

# ATO Submission – Tax and Revenue Committee

27 February 2015



# Commissioner's foreword

I am pleased to present this submission from the Australian Taxation Office to the Standing Committee on Tax and Revenue.

As this is the third submission from the ATO, members would be familiar with the ATO's program to reinvent itself and transform the taxation and superannuation experience for all taxpayers.

At the centre of our reinvention program is our desire to provide a streamlined, contemporary service that makes it easy for taxpayers to comply with their tax and superannuation obligations and hard not to.

You will notice or hear about the ATO being more client-focused, pragmatic and commercially aware – appreciating that time is money and having a sensible approach to risk management and dispute resolution.

At the end of 2014, the ATO is on track against most of its performance measures following a successful Tax Time.

- we are meeting all of our commitments to service
- complaints are down 13% compared to December 2013
- overall satisfaction across all ATO customer groups remains solid at 76%, with higher levels of satisfaction reported among people who have had recent contact with the ATO
- satisfaction among website users has improved from 50% to 62% over the last quarter as our website improvement work progresses
- the ratio of collectable debt to net tax collections remains below target
- our compensation claims and unscheduled absence rates are reducing following the voluntary redundancy program, although we have further work to do to bring these in line with Australian Public Services averages.

This submission explains the ATO's endeavour to provide a light tax experience to those who willingly comply with their obligations year in year out, using contemporary tools like *myTax* that can be used online and with mobile devices.

The success of *myTax*, which was introduced at Tax Time 2014 and offered a mostly pre-filled tax return to individuals with straightforward tax affairs, is an example of the changing

## ATO Submission – Tax and Revenue Committee 27 February 2015

ATO. By the end of January 2015, more than 1 million taxpayers had used *myTax* to complete and submit their tax returns online, with over 90 per cent of users expressing satisfaction with the new service.

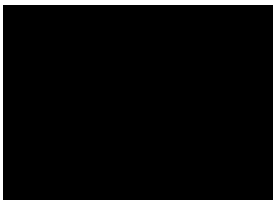
This Tax Time, we will expand *myTax* to include taxpayers with medium complexity, for example those with more complex investment income, superannuation and foreign pensions.

The submission also contains information sought by the committee including:

- budget and staffing reductions, including closure of 10 regional offices
- implementation of the ATO Capability Action Plan in response to the Australian Public Service Commission's Capability Review
- dispute resolution and the preliminary findings of the Perceptions of Fairness survey
- progress towards bedding down of new Key Performance Indicators
- post-implementation review of our new consultation arrangements
- transferring the Tax Agent Portal to a new platform
- evolution of the Tax Gap measurements
- initiatives and programs to reduce the cash economy, and
- tax implications of crowd funding.

I trust the information contained in the submissions helps broaden members' knowledge and understanding of our tax system and specific aspects of its operation that are currently in focus.

As always, I look forward to working with members to improve the administration of our tax system for the benefit of all Australians.



**Chris Jordan AO**

**Commissioner of Taxation**

## Table of Contents

|  |    |
|--|----|
| Part 1 – Providing light touch tax returns.....  | 5  |
| Part 2 – Budget, staffing reductions and closure of regional offices.....                            | 8  |
| Part 3 – Implementation of the capability action plan in response to APSC review.....                | 12 |
| Part 4 – Dispute resolution and the preliminary findings of the Perceptions of Fairness survey ..... | 13 |
| Part 5 – Post-implementation review of new consultation arrangements.....                            | 18 |
| Part 6 – Bedding down new Key Performance Indicators.....  | 20 |
| Part 7 – Refining the lodgement program for tax agents .....   | 22 |
| Part 8 – Evolution of the tax gap measurements .....   | 26 |
| Part 9 – Initiatives and programs to reduce the cash economy .....                                   | 28 |
| Part 10 – Tax implications of crowd funding .....  | 31 |
| Part 11 – Amendments to section 25-90 .....  | 32 |

## Part 1 – Providing light touch tax returns

1. As outlined in our last submission, *myTax*, the ATO's streamlined online tax return for people with straightforward tax affairs, was released at Tax Time 2014. It provides eligible individuals with a streamlined, substantially pre-filled income tax return that they can view, adjust and submit online (pre-filling depends on when data is reported to the ATO).
2. *myTax* requires taxpayers to create a myGov account and link it to the ATO. It can be used online and with mobile devices.
3. *myTax* was designed with user input and was promoted to taxpayers via social media, email and SMS as a new lodgement option specifically for people with simpler tax affairs. The ATO sent 1.8 million emails and 658,000 SMS notifications to eligible taxpayers during Tax Time.
4. We are pleased to advise the committee that as at 24 February 2015, 1,032,602 taxpayers had prepared and lodged their returns using *myTax*. The introduction of myGov authentication in Tax Time 2014 to pre-fill or lodge tax returns online, through *myTax* and e-tax directly contributed to the rapid growth of myGov participants from 2.9 million to 6.2 million.
5. Community feedback during Tax Time 2014 was very positive:
  - a. 90% of *myTax* users were 'satisfied' or 'very satisfied' with *myTax*
  - b. 83% rated *myTax* as 'much better' or 'better' than their previous method of lodgement.
6. At Tax Time 2015, the ATO plans to expand the facility to taxpayers with medium complexity, for example those with more complex investment income, superannuation and foreign pensions.
7. By 2016, *myTax* will be a seamless experience for individuals, with clients being able to work through the new tools and have the result populated back into their tax return. There will be new online support tools to provide a more tailored, sustainable level of

ATO Submission – Tax and Revenue Committee 27 February 2015

assistance to those who need it. The intent is to reduce complexity and ensure taxpayers get the right result.

