

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

2014 - 2015

**Department/Agency: ATO**

**Question: AET 70-79**

**Topic: Trusts Taskforce**

**Reference: written - 05 March 2015**

**Senator: Cameron, Doug**

**Question:**

With reference to the \$67.9 million provided to the Australian Taxation Office in the 2013-14 Budget for the establishment of a Trusts Taskforce within the ATO (2013-14 Budget Paper No. 2; p.43):

70. Is the Trusts Taskforce is still in place?
71. How many staff are principally engaged on the work of the Trusts Taskforce?
72. Has the number of staff engaged on the work of the Trusts Taskforce changed since October 2013? If so, are more or less staff engaged on its work?
73. What is the nature of the work the Trusts Taskforce has been undertaking from 1 July 2013 to date?
74. Has the Trusts Taskforce uncovered aggressive tax planning, tax avoidance and tax evasion related to trusts?
75. If so, what is the scale of the aggressive tax planning, tax avoidance and tax evasion found and what enforcement action has been taken?
76. What structural weaknesses or perceived structural weaknesses in the law are being exploited for the purpose of tax evasion related to trusts?
77. Has the Trusts Taskforce identified any individual tax advisers or groupings of tax advisers who are involved in promoting schemes that are designed to assist in tax evasion and/or avoidance related to trusts?
78. How much revenue has been generated or is expected to be generated as a result of the work of the Trusts Taskforce?
79. Has there been any change in the revenue expected to be generated as a result of the work of the Trusts Taskforce since the 2013-14 Budget?

**Answer:**

70. Yes.
71. 66 as at 11 March 2015.
72. In October 2013, 26 staff were principally engaged on Trusts Taskforce activities.
73. The work of the Trusts Taskforce principally involves undertaking focussed compliance activity targeting those involved in promoting and participating in tax avoidance and evasion through the abuse of trust structures.

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The nature of the work involves undertaking analysis of information obtained from advisors or external intelligence sources, conducting risk assessments and audit enquiries, and consulting through industry forums where education or clarification is needed.

To better target these types of abusive arrangements using trusts to avoid or evade tax obligations, the Government has recently prescribed the Trusts Taskforce in Regulation 48 of the *Taxation Administration Regulations 1976*. This allows wider sharing of taxation information between the ATO and other agencies part of the Trust Taskforce, including law enforcement and regulatory agencies, for the purposes of investigations being carried out by the taskforce.

74. The Taskforce has uncovered a variety of abusive arrangements involving trust structures. These typically involve parties misrepresenting the true identities of parties, the true nature of transactions and administering trusts to avoid or evade tax obligations. While the vast majority of taxpayers using trusts comply with their tax obligations, the arrangements identified to date have significant revenue impacts.
75. The Taskforce has undertaken action to deal with those avoiding or evading their tax obligations through the abuse of trusts, including referral to law enforcement agencies for potential criminal treatment. Two taxpayers are before the courts on serious criminal charges in relation to taskforce matters. We are particularly concerned about the role of some advisors, who appear to be promoting these arrangements.

The ATO has also issued Taxpayer Alerts in respect of two abusive arrangements (Taxpayer Alert TA 2013/1: Arrangements to exploit mismatches between trust and taxable income and Taxpayer Alert TA 2014/1: Trusts mischaracterising property development receipts as capital gains). These signal areas of concern to the community and act as a further deterrent to those considering such arrangements.

76. The Trusts Taskforce is investigating arrangements that involve:
- Exploitation of mismatches between trust and taxable income to avoid or evade tax liabilities and frustrate tax collection. Although we believe that the general anti-avoidance rules in the tax law will be effective to combat most of these arrangements this remains to be tested in the courts.
  - Use of trusts to facilitate mischaracterisation of property development receipts as capital gains, rather than revenue receipts.
  - Direction of economic benefits to controllers of trusts, rather than to the lower taxed beneficiaries theoretically entitled to receive trust income.
  - Trafficking in losses through the use of trusts, to avoid or evade tax and frustrate tax collection.

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- Exploitation of the nature of the information provided by the trusts to the ATO which can frustrate the assessment or collection of tax from trustees and beneficiaries.
77. The Trusts Taskforce has identified between 10 to 20 individual advisers who appear to have developed and organised the implementation of schemes designed to assist in tax evasion and/or avoidance related to trusts.
78. In its 20 months the Trusts Taskforce has raised over \$360 million in liabilities with \$73 million collected. The Trusts Taskforce currently plans to raise an additional \$346 million in liabilities and \$135 million in collections over the remaining 28 months of the Trusts Taskforce funding.
79. Yes. The Trusts Taskforce now expects to generate liabilities of approximately \$706 million and cash of approximately \$208 million over the four years of the project. The original revenue estimates were \$415.4 million liabilities and \$164.7 million cash collections.