

REPORT

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:

Interim report on ATO performance in 2009–10

JCPAA hearing 22 April 2010



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LIST OF ATTACHMENTS

- Attachment 1: Summary page of draft *Strategic statement 2010–15*
- Attachment 2: Draft *Corporate plan 2010–11*
- Attachment 3: *Australian Taxation Office management arrangements*
- Attachment 4: *The Australian Taxation Office Change Program*
- Attachment 5: Project Wickenby summary

EXECUTIVE SUMMARY

Financial management

- The ATO is working towards a balanced budget for 2009—notwithstanding significant workloads.

Strategic statement and Corporate plan

- Drafts of our 2010–15 Strategic Statement and Corporate plan 2010–11 are attached for your comments and feedback.

Performance

Program 1: Design and build administrative systems

- Change Program:
 - We have successfully converted 27 million taxpayers, 32 million accounts, and 282 million forms to our new integrated core processing systems.
 - While there have been some delays as a result, we are confident that we will be back on track by the end of April.
- Legislative proposals: Our priority has been to support Treasury in major reviews of the tax and superannuation systems.
- Significant litigation: A number of cases could have a significant impact on the tax and superannuation systems.

Program 2: Revenue collection and transfers

- Debt: At the end of February, the percentage of outstanding collectable debt at 4.73% is higher than our normal benchmark of around 4 to 4.5%. However, the increase reflects the empathetic approach we have taken with viable businesses with short-term cash flow problems.

Program 3: Compliance assurance and support for revenue collections

- We are making good progress on all 18 specific commitments to government, including the income tax investment initiative. Our compliance activities are about nurturing an environment conducive to high levels of voluntary compliance. This requires holistic strategies that provide an appropriate mix of collaboration, service, ease of compliance, and enforcement. Focus areas include the cash economy, phoenix risks, employer obligations including superannuation guarantee, excess superannuation contributions, high wealth individuals, Project Wickenby, and large business.

Program 4: Superannuation and transfers

- Illegal early release schemes: Changes to our Self-managed Superannuation Funds (SMSF) registration processes will help with the early detection of potential schemes. We have removed 400 SMSFs from the Super funds look-up website.
- Superannuation co-contributions: We have deferred the February and March co-contributions processing run as we bed in the new income tax system, and kept people informed through our website.
- Self-managed Superannuation Funds: We are assisting new trustees of SMSFs based on our publication *Running a self-managed super fund: Your role and*

responsibilities as a trustee. We also published a revised version of our booklet on the roles and responsibilities of approved auditors.

Program 5: Services to governments and agencies

- Tax Practitioners Board: Funding of \$14.546 million has been provided to the new, independent board.

Whole-of-government activities

- We share significant information with agencies such as Centrelink and the Child Support Agency to help them carry out their responsibilities.
- JCPAA Report 410: Tax administration. We plan to have implemented all recommendations applicable to the ATO by 30 June 2010.

Survey results

- Community, business and tax agents: We commission extensive, independent surveys of the community, business and tax agents. The results of these surveys are made public on our website. The results continue to provide us with a vote of confidence.
- Employee engagement: In the main, the survey showed above average results, when compared to some other national and international organisations. The less positive results are mainly from our lower-level staff, many of whom are subject to significant change as we re-engineer our processes and culture.

Current issues and looking forward

- Taxpayers affected by disasters: We have developed a revamped disaster response framework that is regarded as public service best practice.

Service standards

- We are currently meeting only 15 of our 27 service standards. We are working hard to mitigate the dip in our performance associated with increased workloads and major systems upgrade.

U-turn review

- The Inspector-General of Taxation explained at the 9th ATAX International Conference (April 2010) that his finding that 'in some circumstances the perception of u-turns was legitimate' related to delays in the identification and resolution of issues which could give rise to these perceptions. He went on to add: "I don't believe I could have said that there were u-turns", although some had pressed him to do so.

Leverage buyouts (Private equity)

- We issued two draft tax determinations which explain our position on leveraged buyout arrangements including private equity.

Property and accommodation

- We developed a national accommodation strategy for the next 15 to 25 years. It involves some consolidation of sites, and the provision of more efficient working environments.

INTRODUCTION

This is our seventh submission to the Committee for its biannual hearings with the Commissioner of Taxation and Registrar of the Australian Business Register.

The report summarises some highlights of our performance for the 2009–10 year to date. It also covers corporate survey findings and a summary of emerging issues in tax and superannuation administration.

