

Department/ Agency: Australian Taxation Office

Question: BET 1980

Topic: Legal Costs

Reference: Written - 12 June 2014

Senator: Ludwig

Question:

1980. List all legal costs incurred by the department or agency since Additional Estimates in February, 2014
- List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
 - List cost spend briefing Counsel, broken down by hours spend briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
 - How was each piece of advice procured? Detail the method of identifying legal advice.

Answer:

1980.

- Table 1: The ATO (including Tax Practitioners Board) legal services expenditure from 1 March to 31 May 2014.

Expenditure	ATO (\$)	TPB (\$)	Total Value (GST exclusive) (\$)
External legal services expenditure			
Professional fees	4,159,765	259,576	4,419,341
Counsel fees	3,693,389	59,881	3,753,270
Disbursements	3,944,844	16,018	3,960,862
Total external legal services expenditure	11,797,998	335,475	12,133,473
Total direct staff costs and salaries	6,215,564	282,624	6,498,188
Total overhead costs	4,025,894	212,500	4,238,394
Total internal legal services expenditure	10,241,458	495,124	10,736,582
Total legal services	22,039,456	830,599	22,870,055

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
 Budget Estimates 2014
 3 June to 5 June 2014

expenditure			
--------------------	--	--	--

Notes to Table 1:

- External legal services expenditure excludes costs awarded against the ATO, external expenditure on compensation and the ATO’s Test Case Program legal costs.
- Professional fees include fees charged by external legal services providers for the work undertaken by their solicitors.
- Counsel fees include panel counsel briefings and direct briefings (ATO and the Tax Practitioners Board).
- Disbursements includes court filing fees, summons fees, expert witness costs, indemnity fees (payments of costs incurred by lawyers or other professionals where the ATO has agreed to provide an indemnity), legal costs for settlement of cases (payments of third party legal costs where a case has been settled) and fees associated with mediating legal disputes.
- Direct staff costs includes direct salary costs, superannuation costs, leave entitlement costs and other salary related staff costs to the Dispute Resolution Branch and Tax Practitioners Board legal unit.
- Overhead costs include direct overhead costs such as Dispute Resolution Branch and the Tax Practitioners Board staff travel costs, training and development costs, stationery and other miscellaneous costs such as electronic and hard copy legal information (online database and journals) and indirect overhead costs such as desktop services, accommodation, recruitment services and communication technology services costs.

A further breakdown of this information can only be extracted from individual invoices and would require a significant amount of manual work and would be an unreasonable use of resources.

b. Table 2: Counsel break down (GST exclusive)

Total Counsel (includes panel and direct brief)		\$3,753,270
Male	\$2,773,145	74%
Female	\$980,125	26%
Total Direct Brief		\$1,528,057
Male	\$1,119,546	73%
Female	\$408,511	27%
Total Panel Brief		\$2,225,213

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Budget Estimates 2014
3 June to 5 June 2014

Male	\$1,653,599	74%
Female	\$571,614	26%

Notes to Table 2:

- Male/female ratio for AGS Panel briefs are based on 2012-13 percentages. AGS will provide a report to the ATO at the end of the financial year for Office of Legal Services Coordination (OSCL) reporting purposes.
 - The cost of briefing Counsel is broken down by the manner of engagement. Counsel is either engaged indirectly through a Panel firm of solicitors on behalf of the ATO or the ATO directly brief Counsel.
 - All engagement of Counsel was by or on behalf of the ATO – i.e. Departmental.
- c. Please refer to tenders.gov.au for the published procurement method. Please note that counsel are not engaged through the tender process and are briefed by ATO to provide advice or appear on behalf of the Commissioner, in accordance with the Legal Services Directions 2005.