8. For Tax Time 2016, the ATO plans to have a single lodgement product available for all individual taxpayers, including those with complex affairs. The aim is to retire the ageing e-tax lodgement product that has been offered since 1999 and relies on out-dated technology.
9. By 2016, *myTax* will also present a personalised return for the taxpayer to review and complete as required. This increased personalisation of the lodgement experience will involve some basic questions and inclusion of available pre-fill data that will enable the taxpayer to easily understand what sections they need to complete for their circumstances.
10. In 2016, as part of streamlining the tax return preparation process, the ATO plans to include a facility that will allow relevant records to be uploaded directly into ATO systems. This will eliminate the entering of details at Tax Time.
11. The ATO will be expanding the range of online services available to individuals to include amendments (for 2014 and 2015 returns) and lodgement of prior year (2014) returns. Taxpayers will also be able to view their lodged income tax returns.
12. The ATO's online services for individuals allows clients to view and update their personal details, manage their superannuation, view their account balances and pay their tax liabilities. As at 24 February 2015, taxpayers that lodged their return using *myTax* subsequently accessed the following services:

|                                    |         |
|------------------------------------|---------|
| • Manage superannuation            | 116,035 |
| • Enter Payment Arrangement        | 9,980   |
| • Progress of Returns (ATO Online) | 314,222 |
| • Progress of Returns (mobile)     | 18,081  |
| • Progress of Returns (ato.gov.au) | 16,005  |

## ATO Submission – Tax and Revenue Committee 27 February 2015

In addition 994,779 taxpayers also updated one or more of their personal details during the course of lodging their *myTax* return. ATO Online Services for individuals will be further expanded in the future (e.g. to view electronic Notices of Assessment).

13. The introduction of Single Touch Payroll from July 2016 and the real-time reporting by employers of their pay as you go withholding (PAYGW) and superannuation obligations will further streamline the tax return process for individuals. Salary and superannuation information will be provided to the ATO at payroll events throughout the year, which will make pre-fill information available earlier. This automated reporting of information will also reduce errors in income tax returns, reducing agency processing costs, and support early lodgement of tax returns – a positive outcome for individuals where a refund is due, and for government revenue where tax is owed.

## Part 2 – Budget, staffing reductions and closure of regional offices

14. As outlined to the committee at the hearing in August, the ATO has strategies and plans in place to ensure revenue collection and services are not adversely affected by recent staffing reductions.
15. Our workforce has reduced by more than 3,500 people between July 2013 and December 2014. This was achieved by a combination of retirement, resignation, transfers and redundancies.
16. The staffing reduction was managed so that any effect on revenue collections and service standards was minimised. So far, the ATO is operating within its budget, is meeting all published service delivery standards and is on track or ahead of Compliance revenue plans.
17. The redundancies have been on a voluntary basis and before final offers were made, we made an assessment, using a 3/3 point scale, of business needs, critical positions and skills before people were offered a redundancy. We undertook this assessment because we needed to assure ourselves that we could continue to deliver our business outcomes.
18. Of those who took a redundancy, 2191 (more than 90%) were in positions where opportunities for efficiency were identified and were non-essential for business delivery as the skills were easily available and accessible elsewhere.
19. Of these positions, 1000 (nearly 40%) were middle management (Executive Level 1 and 2). The remaining 18,500-strong workforce is now on average, more qualified, younger and has less unplanned leave. While the departing group was experienced (average tenure of 19 years), the average tenure is now around 12 years; so a good deal of experience remains.



## ATO Submission – Tax and Revenue Committee 27 February 2015

20. The ATO is a very large organisation, with a historical natural attrition rate of about 6% (now at 3%). We are used to turnovers in the workforce and dealing with the resulting transfer of knowledge and skills. Like most organisations, we have an aging workforce and have been consciously preparing for retirements through large-scale graduate recruitment and development over the years. We also have targeted recruitment plans in place for specialist, leadership and Indigenous roles.
21. Up until February 2015, the audit function saw a net staff reduction of around 300, with more than 4,700 employees remaining. This includes some recruitment and movements and the 2014 and 2015 graduates allocated to the Audit function.
22. The ATO has in place a number of strategies to minimise any negative impacts of the reductions to date and to ready the organisation for any further efficiencies over the forward estimates:
  - reviewing supplier costs
  - redesign of business processes, procedures and system fixes
  - removal of internal red tape and unnecessary meetings, processes and reporting requirements
  - rationalisation of property and infrastructure
  - better use of data matching and risk profiling
  - focus on upstream prevention, rather than correction
  - early engagement, dispute resolution and sensible settlements
  - use of new technology e.g. *myTax*, voice authentication, mobile app
  - rationalisation and efficiencies in back office functions, including moving people from back office roles to frontline service roles
  - flattening and delayering management structures, and
  - using a mix on ongoing, non-ongoing, casual and externally provided staff.

