

## Theme 4 – External Scrutiny

- 5.1 This chapter examines matters relating to bodies that directly scrutinise the ATO, namely:
- Inspector-General of Taxation
  - Commonwealth Ombudsman
  - Australian National Audit Office

### General

#### Scrutiny bodies on [ato.gov.au](http://ato.gov.au)

- 5.2 The ATO has greatly increased the visibility of performance information on its website in response to recommendations by the Committee. The Committee's previous report recommended that the ATO increase the visibility of its 'traffic light' reporting system, which lists its achievements against benchmarks. The recommendation which was adopted and implemented by the ATO, and has enabled users to quickly determine whether the ATO is meeting its service standards.
- 5.3 The ATO advised in its submission that its Audit Committee oversees implementation of recommendations made by external scrutiny bodies, and that it receives quarterly reports on the progress of implementation of these recommendations.

- 5.4 The ATO also reported in its submission that it planned to publish information about the implementation of recommendations from its scrutiny bodies on its website.<sup>1</sup>

## Inspector-General of Taxation

### Recent reviews

- 5.5 The Inspector-General of Taxation reported on the reviews conducted over the last year, and briefly outlined his findings.
- 5.6 In a review into the administration of class rulings: The Inspector-General found class rulings to be a useful element of the tax system, but a number of areas for improvement were identified.
- 5.7 Reviewing ATO compliance approaches to Small and Medium Enterprises [SMEs] and high-wealth individuals, recommendations were primarily focused on improving ATO staff capability, which was found to be the main underlying challenge. Further, the ATO agreed to replace its *Wealthy and Wise* booklet, aimed at high wealth individuals, with a booklet covering ATO compliance approaches to the entire SME and high-wealth individual markets, giving taxpayers and advisers a better understanding of the processes and means of holding ATO officers to account when expectations were not met.<sup>2</sup>
- 5.8 Further, the Inspector-General noted two more reviews had been completed but not yet released – the ATO's use of benchmarking to target the cash economy, and improving the self-assessment system.<sup>3</sup>

### Forward work program

- 5.9 Each year, the Inspector-General of Taxation publishes a forward work program which outlines areas he intends to review. Each review is subject to resourcing priorities, and the potential for ministerial direction to review a particular matter of concern.<sup>4</sup>

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1 ATO, *Submission No. 1*, p. 28.

2 Mr Noroozi, IGT, *Committee Hansard*, Canberra, 14 September 2012, p. 6.

3 Mr Noroozi, IGT, *Committee Hansard*, Canberra, 14 September 2012, p. 6.

4 IGT, *Submission No. 5*, p. 4.

- 5.10 The Inspector-General advised the Committee that he had embarked on a public consultation process prior to releasing his forward work program. He noted the value of such a process, reporting that grassroots consultation drew his attention to issues that may otherwise not have been considered, and that the use of an open process ensured that resources were maximized in delivering improvements.<sup>5</sup>
- 5.11 The Inspector-General advised there had been approximately 70 submissions made by the public, that consultation meetings had been held, and that newspaper advertisements had been placed to promote the consultation process.<sup>6</sup>
- 5.12 The Committee asked about the key themes that had already been identified through the public consultation process, with the Inspector-General identifying the following:
- The ATO's risk engine: the risk assessment process the ATO uses to focus its compliance activity
  - Delayed income tax returns
  - ATO administration of penalties
  - ATO administration of general anti-avoidance provisions
  - ATO compliance approach to transfer pricing
  - Excess superannuation contributions.<sup>7</sup>
- 5.13 The Committee is interested in the conduct of the Inspector-General's public consultation process in preparing his work program, and would appreciate a brief review of the process and the comments of the Inspector-General on the value of the process.

## Australian National Audit Office

- 5.14 The Australian National Audit Office (ANAO) acts as a scrutineer of the ATO by auditing the ATO's annual financial statements, and by undertaking independent performance audits that seek to evaluate the efficiency and effectiveness of ATO administration.

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5 Mr Noroozi, IGT, *Committee Hansard*, Canberra, 14 September 2012, p. 6.

6 Mr Noroozi, IGT, *Committee Hansard*, Canberra, 14 September 2012, p. 13.

7 Mr Noroozi, IGT, *Committee Hansard*, Canberra, 14 September 2012, p. 13.

- 5.15 The ANAO reported on the implementation of a recommendation that the three external scrutiny agencies of the ATO (the ANAO, the Inspector-General of Taxation, and the Commonwealth Ombudsman) engage in more strategic planning and information sharing. The Committee was advised that the agencies had committed to a three-way meeting as part of each agency's planning processes. Further, the purpose of the meeting was to promote, where possible, information sharing arrangements, and consideration of the impact of scrutiny body review activities on ATO resources.<sup>8</sup>
- 5.16 In its submission, the ATO advised that the audits conducted in the last year presented the view that the ATO's governance structures were sound, and that its approach to revenue collection remained consistent with international practice. Indeed, the Organisation for Economic Cooperation and Development sometimes refers to the ATO as a model revenue collection agency.<sup>9</sup>