FINANCIAL MANAGEMENT

In 2009–10 we have faced significant pressure to manage within budget. We are working to a balanced budget while implementing a large number of new policy measures as well as our transformational change program and our ICT sourcing program. However, strong financial management and thrift measures mean that we now expect to finish 2009–10 within budget.

OUR STRATEGIC STATEMENT 2010–15

The draft *Strategic statement 2010–15* outlines the strategic directions which we think should guide us over the next five years and beyond. (Attachment 1)

In developing our thinking, we have undertaken broad consultation – and we welcome your insights and comments.

We intend to release the new statement in mid 2010, our centenary year.

Each year we will complement our *Strategic statement 2010–15* with a corporate plan, which sets out our priorities for each year. Our draft *Corporate plan 2010–11* is at attachment 2. Again, we would welcome your insights and comments. In attachment 3 we provide details of the senior executives responsible for driving our strategies and executing our plans.

REPORTING OUR PERFORMANCE

The ATO outcome is delivered through five programs. (Refer to the Treasury portfolio Portfolio Budget Statements 2009–10.) Our performance in delivering significant elements of each of these programs is summarised below. Results are generally for the year-to-date at the end of February 2010, unless more recent data is available.

SHAPE, DESIGN AND BUILD ADMINISTRATIVE SYSTEMS (Program 1)

Change program

The change program is a very significant information technology and business process improvement program. Together with major enhancements of our tax agent and business portals, this change program is replacing with a single system most of our behind-the-scenes processing systems, some of which were over 30 years old. It is already delivering improved client service and experiences and improving the way we manage our work across the ATO – allowing us to maintain the high levels of community satisfaction, which is reflected in our surveys.

We are currently finalising the implementation of our new income tax processing system which is the largest and most complex release we have ever undertaken. During this time we have worked hard to keep the tax profession and community informed of our progress and of any impacts they may experience. We know some people have experienced delays caused by our essential systems upgrade. Unfortunately, the size of the systems we deal with means they are incredibly complex. Also, given the importance of the tax and superannuation systems to Australia, we need to ensure the reliability of all aspects of our work.

We commenced processing returns in the new system on 1 February 2010. We have taken a careful and cautious approach, keeping processing volumes low so we could check the system was working as designed and planned. From 15 February, we steadily increased our volumes of returns processed and by 9 April we had processed 1.9 million returns from individuals, companies, partnerships and trusts. We have also issued 1.04 million notices of assessments from our new system.

While we have had some delays in processing assessments, we will be back to meeting our service standards by the end of April. We are very confident that there have been no calculation errors in the assessments issued from our new system.

➤ Refer to attached booklet: *The Australian Tax Office Change Program*.

Standard Business Reporting (SBR) initiative

The Standard Business Reporting (SBR) initiative involves 12 government agencies at federal and state/territory levels. It is designed to reduce the business-to-government reporting burden and deliver cost savings estimated at \$800 million per year once fully implemented.

We need to change our systems, forms and electronic messages to support SBR. We have built web services to accept activity statements, payment summaries, tax file number declaration, and fringe benefits tax return from the SBR channel from 1 July 2010. The taxonomy for company income tax return and schedules is already available and the system to enable software developers to test and self certify will be available later in the year.

AUSKey, the new multi-agency authentication systems and processes, will give businesses a single credential to sign and send reports electronically to agencies in SBR's scope. AUSKey will replace the 11 existing user IDs and passwords currently required to sign and send reports electronically to those agencies.

Policy projects, law reform and integrated law design

We are currently managing about 170 law changes within the ATO. So far this financial year, 34 policy project scoping briefs have been endorsed by the policy implementation forum. In addition to supporting law development, our key priority has been supporting Treasury in the major government reviews of the tax and superannuation systems (the Henry and Cooper reviews).

Legal services and law assurance

We are continuing our objection review project, aiming to minimise downstream disputes and reduce compliance and administration costs. We are complementing this work by

implementing recommendations from the Inspector-General of Taxation's review of objections.

Public rulings and priority technical issues

Up to 31 March 2010, we issued 53 public rulings and determinations (27 drafts and 26 finals) on income tax, fringe benefits tax, goods and services tax, superannuation, and wine equalisation tax. We issued 58.5% of these within originally notified timeframes. At the end of March, we will have 40 rulings on the Public Rulings program.

Up to 31 March 2010, we settled the ATO view on 29 priority technical issues. We currently have 27 priority technical issues aged over six months without an ATO view. We continued to allocate our senior technical staff to the highest priority issues to resolve them in a timely manner.