### Update on Enterprise Agreement

23. The ATO has been working constructively with unions and approximately 30 individual employee bargaining representatives to negotiate a new enterprise agreement.

## ATO Submission – Tax and Revenue Committee 27 February 2015

24. To date, good progress has been made on a range of non-remuneration matters including:
  - redundancy
  - consultation
  - rostering
  - performance and underperformance.
25. On 10 February 2015, the ATO announced a proposed pay offer to ATO employees and confirmed productivity and affordability measures to support it. The pay offer put on the table is 0.8% a year in a three year Enterprise Agreement, compounding to 2.42% over the life of the agreement.
26. Consultation sessions with staff commenced on Monday 23 February and cover the context for the proposed agreement, explain the offer, and provide an opportunity for all staff to ask questions and provide feedback.

### Closure of regional offices

27. As a result of the closure of 10 regional offices in Sale, Bendigo, Orange, Grafton, Port Macquarie, Cairns, Mackay, Rockhampton, Launceston and Toowoomba we undertook redundancy and redeployment processes for the employees at these sites. As at 31 January 2015, 83 employees who were working in these locations in July 2014 had either separated from the ATO or have been redeployed. This is a combination of redundancies, resignations and retirements, transfer to other agencies and redeployment to metropolitan ATO offices. A breakdown of the redeployed staff is provided in the Table 1 below.
28. As at the end of January 2015, there are no staff left in these regional sites.

## ATO Submission – Tax and Revenue Committee 27 February 2015

Table 1

| Site           | Total staff at site as at 30 June 2013 | Redundancies | Resignations & Retirements | Transfer to other agencies | Transfers to other ATO offices |
|----------------|--|--------------|----------------------------|----------------------------|--------------------------------|
| Bendigo        | 9                                      | 4            | -                          | 3                          | 2                              |
| Launceston     | 20                                     | 9            | 3                          | 4                          | 4                              |
| Grafton        | 10                                     | 8            | -                          | 1                          | 1                              |
| Orange         | 4                                      | 2            | -                          | -                          | 2                              |
| Port Macquarie | 8                                      | 6            | 1                          | -                          | 1                              |
| Cairns         | 7                                      | 3            | 1                          | 1                          | 2                              |
| Bundaberg      | 3                                      | 3            | -                          | -                          | -                              |
| Mackay         | 6                                      | 4            | -                          | -                          | 2                              |
| Toowoomba      | 7                                      | 5            | 1                          | -                          | 1                              |
| Sale           | 6                                      | 5            | -                          | 1                          | -                              |
| Rockhampton    | 3                                      | 2            | 1                          | -                          | -                              |
| <b>Total</b>   | <b>83</b>                              | <b>51</b>    | <b>7</b>                   | <b>10</b>                  | <b>15</b>                      |

## Part 3 – Implementation of the capability action plan in response to APSC review

29. Implementation of the ATO capability action plan in response to the Australian Public Service Commission's (APSC) capability review in 2013 is progressing well. In our fourth progress report to the Public Service Commissioner dated 30 September 2014, we rated our performance as 'on track'.
30. The Committee was previously provided with three quarterly ATO capability action plan progress reports – for December 2013, March 2014 and June 2014. We have now published our fourth report – for September 2014 – which is available on [www.ato.gov.au](http://www.ato.gov.au).
31. Delivery of the ATO capability action plan is a key component of our new direction as we work towards 2020 and a 'reinvented' ATO.
32. The release of the ATO Strategic Intent, ATO Corporate plan and ICT strategy marked a significant change in the ATO's direction and set the foundations for the design of the *Reinventing the ATO* program blueprint which outlines the future client and staff experience.
33. The ATO is refining its corporate plan to incorporate the new *Public, Governance, Performance and Accountability Act 2013* requirements for a corporate plan and annual performance statement, particularly to ensure that the performance measures are reflective of a reinvented ATO.
34. We are currently developing our final report to the APSC, which will provide evidence of capability lift, assurances that we won't 'slip back' and demonstrate that we have instilled lasting change.

