

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Taxation Office

Question No: 125

Topic: ATO Procedures and Practices - Compliance Communications

Reference: Hansard page 13 (30 May 2017)

Senator: Ketter, Chris

Question:

Senator KETTER: I understand that former commissioner Michael D'Ascenzo had issued instructions that tax agents, accountants and lawyers should not be allowed to directly contact SES officers, except in accordance with the ATO's practices and procedures. What were the ATO's procedures for allowing tax agents, accountants and lawyers to directly contact SES officers at the ATO?

Mr Jordan: I am not aware of those specific guidelines.

Senator KETTER: So those guidelines do not exist?

Mr Jordan: I do not know. I would have to take that on notice. It was a specific thing from my predecessor to staff or to SES officers?

Senator KETTER: To SES officers.

Mr Jordan: I will take that on notice...

[...]

Ms Lendon: In terms of the question that you have raised, we are not aware of any instruction of that kind. The closest to it was that there was an independence around our tax council network advice. So we tried to guide people—tax agents and so on—through our compliance areas and so on, rather than going directly to our tax counsel network. That might be where some of the confusion is, but certainly the commissioner of that time was keen to be open with the community and have ongoing dialogue.

Senator KETTER: Okay. So, in terms of the people involved in prosecutions, for example, are there any guidelines around contact with tax agents, accountants and lawyers?

Ms Lendon: In respect to prosecutions, I would have to take that one on notice.

Senator KETTER: Are you aware, Commissioner, or others present, of any cases where large accounting firms have directly contacted SES officers?

Mr Jordan: I am not aware of any by name, but I am absolutely certain that there would be dozens, lots.

Senator KETTER: And so you would not have issued any instructions that this should not happen?

Mr Jordan: As I say, that is just the system working. People have to talk to each other. So, when you say, 'Did an SES officer receive a phone call from a large accounting firm about a major matter?' It would be happening on multiple times every day. That is the system. People have to talk to each other—'What's going on?' 'Where's that information?' 'You said you were going to give it to us this week. When are we going to get it?' Important things, obviously, are put in writing. So all the requests for information would have been put in a letter or something, but people will be phoning each other up all the time. That has to be the system. Otherwise, you revert to long letters that no one understands, and that is not the way modern business works.

Senator KETTER: Okay. Thank you.

Answer:

The Commonwealth Director of Public Prosecutions (CDPP) is the independent authority responsible for prosecutions of alleged offences against Commonwealth law. Under the direction of the CPDD, criminal charges are only discussed with the defendant (the taxpayer) or their nominated legal counsel and the CDPP.