

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

2015 - 2016

**Department/Agency: Treasury**

**Question: SBT 394-397**

**Topic: Small Business Wind-ups**

**Reference: written - 30 October 2015**

**Senator: Wong, Penny**

**Question:**

Small Business Wind Ups:

394. There have been reports of a significant increase in wind-up applications made against small businesses this year – why is the ATO pursuing more cases?

395. Is issuing a record number of business wind-up applications inconsistent with the Government's rhetoric about supporting small business?

396. What criteria does the ATO use when deciding whether to make a wind-up application against a small business? Is there a specific dollar figure or debt ratio which triggers this?

397. What is the dollar value of outstanding corporate tax debt? What proportion of this is owed by small businesses?

**Answer:**

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Over recent months there has been an increase in ATO-initiated wind-up applications due to better targeted legal action, including insolvency proceedings, where there is evidence a small business is not viable.

Overall, in 2014-15, the ATO initiated around 13% (1,000) of the small business bankruptcies and wind-ups where it was a creditor.

To provide context, less than one per cent of small businesses with a tax debt entered insolvency, with most of these being self-initiated or initiated by creditors other than the ATO. The majority of small businesses pay their tax on time, with over 80% paying by or shortly after the due date and over 90% paying within 365 days.

Not all wind-up notices lead to wind-up, with the ATO often able to work with small businesses to reach a sustainable and mutual solution. Ultimately, the court decides whether a business is insolvent or not.

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The ATO provides a range of contemporary tools and services to make it as easy as possible for small businesses to pay on time or manage any debt that arises.

The ATO works co-operatively with viable, well-run small businesses experiencing short-term cash flow issues that prevent them paying on time. In 2014-15, the ATO granted over 500,000 payment plans for small businesses, resulting in payments of around \$4.6 billion.

While the majority of small businesses voluntarily pay their tax on time or soon after, there are a small number who don't pay promptly or at all. The ATO is taking timely, stronger action to prevent those who don't pay from gaining an unfair financial advantage over those who do pay on time.

This also limits the broader harm being caused by unviable small businesses that trade insolvent, causing financial distress for suppliers, customers and employees (for example, where businesses have failed to pay employee superannuation entitlements or remit amounts withheld from wages).

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The ATO does not initiate wind-up proceedings based on specific debt thresholds.

The ATO considers each case on its merits having regard to a range of factors, including:

- the asset position of the business
- the size and nature of the debt
- the future income of the business
- the risk to the revenue
- the cost of wind-up and the likely return.

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At the end of June 2015, the value of collectable company tax debt was \$6.71 billion. Of this, 58.5% was owed by small businesses.