

Inquiry into the external scrutiny of the Australian Taxation Office (Inquiry) by the House of Representatives Standing Committee on Tax and Revenue (Standing Committee)

- 1 I am a lawyer and Chartered Accountant, practicing as a partner in a large law firm. In that role, I provide tax advice to a range of clients on a range of tax matters, including acting in audits, disputes and litigation on behalf of clients in respect of the Australian Taxation Office (**ATO**). A major part of my experience is in assisting small to medium enterprises (**SME**) and private family groups. My submissions are particularly made in respect of the importance of effective external scrutiny of the ATO to those taxpayer groups.

ATO's unique powers and resources

- 2 In assessing the importance of external scrutiny in respect of the Australian Taxation Office (**ATO**), it is important to make that assessment understanding that the ATO stands in a position of having available to it extraordinary powers to make inquiries of, and to make demands of, taxpayers.
- 3 The exercise of these powers, with respect of the vast majority of taxpayers, is in the context of an interaction in which the balance of legal power and financial resources is heavily in the favour of the ATO.

External accountability supports efficient and high standards of conduct by the ATO and confidence in the taxation system

- 4 This is not to suggest that the ATO as a whole has, or would, consciously embark upon a systematic approach of improperly performing its functions. However, equally it would be inappropriate and irresponsible not to recognise that organisations with the powers and capacities of the ATO will always adhere, more carefully and consistently, to efficient and high standards of conduct when they are aware their conduct is subject to strongly independent, transparent, informed and detailed external scrutiny.
- 5 In assessing the efficiency, duplication or cost of implementing and maintaining that external scrutiny, I would submit **the external scrutiny itself should be viewed as an essential part (and cost) of ensuring the performance of the functions of the organisation to be scrutinised in a fair, transparent and efficient manner.**
- 6 The ATO, in particular, with its responsibilities and powers, falls into the category of an organisation in respect of which the performance of its functions benefits from effective external scrutiny.
- 7 I submit it would be a false economy to view the cost of maintaining that external scrutiny as somehow additional to or optional in respect of the ATO's functions.
- 8 Australia's taxation system, as the ATO often itself recognises, is founded on high levels of voluntary compliance by taxpayers. **That voluntary compliance flows from confidence by taxpayers that the taxation system is operating fairly and efficiently. Strong independent, transparent, informed and detailed external scrutiny of the ATO supports that continued confidence in the taxation system and in the ATO.**

Inspector General of Taxation (IGT)

- 9 **In my experience, the IGT has provided, and continues to provide, independent, transparent, informed and detailed scrutiny of the ATO which benefits both the ATO and taxpayers.**
- 10 This has been the case with the IGT's system wide reviews and reports (the majority of the recommendations of which have been accepted by the ATO), and is now also the case with the individual complaint function the IGT has more recently taken over from the previous taxation ombudsman.
- 11 The existence of the IGT is an essential part of ensuring the effective and proper conduct of the processes that are asked of the ATO. This is especially in respect of SME and private (family group) taxpayers, for whom the circumstances of the imbalance of legal powers and financial resources in their dealings with the ATO means that they often become exhausted, including financially, in resolving their substantive tax law disputes – and do not have the ability or resources to further dispute perceived administrative failures.
- 12 **This failure to dispute perceived administrative failures by individual taxpayers may lead to systemic and repeated failures of ATO administrative processes, unless there is an adequately independent and resourced party (such as the IGT) able to become involved.**
- 13 I am aware that other submissions have drawn attention to the relatively low resources committed to the IGT, as compared to comparable overseas offices charged with providing external scrutiny of comparable overseas revenue authorities.
- 14 **This indicates that the resourcing of the IGT should be increased if we are to realise the full benefits (from external scrutiny of the ATO) of increased taxpayer confidence in the taxation system, and of the maintenance of higher standards of efficiency and conduct by the ATO.**

Yours faithfully



Mark West