Significant litigation cases

A number of cases recently decided or currently before the courts will have significant impacts on the ATO, taxpayers and/or the revenue. Some of the most significant cases are:

Bamford, Phillip & Ors: This case has been finalised and the implications of the decision are being considered. The High Court's decision on the first issue (meaning of the word 'share') was consistent with the Commissioner's understanding of the law. The effect of the Court's decision on the second issue (what constitutes 'income of the trust estate') was contrary to the Commissioner's view. However, the Court noted that, whichever of the competing constructions of Division 6 of the ITAA 1936 were accepted, examples could readily be given of apparent unfairness in the resulting administration of the legislation.

Anstis, Symone: The issue is whether self-education expenses incurred by the taxpayer, a full-time student who receives Youth Allowance, are incurred in gaining that income. The decision affects all students receiving youth allowance whose taxable income is above the tax-free threshold. The decision could also apply to recipients of other government payments - e.g. 'Newstart' allowances. The decision could generate up to 200,000 amendment requests (assuming the usual four year amendment period). The potential demand for amendments would impose a significant workload and resource cost on the ATO. The Commissioner's application for special leave to appeal to the High Court is listed for hearing on 23 April 2010.

BHP Billiton Petroleum (Bass Strait) Pty Ltd & Esso Australia Resources Pty Ltd:

This case, which concerns the liability of the taxpayers to pay petroleum resource rent tax, is currently before the Federal Court. The potential revenue impact of an adverse decision is significant. If the taxpayers succeed, they may be entitled to a substantial refund. The decision may also have implications for the liability of other taxpayers who are subject to petroleum resource rent tax.

Aid/Watch Incorporated: This case has potential implications for the charitable sector. The High Court granted the taxpayer special leave to appeal and the matter is listed for hearing on 15-16 June 2010. The High Court will consider the boundaries of the "political activities" disqualification principle having regard to the enlarged role of governments in poverty, education and religion.

Roy Morgan Research Pty Ltd: This case is awaiting the scheduling of a hearing date before the Full Federal Court. There are two issues: firstly, whether certain individuals

are 'employees' and therefore there is a liability to pay the superannuation guarantee charge; and secondly, whether the superannuation guarantee charge is constitutionally valid.

If the applicant's constitutional challenge is successful, all superannuation guarantee charge assessments issued since 1992 will be invalid and the Commonwealth will be required to repay the amounts to the relevant employers. This may be difficult as some employers may no longer exist or have not kept sufficient records. There may be difficulties recouping the relevant amounts from the complying superannuation funds and complying retirement savings accounts because release of the funds may not be permitted under the law or the fund trust deed. There will be implications for the superannuation holding accounts special account administered by the Commissioner, into which unclaimed superannuation guarantee amounts are deposited.

MANAGEMENT OF REVENUE COLLECTION AND TRANSFERS (Program 2)

Mid-year economic outlook

Since the 2009-10 Budget, economic circumstances have stabilised somewhat and the economic outlook has improved. Consequently, estimated taxation receipts at the 2009-10 mid-year economic and fiscal outlook (MYEFO) update were revised up by \$303 million (0.1%) for 2009-10, and by \$8.1 billion (3.0%) in 2010-11. Over the five-year period 2008-09 to 2012-13, total taxation receipts were revised up by \$40 billion.

However, as a result of the Australian economy being buffeted by the global recession, aggregate tax receipts were still down by around \$170 billion overall since the 2008-09 Budget. Forecast company tax collections alone for the 2009-10 and 2010-11 financial years were over \$20 billion lower for each year at MYEFO 2009-10 than at Budget 2008-09.

Debt and enhanced debt collection

We expect economic conditions will continue to put pressure on debt levels throughout 2009-10. Debt remains difficult to collect, particularly in the small business sector.

As the economy shows signs of recovery, we continue to adjust the balance between our debt collection efforts and the need to support taxpayers still affected by the economic downturn. We have a well-established framework to assist taxpayers meet their payment obligations, including early intervention, ongoing engagement and a hardship capability. Where taxpayers have difficulty meeting their tax payment obligations, we work with them to find a solution that fits their individual circumstances. However, we take firmer action where taxpayers fail to engage with us.

We are maintaining our focus on early intervention. This approach enables us to support taxpayers while their debts are smaller and more manageable, and plays a key role in containing debt. We have achieved good results in the context of the current economic environment. There has been a steady uptake of the two key measures (twelve-month payment arrangements free of the general interest charge; and deferred due dates for activity statement payments) introduced on 1 June 2009 to assist businesses with an annual turnover of less than \$2 million. While the measures will see a short term increase in debt holdings, a key outcome is to ensure ongoing participation in the tax system to avoid the flow of debt converting to aged debt.

