

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Question: BET 401

Topic: Commissioned Reports

Written: 17 June 2013

Senator BUSHBY asked:

401. How many reports have been commissioned by the Government in the department/agency this financial year to date*? Please provide details of each report including date commissioned, date report handed to Government, date of public release, terms of reference and committee members.

- a. How much did each report cost/ is estimated to cost?
- b. How many departmental staff were involved in each report and at what level?
- c. What is the current status of each report?
- d. When is the Government intending to respond to these reports?

** Financial year to date – 30 June 2013*

Answer:

401. 4 reports were commissioned by the Government for Treasury for the 2012-13 financial year:

1.

Report Name:

Credit Card Surcharge and Non-transparent Transaction Fees: A Study

Date Commissioned:

24 May 2013

Date handed to Government/ Public Release:

24 July 2013

Terms of Reference:

Consumer stakeholders have raised concerns about credit card surcharges and non-transparent transaction fees, particularly the extent to which they:

- hide the true cost of goods and services where a surcharge or fee is a significant amount of the total cost;
- are inadequately disclosed, including where they are only revealed at the point of payment; and
- are levied in circumstances where there are no practical alternative payment options.

Consumers are afforded protections aimed at ensuring transparency in the display of prices for goods and services. This includes the general prohibition against misleading and deceptive conduct

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

and the single price provision of the Australian Consumer Law (which forms Schedule 2 of the *Competition and Consumer Act 2010*), and the mirror protections under the *Australian Securities and Investments Commission Act 2001*. There are also standards that promote efficiency and competition in the Australian payments system, including the recently amended surcharging standards made under the *Payment Systems (Regulation) Act 1998*, that allow card scheme rules to limit surcharges to the reasonable cost of card acceptance.

Commonwealth Consumer Affairs Advisory Council (CCAAC) is requested to commence a study into the experiences of Australian consumers when they encounter credit card surcharges and non-transparent transaction fees. CCAAC is also requested to provide advice as to the prevalence of merchants applying surcharges or fees that appear excessive and where they hide the true cost of goods and services where a surcharge or fee is a significant amount of the total cost. As part of this study, CCAAC should:

- investigate consumer experiences with credit card surcharges or transaction fees, including where consumers could be misled about the true cost of a good or service;
- examine the obligations of merchants when applying credit card surcharges or transaction fees, including how these obligations are enforced; and
- identify best practices to improve the transparency of credit card surcharges or transaction fees, including the use of consistent terminology and disclosure practices.

CCAAC is asked to provide its report to the Assistant Treasurer by the end of July 2013.

Committee Members:

Colin Neave AM (Chair)
Carolyn Bond AO
Stephen Corones
Lynda Edwards
Deborah Healey
Peter Kell
Gordon Renouf
Rhonda Smith
Ray Steinwall

Cost:

Nil. CCAAC reports are paid from within existing Competition and Consumer budget.

Departmental Staff Involved in Report (Including Level):

2 Departmental staff were involved as part of normal duties (1x APS 1x EL).

Current Status:

Report has been provided to Minister for Competition and Consumer Affairs.

Government Response:

It is not known whether the Government will formally respond.

2.

Report Name:

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

A Super Charter: Few Changes, Better Outcomes.

Date Commissioned:

9 May 2013.

Date handed to Government/ Public Release:

Handed to Government - 5 July 2013.

Terms of Reference:

Reporting to the Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP and the Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations, the Hon Bill Shorten, by 5 July 2013, the Chair and Group members are requested to:

1. Develop and recommend a Charter of Superannuation Adequacy and Sustainability which embodies the principles of certainty, adequacy, fairness and sustainability and will be used to;
 - 1.1 Assess future superannuation policy proposals for consistency with these principles, and
 - 1.2 Guide the operation of the Council of Superannuation Custodians.
2. The Charter should have sufficient scope and breadth to accommodate a maturing superannuation system against the background of structural changes in the economy, such as the evolution of the financial system and demographic change.
3. Develop and recommend an appropriate structure for the Council of Superannuation Custodians, including:
 - 3.1 Appropriate Council structure, including role and powers.
 - 3.2 Appropriate size and representation.
 - 3.3 Delineation of the Councils advisory function from that of the regulators.
4. In conducting its review, the Chair of the Charter Group is to put in place a process for consulting key stakeholders, including the community, industry and regulators

Committee Members:

Jeremy Cooper
Alan Goldberg
Elana Rubin
Steve Tucker
Ross Jones

Cost:

\$72,000 (excl GST); \$75,000 (incl GST).

