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Dr Melanie Beacroft
Inquiry Secretary
House of Representatives Standing Committee on Tax and Revenue
Parliament House
Canberra ACT 2600

Submission to the Inquiry into the Commissioner of Taxation Annual Report 2018-19

Dear Dr Beacroft

This submission to the Tax and Revenue Committee's review into the Commissioner of Taxation Annual Report 2018-19 focuses on the issue of ATO resourcing, reporting and accountability.

We refer to the findings by the Australian National Audit Office (ANAO) in its recent performance audit into the Australian Tax office (ATO) Tax Avoidance Taskforce, published in December 2019.¹ The Taskforce was specifically funded by an allocation of \$679 million over 4 years in the 2016-17 budget and subsequent years. The ANAO identified that the staff numbers funded by the Taskforce funding have increased over the relevant years but the numbers of ATO staff funded by baseline funding have declined. The ANAO also stated that it was difficult to be certain about the ATO estimate of revenue raised by the Taskforce. The challenge is to account for this expenditure and identify the additional benefits or outcomes in taxes raised by virtue of the additional Taskforce funding.

In its performance audit, the ANAO found that the ATO could not conclusively demonstrate that the Tax Avoidance Taskforce has met the revenue and resourcing commitments set out in the 2016-17 Budget. It was suggested in a subsequent media story about the ANAO findings that the Taskforce was a cover up for cuts to ATO staffing.²

Importantly, the Commissioner of Taxation Annual Report 2018-19 was published in October 2019, before the ANAO released its findings on the Taskforce performance audit. For that year, the ATO was provided \$212.6 million under the Tax Avoidance Taskforce measure. However, the 2018-19 Annual Report contains only a brief mention of the

¹ ANAO (2019), *Tax Avoidance Taskforce – Meeting Budget Commitments* (December 2019), available from https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2019-2020_18.pdf.

² Jenkins, S (2019). 'Audit Shows Tax Avoidance Taskforce Just a Cover Up for Staff Cuts, Labor Says' The Mandarin (19 December), available from <https://www.themandarin.com.au/123264-audit-shows-tax-avoidance-taskforce-just-a-cover-up-for-ato-cuts-labor-says/>.

Taskforce under the heading 'Strategic initiatives summary' (p.11), where it states that the Taskforce raised \$1.9 billion in tax liabilities and \$1.1 billion in cash collections in 2018-19. However, the Report does not explain how the allocated Taskforce funding was spent or the link between the resourcing, and the revenue outcomes of the Taskforce.

Clearly, the ATO requires flexibility in the allocation of its workforce and resources to the best use. We submit that the redirection of workforce and resources should be made more transparent to support better understanding of the added value of the Taskforce staff in delivering higher tax liabilities and collections.

In this submission, we note and support the ANAO recommendations that the ATO:

- (i) improve its documentation and reporting of resourcing and revenue modelling when making proposals for budget funding of compliance activities (to which the ATO agreed in part); and
- (ii) develop a framework to support accurate monitoring of actual costs and revenues of compliance measures, consistent with budget estimates (to which the ATO agreed in full).

We observe that there is evidence the Tax Avoidance Taskforce was effective, as there was a significant increase in tax liabilities raised, utilising overall approximately the same staff numbers (both baseline and measure-funded staff). This efficiency gain is likely a result of the greater government focus on multinational enterprise tax avoidance and ATO enforcement of the many new legal and administrative requirements including the Multinational Anti-Avoidance Law and country-by-country reporting. To this end, the Taskforce plays an instrumental role as it helps implement the new law, improve enforcement and highlight the issue. There may have also been other effects such as behavioural changes of taxpayers in response to the measures.

Nonetheless, the reporting of both resourcing and revenues is confusing, especially because the ATO asserts that the Taskforce is not a specific unit or division with its own staffing or activities, but at the same time identifies that the Taskforce has raised a specific amount of tax liabilities and revenues during its period of operation.

We support the recommendation by the ANAO that the ATO establish a baseline framework and methodology to identify the cost, including staffing and other resources, and the benefit of particular enforcement activities such as the Taskforce. We note that the methodological disagreement between the ANAO and the ATO on this matter demonstrates that establishing the baseline for such an assessment can be complicated, given the integrated nature of the ATO activities. For example, an expert hired under the taskforce may be used to review a case not initiated under the taskforce.

