

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

Supplementary Budget Estimates 22 October 2008

Question **SBT 43**
Topic: **Advance payment of BAS**
Hansard Page: **E127**

Senator Abetz asked:

I have a question in relation to the administration of the tax system—and, so that nobody thinks I am trying to score political points, I think it may well have been a fault of our legislation at the time. Under the business activity statements, for a small business when it has to report quarterly I have a real-life situation in Tasmania. Somebody who has reported faithfully and paid up at all times wants to go on a trip around Australia for a few months. He rings the tax office and asks, ‘Can I pay even double my average quarterly in advance so I do not have to put my BAS in or can I pay it later?’ He was told, ‘No, no, no,’ and that if he did not put it in his business activity statement at the appropriate time a penalty would apply et cetera. So a fair bit of expense had to be gone into to get somebody to put that return in for him whilst he was travelling around Australia—and I think he is somewhere in Perth at the moment. But is that the case: that you have got to file, even if you are going to be away or overseas and you want to pay in advance even double what your normal amount might be?

Mr D’Ascenzo—I will ask Ms Vivian to answer that. I hope that we are flexible enough to cater to those sorts of situations. I will have to wait and see what the answer is.

Senator ABETZ—I think the answer is no. But, if that is the case, Minister, I would ask you to consider some change to the legislation which would allow for flexibility for genuine people to even pay what is anticipated in advance so that they can go travelling with peace of mind. But, Ms Vivian, what can you tell me?

Ms Vivian—I will take it on notice and have a look at what sort of arrangements we have in place for situations like that.

Answer:

1. While it is preferable that taxpayers comply with their lodgment obligations as they occur, should they find themselves in circumstances where they are unable to do so, the Australian Taxation Office (ATO) will accept advance payment upon request.
2. While not routine, taxpayers may pay for a future liability at any time, however they need to advise the ATO to ensure that this early payment is not refunded or impacted by other accounting processes. For example, currently ATO computer systems will automatically refund an early payment back to the taxpayer if there is no manual intervention.

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3. Taxpayers can contact the ATO on 13 28 66 if they do not have a tax agent, or their tax agent can contact the ATO on 13 72 86.
4. The timely lodgment of returns (activity statements and income tax returns) does ensure that the full circumstances of the taxpayer is known and appreciated by the Commissioner. This enables the ATO to make decisions based on an understanding of the taxpayer's full range of obligations.
5. However, the Commissioner has a discretionary power to defer the time for lodgment under sub-section 388-55(1) of schedule 1 to the *Taxation Administration Act, 1953*.
6. The circumstances under which the Commissioner will exercise that discretion or suspend the pursuit of non lodgment are contained in Chapter 55 of the *ATO receivables policy* which is on the ATO public website.
7. A request to defer the lodgment of a return or statement would be considered having regard to factors, including:
 - the taxpayer's compliance history as a whole, that is, compliance with both lodgment and payment obligations
 - the length of time requested, and
 - any risk to the revenue.
8. Alternatively, in circumstances where a taxpayer is to be absent at the time of the normal generation of an activity statement, an activity statement can be requested to be generated in advance to assist taxpayers meet their obligations. In the past, this has not been available to taxpayers that expect to continue to trade albeit their businesses are dormant while they are absent. However, this policy has been reviewed and changed to allow small businesses to request and, where all relevant details are known, submit their activity statement early.
9. The ATO website is being updated and call centre staff and tax agents are being advised of these changes to ensure that the availability of early payment in such situations and the early generation of activity statements are widely known.