## Part 4 – Dispute resolution and the preliminary findings of the Perceptions of Fairness survey

35. The ATO has made significant changes and improvements to our approach to dispute resolution in the last eighteen months, and feedback so far supports our direction.
36. We now have a range of strategies in place for all markets to prevent and resolve disputes as early as possible including early engagement, direct contact, negotiation, alternative dispute resolution, in-house facilitation, use of independent parties and sensible settlement.
37. The ATO supports having a separate area to manage disputes for taxpayers and believes this is being achieved with the implementation of the new Review and Dispute Resolution (RDR) area established in July 2013.
38. RDR currently manages and determines all objections for taxpayers with greater than \$100 million turnover (or assets for individuals and private groups). It is also responsible for all litigation, independent review (for taxpayers with turnover of more than \$250 million) and the ATO's use of Alternative Dispute Resolution.
39. RDR operates independently from the Compliance group and Tax Counsel and reports to the Second Commissioner Law Design and Practice.
40. The ATO is considering the implications (including additional resources required) of expanding the independent review service to other markets and moving more objections from Compliance to the RDR area.
41. Managing disputes fairly and effectively is also an important aspect of our transformational Reinvention program. For the first time, "resolving disputes" is a dedicated focus area of the ATO's corporate plan for 2014-18, including key performance measures for dispute resolution. We also recognise that dispute resolution is critical to improving the client experience for taxpayers and advisors, and equally critical to our focus on how we operate to better meet community needs

ATO Submission – Tax and Revenue Committee 27 February 2015

and expectations.

42. We believe evidence of the success of the improvements implemented under RDR over the past 18 months logically suggests that extension of those processes to other sectors should lead to similar improvements for those taxpayers.
43. The ATO is open to considering a possible expansion of pre-assessment review processes beyond the current process for large businesses. This would require consultation with the tax profession and representatives from across different parts of the community and market segments. We also note that any decision to extend pre-assessment reviews more broadly may require additional resourcing.
44. The appointment of a new Second Commissioner, as suggested in some submissions to the Inquiry into Tax Disputes and recommended by the Inspector – General of Taxation, would increase costs and brings with it risks of isolation, a lack of feedback loops and continuous improvement opportunities to original decision makers, reduced confidence in primary decision making and lack of focus on the tax system as a whole. This option would also involve the Commissioner spending time "umpiring" disputes and opinions between different areas of the ATO. This can and should be done at lower levels - at less cost and sooner.
45. The following figures provide context about the recent levels of activity and dispute within the tax system.
46. In 2013-14 there were:
  - 16.5 million returns and 19 million activity statements lodged
  - 5.3 million compliance activities, ranging from data-matching checks (e.g. where the ATO checks information from banks and share registries about interest and dividends) through to complex audits
  - around 500,000 adjustments to assessments
  - 27,951 objections
  - 1079 appeal cases lodged with courts and tribunals
  - 169 appeal cases that proceeded to hearing, and

- 16 appeal cases proceeded as part of the ATO's test litigation program.

47. Given the millions of activities each year that can potentially produce disputes, the actual levels of dispute (objections and appeals) in any given year are relatively low.

### Corporate Perceptions Survey

48. Our Corporate Perceptions Survey provides us with views from taxpayers who have had recent contact with us, along with broader community and business views from the wider public. We are seeing an increase in taxpayers agreeing that the ATO is fair and professional in how it administers the tax and superannuation systems. 72% of people who have had recent contact with us (July to September 2014) agreed that we were fair and professional, up from 69% in the previous quarter.

49. Recently, we commissioned new research to explore perceptions of fairness in tax disputes in more detail. The taxpayer sample used for this research is relative to the market proportion of disputes we receive. This means that the research naturally focuses on the individuals and micro small businesses market based on the proportion of disputes that arise in these markets.

50. Initial research considered a sample of 231 disputes finalised between 1 July and 30 September 2014. The results highlight that we still have room to improve and we will continue with a targeted work program aimed at improving those perceptions.

51. On average, across the sampled taxpayers, 50% of taxpayers who had recently finalised a dispute with the ATO agreed or strongly agreed that the overall disputes process was fair. Other results showed some key perceptions:

- Where the disputed outcome fully supported the taxpayer, meaning “allowed in full”, 64% of respondents agreed or strongly agreed that the overall disputes process was fair.
- Where the outcome did not support the taxpayer, meaning “disallowed in full”, only 25% agreed or strongly agreed that the process was fair (60% disagreed or strongly disagreed).

