



Australian Government  
Australian Taxation Office

# ATO Submission

## Inquiry into the Commissioner of Taxation Annual Report 2018-19

13 July 2020

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# Commissioner's foreword

At the ATO, our vision is to be a leading tax and superannuation administration known for our contemporary service, expertise and integrity. Each year, we focus our resources and capabilities on the priority initiatives and projects that we believe will move us closer to that vision and offer the best experience for our clients.

We continued that journey in 2018-19, and the achievements of that year have allowed us to not only continue improving the excellent level of service we provide to Australians, but also play an important role in the nation's response to the bushfires experienced across the country in late 2019 and early 2020, and, to an ever greater extent, COVID-19.

Our ongoing commitment to bettering the client experience reflects our belief that taxpayers are at the heart of all we do at the ATO. This was evident when we delivered on one of our busiest tax times ever (Tax Time 2019), while rolling out major technology initiatives such as Online services for agents, the extension of Single Touch Payroll to more businesses, and a modern and secure authenticated credential for business in myGovID.

This ethos continued behind the scenes with the launch of Better as Usual, an internal program focused on how we can continually improve the level of service we provide to Australians. It was also with the client experience in mind that we successfully undertook one of the biggest data migrations in the public sector, known as the Activity Statement Financial Processing project, which saw us merge multiple client accounting systems into one.

We supported these initiatives for clients with an internal focus on the staff experience, empowering our people with the right tools to deliver for taxpayers. We refreshed our technology with new desktops and phones, and released culture and workforce strategies to prioritise the capability of staff and their experience at work.

All of this hard work meant that when the crises of late 2019 and 2020 emerged, we had the right processes and tools in place to ensure the tax and super systems could be effectively used to support the community.

When bushfires devastated regions across Australia we offered a range of support measures, including lodgement extensions for impacted postcodes. This crisis was soon followed by the COVID-19 pandemic, which has seen us called on by the Federal Government to play an instrumental role in the delivery of economic support measures.

Our implementation of the cash flow boost, early access to super and JobKeeper programs has required a seismic shift of our systems and the pivoting of our workforce. We have been proud to play our part by successfully delivering measures that are so important to the national recovery.

The ATO has been praised by government, stakeholders and taxpayers for our response to these crises, and our ability to administer and deliver these measures. I want to emphasise that our ability to respond in such a way has been no accident, or the result of luck. On the contrary, our preparedness, the stability of our systems and the dedication of our staff is the product of many years of work at the ATO to transform our systems and our culture.

I firmly believe we are a leading tax authority and well on our way to being a leading world-class organisation. This belief is supported by our strong relationship with our scrutineers and partners, the confidence the government has in us, our global reputation and, most importantly, the increasingly positive sentiment we are seeing across all our client segments. It is our hard work and improvements over recent years that have led to this success and allowed us to deliver for the government and for Australians.

In the following submission, we have expanded on a few key focus areas we have been working on since the finalisation of the annual report, namely:

- Large market performance and compliance
- Improving the small business experience
- Initiatives and engagements focussed on tax practitioners
- Single Touch Payroll
- Tax gaps.

We look forward to discussing these focus areas, and other areas of interest from our 2018-19 Annual Report, with the Committee.

A handwritten signature in black ink, appearing to read 'Chris Jordan', with a long horizontal stroke extending from the bottom left.

