

## ATO cracks down on high-profile cases, but remains lenient towards SMEs

Monday, 30 August 2010 11:19

Patrick Stafford

The Australian Taxation Office might be cracking down on high-profile tax evasion cases, but experts say SMEs are still being treated leniently and that approach will continue until the economy hits full speed.

A number of high-profile names have hit out at apparently aggressive tactics used by the ATO, including actor Paul Hogan, who was banned from leaving the country last week and faces a \$37.6 million tax bill, which he has disputed.

This morning in *The Australian*, property developer Craig Gore has also lashed out at the ATO, with whom he is currently engaged in a number of disputes. He says he has received \$70 million in tax bills, but has described most as ""fictitious tax liabilities".

But experts say more attention is being given to long-term tax fights rather than SMEs, who still have significant facilities available to them for assistance.

Tax Institute senior counsel Robert Jeremenko says the ATO is cracking down on high-profile cases, but there is still leniency available for SMEs and the office has taken a softer approach to smaller, struggling companies.

"The tax commissioner has been quite clear about this, in public messages to small businesses over the past couple of years, that he will be taking a lenient approach to small business in these economic circumstances. That was a welcome approach."

Sue Prestney, MGI Australia chairperson and SME spokesperson for the Institute of Chartered Accountants, says SMEs are still being approached quite leniently.

"We did see during the GFC the ATO has been quite lenient, in arranging payment terms and reducing the general interest charge. They have shown leniency in difficult times, and that has been a good approach."

"Really that leniency is welcomed, because what's the point of sending a business to the wall if it can actually continue to trade by arranging some payment options?"

Earlier this year, ATO commissioner Michael D'Ascenzo extended the small business assistance package until June 30, 2011, with companies under \$2 million in revenue able to access 12-month interest free payment arrangements and deferrals for activity statement payments.

Last year, D'Ascenzo said in a speech it was more important for the ATO to ""differentiate between businesses likely to remain viable, if given reasonable latitude, and those that show little prospect of surviving the present downturn".

A report in *The Australian* today claim small business debt has increased over the past 18 months, with the small business share of overall tax debt hitting \$8 billion at June 30, well over the usual amount of between \$2-2.7 billion.

However, the more lenient approach won't last forever. There are growing concerns about how small businesses are managing their finances and debt, especially considering the extension of the interest-free payment program.

The ATO has also said this year it is cracking down on a number of specific tax evasion issues, including phoenix arrangements, offshore financing and DIY super funds. It also set aside several million over the next four years to target GST evasion in small business.

Jeremenko says while the leniency program has been extended until June 30, 2011, the softer approach will disappear as the economy improves.

"I imagine the tax office will soon enough be moving to a business-as-usual approach, now that the treat of an Australian recession has passed to some degree. I believe the ATO is being very economically-minded in taking that approach."

He points to the ongoing Wickenby investigation, which received an extra \$122 million earlier this year, and says SMEs will still need to watch their compliance even though the ATO is giving smaller companies some breathing room.

"The ATO's aim is simply to make sure people are complying with the tax laws, and that applies from the small end of town to the big end of town. The Tax Institute supports that project."

Prestney also believes the attitude of the ATO will change as the economy recovers and more businesses start delivering better results.

"I think this approach is changing. It won't last forever, and my recollection is that they've said it won't last forever. The approach will change as the overall economic situation improves."

CPA Australia spokesman Paul Drum says the ATO will be "raising the stakes" in its audit program.

"Leniency in payments are being maintained, but we expect the compliance program in 2011 will have a bigger emphasis on SMEs."