



The Tax Office has demanded that ANZ provide details of some of its customers' accounts in Vanuatu.

ATO puts heat on ANZ

Matthew Drummond

The Australian Taxation Office was "very anxious" to see thousands of documents relating to Australia and New Zealand Banking Group's operations in Vanuatu, the Federal Court heard yesterday.

ANZ has taken the ATO to court in a bid to avoid having to comply with two demands to hand over documents. The ATO is after information about all of ANZ's customers in Vanuatu who have links to Australia. ANZ has 13,000 customers in Vanuatu, making it the country's biggest lender ahead of Westpac Banking Corporation.

In a preliminary court hearing yesterday, ANZ unsuccessfully sought a trial date in September, a date the ATO argued was too far away. David Batt, SC, a barrister acting for the bank, said any earlier date would create difficulties.

"The bank finds itself being in receipt of notices which have potentially extremely serious consequences," he said.

The bank said the ATO's demands for documents must be overturned because they would force the bank to breach Vanuatu's laws guaranteeing confidentiality between banks and customers. ANZ's banking licence

in Vanuatu was also at stake, Mr Batt said.

Vanuatu has no income tax, withholding tax or capital gains tax. A favoured destination for the savings of Australians during the 1980s, its finance industry has since struggled to attract customers because of political instability in the 1990s as well as concerted efforts by the ATO to crack down on offshore tax evasion.

The court heard that the ATO and ANZ had been discussing the

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bank's Vanuatu business for about 15 months.

The ATO's barrister, Peter Hanks, QC, pushed for an earlier hearing. "The [tax] commissioner is very anxious to get these notices determined. The commissioner has a very strong interest in obtaining the information. A great deal of work will need to be done to assess the value of the information."

The judge, Michelle Gordon, agreed and ordered the trial be heard in July. "The sooner the bank puts in the terms and

conditions, the sooner the bank puts on submissions as to the law of Vanuatu, the sooner the better. We have to get this tied down," she said.

The ATO stepped up its efforts to prevent tax evasion through Vanuatu in 2008 when both it and the Australian Federal Police helped to organise raids on law and accounting firms in the capital Port Vila.

The arrest of Port Vila-based accountant Robert Agius occurred in the same year. Both Mr Agius and many of his Australian clients have since been charged with tax evasion.

The ATO filed its two notices seeking documents from ANZ in December. It is seeking information on each customer in Vanuatu whose nationality is Australian, has a residential or business address in Australia, or whose account is recorded in Australian dollars.

One problem for the coming case will be finding an expert on Vanuatu law. ANZ plans to find an independent expert to help the court on how Vanuatu's laws work. However, Mr Hanks warned it may be difficult to find someone who was both an expert on that country's legal system and also truly independent.

Business told to pay up for R&D

Louise Dodson

Innovation Minister Kim Carr has warned the private sector it will have to contribute more to encourage innovation and productivity because the tight budget position means less funding for new programs.

Senator Carr said more tough budget decisions were coming in the industry portfolio, despite it already sustaining cuts of more than \$800 million to help pay for the government's \$5.6 billion flood recovery package.

In a sign of how even ministers prone to spending are prepared to change tack to ensure the government delivers its commitment to bring the budget back to surplus in 2012-13, Senator Carr told *The Australian Financial Review* that "fiscal consolidation" had meant the government must make difficult decisions and could not do all it planned.

The long-time advocate of policies such as the Green Car Innovation Fund—which had been targeted by Treasury and the Productivity Commission as costly intervention in the market—said that inevitably the role of government activity would be wound back to bring the budget back to surplus.

"The fiscal consolidation process inevitably is a process by which you must choose between competing priorities. We can be as creative as you like, but there will be a reduction in activity," he said.

Calling for the Senate to pass the reworked research and development tax incentive, Senator Carr said the scheme was "unsustainable" in its present form.

Asked about the current scheme's cost, Senator Carr said new government projections showed that it would blow out to a massive \$2.4 billion in 2012-13. In 2010-11 the present scheme is projected to cost \$1.8 billion.

"At a time when the government is looking at fiscal consolidation we are maintaining expenditure on R&D, but we can't sustain that unless there is reform of the system for genuine research and development," Senator Carr said.

The scheme has been reworked to tighten eligibility for the activities that attract tax incentives and give smaller companies more assistance. Companies have in the past received benefits for "business as usual", such as banks for upgrading their IT systems and miners for building roads to their mines.

Another key impact of the tight budget was that spending on new measures might be curtailed because there are no longer offsetting cuts to find.

"This is a dilemma that all ministers are facing: how do you find the room for new activity at the same time as reducing old activity?," he said.

"Clearly the reductions that have occurred over the life of this government have meant that we now are at that point where there are very serious policy decisions that have to be made about further reductions."

But Senator Carr is optimistic that the mining boom and infrastructure reconstruction following the floods and other natural disasters will benefit the manufacturing and services sectors.

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