

SHAM CONTRACTING

333. Hon ED DERMER to the Minister for Finance:

- (1) Is the minister familiar with an article written by Mr Ben Schneiders that appeared in *The Age* on 23 March 2011, in which it was contended that sham contracting is a situation in which a relationship between a worker and employer is misrepresented as one in which the employee is providing a contract for services, which can allow employers to avoid providing leave, superannuation or fair wages?
- (2) If yes to (1), what steps, if any, has the minister taken to estimate —
 - (a) the goods and services tax income; and
 - (b) the payroll tax collectionsthat the Western Australian government is losing because of the practice of sham contracting as described?
- (3) If no to (1), what steps, if any, will the minister take to familiarise himself with the practice of sham contracting as described in Mr Schneiders' article?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question.

- (1) No.
- (2) Not applicable.
- (3) I am interested in this matter, but I am not relying only upon some obscure article that was printed in March as my source of information. The extent to which sham contracting is impacting on goods and services tax income is a matter for the Australian Taxation Office to address, as it is charged with the administration of that tax. That service is paid for by the states and territories and managed through state Treasuries. As to payroll tax, this matter has not been raised with me by the Commissioner of State Revenue, who is charged with the administration of that tax. However, in the time available, I have sought the views of the commissioner, who advised me that the Office of State Revenue is very aware of employment practices involving so-called sham contracting arrangements and actively investigates such practices. A specific investigations team within the compliance division of the OSR has existed for a number of years and has as its focus contracting arrangements to ensure that, notwithstanding the structure of such arrangements, the substance is identified and the payroll tax law appropriately applied. This can and does involve the utilisation of an anti-avoidance provision contained within the Pay-roll Tax Assessment Act 2002 to ensure that where an employer–employee relationship exists, payroll tax is appropriately applied. In addition, the OSR works closely with other state and territory revenue offices and the ATO in monitoring developments of this kind to ensure the state's tax base is adequately protected.