



By electronic upload

House of Representatives Standing Committee on Tax and Revenue  
PO Box 6021  
Parliament House  
Canberra ACT 2600

4 July 2014

Dear Committee Members,

#### **INQUIRY INTO TAX DISPUTES**

BDO welcomes the opportunity to provide a submission in respect of the Inquiry into Tax Disputes being undertaken by the House of Representatives Standing Committee on Tax and Revenue

Our observations on the Australian Taxation Office (ATO) treatment of tax disputes are mixed. We note that the ATO has recently introduced new dispute resolution processes that have been shown to be of assistance in some cases and we commend the ATO for these new processes. However, there are still too many instances where the dispute resolution process for particular cases has caused undue anxiety and compliance costs for the relevant taxpayers and their advisers.

A common occurrence in such disputes is that ATO officers with sufficient technical expertise are not involved until late in the dispute process. Specifically, a common chronology of such a process that might arise from a review or audit of a taxpayer's affairs by the ATO would be:

- The ATO raises a risk issue and invites the taxpayer's comments;
- The taxpayer's position is presented to the ATO and considered not to be persuasive;
- The taxpayer's position is put forward in the same terms at the objection stage and the objection is determined by the ATO in a manner unfavourable to the taxpayer;
- The taxpayer lodges an appeal against the adverse objection decision with the Administrative Appeals Tribunal (AAT);
- The parties attend a directions hearing at the AAT and agree a timeline for submission by the parties of statements of facts, issues and contentions (SFIC);
- Before the first of these dates (usually the date for service and filing of the taxpayer's SFIC) the ATO concedes the technical point that has been consistently raised by the taxpayer from the time that the risk was first identified by the ATO, and
- The matter is resolved by the filing by the parties of agreed orders under section 42C of the Administrative Appeals Tribunal Act 1975 allowing the appeal.

As can be well imagined, the earlier involvement of more senior ATO staff in such a process could save considerable costs in time and money on the part of both the taxpayer and the ATO.

As mentioned in our introduction, we are seeing some positive changes to the ATO's dispute resolution



processes. We note that the ATO officers involved in these alternate dispute resolution processes are generally more technical proficient and generally have a more positive and commercial attitude than many of the front line ATO auditors. However, a better way of handling such matters would be to ensure there is not a dispute in the first place. This would require the front line ATO audit staff to have a better tax technical knowledge and be more commercially aware of taxpayer's business operations

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Should you have any questions, or wish to discuss any of the comments made in the above submissions, please do not hesitate to contact Lance Cunningham on [REDACTED] or [REDACTED] or Matthew Wallace on [REDACTED] or [REDACTED].

Yours sincerely

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Lance Cunningham  
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Matthew Wallace  
BDO National Tax Counsel