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11 March 2016

Mr Bert van Manen MP
Chair
Standing Committee on Tax and Revenue
PO Box 6021
Parliament House
CANBERRA ACT 2600

TaxRev.reps@aph.gov.au

Dear Mr van Manen

Inquiry into the External Scrutiny of the Australian Taxation Office

The Group of 100 (G100) is an organisation of chief financial officers from Australia's largest business enterprises with the purpose of advancing Australia's financial competitiveness. The G100 is pleased to provide a submission to the inquiry into the external scrutiny of the Australian Tax Office.

The G100 wishes to place on record its strong appreciation of the transformative work undertaken by the Commissioner of Taxation since his appointment, and firmly supports his collaborative approach to the taxation affairs of Australian corporates.

Such an approach is vital for Australian business. As the Commissioner stated in December 2015, "most large corporates, particularly domestic Australian companies, meet their tax obligations, notwithstanding that we do have some significant disputes with some of them." Disputes over the interpretation or application of complex areas of legislation will always occur, and it is in the interests of Australian business, as well as Government and the ATO, to clarify and remedy these as soon as possible in a manner that is, and can be seen as, fair and independent.

Taxation, and thus the operation of the ATO, has a material impact on the financial competitiveness of Australia's businesses and the financial wellbeing of all Australians. It is therefore very important that an organisation that does have such far-reaching influence is subject to the highest standards of governance and review – not only now but more importantly, into the future when both Commissioners and Governments change.

The G100 strongly supports the aims of the inquiry in removing inefficiency and duplication and reducing cost to the Government, and hence the taxpayer. We commend the steps already taken by the Commissioner and the Government in this regard. It is important, of course, to ensure that such measures do not result in delays in settling disputes or obtaining rulings, and again we note that the Commissioner is fully cognisant of this.

The G100 understands that one of the principles of earned autonomy is the ability, 'and indeed a requirement, to establish and maintain appropriate systems of internal control within their entities, taking into account entity risk' <https://cfar.govspace.gov.au/differential-regulation/>.

The G100 supports the principle that the ATO, as any large corporate would, establish its own internal control framework and risk management systems.

It is important that such a system be subject to ongoing review, testing and reporting. Businesses use an audit committee of (at least majority) independent directors, charged with maintaining corporate governance. The Government, together with the ATO, should determine how such independent governance can work with regards to the oversight of the ATO's internal control programme. In this respect, we note the recommendation from the review of 'Australia's Future Tax System' in 2010 – "A board should be established to advise the Commissioner of Taxation on the general organisation and management of the ATO. The board would not be a decision-making body and would have no role in interpreting the tax laws or examining individual taxpayer issues." Such a board would therefore be very different in responsibilities and objectives from the Inspector General of Taxation.

With regards to external scrutiny itself, the G100 reiterates the points made earlier – unnecessary inefficiency and duplication should be removed, and indeed should be subject to active, continuous review. This should be done without losing sight of the fact that disputes need to be resolved 'in a manner that is, and can be seen as, fair and independent.' Such independence protects both the corporate or the individual and the ATO and Commissioners.

The G100 notes that Scrutiny of the ATO was discussed in the 2013 Annual Report of the Australian Taxation Office to the House of Representatives Standing Committee on Tax and Revenue in a report dated March 2014.

The report stated that scrutineers have a high regard for the ATO and that it was a "credit to the ATO" that they were willing to work with the Australian National Audit Office, the Commonwealth Ombudsman and the Inspector General of Taxation. The G100 echoes these statements.

The Committee recognised the value of this external scrutiny to both Parliament and the ATO. Comments from the ATO that it "is scrutinised extensively" were noted as being similar to other agencies. The main difference was that the ATO had its own Inspector General as did intelligence and security, and defence. This was a reflection of "their importance".

Finally, the report quoted the Capability Review of the ATO issued in July 2013 which says the "ATO is in the fortunate position to receive a high level of scrutiny". The section on scrutiny concluded with the sentence "the Committee accepts that current levels of scrutiny are appropriate and encourages the ATO to continue the professional way in which it engages with its scrutineers."

Ultimate responsibility of the functioning of the ATO remains with the Government, and should of course continue to do so.

The G100 notes that the tax investigation function of the Commonwealth Ombudsman was transferred to the Inspector General of Taxation in May 2015, and many duplications and inefficiencies thus removed. This was done to create a "single, specialised agent for handling both individual tax complaints and systemic tax reviews". Any review into the functioning of the Inspector General's office would therefore be taking place less than a year after these responsibilities had been assumed. We are unaware of any similar type of scrutiny being carried out anywhere else.

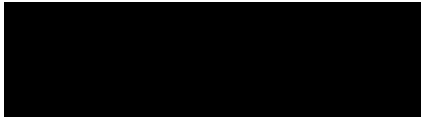
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However, if there are opportunities for any other scrutiny work currently undertaken by the ANAO or the Commonwealth Ombudsman to be undertaken by the Inspector General of Taxation, the G100 would support this, as this should reduce neither the level of scrutiny nor its independence.

With increasing focus on the taxation affairs of corporates both the ATO and taxpayers are under more public scrutiny than ever.

The G100 submits that it is therefore extremely important that the independent views and oversight provided by the Inspector General of Taxation are available in order to provide assurances that the improvements made by the Commissioner and the continued good relationships between the ATO and Australian businesses are safeguarded into the future and continue to improve.

Yours sincerely
Group of 100 Inc

A solid black rectangular box used to redact the signature of Zlatko Todorcevski.

Zlatko Todorcevski
President

