

**Transcript of conversation with Leon Byner and Deb Jenkins from ATO
at 5AA on Friday, 8th December 2017**

Leon: Look, I'm going to just go back to something that Bob Gottlieb who writes for the *Fin Review* and *The Australian* raised not only in the National Press but on this program and I'll actually quote you part of what he wrote in the last 48 hours. He says, "*On behalf of 16 frightened victims of Australian Taxation Office small business policies I want to thank Revenue and Financial Services Minister Kelly O'Dwyer for her background role in restoring their Australian Business Numbers. They can now earn income in the weeks leading to Christmas. But Kelly O'Dwyer, your work is only just beginning. The ATO is challenging the way small business is conducted in Australia.*" So look, let's, let's, and I'm glad that the Tax Office have been keen to come on and give you some answers, give you some really good answers. It's the Deputy Commissioner of the Australian Tax Office, Deb Jenkins. Deb, Merry Christmas and thanks for coming on today.

Deb: Thanks very much, Leon.

Leon: Can you explain to us why people have had their ABN numbers cancelled and then they've had them restored? What's, what's behind this?

Deb: Look, I mean I can't talk about individual taxpayers obviously due to taxpayer confidentiality.

Leon: Sure.

Deb: But what I can say is that the ABN Register, we have around 7.2 million ABNs in circulation at the moment. And you know, we actually have so many, we get one new ABN every 37 seconds so there's a lot of ABNs going through the system. So yeah, I can't talk about that particular matter.

Leon: So, even though we're not specifying anyone, we've got a situation, the reason we've got you here is because there are people having the numbers taken off them and I'm just trying to figure out what the *modus operandi* is. So are we really saying, are we implying that there are too many ABN numbers?

Deb: No, no we're not saying that at all. So it's really important to us that those people who are conducting a business get, you know, get an ABN, it's really important to them. And then my role as the small business commissioner, I'm out there talking to small businesses all the time. I am a huge supporter of small business. It's the backbone of our country and we're really keen to support viable, small businesses to thrive. But we do need to make sure that we are applying the law and that we make sure that the right people are getting the ABNs. We always look at the situation, understand the facts before we make decisions. That's what we do in every case. There's no wide scale campaign to cancel ABNs. Not at all. In fact, the number of new ABNs in the last three months has increased from the same period last year. So we want to work with people to understand whether they are entitled to an ABN or not.

Leon: Alright, so can you, whilst I've got you there Deb, the Deputy Commissioner of Taxation here, so can you, can you explain to us in what circumstances would you not be entitled to an ABN if you applied for one?

Deb: Sure. It's a great question. The key difference is you wouldn't be entitled to an ABN if you are an employee and that's one of the things that we're looking at is, those people who are

genuinely employees, they would not be entitled to an ABN. We certainly have heard lots of stories and you know, poor people who have been forced to get an ABN. And you know, that's just not right when people are forced to get an ABN. So we want to work with people to make sure that those employees who their employers should be taking care of their obligation, should be taking care of their superannuation, their annual leave, their sick leave - that those people are actually protected and that only genuine businesses, so those who are not employees, those who are out there, you know, running those amazing businesses in the community are entitled to one.

Leon: Now, let's say you're a business person. Let's say you work from home and you supply services where you do documents for people and you professionally organise them in a way, whether they are reports, whether they are CVs or other things and you charge a fee for them and when you invoice out, the people who are asking you to do the work, they need an ABN number. Now, the question is, if you haven't got it, it means that you can't collect GST presumably. Is it true, is it still \$50,000 where if your turnover is less, you don't get an ABN, or you do?

Deb: No, so I think you might be referring to the GST turnover threshold.

Leon: Yes, yes.

Deb: So that's actually \$75,000 these days. But no, the two issues are actually different. So you're entitled to get an ABN, an Australian Business Number, if you're carrying on a business. But you're right. That's really important. If you are earning more than \$75,000 a year, turning over more than \$75,000, then you should be registered for GST. And I think that might be what you're referring to.

Leon: Yes, so, I wanted to clarify this because an ABN is one thing. So if you register for GST, do you have to have an ABN number?

Deb: Broadly speaking, yes. You need to be carrying on a business or an enterprise.

Leon: That's what I wanted to establish. So ...

Deb: Broadly speaking. There's lots of, I'm sure there's you know, lots of nuances with this but as a general proposition, yeah.

Leon: Alright. So you said before that people are applying for these Australian Business Numbers every 37 seconds.

Deb: Yes, we issue one every 37 seconds. That's right.

Leon: What is, what does that mean? What does that mean?

Deb: Well what that means is we have a lot of small businesses out there in the community. Some of them are large businesses as well who are actually entering the system. There's a huge amount of innovation, I'm sure you've seen it and I know South Australia is the, you know, hugely innovative. I call our office down there the innovation office. And so many of those small businesses are going out there and absolutely, legitimately getting ABNs. But I do need to say we do have a process. We do need to make sure that those people who have an ABN are entitled to those ABNs. So we do look at that and also obviously people get an ABN. You know sometimes people get an ABN and they don't do any work. They don't need that ABN. They don't file their tax returns and so in those

cases we would go through a process of talking to those small businesses and actually cancelling those ABNs.

Leon: Alright, so broadly speaking here, if the Tax Office says we don't think you should have an ABN, what would be the general criteria that you would make that decision? Just so we know exactly what we're dealing with here.

Deb: Sure, there are a number of criteria we look at which is how they go about doing their work, who engages them, the terms and conditions. There's a whole lot of criteria that we look at and no one factor on its own is determinative. So that's why it's really important and we work with people who apply to get an ABN and who we think, "Mm hang on that doesn't sound about right". You know, my people work with those people and try to understand all the facts. You know, how are they working, are there hours imposed by those businesses, whole range of facts that we look at in determining that. There's a lot of information that's available for people on our website. We have a tool that people can use to try and understand, you know, whether they are an employee or whether they are a contractor. You know, anybody who's got questions about this, we love to chat about this stuff. And you know, if you are a worker and you're not sure, there's, our number is 13 28 65.

Leon: 13 28 65.

Deb: That's right. That's if you're a worker and you just want to have a chat through to my team.

Leon: Sure.

Deb: And have a chat to them and say, "Hey, here's my circumstances. You know, am I a contractor or am I an employee?" It's really important. One thing I do want to say is we don't care either way, we don't have any agenda, we just want to make sure that people know what their rights are and what they're entitled to.

Leon: Alright look, thank you for coming on this morning, Deb Jenkins, Deputy Commissioner of the Australian Tax Office. Now on Monday we will talk to the Minister Kelly O'Dwyer and it's great that the Tax Office have offered to talk. We kinda suspect that look, individual cases, we know all the privacy stuff, that's a given, but I think it's important to get some clarification on this. And as I said, we'll continue with this issue. We've had quite a lot of people calling about it. And when you ring up on stuff or you send us an email we feel very much obliged to follow through and get you some answers.