Acknowledging these difficulties, we submit that the Committee consider whether, and how, the ATO should in future publish more detailed information about staffing, resourcing,

costs and revenue modelling, to ensure full transparency and accountability, whether in the annual report or elsewhere. This will achieve two goals:

- (1) It will assist in informing the public of the ATO use of additional budget funds provided to it and the additional outcomes achieved by this, arising from discrete budget measures which are separate from the baseline departmental budgeting process.
- (2) It will help the public and key stakeholders determine whether the ATO is adequately funded overall.

For example, it would be a matter of concern if special Taskforce funding is needed to bolster overall ATO numbers, rather than ensuring a suitable level of baseline staffing on an ongoing basis for adequate revenue collection.

A further reason to highlight this issue of ATO resourcing and outcomes at the present time is because the ATO has been entrusted to administer the fiscal response to COVID-19, including the business cashflow relief, JobKeeper scheme and other tax reliefs and administrative support. It is important that the ATO identify and report on the scale of the current internal redeployment of the ATO workforce to design, implement and deliver the large fiscal response to COVID-19. This is crucial to understand the full cost of the government's response to the COVID-19 crisis. It will also demonstrate the size of staff and resourcing deployed away from the usual business of the ATO, potentially undermining the effectiveness of general administration of the tax system in current and future years.

We emphasise that, overall, the ATO is an excellent government agency that is highly transparent and accountable, as well as being subject to significant oversight by various agencies including this Committee. However, we submit that the ATO should improve its transparency and clarity in the application of resourcing for staff activities and numbers, and the associated revenue and other outcomes of that resourcing.

We hope this submission is of assistance to the Committee. We would be happy to provide further information or answer any queries.

Sincerely



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APPENDIX: Main ANAO Performance Audit Findings

1. ATO staff numbers funded by the Taskforce increased broadly in line with Budget estimates but ATO baseline staff numbers declined.

	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Baseline staff	2,346	2,069	1,912	1,902	1,899	1,635
Measure-funded staff	1,072	1,042	1,050	1,287	1,391	1,466
Total ATO staff	23,631	21,251	20,659	20,435	20,113	19,157

Source: ANAO analysis of ATO data

2. The attribution methodology used by the ATO was 'questionable' according to the ANAO. The ATO reported that \$5.5 billion in tax liabilities have been raised by the Tax Avoidance Taskforce (Table 3.5 ANAO report). The ANAO accepted that there was a substantial increase in compliance revenue raised over the life of the Taskforce (Table 3.6 ANAO report) but concluded that it was not clear to what extent this was a result of additional Taskforce activity.

Table 3.5: Taskforce revenue against Budget commitments or ATO plan targets

Year	Liabilities ^a (\$m)			Collections (\$m)		
	Budget commitment	ATO plan	Reported result	Budget commitment ^b	ATO plan	Reported result
2016-17	77.4 ^c	1,037.4	3037.3	8.1 ^c	473.6	1,124.5
2017-18	767.7	1,128.6	2487.7	264.4	727.4	1,870.1
2018-19	1,283.8	1,039.0	NYR ^d	728.4	616.1	NYR ^d

Note a: Budget liabilities are adjusted to subtract the estimated value of reductions (due to, for example, settlements). The ATO reports liabilities without adjustment.

Note b: As the Budget papers show liabilities only, these figures are not published.

Note c: This refers only to new programs funded by the measure in 2016-17. It does not include the revenue from programs that were already funded but were to be extended from 2017-18 onwards. The ATO target and reported result do include revenue from programs that were funded prior to the Taskforce.

Note d: NYR was 'not yet reported' at September 2019.

Source: ANAO analysis of ATO data.

Table 3.6: Liabilities raised from all compliance activities in PGI and PGH, 2013-14 to 2017-18 (\$m)

Compliance revenue	2013-14	2014-15	2015-16	2016-17	2017-18	Average
PGI	2,109.2	2,498.3	1,311.3	3,256.1	3,246.3	2,481.7
PGH ^a	2,475.4	2,151.1	1,946.8	3,038.9	3,282.1	2,578.9
Total	4,577.9	4,643.5	3,258.1	6,295.0	6,528.4	5,060.6

Note a: Includes revenue from the Serious Financial Crime Taskforce, which is excluded from PGH totals before the Taskforce apportionment methodology is applied.

Source: ANAO analysis of ATO data.