Chris Jordan AO  
Commissioner of Taxation and  
Registrar of the Australian Business Register

# Tax Avoidance Taskforce – at the heart of driving large market performance and compliance

1. Large corporate groups make a significant contribution to the Australian economy and play a critical role in the tax system. There are around 1,620 groups, each with a turnover of more than \$250 million in Australia. Their compliance with the system is crucial to supporting community confidence in our tax system. Our current estimates of their tax performance are 92% at filing and 96% after compliance activity. These are world leading levels of compliance but we are aspiring to 96% at filing and 98% after compliance activity, which we estimate to be full practical compliance.
2. On 1 July 2016, the ATO received additional funding to establish the Tax Avoidance Taskforce (Taskforce). The Taskforce allowed the ATO to expand our direct engagement with the largest public groups, multinationals and privately owned and wealthy groups in Australia.
3. The ATO has established a robust compliance program, with specialist tax teams engaging directly with taxpayers to ensure they meet their obligations. The Taskforce has proven very successful; with its assistance the ATO has raised a total of \$16.5 billion in tax liabilities and collected \$9.9 billion from large public groups and multinational corporations, wealthy individuals and private groups to February 2020.
4. Taskforce funding has allowed us to apply Justified Trust methods to comprehensively review the affairs of the Top 100 and 1000 public groups and multinational taxpayers. We are looking at their affairs through close examination of their structures, arrangements, transactions and tax risk governance frameworks. Through this extended coverage, we are obtaining greater assurance than ever before that multinationals and large corporate taxpayers are paying the right amount of tax. We have completed reviews on all of the Top 100 taxpayers and completed 720 reviews in the Top 1000. Greater scrutiny will follow as we escalate to more traditional compliance approaches where we have found significant tax risk.
5. The ATO also reviews the Top 500 privately owned and wealthy groups. Through this program we engage one-to-one with Australia's largest private groups on an ongoing basis to establish Justified Trust and provide assurance they are paying the right amount of tax. We have completed 213 reviews to date, providing clarity to taxpayers on correct tax treatments resulting in the correct lodgment of income tax returns.
6. The Australian tax system has been bolstered by the implementation of the Multinational Anti Avoidance Legislation (MAAL), diverted profits tax (DPT) and the anti-hybrid mismatch rules. The MAAL has seen \$7 billion in taxable sales returned in Australia each and every year and the appropriate profit of these activities taxed in Australia for the first time and locked in for the future.
7. The combination of a strong legislative framework and robust compliance program gives us increased confidence that we have the ability to take strong action where there is non-compliance. Our ability to quickly signal to the market what is and is not acceptable through our public guidance has helped prevent proliferation of tax avoidance arrangements.

8. When settling disputes we seek to lock in outcomes for future periods. This is evidenced by a number of high profile settlements, most notably:
  - In its 2017 annual report Chevron revealed it had settled its significant transfer pricing dispute with the ATO. This flowed from the ATO's landmark win in the Full Federal Court and resulted in assessments in excess of \$1 billion. Settlement included a significant reduction in the interest rate for future years.
  - In November 2018, BHP Group Ltd announced that it had settled its longstanding marketing hub dispute with the ATO, paying \$529 million cash and ensuring its marketing hub profits are taxed in Australia. BHP restructured its marketing hub so that all profits from the hub's sale of Australia commodities will be taxable in Australia.
  - In December 2019, Google announced the settlement of their tax dispute with the ATO paying \$481.5 million on top of their previous tax payments. Google joined Microsoft, Apple and Facebook in publicly stating that they have settled their tax affairs with the ATO. This settlement brought cash collections made against taxpayers in the ecommerce industry to around \$1.25 billion. Our efforts have seen multinational companies operating in this industry significantly increase the tax they pay in Australia.
9. From 1 July 2020, the Taskforce was funded to expand its market coverage and continue its efforts to the end of June 2023. The expansion allows the ATO to have complete coverage of all large private businesses as well as large, multinational and private businesses with turnover of more than \$250 million.
10. In short, Australians should have confidence that the largest companies are, on the whole, compliant with their tax obligations, but where they are not, the ATO has the capability and resources to hold them to account.