We use automated 'dialler' technology to maximise the efficiency of outbound phone contact with taxpayers. While year-to-date dialler collections were about 13% below target at 28 February 2010, the outlook for achieving the annual target is positive. The year-to-date collection result for the superannuation guarantee charge element is approximately 15% below the year-to-date target. However, an inflow of new debt will result in increased collections in the remainder of the year.

Our use of external collection agencies continues to provide broader coverage for lower level debts. However, we anticipate an increase in the number of taxpayers requiring firmer action as some businesses will ultimately prove unviable. Year-to-date collections from external agencies have already exceeded the annual target. The overall four-year target for the external debt collection project (commenced in November 2007) has already been exceeded.

Refund fraud, identity fraud and IT security

We have improved our detection of refund fraud relating to *e-tax* lodgments. We used our knowledge of behaviours associated with identity and refund fraud by unregistered preparers to more effectively check refunds before issuing them.

Identity crime has become a significant issue in the general community. In December 2009, we established a Client Identity Support Centre (CISC) to support victims of identity crime, issue new tax file numbers and deal with other tax issues. A dedicated phone number takes people to a trained assistance team.

In association with the Australian Prudential Regulation Authority we are developing guidance notes identifying fraud risks for funds interacting with self-managed super funds.

At the House of Representatives Communication Committee's public hearing on cyber crime we discussed ways of protecting the integrity of the tax system and educating taxpayers about protecting sensitive personal information. Our initiatives to address online security risks include a digital certificate management facility (to enable secure online transactions) and a web page to educate taxpayers on internet security risks. The site alerts taxpayers to scam emails and provides an auto-reply function for reporting scams.

COMPLIANCE ASSURANCE & SUPPORT FOR REVENUE COLLECTIONS (Program 3)

Delivering on compliance commitments

We are currently funded to undertake 18 specific compliance activities. We are substantially on track to meet end of financial year targets for all 18 activities, which are detailed in the 2009–10 *Mid-year ATO performance report* previously provided to the committee. (Note: Some of the activities that were previously specifically funded are now undertaken as business-as-usual.)

We are receiving \$547.1 million over four years from 1 July 2009 to tackle risks arising from the global economic downturn. This funding will allow us to provide help to businesses and other taxpayers affected by the economic downturn, and promote community confidence in the tax and superannuation systems through tailored compliance activities.

Income tax investment initiative

We are currently working in both the large and small-to-medium business segments. In the small and medium enterprises segment, income tax liabilities raised were 1% behind the year-to-date plan (at 26 February 2010). However, income tax cash collections were 1% ahead of the year-to-date plan. In the large business segment, active compliance outcomes for income tax are likely to be under the cash collections targets but close to the liabilities targets. We have met expectations under the income tax investment initiative for improved coverage and building our capability.

In the large business segment, revenue outcomes from our active compliance work are expected to be lower than originally forecast due to a combination of factors including:

- As we have become more current in our review of large businesses, the opportunities for large-value results of the past years (that encompassed multi-year assessments with penalties and interest) are decreasing; which is itself a sign of our effectiveness in promoting high levels of voluntary compliance.
- The impacts of assimilating and then building capability in over 300 new staff.
- A small number of large cases of which some will now be completed in the next financial year. (History shows large business compliance results are highly variable due to the small number of cases and large fluctuations in value.)

Supporting business and other taxpayers in financial distress

We aim to assist small businesses, and other taxpayers experiencing financial distress, to remain viable and stay engaged in the tax system. We found that early engagement with small businesses significantly improved compliance with their tax obligations. On 1 June 2009, we introduced two key measures to help viable businesses with an annual turnover of less than \$2 million: a 12-month payment arrangements free of the general interest charge; and deferred due dates for activity statement payments.

We also supplemented media advertising about the business tax break with mail-outs to 1.9 million activity statement lodgers and 253,000 non-GST registered businesses.

Promoting a level playing field

We are identifying participants in cash economy activities, detecting those taking unfair advantage of superannuation concessions, and working to address phoenix risk. We plan to complete about 6,000 compliance activities, ranging from phone reviews to audits. At the end of February 2010, we had completed 3,450 activities and we expect to complete all planned activities by 30 June 2010.

