

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 2023 - 2024

Agency: Australian Taxation Office
Question No: SBE054
Topic: Foreign buyer crackdown
Reference: Written (06 November 2023)
Senator: Malcolm Roberts

Question:

1. In relation to foreign purchase investigations a 16 October 2017 news article on domain.com.au titled “Foreign Buyer crackdown: Joe Hockey says 195 cases ‘the tip of the iceberg’” (<https://www.domain.com.au/news/foreign-buyer-crackdown-joe-hockey-says-195-cases-the-tip-of-the-iceberg-20150609-ghjzq/>):
 - a. How many of those 195 cases were investigated to conclusion?
 - b. What was the result of those 195 cases? Can you provide a breakdown on how many were found to be compliant, how many breaches were found?
 - c. The article reports 60 investigators were deployed to the probe. Was there a formal name for this probe or taskforce?
 - d. How many investigators are currently tasked to this work?
 - e. How long did the 2017 probe last for?
 - f. Reports say the probe was given \$37.2 million over the four years from 2017. How much of that allocation was spent?
 - g. Has that particular line item been changed and either given more or less funding from the budget in the years since 2017?
 - h. Can you confirm the outcome of the Chinese property developer Wang Zhijun case in relation to the \$52 million Point Piper house purchase?
 - i. Can you confirm whether there was a divestment order made in relation to the British investor over the \$700,000 Perth property mentioned in the story?
2. In regards to the foreign buyer data matching program and the flags the ATO receives from that (in terms of whenever you receive a concern from that program or a potential match), given the data matching in relation to these issues started in 2017, how many flags/potential matches for investigation on foreign purchases have you received from that data matching program?
3. On notice can you provide a breakdown by year of how many flags you’ve received from that data matching in regards to foreign purchases?
4. Can you also provide what type of flag it was? Was it a temporary visa that left the country, was it an additional house to a primary residence, was it the purchase of an existing property, what level of granularity you can provide on that?
5. Can you indicate how many investigations have been started in relation to the data matching flags?
6. How many investigations have concluded?
7. How many potential breaches were identified?
8. How many charges have been brought against foreign purchasers?

Answer:

Question 1

a-b

The ATO has undertaken 7,641 compliance investigations since it took responsibility for residential foreign investment regulation in 2015.

We are unable to isolate the specific 195 cases referenced in the article.

Investigations commence with a review and may escalate to an audit or monitoring activity.

As a result of ATO compliance investigations, 2,779 properties have been found to be in breach of the *Foreign Acquisitions and Takeover Act 1975* (FATA) since 2015.

Question 1

c-g

The Foreign Investment Program has been an ongoing funded program within the ATO since December 2015.

The original budget proposal provided the ATO with \$47.5 million across 2015-16 to 2018-19, including funding for initial IT and infrastructure development, with \$7.6 million per year on an ongoing basis.

As the program took on extra functions (including Vacancy Fee and the Register of Foreign Ownership of Australian Assets), funding has increased to \$13.5 million per year from 2024-25. This includes the additional \$1 million per year that was announced in the 2023-24 MYEFO. There are currently 73 staff working across a variety of functions including:

- Residential screening - Receiving and processing applications from foreign investors (including application fees) for residential property.
- Vacancy fee – administration of the vacancy fee compliance program.
- Registration – Administration of the Registers of foreign ownership of water entitlements, agricultural land and residential land, and from 1 July 2023, the expanded Register of Foreign Ownership of Australian Assets. This includes the preparation of aggregated statistics reporting on insights and level of foreign ownership, assisting clients and ensuring compliance with registration requirements.
- Risk and intelligence – Risk identification and quantification, development of compliance strategies and obtaining and analysing data for data-matching.
- Compliance – Ensure compliance with Australia’s foreign investment framework (including the FATA and the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*) as detailed above.
- Law, policy and litigation: Encouraging and supporting compliance through application of penalties and divestment, management of law reform issues and providing clients with interpretive advice and guidance.

Question 1

h-i

Privacy and confidentiality of information laws prevent the ATO from disclosing specific taxpayer or case related information. For more information, see [ATO privacy policy](#).

If there are concerns about a breach of the rules, the ATO encourages people to report these concerns, either by phoning the tip-off line: 1800 060 062 or completing the [tip-off form](#). All tip-offs are investigated.

Questions 2-7

For an explanation of the relevant data-matching process please refer to SBE106.

Of the compliance activities undertaken by the Foreign Investment Program (to 30 June 2023) 4,436 (58 per cent) were sourced from data-matching activities. The number of compliance activities sourced from data-matching activities each year are:

Financial year	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
Compliance reviews sourced from data-matching activities*	1,137	866	812	540	250	444	387	4,436

* The downward trend in data matched compliance activities since 2018-19 is indicative of the success in detecting historical non-compliance in the first years of the ATO's work.

Of the 2,779 properties identified in breach of the FATA across all compliance activities, 1,997 (72%) were identified through data-matching. The data-matching program is supplemented by tip offs, voluntary disclosures, and referrals.

Question 8

Since the ATO assumed responsibility for residential real estate (December 2015) until 30 June 2023, it has forced foreign investors to dispose of their illegally held interests in over 672 Australian properties valued at around \$670 million.

In 2022, the ATO successfully litigated one case where 4 properties were illegally acquired and penalties of \$250,000 were applied. The ATO continues to develop a litigation program for the most serious breaches of Australia's foreign investment rules.

Yearly compliance outcomes including infringement penalty notices issued and vacancy fee liabilities raised are included in Treasury Annual Reports: <https://treasury.gov.au/the-department/corporate-publications/annual-report>.