## ATO Submission – Tax and Revenue Committee 27 February 2015

- Where the outcome supported only part of the taxpayer position, meaning “allowed in part”, 51% of respondents agreed or strongly agreed that the process was fair.
52. These results indicate that, while the outcome of a dispute has an impact on taxpayer perceptions of fairness in disputes, several other factors also contribute to this. These include the procedures used to arrive at the outcome, the quality of the relationship throughout the dispute between the taxpayer and ATO officers, information on the procedure, and the appropriateness of penalties and interest charged.
53. Taxpayers surveyed were most satisfied with:
- the opportunity to appeal against the decision
  - ATO staff refraining from making improper comments, and
  - ATO staff treating taxpayers in a polite manner.
54. Areas for improvement centre on better engagement with taxpayers in dispute. Specifically, taxpayers want the ATO to:
- provide reasonable explanations of the disputes process
  - take individual circumstances into account when making decisions
  - provide them with a sense of control over how their objection is handled, and consider the impact of the application of penalties and interest, in particular penalties as these are perceived to be excessive.
55. The ATO will continue to improve its dispute management approach with the goal of early dispute resolution at the least possible cost to the client and the ATO. A number of strategies are already underway across the ATO to, on a “top-down basis”, lift our meaningful, two way engagement with taxpayers and advisers to resolve disputes early. We also have a work program to improve the quality of information available to taxpayers who are in dispute with us.
56. In addition to that program of work, these new research insights will shape our improvement work program at the team level, so improvements in fairness perceptions result from improved engagement with taxpayers and advisers at a team



ATO Submission – Tax and Revenue Committee 27 February 2015

level. We will be working closely with our objection teams across Australia to improve our current 50% fairness perception performance to 60% in 12 months' time.

57. In addition, these dispute-related research insights apply equally to our audit, advice and debt collection activities. The ATO will pilot additional research, conducting similar fairness surveys with a sample of small businesses to baseline their fairness perceptions of our audit, advice and debt collection activities. We will then aggregate the small business perceptions picture across these activities, plus disputes, for a whole-of-small business view around how that market perceives our fairness.
58. Additional insights from this new research will then allow us to unlock the potential of our teams to improve our engagement performance and how we are perceived by small businesses.
59. In parallel, we will also continue to work with our network of tax administrations, other regulators and businesses who like us, are working hard to improve client perceptions of fairness. This work may better inform us around leading key performance targets around fairness perceptions.

## Part 5 – Post-implementation review of new consultation arrangements

60. The ATO's current consultation arrangements have been in operation for about 18 months. The consultation framework is now bedded down but we continue to look for opportunities to improve.
61. We have implemented improvements to our web content by bringing all consultation content together under a single location – the consultation tab on the ATO home page. As a result of the change:
- information is available to all our community stakeholders in one place rather than under the various market tabs on ato.gov.au (Individuals, Business, Non-profit, Super and Tax professionals)
  - the minutes of current consultation groups are available
  - previously published final minutes from closed groups are also available, and
  - consultation groups are also accessible via a single alphabetical list or through the stewardship, technical and special purpose or stakeholder relationship management categories.
62. From March to June 2015, a post-implementation review of the ATO's consultation arrangements will be undertaken to gauge whether they are efficient, effective and outcomes focused.
63. The Consultation Steering Group, with representatives from the tax, legal and accounting professional associations, and superannuation and business associations, oversees our consultation arrangements, including monitoring the timely progress of working groups in delivering their consultation outcomes.
64. The ATO is working with this group to develop terms of reference for the post-implementation review. The draft terms of reference include reviewing the effectiveness of the arrangements against the intent, assessing positives and/or shortcomings, whether best practice is being used and whether the arrangements are

dynamic, fit for purpose and cost-effective.

65. The review will seek the views of stakeholders across all our consultation arrangements.
66. Refinements and improvements to the operation of our consultation arrangements are ongoing to ensure they keep pace with community expectations and reflect best practice.
67. Improvements have been made to the quality and presentation of matters under consultation published on the ATO website, enabling easier searching and ability to telephone or email the consultation contact.
68. Initial stakeholder engagement has improved for those matters submitted by members of the community. This includes initial email and telephone contact and improved engagement when business line decision makers are considering the matter raised and whether consultation is appropriate to resolve the problem.
69. We have improved how members of the community can register their interest in participating in consultation and how they can raise matters for consultation with us. Other website improvements include the capacity to publish discussion papers and clearer visibility of the Consultation Steering Group and a monthly report on ATO consultation arrangements.

## Part 6 – Bedding down new Key Performance Indicators

70. Building on the work done last year that resulted in the publishing of 12 key performance measures in the ATO Strategic Intent and a reduced set of measures published in the ATO Corporate Plan, the ATO Executive Committee is sponsoring further refinement of our organisational performance measures. The focus is on:
- ensuring the ATO has the right suite of measures in terms of coverage, mix and number that are reflective of a new ATO, including fairness and views from others
  - maximising the value of the information gathered to improve operational efficiency and program management, and
  - presenting performance information in a more purposeful and clearer way.
71. The ATO's refinement of performance measures is being informed by the Organisation for Economic Co-operation and Development's (OECD) Measures of Tax Compliance Outcomes 1 and the Australian National Audit Office's pilot project on key performance indicators.
72. The ATO is placing more emphasis on measuring the impact of its activities rather than the activities themselves. These impacts will be used to evaluate the effectiveness of the ATO's activities.
73. Drawing on international experience, the ATO is working on making the desired results, effects and impacts of our organisational performance more visible through a published outcomes framework that will shape the formulation and presentation of its measures.
74. The ATO notes that the need to refine and improve measures must be balanced with ensuring consistency in measures and data over time.
75. To ensure the organisational performance assessment provides a balanced view, the ATO incorporates views from others drawing from international benchmarking and

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<sup>1</sup> OECD – Measures of Tax Compliance Outcomes

regular community surveys.

