

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

Question: sbt 89

Topic: Transfer of profits in corporate entity structures

Hansard Page: E118

Senator JOYCE asked:

I will make the question broader then. Do you believe that in corporate entity structures that operate across boundaries, where any multinational deals in Australia, there is a capacity for the transfer of profits to more appropriate or kinder sections?

Mr Beckett—We can take it on notice and pass it on to Revenue Group for you, Senator.

Answer:

Consistent with international standards, Australia has in place comprehensive rules to address issues of inappropriate transfer pricing behaviour by multinationals, which may arise from cross-border transactions. These rules aim to ensure that Australia receives its fair share of tax from international transactions, by requiring such transactions be priced according to the internationally accepted arm's length standard. Consequently, if a multinational attempts to transfer profits to a lower taxing country by entering into a transaction that is for a non-arm's length price, the transfer pricing rules provide the Commissioner of Taxation with the power to disregard that price and substitute a price that would have been received by independent parties dealing at arm's length. In the event of transfer pricing fraud, the Australian Taxation Office is able to, and has, imposed significant penalties on taxpayers.

Australia's domestic transfer pricing rules have broader application than transfer rules of many other countries, due to Australia's tax treaty practice of preserving our ability to apply our domestic transfer pricing rules in all appropriate tax treaty cases. Consistent with this practice, the 1988 tax treaty with the People's Republic of China preserves Australia's ability to apply its domestic transfer pricing rules thus ensuring the effective administration of our rules in relation to cross-border transactions involving China.