## Recent reviews

- 5.17 The Committee was advised that over the last year, the ANAO had conducted five performance audits into ATO administration, looking at:
- *The management of compliance in the small to medium enterprises market*
  - *Administration of Project Wickenby*
  - *Interpretive assistance for self-managed superannuation funds*
  - *Implementation of the Small Business Superannuation Clearing House*
  - *The engagement of external debt collection arrangements.*<sup>10</sup>
- 5.18 Further, at the time of the public hearing, the Auditor-General advised that the audit on the ATO's financial statements for 2011-12 was progressing, and that the audit had found:
- The ATO has designed and implemented governance arrangements, a financial reporting regime and an internal control system to provide reasonable assurance about the achievement of ATO's business objectives.
- ...The ATO has made a concerted effort to address significant, moderate and legislative compliance audit findings previously

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8 ANAO, *Submission No. 6*, p. 1.

9 ANAO, *Submission No. 6*, p. 1.

10 ATO, *Submission No. 1*, p. 28.

reported to Parliament. From June 2004 to June 2012, the number of significant and moderate risk findings has steadily declined to the point where there is only one outstanding legislative matter.<sup>11</sup>

- 5.19 In his appearance before the Committee, the Auditor-General reiterated that he had seen continuous improvement in terms of ATO administration through the period of his, and the Commissioner of Taxation's incumbency.<sup>12</sup>

## Commonwealth Ombudsman

- 5.20 Most of the issues raised by the Commonwealth Ombudsman are examined in detail in Chapter 2 of this report, as they relate directly to service standards and complaints about ATO handling of individual complaints.
- 5.21 In its submission, the Commonwealth Ombudsman outlined the areas the ATO can continue to improve to improve its complaint handling capabilities:
- building its analytical capability;
  - making better use of intelligence from complaints in policy, service design and implementation;
  - making executive officers accountable for resolving the root-cause of complaints; and
  - undertaking more first contact resolution.<sup>13</sup>
- 5.22 The submission from the Commonwealth Ombudsman also identifies specific matters of interest that were encountered over the previous year. These included an increase in income tax return integrity checking by the ATO, and complaints about an ATO decision relating to the Superannuation Excess Contributions Tax.<sup>14</sup>
- 5.23 In her appearance before the Committee, the Acting Ombudsman reported that the relationship between her office and the ATO had

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11 ANAO, *Submission No. 6*, p. 2.

12 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 14 September 2012, p. 6.

13 Commonwealth Ombudsman, *Submission No. 4*, p. 3.

14 Commonwealth Ombudsman, *Submission No. 4*, pp. 4-7.

improved markedly over the last two years, and that she was very happy that issues that had been raised by her office were being resolved.<sup>15</sup>

## Committee Comment

- 5.24 The Committee welcomes the ATO proposal to report progress against the recommendations made by its scrutiny bodies through a single page on the ATO website. Providing a 'one stop shop' enables users to identify current issues that have been identified by scrutineers, and whether these issues are being acted upon by the ATO. Further, the Committee would also welcome being included on such a portal. This increases visibility of the work of all bodies that scrutinise tax administration, and enables users to actively monitor the progress of the implementation of recommendations over time.

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### Recommendation 7

**That the Australian Taxation Office publish information regarding the implementation of Joint Committee of Public Accounts and Audit recommendations on its website alongside those of other Australian Taxation Office scrutiny bodies.**

- 5.25 The Committee was pleased to hear about the public consultation process entered into by the Inspector-General of Taxation in preparing his annual work program. For members of the general public, the Inspector-General is probably the least well known scrutiny body of the ATO, and the Inspector-General's responsibility for examining systemic tax administration issues makes a public consultation process more valuable.
- 5.26 This process increases the sources from which the Inspector-General draws his information, and also informs the public of the important role he plays. While the Inspector-General may seek contributions from individual taxpayers, he only uses these to identify broader systemic issues that may not have been brought to his attention any other way.
- 5.27 The Committee also believes the delineation of responsibilities between the Inspector-General of Taxation and the Commonwealth Ombudsman is an extremely valuable one. Maintaining separate scrutiny bodies to

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15 Ms Larkins, Office of the Commonwealth Ombudsman, *Committee Hansard*, Canberra, 14 September 2012, p. 7.

address both systemic and individual issues provides a more comprehensive scrutiny regime than to have a single body to examine administration of the tax system.

- 5.28 At the same time, the Committee notes the benefits in collaboration and coordination between the ATO's scrutiny bodies, which provides opportunities to examine potential information sharing arrangements, and consideration of the impact of scrutiny body review activities on ATO resources.
- 5.29 The Committee notes the broadly positive comments from scrutiny bodies at this year's public hearing, and is pleased to hear that there is closer engagement between the ATO and its scrutiny bodies.
- 5.30 However, the Committee also notes that the Commonwealth Ombudsman is the scrutiny body that identifies the most problems with ATO. This may suggest that while the ATO may be satisfactorily addressing systemic issues, and may have appropriate internal management systems in place, there may still be deficiencies with the way some individual taxpayer cases are handled. The Committee looks forward to seeing a reduction in individual complaints, and less use of the 'one last chance' referral process in next year's submissions.

Robert Oakeshott MP  
Committee Chair  
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