## Improving the small business experience

11. The small business sector is the engine room of our economy. We engage with, educate, assist and guide taxpayers through contemporary products and tailored services to continually improve the small business experience. We do this through working with tax practitioners, business, industry bodies and across government to create an environment that supports small business by reducing complexity and increasing the adoption of digital technology.
12. Our approach to communication and education is underpinned by our *Small Business Newsroom* and *New-to-business-essentials* email service. Our newsroom has over 2.6 million subscribers and we engaged with 1.1 million new small businesses via our email service in the first nine months of 2019-20.
13. To further assist small business, we deliver over 50 educational products through both face-to-face workshops and webinars, including tax basics and record-keeping modules. Key learning products have been translated into four languages to support culturally and linguistically diverse small businesses. As a result of the successful pilot of the *Reach Out: Indigenous Business Support* in Queensland it is being expanded into New South Wales, Victoria and South Australia.
14. Recognising that cash flow is the lifeblood of small business, we continue to deliver our cash flow coaching kit in conjunction with tax agents and other intermediaries. We are currently piloting a digital version of this coaching kit and are using it with advisors to help small businesses recently impacted by bushfires, drought and COVID-19 rebuild their finances.

15. Ongoing digitisation of our support services and improvements to our IT infrastructure remains key to improving the client experience for small business. Over the past two years, we have:
- embedded Single Touch Payroll (STP) as a real-time reporting mechanism for PAYG withholding and superannuation — this system is helping to deliver the JobKeeper payment program
  - upgraded our authentication and authorisation services to myGovID and RAM
  - delivered ASFP, which combines our clients income tax and activity statement accounts making it easier for them to understand their outstanding obligations
  - re-designed existing tax agents and BAS agent portals into the more contemporary *On-line services for agents*
  - delivered a new Tax Integrity Centre and Black Economy Hotline to help level the playing field for honest small businesses.
16. In the event there are disputes with small business we have introduced a number of innovations and additional support services for our small business clients. These include:
- having objections determined by our independent Review and Dispute Resolution area
  - offering clients an independent review prior to finalising income tax audits — we have done this via a pilot program, which has expanded to GST audits and extended to 31 December 2020
  - providing *In-house facilitation* and *Dispute assist services* at any time during the dispute process
  - access to Small Business Tribunal.
17. The range of contemporary tools and services available continue to expand to make it as easy as possible for small business operators to pay their tax on time and avoid debt, including:
- enabling pre-payments of tax liabilities to assist businesses in managing their cash flow
  - sending preventative SMS payment reminders for taxpayers likely to pay late or not at all
  - enabling taxpayers to view their upcoming due dates and set payment reminders in the calendar via the ATO app
  - providing a business performance check tool via the ATO app and an online business viability assessment tool
  - enabling taxpayers to set up payment plans for income tax and activity statement debts via our automated phone service
  - re-designing letters to make it easier for taxpayers to understand their debt and the steps they should take to manage it (including timeframes and the consequences of not taking action).
18. We continue to work with organisations such as Beyond Blue, small businesses and their associations to ensure our staff are equipped to support small business owners experiencing mental health issues associated with their tax and super obligations. As at 31 December 2019, over 9,500 staff have completed training to help them better empathise with clients facing mental health challenges. This has become increasingly important given the ongoing impacts in the community from the recent bushfire disaster and COVID-19.

# Initiatives and engagements focussed on tax practitioners

## Role played by tax practitioners

19. Tax practitioners play a critical role in the tax and superannuation systems by facilitating willing participation, influencing taxpayer compliance and behaviour and completing the necessary transactions for their clients to meet their obligations. We work with the tax profession to help taxpayers effectively and efficiently navigate the tax system.
20. Taxpayers engage tax practitioners for a variety of tasks and interactions throughout the year and regular interaction between taxpayers and tax practitioners is important in maintaining high levels of integrity in the tax system. With this in mind, we work in collaboration with tax practitioners to ensure that our services and processes support them and do not unduly add costs, but enhance their ability to service the needs of their clients.
21. There are approximately 25,000 registered and active tax agents and approximately 10,000 active, registered BAS agents. Around 95% of small businesses, 86% of self managed superannuation funds (SMSFs) and 63% of individuals (not in business/sole traders) choose to use a tax practitioner.

