

Appendix 3

Terms of reference for the review into the ATO's employer obligations compliance activities conducted by the Inspector-General of Taxation

Easing the compliance burden for employers

1. The distinction between 'employee' and 'contractor' for Federal taxation and superannuation purposes, its coherence with business practices, state taxation and other legal requirements as well as the interactions with ABN and GST registrations.
2. Simplification of reporting, withholding and payment obligations for employers as well as certain contractors.
3. The effectiveness of the ATO's use of existing third party data to reduce the compliance burden for employers.
4. Guidance and tools for employers to discharge their employee-related taxation and superannuation obligations, including the level of protection afforded to those relying upon the information provided.
5. Information and support for employees to understand their rights, entitlements and avenues for redress where they become aware of potential non-compliance by their employers.

ATO conduct of compliance activities

6. The effectiveness of the ATO's risk assessment and verification processes to detect and address non-compliance of employer obligations in a timely manner.
7. The ATO's consideration of relevant employee entitlements protection and business viability impacts when undertaking compliance actions.
8. The effectiveness of the ATO's actions to address phoenix activities.
9. The ATO's conduct during employer obligations compliance activities, including the:
 - a. proportionality and use of information gathering powers;
 - b. access and use of available third party information to verify compliance;
 - c. appropriateness of auditor communications;
 - d. pathways for escalating and resolving issues before such activities are finalised;
 - e. sustainability of audit and penalty decisions;
 - f. costs for employers and employees; and
 - g. the feedback given to employees who notify the ATO of potential employer non-compliance.

10. The ATO's administration of alienation of personal services income provisions and its interaction with other compliance activities including those relating to employer obligations.

11. The extent to which aspects of the administrative penalty regimes encourage or hinder voluntary compliance and self-reporting of non-compliance by employers.

The IGT may also examine other relevant concerns raised or potential improvements identified during the course of this review.