



Australian Government
Inspector-General of Taxation

SENATE ECONOMICS LEGISLATION COMMITTEE

Budget Estimates for 2018-19

Public Hearing – 5 June 2018

Opening Statement

Thank you for the opportunity to appear before the Committee. 1 May 2018 marked the third anniversary of the Inspector-General of Taxation (IGT) effectively becoming the taxation ombudsman. This followed the Government's decision, with bi-partisan support, to create a complaint handling service for independently investigating community complaints about the administrative actions of the Australian Taxation Office (ATO) and Tax Practitioners Board (TPB) by a team of tax specialists within my office. Such service has been of particular assistance to vulnerable individuals and small businesses in navigating the complexities and challenges of the tax and superannuation systems. It should be noted that small businesses make up 25 per cent of the total number of complaints to my office.

Since 2003, my office has also been serving the community by conducting broad reviews to improve the administration of the system. To date 46 such reviews have been completed and two others are substantially completed with a third recently commenced. Both our complaints handling and review work are important independent services that seek improvements as well as fostering confidence in the system.

We are also realising the opportunities presented by the synergy between our complaints handling and review work. Two reviews recently completed, namely *Pay As You Go (PAYG) instalments system* and *Goods and Services Tax (GST) refund verification*, were direct results of themes that had emerged from complaints.

One of the reviews that is almost complete is the *ATO's fraud control management* which was requested by the Senate Economics References Committee in the wake of a wide range of concerns that impacted community confidence. The review focuses on the ATO's management of internal fraud and particular aspects of external fraud. It will be completed by the due date of 30 June 2018.

Another review that is reaching its conclusion is the *Future of the tax profession* which was commenced in response to a request from the Commissioner of Taxation as well as concerns from a range of other stakeholders, particularly tax practitioners. It is a forward-looking review and aims to seize opportunities and address challenges ahead by anticipating emerging technological, social, policy and regulatory changes.

Recently, I have also commenced a review into the ATO's use of garnishee notices, the details of which are available on our website. It is in response to serious allegations made in the reporting of a joint ABC/Fairfax investigation. These allegations, by current and former ATO staff, included a 'cash grab' by the ATO just before financial year end with adverse impact particularly on small businesses. Consistent with my role as the taxation ombudsman, the review will investigate the allegations and seek to restore public confidence by either dispelling them or making recommendations for improvements.

The joint ABC/Fairfax investigation has also raised other issues, particularly with regard to ATO disputes with small businesses. These are areas that previous IGT reviews as well as an inquiry by the House of Representatives Standing Committee on Tax and Revenue (Tax and Revenue Committee) have considered. Last week, the ATO also announced, in this very venue, a number of measures it plans to implement in response to the ABC/Fairfax investigation. Some of these are consistent with previous IGT

recommendations including extending pre-assessment reviews to all taxpayers. A Treasury investigation has also been recently conducted, with input from my office, and we await the Government's response.

One of my comments on the ABC Four Corners program was that 'I think it's... perhaps in 5% of the cases or so, an organisation that size may not get it right.... Even one case is too many, and that's why it is important to have the right checks and balances in place.' This was consistent with comments I had made earlier at a Tax and Revenue Committee hearing where I said that 'in any large organisation you cannot guarantee everything will go according to plans or all procedures will be followed at all times. I would say, and this is not backed up by hard evidence, in 5 per cent of cases there are, likely, things to go wrong.'

These were illustrative estimates of mistakes or errors that cover a potentially broad spectrum including the significant over-claiming of work related expenses, which the Commissioner has stated were only recently uncovered by a program of random audits, as well as the impact of ATO system failures, such as the major outages in 2016 and 2017, recurring system irritants and the Small Business Clearing House difficulties experienced in April 2018.

The Commissioner has acknowledged that the ATO is not perfect and does not always get it right and we have not seen evidence that the ATO is inappropriately targeting small businesses on a systemic basis. In large organisations, operating in a complex and ever-changing environment, there will be mistakes and people will be adversely affected in certain cases. The key point is acknowledgement with fair and considered action to correct or provide compensation where this is appropriate. Certain mistakes may be of lower consequence or may not cause detriment to taxpayers whilst others may have more significant impact particularly on the vulnerable and their lives. It may also be the case that taxpayers may not always get it right either due to a range of factors, including the complexity of the system. They also need assistance with their compliance. These are the people we are seeking to reach and support especially where things go awry or mistakes are made.

The Commissioner has stated that a number of those on the Four Corners program have had their case looked at by the Inspector-General. Due to privacy reasons, I cannot disclose information regarding individual complainants, however, I can provide some statistics as to the level of complaints made to my office since the Four Corners program went to air. In April and May of this year, we received 522 complaints representing an increase of over 60 per cent and 53 per cent for the same two months in the two prior years respectively. Of these complaints, 62 have specifically mentioned the Four Corners program and we are investigating over half of them with the ATO. We have addressed the remainder without involving the ATO.

We work very hard to support complainants and work independently but cooperatively with the ATO and the TPB in doing so. While the increased awareness of my office following the Four Corners program has been encouraging, it is regrettable that not all of the people on the program were made aware of my office, its independence and our ability to assist them. Our office has a dedicated team of tax specialists who have now assisted thousands of taxpayers, including small businesses, with their complaints and we would like to make sure that everyone is aware of the service that we provide.

In closing, I would like to reiterate our desire to work with you and others, including the ATO, to raise greater awareness of the role that my office can play in preventing escalation of disputes particularly for the most vulnerable— as the old adage goes: "an ounce of prevention is worth a pound of cure".

Ali Noroozi
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