## Online services

22. Online Services for Agents (OSfA) provides a secure system for registered tax and BAS agents and their authorised staff to access a range of services and information about their clients. OSfA allows agents to conduct more transactions online saving them time and reducing the need to call the ATO.
23. OSfA was released in January 2019 following successful co-design with tax professionals. It was made the default contemporary digital service for BAS agents on 29 May 2019, then for tax agents on 17 August 2019. To support users to transition we provided digital and printable user manuals, telephony support and technical support to manage complex issues. As a result, the aging tax and BAS agent portals were decommissioned at the end of November 2019.
24. OSfA was awarded the 2019 AMY award, a utility campaign which focuses on the best in tools, apps and online services. In addition, OSfA was a finalist in a range of other awards including the 2020 iTnews Benchmark Awards – Best project: Federal government as well as the Australian Government Digital Awards – outstanding digital product or service.
25. We are progressively making available similar functionality to digital service providers (DSPs) to include in their practice management software. The release of these services in software is a commercial decision for the DSPs.
26. Individuals tax returns lodged by tax practitioners are lodge electronically through their software packages that have been enabled with the Practitioner Lodgement Service (PLS). The service is not a stand-alone product produced by the ATO, but a series of related Application Program Interfaces (APIs) software vendors and digital service providers can use to call tax agent related functions on the ATO's mainframe.



27. As a result of adopting this service model, tax professionals are able to choose the practice management software solution that best meets their needs while ensuring they can continue to interact with the ATO electronically. In addition to a number of productivity benefits flowing from a more interactive experience from within one software product to better services through co-design with agents and the software industry, PLS has delivered the following benefits over previous channels including:
- quicker tax refunds – most returns are processed within 5 days instead of 7 days under the previous platform
  - improved data validation – surname and date of birth mismatches have reduced by over 99% since July 2018
  - enhanced software experience including access to third party data, prior year nudge messaging and higher quality support from both the ATO and digital service providers.
28. The ATO continues to work with industry to deliver more services to tax professionals through their practice management software. Over the next 12 to 18 months this includes:
- access to Client Communication History
  - ability to set client communication preferences
  - delivery of real time analytics to alert agents when entering Income Tax Return data that does not fit the profile of their client.
29. Tax practitioners have traditionally used the AUSKey credential to access ATO digital services. This limited the way in which those services could be accessed by the tax practitioner. Recognising that AUSKey is no longer a contemporary credential, we worked collaboratively with tax practitioners to support them and their clients to transition to myGovID and RAM, prior to the decommissioning of AUSKey at the end of March 2020. This included the provision of webinars, podcasts, web information, guides, targeted outbound calls, field visits or 'virtual' visits as well as some 'drop-in' centres. Importantly, moving to myGovID and RAM now enables practitioners to access OSfA from any device.

## Other services and support

30. Besides our digital services, the ATO provides a range of other services and support for tax practitioners, including:
- lodgment deferral program – this program supports tax professionals by providing a mechanism, which they can use to manage workloads in respect of tax return obligations of their clients by way of a managed lodgment program, seek lodgment deferrals and provides lodgment program support strategies and tools
  - providing the latest news and advice through our online newsroom on our website, social media and subscription services
  - open forums – providing tax practitioners and their staff the opportunity to meet with us in their local area, hear about the latest updates and upcoming changes, and have their questions addressed
  - In the 2019-20 financial year to date, 3,800 tax practitioners have attended 25 forums nationally
  - weekly tax professionals newsletter
  - our series of livestream webcasts, tax professional conversations, videos and recorded webinars – we stream our live webcasts every 6 weeks
  - key agent visits program for 16 of the most influential nationwide tax practitioner accounting firms and agent practices

- the purpose of the program is to provide our key agents with visibility across the ATO through a tailored ongoing engagement and relationship model that recognises the integral role they play within the tax and superannuation systems
- in developing our products, services and administrative approaches, we conduct extensive consultation with our key stewardship groups (and their subsidiary working groups), including the Tax Practitioner Stewardship Group (TPSG), Tax Practitioner Digital Implementation Working Group, BAS Agent Advisory Group and Sharable Content Working Group.

