

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Supplementary Budget Estimates 1-2 November 2006)

Question **SBT 99**

Topic: **TRANSPARENCY INTERNATIONAL**

Hansard Page: **E78-79**

Senator SHERRY—Has the ATO started requiring companies to reveal on their tax returns whether they paid any facilitation payments?

Mr D'Ascenzo—We are in the process of changing the return form to put a box to cover facilitation payments. So we have not done it yet, but that was one of the recommendations and we are currently considering that option and whether or not that is feasible in terms of our systems.

Senator SHERRY—When will that be introduced if it is feasible?

Mr D'Ascenzo—If it was feasible, we would be using it for next year's tax returns.

Senator SHERRY—In considering this change, will the ATO require companies to provide details of who the payment was made to?

Mr D'Ascenzo—I am not sure what the parameters of that change might be. It might be sufficient to say, 'If you had facilitation payments, tick,' or 'Put an amount in.' Then we could follow that up outside the return form process. We have not finalised those details.

Senator SHERRY—In considering this issue, is there a grey area when the ATO has to distinguish between a facilitation payment and a bribe or kickback? It is not an easy issue to describe, I would have thought.

Mr D'Ascenzo—I have been reflecting on our discussions—another indication of a responsive and listening tax administration—

Senator SHERRY—I was just going to comment on the words 'reflecting' and 'responsive'.

Mr D'Ascenzo—That could be run along the lines you suggested, Senator.

Senator SHERRY—When you have finalised the guidelines and determined how this will be dealt with, will that information be published? Will companies be informed as to these provisions, aside from the box, or whatever it is, that is going to appear?

Mr D'Ascenzo—We have developed some guidelines that we have already provided to our auditors. We are working with the Corporate Tax Association to see how we can provide those guidelines to their members and more broadly. They will be on our website. We will make the information open and transparent, and hopefully that will help Australian companies comply. Hopefully, through that discussion, we may think of other ways in which we can monitor this sort of activity in a way that meets the objectives of the law and reduces compliance costs for the taxpayer.

Senator SHERRY—Do you have any idea of when those guidelines will be issued?

Mr D'Ascenzo—I think they are already issued to our auditors. If not, they are in the course of preparation for issue.

Senator SHERRY—If they are issued to the auditors at the present time, will they also be made public?

Mr D'Ascenzo—Yes.

Senator SHERRY—Do you have any indication of when that will be?

Mr D'Ascenzo—If they are already been issued to the auditors, I will make sure they are on the web as soon as possible.

Senator SHERRY—Excellent. Transparency International has raised concerns about the ability of companies to meet ATO requirements to gain a tax deduction for facilitation payments. Are you aware of that concern?

Mr D'Ascenzo—I have not heard of that concern.

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Mr Konza—No, neither have I.

Mr D'Ascenzo—Someone else in the organisation might have heard of it, but I have not heard of it.

Senator SHERRY—Could you take that on notice?

Mr D'Ascenzo—Sure.

Answer:

The Tax Office has developed a draft publication on bribes and facilitation payments. The intent of this document is to highlight a series of better practices to corporate boards so the risk of bribes being paid is minimised.

These better practices have been drafted after a review of the company codes of conduct which have been implemented by some of the largest corporate groups.

The Tax Office has shared a draft with the Attorney-General's Department, the Corporate Tax Association, the Taxation Institute of Australia, the Business Council of Australia and Transparency International.

The Tax Office has also published on its website the guidelines it has issued to auditors on dealing with bribery and facilitation payments. These guidelines draw heavily from the OECD bribery awareness handbook for tax examiners. The Tax Office also consulted with key stakeholders before finalising these guidelines and their feedback has been included.