76. Organisational performance is measured and monitored at different levels within the ATO, with a line-of-sight created through our business and team plans down to individual performance agreements which are updated regularly. The Executive's focus is on the impact level, to monitor and assess performance supported by the appropriate mechanisms in place to drill down to more granular operational performance.
77. Our intent is to move to real-time digital performance monitoring and reporting, where possible, for our performance measures. Building on a series of operational dashboards, the focus is on delivering Executive dashboards that draw on past and current performance information from assured sources as well as providing forecasts of performance where possible.
78. Recognising the complexities and challenges for supporting this approach, the ATO is taking a staged approach to implementing these changes over the next 1-2 years.
79. Similar to approaches taken in other jurisdictions, the ATO is developing a shorter, clearer and more regular approach to reporting organisational performance information to complement its annual report.
80. The ATO will also ensure the presentation of performance information is designed so that it can be readily understood by an external audience.

## Part 7 – Refining the lodgement program for tax agents

81. The new tax agent lodgement program commenced on 1 July 2013 and includes a benchmark of agents lodging 85% of their clients' current year income tax and fringe benefits tax returns on time.
82. The introduction of the current framework followed extensive engagement with tax agents and professional association representatives through the ATO Lodgement Working Group. This approach was designed to address professional association member concerns and commenced with a transitional year during which the ATO provided comprehensive support, assistance and education for practitioners to prepare for the change.
83. The main concern was that the former framework did not differentiate between registered agents with poor compliance and those who were doing the right thing through meeting their clients' lodgement obligations on time.
84. The new framework recognises that registered agents play an important role in lodging tax and superannuation obligations for their clients and are a key point of influence in the system. The desired outcome is to increase the number of returns lodged electronically and on time.
85. The core principles of the current framework are that tax agents receive the concessional due dates available under the lodgement program, provided they:
  - lodge their clients' income tax and fringe benefits tax returns electronically, and
  - lodge at least 85% of their clients' current income tax and fringe benefits tax returns on time.
86. The concessional due dates are very generous, allowing tax agents to spread the lodgement of clients' income tax returns until 15 May of the following year rather than the normal 31 October due date. For fringe benefits tax returns, the lodgement date for tax agents has been extended from 28 May to 25 June.

ATO Submission – Tax and Revenue Committee 27 February 2015

87. The performance benchmark of 85% recognises there will sometimes be circumstances beyond an agent's control that might prevent them from lodging 100% of clients' returns on time, and takes into account the generous lodgement concessions provided to agents. Tax agents are also able to request further lodgement deferrals on a case by case basis.
88. Agents are encouraged to manage their client lists by removing clients who no longer use their services. When clients are removed from their lists, they are included in the ATO's risk models and populations for compliance action by the ATO as necessary. This mitigates the risk of former clients disengaging from the system.
89. The ATO has developed a targeted treatment plan aligned to the level of compliance for agents who fail to meet their performance standards. There is also recognition for agents who perform at or above the 85% level. To date, apart from letters advising tax agents of their level of compliance, the only treatment that has been applied is to place significantly underperforming tax agents onto a guided lodgement program whereby the ATO helps them to achieve the 85% level over time. The majority of these agents are showing positive improvement.
90. Overall lodgements have improved significantly. On-time lodgement of income tax returns has improved for all entity types over the last three years. There has been a particular focus on improving lodgements for trusts, partnerships and superannuation funds. Increased activity has resulted in improved performance.

The program has demonstrated significant change, with the transitional year (2012 income tax returns) seeing a rise from 83% in the previous year to 92% of income tax returns lodged by tax agents on time. In the following year (2013 income tax returns) this figure increased to 93%. 2014 statistics will not be available until after the May 2015 concessional due dates.

91. The ATO Lodgement Working Group, comprising representatives of tax professional associations, individual tax practitioners and the ATO, met on 11 August 2014, 8 October and 15 December and is scheduled to meet throughout 2015. The group has recently revisited the program and agreed to look at refining the design to:

## ATO Submission – Tax and Revenue Committee 27 February 2015

- cater for the impact of past year returns, including the impact of taking on new or returning clients with one or more prior year returns overdue
- clarifying what and when treatments will be applied to underperformers
- developing effective communications to address practitioners' perceptions of the program, as compared to the actual program.