We are also ensuring that pay as you go (PAYG) and employee superannuation guarantee entitlements are maintained. While audits supporting a level playing field are about 10% behind plan, we have deployed additional resources to this work and remain confident that we will achieve our targets. We have raised more than double the expected value of revenue.

From information reported to us and consultation with industry groups, we have developed small business benchmarks to compare the financial data of similar businesses. Businesses reporting outside of normal business benchmarks will be identified and may be subject to active compliance activity. So far we have published 58 small business benchmarks and will release a further 50 before July 2010. While these benchmarks guide our audit activities, they also assist businesses to identify their tax risk.

We continue to finalise transitional cases relating to excess super contributions. To date we have issued 1,570 assessments totalling \$56.5 million. We have issued approximately 8,500 pre-assessment letters for excess contributions relating to the 2007–08 financial year.

Phoenix activity

Some company directors deliberately make their company insolvent to evade paying taxes or the superannuation guarantee. They subsequently establish a new company. This 'phoenix' activity can severely erode the revenue base and undermine business and community confidence.

The 2009 Budget provided funding for us to undertake additional phoenix casework over the next four years. Based on results to date from this work, we expect to raise around \$20 million in tax and penalties during 2009–10, against a plan of \$5.7 million.

The government has announced that they intend to provide the Commissioner and ASIC with more powers to address Phoenix practices. On 14 November 2009, the Assistant Treasurer released a phoenix discussion paper for public consultation. Treasury is currently considering the 27 submissions it received with a view to providing advice to Government. On 17 March 2010, the Assistant Treasurer issued a media release indicating his intention to expand and reform the use of 'security deposits' and to significantly increase penalties for failing to comply with this provision. This legislation could be effective in curbing phoenix behaviour in certain circumstances.

Wealthy individuals

We define highly wealthy individuals as persons who, with associates, effectively control more than \$30 million in net wealth; and wealthy Australians as persons who, with associates, effectively control between \$5 million and \$30 million in net wealth.

The High Wealth Individuals taskforce has expanded to 356 employees, dealing with over 2700 identified highly wealthy individuals. This compares with 943 identified highly wealthy individuals in 2006. We continue to identify new wealthy individuals; and the taskforce is working in conjunction with the wealthy Australians initiative on compliance strategies to cover the entire wealthy population.

At the end of February 2010 we had completed 586 reviews and had 277 underway. We had completed 12 high wealth audits and had another 182 underway. The large number of objections lodged by these taxpayers delays our ability to collect amounts owing.

Project Wickenby

Project Wickenby is a cross-agency operation targeting tax arrangements involving offshore schemes, tailored by domestic and overseas promoters to create fictitious deductions or conceal income.

Cases completed and liabilities raised are tracking well above plan. Project Wickenby is 42% above the expected overall project-to-date compliance outcomes. (Refer to Attachment 5.) Year-to-date results as at end February 2010 are:

- 378 cases completed against a year-to-date plan of 287 (32% above)
- value of liabilities raised is 68% above year-to-date plan
- collections of \$38 million (against a planned \$44 million) are trending up, and are expected to achieve targets subject to a small number of high value cases

Improved voluntary compliance for the project (up to the end of November 2009) amounts to \$299.33 million. This represents the increased tax collections from improved compliance behaviour of participating taxpayers following intervention by the Wickenby Taskforce.

Court challenges to Project Wickenby agencies continue, and generally fail. This includes the Federal Court's recent decision of *Egglisshaw v ACC*, which confirmed the Australian Crime Commission, acted lawfully in obtaining evidence. Criminal sanctions (project to date at the end of February 2010) are:

- 57 people charged
- 6 convictions (and 1 acquittal).

Recent sentencing decision

Sydney solicitor, Mr Paul Gregory was sentenced on 15 April 2010 to 2 years jail for his part in a \$400,000 false invoice tax fraud used by Mr Glenn Wheatley. The case illustrates the severe consequences for people caught up in abusive secrecy haven schemes, especially promoters and advisers. Mr Justice Whelan of the Victorian Supreme Court said: *"Your conduct involved blatant dishonesty and the exploitation of your position as a solicitor. It is of the first importance that others similarly placed appreciate that the consequences of involving themselves in these sorts of deceptive manoeuvres will be severe."*

Preventing abusive use of tax havens

In addition to project Wickenby, we continue to work with overseas revenue agencies to reduce the abusive use of tax havens. Australia has made very good progress in negotiating agreements on exchange of tax information, with twenty-three agreements signed so far and a further nine currently being negotiated. We also continue to support the Joint International Tax Shelter Information Centre's (JITSIC) efforts to curb abusive tax avoidance arrangements and schemes.