## Intermediary assurance strategy

31. Given the level of influence tax practitioners play in their clients' compliance with their tax and superannuation obligations, we have a regulatory role to assure the integrity of the tax system, address risk behaviours and ensuring a level playing field for tax practitioners, working in collaboration with the Tax Practitioner Board. Our strategy for engaging with tax practitioners provides:

- a common language and view of behaviour and risk across the ATO intermediary population
- a tailored approach to interactions and clearer conventions for how the ATO will engage based on our view of the tax practitioner's risk behaviour
- a greater understanding of behavioural trends and how best to influence them
- opportunities to maximise engagement, leverage compliance approaches and target investment to support high performing tax and super systems

32. We are working with the TPSG and professional associations to socialise our strategy.

## Single Touch Payroll

33. Almost 690,710 or 84% of all employers are now reporting their tax and superannuation information through STP (as at 26 May 2020). This has grown from 58,600 employers at 30 June 2019.

34. STP reporting began on 1 July 2019 for all employers with 99% of substantial employers (20 or more employees) and 73% of small employers (19 or less employees) now reporting information for over 12 million individuals as at 19 April 2020.

35. A range of options are provided to support employer's transition to STP such as no or low cost payroll solutions, lodgment deferrals, exemptions and concessions, including quarterly reporting, for eligible employers.

36. For the first time, the ATO can help protect an individual's superannuation by reconciling what an employer reports to the ATO against how much has been paid to each super fund. Individuals can now look up on myGov how much their employer is contributing each pay day and call the ATO if they are concerned about missing amounts, knowing the ATO had the same information and can act decisively if it needs to.

37. At Tax Time 2019, STP data was used to improve the income tax return processes and experience for employers and employees. Employers who had transitioned to STP no longer needed to provide an annual payment summary to all of their employees and this information was made available to them on myGov or available to their nominated Tax Agent.

38. We saw approximately 10.8 million income statements made available to 8.6 million individuals and 87% of individuals had tax ready income statements at the time they lodged their returns.

39. We also commenced work to detect and take action against the non-payment of super guarantee. STP data is part of a broader data set that is being used to identify where employers have underpaid or paid late their employees' super guarantee obligations. As a result of contacting these employers, as at February 2020, an additional \$28.1 million in super guarantee charge liabilities were raised.

## Tax gaps

40. In March 2020, the ATO released its first estimate of the income tax performance of High Wealth Private Groups. This is the first time any tax jurisdiction in the world has released a gap for this market.
- we know that more than 90% of income tax paid by high wealth private groups is paid voluntarily or with little intervention from the ATO, and we see that the vast majority of high wealth private groups pay the right amount of tax
  - in 2016-17 the gap between what we expected to collect from this group, and what we actually collected through amounts paid voluntarily, as well as amounts paid as a result of our compliance activities, was 7.7%, or \$772 million.
41. With the release of the small business income tax gap in 2019 and the high wealth private group income tax gap in 2020, the ATO now has 94% of the overall tax base with tax performance measures in place for the 2015-16 year.
42. The ATO's tax gap research program won the judges award in the category of digital and data at the 2019 Public Sector Innovation Awards. The award recognised the ATO's innovative data driven approach to improve tax gap estimates from our large corporate groups, supporting discussion around the efficacy of the Australian taxation system.
43. Tax performance measures such as the tax gap are accrual measures so the Commissioner's Annual Report 2019-20 will include tax performance estimates for the 2017-18 year. As a result, the impact of COVID-19 on tax gap estimates reported for this year should be nil or negligible. The impact of recent disasters, such as the Australian bushfires and COVID-19 will impact on tax performance measures in future years.

