

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 100

Topic: IGT Reviews of ATO Reviews

Hansard Page: Wednesday 30 May 2012, page 72

Senator CORMANN asked:

Senator CORMANN: Do you have the ability to report on progress of each of these programs of work that you have agreed to with the ATO?

Mr Noroozi: As I said, to date I have been when I have conducted what we call review of reviews.

Senator CORMANN: Follow-up reviews?

Mr Noroozi: Yes.

Senator CORMANN: Are the programs of work public documents?

Mr Noroozi: If you go on my website, you can see what you call follow-up reviews or what I call review of reviews.

Senator CORMANN: What about the program of works that you agree with the ATO?

Mr Noroozi: The implementation plan?

Senator CORMANN: Yes, that is right.

Mr Noroozi: Yes, that can become public.

Senator CORMANN: In what way?

Mr Noroozi: As I said, to date what you will see is the changes. Because this has been a new process, where we have the audit committee or the tax office involved and we are doing it more in real-time, we have not concluded that program of work to actually report it publicly, but perhaps what we might do is report on it in our annual report, if we do not end up doing review of reviews anymore. We have one more review of reviews to go and we will be commencing work on that shortly.

Senator CORMANN: The review of reviews is you checking whether the ATO has followed up on what you have agreed, but I am interested in the earlier step.

Mr Noroozi: You are saying when we actually determined what we are going to review?

Senator CORMANN: No. When you determine with the ATO what it is that they need to do.

Mr Noroozi: The recommendations that we make in the report say what the tax office should do and they reply to that. In the review itself, you see the recommendation and you see the ATO's response. That is in the public domain.

Senator CORMANN: Over the time that you have done this job, have you come across any specific instances of the ATO failing to comply with any parts of an agreed program of work?

Mr Noroozi: Yes. If you look at those review of reviews that are up on my website you will see that there are some. The vast majority they have implemented, but there are some that they have not.

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Senator CORMANN: Does it say specifically on your website which ones they have not?

Mr Noroozi: Yes. Again, there would be a list. Some of them have only, for example, been partially implemented. I would be happy to point you to those ones.

Senator CORMANN: We have had a look at your website, but I could not find it that readily. Could you provide on notice the sorts of areas where there is not yet full implementation and to what extent?

Mr Noroozi: Absolutely. We can send you the report and highlight the areas.

Answer:

In order to assess the Australian Taxation Office's (ATO) progress in implementing IGT recommendations to which the ATO has agreed, in the past, the IGT has undertaken "follow up" reviews. The latest follow up review was completed in June 2010.

Of the 41 agreed recommendations considered in the above follow up review, 30 were fully implemented, 8 were partly implemented and 3 not implemented. Below is a list of the 11 recommendations which were partly or not implemented.

| IGT Review | Recommendation | Not Implemented | Partly Implemented |
|---|--|-----------------|--------------------|
| Improvement to tax administration arising from the Inspector-General's case study reviews of the Tax Office's management of major, complex issues | More needs to be done to reduce the time taken to identify and progress test or lead cases including increasing Tax Office efforts to identify a suitable lead case on an issue, and offering inducements encouraging taxpayers to come forward. | | X |
| | Transparency and communication would be greatly enhanced if the Tax Office's full agenda of significant technical issues under consideration was made publicly available and easily accessible. A consolidated listing of all significant technical issues that it has under consideration on a 'Technical Issues Agenda' area within the Tax Office website would be a suitable way of making this improvement. | X | |
| | To avoid uncertainty, draft or all final public advice products (including taxation rulings, determinations, interpretive decisions, Practice Statements, Fact Sheets and publications), should be promptly | | X |

