

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
BUDGET ESTIMATES 2011-2012

Prime Minister and Cabinet Portfolio

Department/Agency: Office of the Commonwealth Ombudsman
Outcome/Program: all
Topic: Taxation Ombudsman

Senator: Senate Bob Brown MP
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Question:

1. What action is your office taking in response to allegations by high-profile Australians that the government has treated them unfairly in relation to its Project Wickenby investigation into illegal offshore schemes?

Answer:

1. On 5 April 2011, the Ombudsman, Allan Asher, confirmed that he had received a complaint from Robinson Legal on behalf of Paul Hogan, John Cornell and Anthony Stewart.

On 14 April 2011, the Ombudsman informed agency heads and relevant Ministers that he had decided to conduct an own motion investigation into the cross-agency taskforces looking into suspected illegal offshore schemes, including Project Wickenby and related activities. These agencies include the Australian Taxation Office, Australian Crime Commission, Australian Federal Police, Australian Securities and Investment Commission, AUSTRAC, Commonwealth Director of Public Prosecutions and Attorney-General's Department.

The Commonwealth Ombudsman investigates complaints in private and as he considers appropriate. Following completion of the investigation, the Ombudsman may release a public report of the findings.

Question:

2. In March this year, the media attributed to you criticisms of the Australian Taxation Office made in a private briefing of the Joint Parliamentary Committee of Public Accounts and Audit. It was reported that you said the ATO was plagued by 'systemic problems' and 'institutional rigidities'.
 - a. What did you mean?
 - b. What is the impact on taxpayers of these problems?
 - c. How many complaints does your office receive each year about taxation issues and what are the complaints about?

Answer:

2.a. Complaints about the Australian Taxation Office have increased during the past three years, indicating a need for improvements within specific areas of the Tax Office. The Ombudsman acknowledges that the Tax Office operates much of its business very well in what can sometimes be a difficult environment. However, this should not diminish the importance of taking a strategic approach to complaints. It is important for agencies to have an open and accountable culture whereby they acknowledge and address any shortcomings highlighted by complaints.

The Commonwealth Ombudsman maintains that the Tax Office could do more to reflect on its activities, learn from its complaints and improve its service and administration. It should be noted that some of the problems experienced by taxpayers can have devastating consequences.

The Australian Taxation Office is usually open with the Commonwealth Ombudsman about issues of concern, but on occasion we consider the Tax Office is unwilling to publicly acknowledge problems. The Taxation Ombudsman e-bulletin (Issue 1 September 2010) highlighted areas in need of improvement following the introduction by the Tax Office of its Change Program. We said that the Tax Office needed to:

- provide clearer messages to the community about a delay at the time of the delay, not after the fact
- ensure that the messages provided to taxpayers who contact the Tax Office are consistent with public comments made by the Tax Office
- ensure all areas of the Tax Office and key external stakeholders are aware of problems and the identified workarounds.

2.b. The Taxation Ombudsman e-bulletin (Issue 1 September 2010) reported that, based on complaints received in 2009-10, there were 195 complaints about the implementation of the income tax release of the Tax Office's Change Program. Most of the issues raised related to delay in receiving expected refunds. Other main areas of complaint included:

- delay in receiving a replacement tax file number
- Government benefits delayed/changed due to information from the Tax Office not being received by Centrelink
- inadequate communication from the Tax Office
- inadequate response by the Tax Office when a complaint has been made.

The Ombudsman acknowledges that the Australian Taxation Office is a large agency that deals with tens of millions of transactions and that for a majority of taxpayers the system works relatively efficiently. However, this office tends to have contact with taxpayers who fall outside the majority. It is important that all taxpayers, especially the relatively small number likely to suffer severe consequences if their complaints are not addressed, are given appropriate attention by the Tax Office to ensure their issues are resolved.

The consequences of a tax file number compromise can be severe—for example, we have seen this have a negative impact on complainants' Centrelink eligibility, education and other opportunities, and ability to meet financial commitments.

Since the Joint Parliamentary Committee of Public Accounts and Audit hearing in February 2011 the Australian Taxation Office's processing of compromised tax file numbers has

improved significantly. We are satisfied that the Tax Office is working to implement all the recommendations in the Ombudsman's September 2010 report '*Australian Taxation Office: Resolving Tax File Number compromise*'.

2.c. In 2009-10 this office received 1,810 approaches and complaints about the Australian Taxation Office. This represents an increase of 27.3% from 1,422 complaints received in 2008-09. Complaints received during 2010-11 about the Tax Office have also increased, with more than 2,500 approaches and complaints received by the end of June 2011.

The top five complaint topics about the Australian Taxation Office relate to:

- lodgement and processing, for example delays in receiving a refund or confusion about a tax assessment
- debt collection activities, for example payment arrangements, debt waiver or write-offs, action of debt collection agencies, offsetting of refunds or credits against debts and garnishee action
- taxpayer information, for example delays relating to a tax file number compromise situation
- superannuation, for example lack of action in relation to the collection of unpaid superannuation guarantee
- audit, objection and review processes, for example delays, communication by the Tax Office and explanations for decisions.