Management (or such other section of the Department of Human Services which the Child Support Registrar's MOU Manager notifies the Commissioner's MOU Manager from time to time), and

Schedule A – Operation and management of information interfaces

- in the case of a notification to the Tax Office – both the Commissioner's MOU Manager and ATO-EST-Incident Management (or such other section of the Tax Office which the Commissioner's MOU Manager notifies the Child Support Registrar's MOU Manager from time to time).

An **Incident**, in relation to a party, means:

- where that party has received corrupt or incomplete information from the other party,
- where the security of an information interface identified in Schedule A has been compromised or breached or, (in the case of CSA) where CSA access to such an information interface is unavailable (other than during a scheduled outage), or
- a possible or actual breach of security or confidentiality by that party or its personnel which may have compromised the confidentiality or integrity of the information that party has received from the other.

Item 11. Review of Information Integrity procedures, systems and safeguards

Each party may review the systems, procedures and security safeguards for maintaining the confidentiality and integrity of its information that the other party has in place. A party seeking to conduct any such review:

- must give the other party reasonable notice of that review, and first consult with that other party as to the scope and criteria of that review,
- will be given access to premises, documentation and other records relevant to the conduct of the review,
- must comply with the other party's reasonable requirements and directions while on its premises, and
- must not remove any material from the other party's premises without its prior written approval.

Schedule B – Data Access Management Committee

Terms of Reference

Item 1. Objectives

The objective of the Data Access Management Committee (**Management Committee**) is to review the relationship between the Tax Office and CSA in relation to the provision of Legislated Information by providing a forum for the Tax Office and CSA to discuss:

- the operation of this Arrangement;
- issues related to the provision of Legislated Information by the Tax Office to CSA; and
- proposals to improve the way in which Legislated Information is provided to the Tax Office by CSA.

Item 2. Membership

Each MoU Manager will be a member of the Management Committee and will chair Management Committee meetings on a rotating basis.

Additional members can be nominated by each MoU Manager with approval from the other.

Each MoU Manager may invite other representatives from their organisation to attend Management Committee meetings on a regular or ad hoc basis.

Item 3. Meetings

The Management Committee will meet at least 4 times each year. A special meeting of the Management Committee may be convened by one of the MoU Managers at any time, by giving at least 2 weeks notice. The quorum for any meeting of the Committee is both MoU Managers, or their representatives.

The MoU Managers will jointly determine the agenda for each Management Committee meeting.

The MoU Manager chairing a Management Committee meeting will be responsible for:

- circulating an agenda (including a list of invitees) for that Management Committee meeting at least one week prior to the meeting; and
- following the meeting, preparing and circulating the minutes of that meeting

Item 4. Responsibilities

The Management Committee will be responsible for:

- reviewing the operation of this Arrangement, including the operation and effectiveness of the mechanisms and communications contemplated by the Arrangement, and any issue regarding possible non-compliance with the Arrangement;
- making recommendations on any proposed amendments to the Arrangement;
- reviewing progress towards moving to a system where Legislated Information is, where possible, no longer provided to CSA through the Direct Access Interface;
- overseeing any changes to the arrangements for providing Legislated Information to CSA

Schedule B – Data Access Management Committee Terms of Reference

- discussing proposed Tax Office system change and release processes and any potential significant impacts on CSA's business operations from those processes;
- considering whether recent Tax Office system change and release processes have had a significant impact on CSA's business operations;
- oversight of the implementation of system changes to manage any of the impacts described above;
- reviewing, from time to time, CSA's detailed information requirements and ensuring that the provision of information in accordance with this Arrangement remains aligned with those requirements;
- reviewing the outcomes of CSA's regular audits of its staff's access to Tax Office systems via the Direct Access Interface;
- acting as a point of escalation for any issues regarding the provision of Legislated Information to the CSA;
- reviewing the relationship between the Tax Office and the CSA in relation to the provision of Legislated Information and Tax Office data more generally and seeking opportunities to develop and strengthen that relationship; and
- reporting to the Tax Office and CSA Executives on general progress in relation to CSA's access to Tax Office information and escalating to those Executives any issues that cannot be resolved by the Management Committee.

Item 5. Reporting

Each MoU Manager is responsible for keeping the Head MoU Manager and other relevant officers of their organisation informed of the operations and decisions of the Management Committee.

Item 6. Review of Terms of Reference

The MoU Managers of the Head MoU will review these Terms of Reference and the operations of the Management Committee on an annual basis.