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| | <p>withdrawn or appropriately flagged as soon as the Tax Office has changed its view of the law, or where a court decision has raised the need for review. This should occur as soon as the change or need for review is identified, even if a replacement or fully updated product is not immediately available.</p> | | |
| <p>Review of the Tax Office's administration of GST audits for large taxpayers</p> | <p>The Tax Office should ensure that there is greater transparency in the presentation of its GST audit results to the community by:</p> <ul style="list-style-type: none"> • identifying those GST audit adjustments which have arisen from unprompted voluntary disclosures and those that have not; • identifying how much of reported GST audit adjustments which have not arisen from unprompted voluntary disclosures involve a net contribution to the revenue and how much of these adjustments involve revenue-neutral or other kinds of adjustments which do not; and • identifying the quantum of credit amendments made by taxpayers to prior year GST returns which the Tax Office has not included as GST audit adjustments. | | <p align="center">X</p> |
| | <p>The Inspector-General recommends that the Tax Office enhance its processes for ensuring that GIC imposition and/or remission decisions in large taxpayer GST audits are being made appropriately and consistently by:</p> <ul style="list-style-type: none"> • issuing detailed GST-specific guidance for its staff on GIC remissions which arise as a result of a GST audit; • ensuring that large taxpayer GST auditors are appropriately trained on the Tax Office's guidelines for GIC imposition and remission; and • ensuring that GIC remission decisions for large taxpayer GST audits | | <p align="center">X</p> |

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| | are subject to adequate internal quality controls. | | |
| | The Inspector-General recommends that tolerance or materiality levels are aligned across both Australian Customs Service and Tax Office administration of GST. | | X |
| Review of the Tax Office's management of complex issues - Case study on research and development syndicates | The Inspector-General recommends that the Tax Office fully reconsider whether it has fairly struck settlements with: (a) the 19 investors that the Tax Office did not formally advise that their investments made more than 8 years previously would be subject to review; and (b) those investors with whom the Tax Office negotiated settlements without telling them that at the same time it was mediating a case to develop guidelines for the resolution of R&D syndicate cases. | | X |
| Review of Tax Office's management of complex issues - Case study on living-away-from-home allowances | The Commissioner of Taxation should conclude a corporate view on whether the Tax Office should formally advise the Treasury, in accordance with Practice Statement CM 2003/14, that legislative change is required or not. | | X |
| | In the absence of the Tax Office providing such formal advice to Treasury or any legislative change, then the Tax Office should issue a new public ruling to replace Miscellaneous Taxation Ruling MT 2030. The new public ruling should provide community-wide guidance and certainty on the Tax Office's interpretation, administration and practical application of the LAFHA provisions, and should include clarification of the key technical issues arising from this review such as: • usual place of residence; • meaning of the term 'additional'; • factors the Tax Office would take into consideration in determining | X | |

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| | <p>what was 'reasonable' for the purposes of a LAFHA including guidance on methods which would be acceptable to the Tax Office; and</p> <ul style="list-style-type: none"> • causation between employment and entitlement to receive a LAFHA, in particular, whether there is a requirement for a pre-existing employee/employer relationship for a LAFHA entitlement. | | |
| <p>Review of Tax Office's management of complex issues - Case study on service entity arrangements</p> | <p>The Tax Office should issue comprehensive guidance to its staff, in the form of a practice statement which is made publicly available, on the meaning of the term 'general administrative practice' and on the implications with regard to penalties, interest and primary tax which arise if the Tax Office has changed such a practice. This guidance should also provide practical examples and should be subject to public consultation prior to being issued.</p> | | X |
| | <p>The Tax Office should, in the interest of providing maximum certainty to taxpayers in a self assessment environment, ensure that all guidance which is of a significant nature and which applies to a substantial segment of the taxpayer population is, to the maximum extent possible, embodied in the form of guidance which is legally binding on the Tax Office.</p> | X | |

There is another follow up review scheduled in the IGT's current work program which is expected to assess the implementation of recommendations in a number of IGT reviews released since November 2008.

Moving forward, the IGT is not planning to conduct any future follow up reviews in this manner as agreement has been reached with the ATO on a new process for assessing the implementation of IGT recommendations.