92. Since the August 2014 meeting, the ATO Lodgement Working Group has co-designed:

- The 85% on-time performance letters. The letters have been re-designed to align with the intent of the program to encourage continual improvement in on-time lodgement across the practitioner community.
- Mitigation of the impact to tax practitioners of servicing new or re-engaged clients with one or more overdue returns on the 85% benchmark. From October 2014, tax practitioners are able to request a lodgement deferral for the current year income tax return (due on 31 October), while they seek to bring the prior year returns up to date. It is intended only for agents who have the capacity to service new or returning clients.
- A new lodgement deferrals request form for practitioners, streamlining and reducing the administration around lodgement deferrals for practitioners and ATO staff processing requests.
- The development of an electronic handbook or guide to provide information and tips on practice management, portal functions and communicating with the ATO.
- The preparation of an extensive communications plan that clearly articulates the work the ATO is doing to support tax practitioners where their on-time performance is well below standards.
- In January 2015 the ATO commenced a formal survey to gauge tax practitioners' perceptions and understanding of the Lodgement Program, as well as identifying any irritants and ideas for future improvements.



### Transferring the Tax Agent Portal to a new platform

93. The ATO's Portals are entry points for tax practitioners to access a range of systems aimed at enabling their practice. As outlined at the last hearing, we will continue to maintain the Tax Agent Portal, but we are working to move the desired functionality to a more robust platform through ATO Online.
94. Building agility, intelligence and efficiency is at the heart of our IT strategy which will enable us to deliver and improve our core activities and help transform the client experience.
95. The ATO has commenced high-level conceptual design and we will consult with a range of key stakeholders including the tax agent community and software developers to identify the functionality required as part of a new Tax Agent Portal.
96. We are also working with the software sector make sure that portal access will form part of the transition from the Electronic Lodgement Service to Standard Business Reporting.
97. In March 2015, the ATO will release a new version of the existing Tax Agent Portal. We anticipate a number of benefits to tax agents as a result, including:
- increased availability, stability and performance, resulting in an improved experience for users,
  - enable changes to be delivered in a more flexible manner with minimal outage, and
  - an improved platform to provide services as we work to implement the end-state.

## Part 8 – Evolution of the tax gap measurements

98. Extending the tax gap estimates is a priority in the ATO Corporate Plan 2014-18. The ATO has made significant progress against the phased approach to developing separate estimate calculations for each tax it administers.
99. In 2014, the ATO met the commitment to refresh the GST and Luxury Car Tax estimates. The refreshed estimates were published in the Commissioner of Taxation Annual Report 2013-14 (pages 56-57).
100. In 2015, the ATO is scheduled to produce estimates of:
  - the income tax gap for the large market
  - a tax gap for excise revenue products
  - the income tax gap for high wealth individuals, and
  - a withholding gap for employer pay as you go (PAYG) obligations.
101. Preliminary estimates for the large market, excise and pay as you go gaps have been completed. Over the coming months these preliminary estimates will be validated and refined through a process of engagement with recognised experts in the field, other revenue authorities who publish tax gap estimates, other Australian government agencies and external stakeholders such as the ATO's Large Business Liaison Group.
102. The ATO anticipates that consultation will commence on the preliminary estimate for the income tax gap for high wealth individuals within the next three months. The income tax gap for high wealth individuals will encompass both personal and company income taxes.
103. Once there is an informed view on the relative certainty and credibility of the estimates developed for the large, excise, high wealth individuals and pay as you go gaps, a decision will be made on whether to make the estimates public and how they should be included in the ATO's broader suite of effectiveness measures.

ATO Submission – Tax and Revenue Committee 27 February 2015

104. In 2016, the ATO is scheduled to produce estimates of:
- individual income tax gap
  - small to medium business income tax gap, and
  - a consolidated estimate for all taxes administered.
105. The acquisition, cleansing and validation of the relevant data for the individual and small business gaps will be finalised in April. We aim to commence building the models to develop preliminary estimates for these gaps in the second half of the 2015 calendar year.
106. We have been advised by recognised experts and representatives from Her Majesty's Revenue and Customs (United Kingdom) and the Internal Revenue Service (the United States) that the absence of a random audit program means the ATO is unlikely to develop credible estimates. Consequently, while we will initially develop estimates for the individual and small to medium business gap without the use of a random audit program, we have commenced preliminary consideration of the benefits that might obtain from its future inclusion and how it might minimise the cost and impost on taxpayers.
107. We expect to consult with industry on the potential design of a random audit program prior to July 2015. If commissioned, the program would be scheduled to commence in early 2016.

## Part 9 – Initiatives and programs to reduce the cash economy

108. The ATO defines the cash economy risk as the failure of cash economy businesses – including those outside the system – to report all of their income, leading to lower levels of compliance with tax obligations. The behaviour is characterised by businesses:
- avoiding obligations by not registering or lodging income tax returns and business activity statements
  - not reporting all income, including income collected in cash and electronically, and
  - paying cash wages and not deducting pay as you go withholding.
109. The move away from the use of physical currency does not appear to yet be having an impact on the actual behaviour underpinning the cash and hidden economy. Cash still makes up around half of all payments made by consumers<sup>2</sup> and some businesses do not report all of their electronic income despite the knowledge that the ATO obtains data on these transactions.
110. International comparisons by the World Bank, in 2010, show Australia as having one of the smallest ‘shadow economies’ in the world, ranking 14th out of 120 countries. In September 2013 the Australian Bureau of Statistics estimated the size of the “non-observed economy” at about 1.5 per cent of Gross Domestic Product.
111. Across Australia there are a number of industries (more than 200 Australian and New Zealand Standard Industrial Classification (ANZSIC) codes) where the cash economy is prevalent. In these industries there are more than 1.6 million small businesses operating the equivalent of 65% of the small business market. Businesses in these industries have significant dealings in cash or cash substitutes.
112. While the relative size of the ‘shadow economy’ is small in international terms, the risk is still considered endemic as it is present across a large number of industries