Where Australian taxpayers omit to declare foreign income or capital gains, or over-claim deductions, we encourage them to come forward voluntarily and obtain a reduced shortfall penalty under the Offshore Voluntary Disclosure Initiative (OVDI). To the end of November 2009, the project (launched in 2007) had identified omitted income of \$354.9 million and raised \$69 million in liabilities from over 3,500 disclosures. On 30 November 2009 we refreshed the initiative to allow people to seek, anonymously or otherwise, an indication as to whether or not the ATO would undertake a criminal investigation into their disclosed affairs. This is consistent with what is being done in other jurisdictions. Since the update in late 2009 we have received a further 125 voluntary disclosures with \$13.7 million in omitted income.

Annual compliance arrangements (ACA) with large businesses

We developed ACAs within the market in response to feedback from large businesses that they are looking for improved certainty and greater differentiation between high and lower risk taxpayers.

We have annual compliance arrangements with the ANZ and Commonwealth banks with a further two under development. We also have a GST annual compliance arrangement with Integral Energy and Origin Energy and two large Victorian government departments.

We signed our first ever multi-tax, annual compliance arrangement with the ANZ.

COMPLIANCE ASSURANCE & SUPPORT FOR TRANSFERS AND REGULATION OF SUPERANNUATION FUNDS (Program 4)

Detecting and deterring illegal early-release schemes for superannuation

We have achieved significant outcomes in detecting illegal early-release schemes. We identified and removed over 400 self-managed super funds (SMSFs) from the *Super funds lookup* website. We are currently investigating three promoters of illegal early-release schemes. In February 2010, we commenced a risk assessment for new SMSF trustees. And changes to the SMSF registration process will allow early detection of potential schemes.

Superannuation co-contributions

Given that the co-contributions payments rely on an assessment of income, as well as a member contribution statement provided by funds, we took a cautious approach to ensure that our income tax workloads were up to date before we processed co-contributions. Accordingly, we have deferred the scheduled February and March 2010 co-contributions processing runs.

Based on data from the same time last year, we estimate we will make approximately 100,000 co-contribution payments when payments resume. Approximately 40,000 of these payments will be eligible for interest as they will be over 60 days old.

We are in regular communication with funds through the normal consultative and communication channels, and have publicised the developments on our web site.

Assistance to self-managed superannuation funds

We continue to provide assistance and education to trustees of self-managed super funds, including a rural and regional program running between February and April 2010. On registering a new SMSF, all new trustees receive a letter from us and our publication, *Running a self-managed super fund: Your role and responsibilities as a trustee*. As part of our compliance strategy, we also send tailored advice letters to trustees to address specific risks that we identify.

Relationship with professionals and others

The role of the approved auditor is important in ensuring fund compliance. Our strategies are aimed at supporting auditors to get it right, and dealing firmly with those who pose a risk to the system. In November 2009 we published a revised version of our booklet on the roles and responsibilities of approved auditors. The revised edition incorporates input from the Superannuation Consultative Committee Approved Auditors working group.

SERVICES TO GOVERNMENTS AND AGENCIES (Program 5)

Tax Practitioners Board

The Tax Practitioners Board is a new, independent national board established under the *Tax Agent Services Act 2009 (TASA)*. On 1 March 2010, this board replaced six state Tax Agents Boards. The Commissioner provides administrative support through the secretariat.

There is no separate appropriation for the Boards' activities so its funds are sourced from the ATO's departmental appropriation. Under Regulation 11 of the Tax Agent Services Regulations 2009. For 2009-10 funding of \$14.546 million has been provided to the Board.

Engagement with the tax profession

We celebrated 25 years of working with the National Tax Liaison Group, our peak tax profession group, to improve tax design and administration. We continue to support a professional and ethical tax profession by addressing the non-compliance behaviours of registered practitioners and illegal activities of unregistered or ineligible preparers. Supporting this strategy, the Tax Practitioner Integrity Service provides a dedicated phone line for tax agents to report concerns regarding other agents, unregistered preparers and/or clients.

Whole-of-government and cross-agency support

An increasing number of whole-of-government initiatives is adding complexity to our existing workload. We continue to support cross-agency work such as the National Security and the National Emergency Call Centre. As a supporting agency of the National Emergency Call Centre, we have worked with lead agency, Centrelink, to ensure we have the staff and infrastructure in place in the event that the contact centre needs to be activated.

