



Media release

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High Court confirms ATO can use information from data leaks

Today the High Court confirmed that the ATO may use information obtained from data leaks, even if leaked from a law firm.

Second Commissioner Jeremy Hirschhorn said today's decision in *Glencore International v. Commissioner of Taxation* means the ATO can continue to use the 'Paradise Papers' and other similar data leaks.

"Today's decision is not just a win for the ATO; it's a win for the Australian community who rightly expect the ATO to use all information available to ensure large corporations and those who seek to hide money overseas are paying the right amount of tax," he said.

"The information in question was already in the public domain.

"Once we have information we can't just ignore it – we are obliged to use all relevant information we have."

"It would be a perverse outcome if the ATO and the Courts were not allowed to take into account information that the public at large can access, or had to forget information that is known."

"This ruling ensures that the ATO will continue to be able to use information in its possession, and can make decisions based on all of the available facts. An offshore law firm is not a cloak of invisibility to hide offshore arrangements."

The ATO regularly receives new intelligence and data sources from Australia and across the globe.

"We are at the forefront of international cooperation through our active role in the Joint Chiefs of Global Tax Enforcement (J5) alliance and the Joint International Tax Shelter Information and Collaboration Network (JITSIC), as well as through measures such as Country by Country reporting," Mr Hirschhorn said.

International collaboration bolsters the information the ATO already receives domestically through compliance activities, including data-matching, working with AUSTRAC, ASIC, the AFP and other government authorities.

"The ATO will continue to use all information available to ensure large corporations and those trying to hide money overseas are paying the right amount of tax. Our wide and growing range of information sources and increased collaboration with overseas agencies are vital tools in achieving this objective."

"We will continue to work for all Australians in ensuring that our revenue base is not eroded by taxpayers not paying the right amount of tax in Australia. The broader ramifications of this decision beyond Glencore are that the days of being able to hide money overseas are rapidly coming to an end – not only are foreign banks providing the ATO with details of Australians with offshore money, but taxpayers are only one data leak away from their entire affairs being exposed."

The ATO fully supports the appropriate use of privilege and understands the importance of entities being able to seek advice on issues of law – we want taxpayers to have full access to high quality independent tax advice.

“We are working with key partners in the tax system to ensure that taxpayers can confidently continue to obtain high quality independent legal advice on their tax affairs, but also that the ATO can appropriately review transactions without having critical evidence withheld”, Mr Hirschhorn said.

“The public may have the false impression that this case was about the ATO seeking to access legal advice. In reality, we are interested in facts, not someone else’s analysis of tax law. The critical importance of the case was confirming that the ATO can use leaked copies of documents like contracts, board minutes and banking details.”