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<sup>2</sup> Reserve Bank of Australia; The changing way we pay: Trends in consumer payments (2014-15)

and has remained at a persistent level for a decade.

Our approach is to support honest businesses and prevent unfair competition from those not doing the right thing. The strategies used to treat the cash economy risk has shifted from focussing primarily on auditing taxpayers, to taking a broad 'omitted income' focus addressing registration, lodgement and correct reporting as well as incorporating a better appreciation of the social norms of businesses and the community.

113. Examples of the ATO's initiatives to reduce the amount of omitted income from cash economy industries include:

- increasing community awareness of the impacts of the cash economy, including the adverse impacts on honest businesses, e.g. the YouTube videos asking the community to consider whether cash economy behaviours that damage small businesses are fair
- engaging with industry groups to explore how to jointly reduce unfair competition suffered by honest businesses within those industries
- engaging on a geographic basis, such as in the Haymarket area of Sydney, where the ATO took a more visible approach by physically visiting about 170 businesses to provide them with educational material and an opportunity for consultation
- continuous improvement of risk models, analytics, data sources, data matching and industry benchmarking, and
- exploring how the ATO's risk modelling and benchmarking tools can be used cooperatively with taxpayers to help them lodge on time, correctly report their income and avoid the risk of audit.

114. There are also a number of emerging elements in the cash economy:

- in December 2014 the ATO finalised a number of public rulings and guidance material about the tax treatment of transactions undertaken with bitcoin and similar crypto-currencies

## ATO Submission – Tax and Revenue Committee 27 February 2015

- the ATO is examining the impacts of the sharing economy in industries such as the taxi industry and accommodation including understanding the operations and providing advice on the taxation implications for all parties, and
  - the ATO is monitoring closely for evidence of sales suppression technology (for example Zappers) that allow electronic cash register and point of sale records to be electronically manipulated after a transaction is recorded to hide income.
115. Our work to address the cash economy risk is not confined to specific industries or specific regions. We prioritise casework using intelligence risk models and intervene to make corrections on the highest risk cases in all parts of Australia and in all industries.
116. In 2012-2013, as a result of cash economy related casework, the ATO raised \$193.8 million in liabilities and in 2013-2014 the ATO raised \$197.1 million. (Liabilities include primary tax, interest and penalties).

## Part 10 – Tax implications of crowd funding

117. In November 2014, the ATO published guidance on the GST implications of crowd funding on [ato.gov.au](http://ato.gov.au). The GST treatment for crowd funding depends on the facts in each case:
- broadly and in general terms, GST is only payable by a project promoter where it is GST registered (or required to be), and it supplies something in return for a payment from a funder in Australia, and
  - however, no GST should be payable where a funder gets an equity or debt interest in return for the payment.
118. There are a number of crowd funding models with different GST consequences:
- under a reward-based funding model the promoter makes taxable supplies of a good, a service or a right in return for a funding payment
  - under the donation-based model the promoter does not make a supply in return for a freely given donation, and
  - under the equity and debt-based models the promoter makes input taxed financial supplies in return for the funding payments.
119. The specific GST implications depend on the model, whether the suppliers are registered for GST, and the nature of the supplies made in terms of the arrangement.
120. Apart from any GST obligations, crowd funding may give rise to other tax obligations, for example, depending on the circumstances, crowd funding may be regarded as assessable income.

## Part 11 – Amendments to section 25-90

121. In our previous submission to the committee we provided an update on our concerns in relation to section 25-90 of the Income Tax Assessment Act 1997. Section 25-90 allows Australian companies to claim interest deductions on investments in their overseas businesses which produce foreign non-assessable non-exempt income.
122. In the Mid-year Economic and Fiscal Outlook (MYEFO) released on 15 December 2014, the Government announced it will not proceed with a targeted anti-avoidance provision to address certain ‘conduit’ arrangements involving foreign multinational enterprises.
123. This decision was made in light of Treasury advice that such a provision would result in significant increases in complexity and compliance costs, and would impede legitimate taxpayer activity in investing offshore.
124. Regarding the related issue of the level of allowable debt under the Thin Capitalisation rules, on 16 October 2014 the amendments tightening the thin capitalisation ratios received royal assent.
125. The new ratios will apply to income years commencing on or after 1 July 2014, with the aim of ensuring that multinationals do not allocate a disproportionate amount of debt to their Australian operations.