We generally continued to meet our commitments under our memorandums of understanding (MOUs) with other government agencies in Australia.

So far in 2009–10 we have entered into 20 MOUs with other Australian government agencies (not including those MOUs with the specific purpose of providing access to Australian Business Register data). Under three new MOUs with state and territory revenue offices we provide information such as data on income tax returns and business activity statements to assist their compliance activities on stamp duty, land tax and payroll tax. The information they provide to us includes details of property transactions and payroll taxes. We are also exploring opportunities to expand the range of information we exchange as our understanding of each agency's data matures.

We are expanding some data matching activities in 2009–10. For example, we are matching information from Centrelink, Department of Veterans' Affairs, Department of Defence and Medicare Australia to assist with eligibility of tax offsets and Medicare levy exemptions.

JCPAA Report 410: Tax administration

We expect to complete our review of recommendation 14 on alternative assessments by 30 June 2010. Our review of our Practice Statement Law Administration (PSLA 2006/7) will ensure we limit the use of alternative assessments to circumstances where they should apply.

AUSTRALIAN BUSINESS REGISTER (ABR)

The Australian Business Register (ABR) is an extensive database of identity information provided by businesses when they register for an Australian business number (ABN). The ABR makes it easier for businesses and all levels of government to interact using a unique identifier – the ABN.

As part of the COAG Regulatory Reform Plan (Business registration), we have received funding for streamlining business registration processes. The initiative aims to provide business with a streamlined ABN and Business Name registration service through the ABR, instead of the current separate processes in each state and territory. We continue to support this project, which will reduce the burden of compliance and further embed the ABN as the unique business identifier. However, the increasing number of new policy initiatives affecting the ABR is adding complexity and cost to the program and there is a need to maintain a balance between recruiting new partner agencies and increasing use of ABR data by existing partners.

SURVEY RESULTS

COMMUNITY AND BUSINESS PERCEPTIONS

Our corporate survey program involving business, community and tax agents covers key service elements of professionalism (surveying interactions between us, taxpayers and agents) and call centre satisfaction (surveying service delivery through our call centres). Our survey results are published on our website (www.ato.gov.au), and are accessed through the "About us" option on the top of the page, then under "Our Research" from that drop-down menu.

Since our last report, we have received updated information on call centre service delivery and the professionalism of our staff:

- The Call Centre Satisfaction survey continues to provide positive feedback for the ATO. In February 2010, 85% of tax payers who contacted the ATO through a call centre considered that the call met or exceeded their expectations. Further, 94% thought that the quality of the services provided when handling their query met or exceeded their expectations.
- The November 2009 Professionalism Survey shows that the ATO as a whole achieved an overall professionalism score of 4.1 (out of 5.0), well above the required benchmark score of 3.70. This translates to 82% of clients being satisfied or very satisfied with the level of professionalism they received from their interaction with ATO staff. The results show that all nine characteristics of professionalism achieved above the benchmark score. All scores for the characteristics of professionalism were an improvement from the May 2009 results and all were well above the benchmark score.

We have also published reports from several research projects on our website. These reports can be viewed at www.ato.gov.au – About us – Our Research. Recent and new research projects include:

- ATO brand and Taxpayer Charter literature review and framework development
- qualitative research with taxpayers with a sight or hearing disability
- employee share scheme communications research
- fuel tax credit product research.

EMPLOYEE ENGAGEMENT SURVEY

During September and October 2009, we conducted an employee engagement survey. Employee engagement is important for us to consider as part of our cultural change initiatives.

The purpose of the survey was to identify areas where we could increase the engagement of our people and hence increase productivity within the office. We had a very pleasing 75% response rate from the survey, well above average for this type of exercise.

In the main, the survey showed above average results, when compared to some other national and international organisations. The less positive results are mainly from our lower level staff, many of whom are subject to significant change as we re-engineer our processes and culture.

We are developing strategies focusing on two areas we identified from the survey as corporate priorities: the roles of leaders and managers in managing change; and career development and training.

CURRENT ISSUES AND LOOKING FORWARD

ASSISTING TAXPAYERS AFFECTED BY NATURAL DISASTERS

We refined our disaster response framework to coordinate our dealings with people, businesses, communities and tax agents affected by natural disasters. Our aim is to assure them they don't have to worry about their tax obligations while they recover from the impacts of the disaster. Our responses depend on the severity of the disaster, but can include:

- establishing a dedicated emergency support line
- a disaster response page of our website (www.ato.gov.au)
- postponing correspondence to affected areas
- postponing compliance activity or lodgment enforcement
- fast-tracking refunds
- extending time to pay debts and meet other tax obligations
- reconstructing tax records where documents have been destroyed.