This includes: flights; accommodation; travel allowance; sitting fee; venue hire; advertisement; estimates of aforementioned unpaid amounts.

It does not include salary paid to public servants with existing engagement to the Commonwealth.

Departmental Staff Involved in Report (Including Level):

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

4 staff members (1x SES, 1x EL, 2x APS).

Current Status:

The Charter Group provided its report to the Treasurer on 5 July 2013.

Government Response:

The timing of the Government's response to the report is a matter for the Government.

3.

Report Name:

Debt and Equity Tax Rules

Date Commissioned:

14 May 2013

Date handed to Government/ Public Release:

Public release - March 2015.

Terms of Reference:

1. The Board of Taxation (the Board) is asked to undertake a post-implementation review of the debt and equity rules in the income tax law (Division 974 of the *Income Tax Assessment Act 1997*).
2. The debt and equity rules were introduced to classify certain financing arrangements as debt or equity for specified tax purposes (for example, the thin capitalisation rules and the interest and dividend withholding rules) on the basis of the 'economic substance' of the arrangement rather than merely on the basis of the legal form. The rules have now been in operation for over a decade.
3. The standing terms of reference for a post-implementation review requires the Board to consider whether the legislation:
 - gives effect to the Government's policy intent, with compliance and administration costs commensurate with those foreshadowed in the Regulation Impact Statement for the measure;
 - is expressed in a clear, simple, comprehensible and workable manner;
 - avoids unintended consequences of a substantive nature;
 - takes account of actual taxpayer circumstances and commercial practices;
 - is consistent with other tax legislation; and
 - provides certainty.
4. In undertaking the post-implementation review, the Board is also asked to:
 - examine whether there are any unintended misalignments between the debt and equity distinction and related concepts in the income tax law which could potentially result in inconsistent policy outcomes; and
 - consider whether there can be improved arrangements within the Australian tax system to address any inconsistencies between Australia's and other jurisdictions' debt and equity rules that could give rise to tax arbitrage opportunities.

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

5. To the extent that there are unintended misalignments between the debt and equity distinction and related concepts in the income tax law, the Board should also examine the potential for broader application of the current debt and equity rules to ensure consistent policy outcomes.

The Board is asked to report to the Assistant Treasurer by March 2015.

Committee Members:

Members of the Board of Taxation

Cost:

\$87,000 estimated consultant costs.

Departmental Staff Involved in Report (Including Level):

6 staff members (1x SES, 3x EL, 2x APS). This is one of three reviews for which these staff provide secretariat support.

Government Response:

The timing of the Government's response to the report is a matter for the Government.

4.

Report Name:

Thin Capitalisation Arm's Length Test

Date Commissioned:

14 May 2013

Date handed to Government/ Public Release:

Public release - December 2014.

Terms of Reference:

1. The Board of Taxation (the Board) is asked to undertake a review of the thin capitalisation arm's length test contained in Division 820 of the *Income Tax Assessment Act 1997*.
2. The arm's length test is intended to provide a carve-out from the thin capitalisation rules for a level of debt which is considered to be 'commercial or independent'. The arm's length test focuses on what the business acting at arm's length would borrow and what independent commercial lenders would lend to the business (the policy).
3. Having regard to the policy, the Board is to consult on ways to make the arm's length test more effective by reducing compliance costs for business and making it easier for the Australian Taxation Office to administer.
4. In addition, the Board should consider who should be eligible to access the arm's length test and in what circumstances.
5. The Board should consider views put forward and provide its recommendations in a report to the Government by December 2014.

Committee Members:

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Budget Estimates

4 – 6 June 2013

Members of the Board of Taxation

Cost:

Consultant costs are estimated not to exceed \$75,000.

Departmental Staff Involved in Report (Including Level):

6 staff members (1x SES, 3x EL, 2x APS). This is one of three reviews for which these staff provide secretariat support.

Government Response:

The timing of the Government's response to the report is a matter for the Government.