We have provided assistance in 2009–10 following bushfires in Western Australia and cyclones and flooding in northern Australia.

ATO PERFORMANCE AGAINST SERVICE STANDARDS

Our service standards publicly state the level of performance the community can expect when dealing with us under normal circumstances. To accommodate expected negative impacts of the change program on productivity, we lowered some benchmarks in 2008–09. In 2009–10, some of our benchmarks reverted to their previous levels in anticipation of a gradual return to normal service levels as the change program became established. However, continuing impacts on service delivery are apparent.

At February 2010, we are meeting 15 of the 27 service standards (compared to 23 of the 27 for the same period last year). The most significant factors affecting service levels were:

- processing backlogs associated with tax-time peak volumes and the delivery of the tax bonus payments
- issues associated with the deployment of change program releases.

We are reviewing processes to make them more efficient, shifting resources to address workload pressures and resolving system issues as a priority, all with a view of mitigating the impacts on the community.

INSPECTOR-GENERAL OF TAXATION REVIEW

On 17 March 2010, the Assistant Treasurer released the Inspector-General of Taxation's report on the review into delayed or changed ATO views on significant issues. The Inspector-General conducted the review collaboratively with us and private sector representatives. This has helped develop recommendations that we believe will further improve the administration of the tax system.

The Inspector-General found that, in certain circumstances, taxpayers' perceptions of changes in ATO views or practices are justified. However, the Inspector-General concluded that the main problem is not that we changed one binding advice to another, but a disagreement over whether a previous view or practice existed, and if it did exist, whether the subsequent view constituted a change. We believe that the examples provided in submissions to the review do not provide evidence of so called 'u-turns' where we have applied a change of view retrospectively.

We are in general agreement with four of the five recommendations (recommendations 2 to 5). Recommendation 1, which asks the government to consider whether the existing legislative framework provides adequate certainty for taxpayers where we retrospectively change our view, is a matter for government. However, we are of the view that the issues raised in the report are best addressed by implementing recommendations 2 to 5.

LEVERAGED BUYOUTS

Leverage buyout arrangements involving private equity have been a focus area for us for some time. In evidence given to the Senate Standing Committee on Economics in August 2007, the Commissioner indicated that we would be monitoring developments in private equity arrangements and assessing their compliance with Australian tax laws. Our *Compliance plan 2007-08* specified private equity arrangements as an area of concern, particularly where the complexity and lack of transparency of significant transactions suggest possible risks to the tax system.

On 16 December 2009, we issued two public draft tax determinations setting out our view of how Australian tax law operates in respect of private equity leverage buyout arrangements. TD 2009/D17 explains the application of general anti-avoidance rule in Part IVA of the *Income Tax Assessment Act 1936* to the imposition of conduit companies, having no commercial purpose other than to avoid tax. TD2009/D18 explains that profits on disposal of assets acquired by non-resident private equity entities may be ordinary income and subject to tax in Australia. It restates longstanding principles arising out of case law and provides certainty to taxpayers in respect of our position.

PROPERTY AND ACCOMMODATION

We have a national accommodation strategy to help us deliver sustainable accommodation for the next 15 to 25 years. A key component of the strategy is consolidation of sites in central business districts and metropolitan areas across Australia. We are staggering relocation of sites in line with the expiry dates of existing leases to ensure minimal disruption to our business delivery.

We aim to provide our staff more efficient work environments. We are renegotiating value-for-money leases on current sites, undertaking major building upgrades and taking out new building leases to meet government targets for electricity and water consumption and waste management, and co-locating our people where possible to improve business outcomes.

In Melbourne, we plan to relocate our people into one site in the Docklands area. We currently occupy five leased sites across the city. Around 2,500 staff will be co-located as existing leases expire. Similarly in Adelaide, we will co-locate 2,200 people from three sites to one.

In Geelong, Penrith and Albury, we are looking to re-locate our people into smaller workspaces after identifying that savings could be made. We have chosen the new buildings using criteria such as proximity to public transport and retail outlets, quality infrastructure, environmental considerations and financial benefits.

In Brisbane, we will be consolidating six CBD sites into two in the long term. Re-location of 725 staff to one of these sites has commenced.

In all our moves, we are endeavouring to provide value-for-money locations that will attract and retain suitably qualified professionals.