

Background to the inquiry

The biannual hearing of February 2014

- 1.1 In February 2014 the Committee held a public hearing with the Australian Taxation Office (ATO) and its scrutineers in the course of its inquiry into the 2012–13 Annual Report of the ATO.
- 1.2 The ATO tabled a supplementary submission at the hearing. It comprised a chart of external governance arrangements.¹ An updated version of the chart forms Appendix 1 to the ATO's submission to the inquiry.² The ATO made the point through use of the charts that it is subject to a wide range of external accountability mechanisms. These include:
- administrative and security requirements
 - the regulatory financial and performance framework, including corporate plans and annual report requirements
 - parliamentary committees
 - statutory scrutineers, including the Auditor-General and Inspector-General of Taxation.
- 1.3 In 2014, Mr Jordan argued that the ATO was subject to a great deal of external scrutiny:

We had 14 scrutineer reports last year: there were the six from the inspector-general, double-sided printing, and two of which are not

1 ATO, Submission 4.1 reproduced in Appendix D of House Standing Committee on Tax and Revenue, *2013 Annual Report of the Australian Taxation Office: First Report*, March 2014.

2 ATO, Submission 15, Appendix 1.

yet released. But there are six reports there. There are seven Australian National Audit Office reports on performance audits and those sort of things—I do not know how big they would be. There is the one ‘own motion’ from the ombudsman ...³

- 1.4 However, he also stated at the hearing that ‘As an organisation we welcome oversight and input.’⁴
- 1.5 The Committee observed in 2014 that almost all agencies are subject to scrutiny by the Auditor-General and the Ombudsman, and they appear before Senate Estimates. It conceded that those scrutineers focused more attention on the ATO than some other agencies. This reflected the importance of the ATO’s role. The only extra layer of scrutiny was the Inspector-General of Taxation (IGT). However, this also reflected the ATO’s importance, just as the Inspector-General of Intelligence and Security reflected the importance of the intelligence and security agencies.
- 1.6 The Committee noted the view of the Australian Public Service Commission that the ATO was fortunate to have a high level of scrutiny. The Committee’s interpretation was this was an effective way of avoiding serious or extensive failures in performance.
- 1.7 The Committee concluded at that time that current arrangements were appropriate.⁵
- 1.8 The Committee’s next biannual hearing was in August 2014. The ATO did not raise the subject of scrutiny in its submission, but at the hearing Mr Jordan remarked that the ATO was currently responding to 10 separate reviews.⁶
- 1.9 The ATO did not further raise this issue with the Committee until the instigation of this inquiry.

3 Mr Chris Jordan, Commissioner of Taxation, *Committee Hansard*, Standing Committee on Tax and Revenue, Australian Taxation Office Annual Report 2012-13, 28 February 2014, p. 32.

4 Mr Chris Jordan, Commissioner of Taxation, *Committee Hansard*, Standing Committee on Tax and Revenue, Australian Taxation Office Annual Report 2012-13, 28 February 2014, p. 20.

5 House Standing Committee on Tax and Revenue, *2013 Annual Report of the Australian Taxation Office: First Report*, March 2014, pp. 32–33.

6 Mr Chris Jordan, Commissioner of Taxation, *Committee Hansard*, Standing Committee on Tax and Revenue, Australian Taxation Office Annual Report 2012-13, 27 August 2014, p. 2.

Origins of the current inquiry

- 1.10 On 1 February 2016, the Treasurer wrote to the Committee with terms of reference for an inquiry into the external scrutiny of the ATO. The Treasurer's letter noted that a recent functional and efficiency review of the ATO identified the possibility of savings to government from streamlining the ATO scrutiny arrangements. It also referred to the possibility of duplication between reviews, and concluded that an inquiry into the underlying framework for the scrutiny of the ATO would be the most useful course. This informs the terms of reference.
- 1.11 The Committee adopted the inquiry on 3 February 2016.
- 1.12 This new inquiry is an opportunity to examine the matter afresh. On this occasion, the Committee has had the benefit of the views of stakeholders, including scrutineers, taxpayer representatives, and others with an interest in public administration.
- 1.13 The Committee notes its earlier comments on the appropriateness of current scrutiny arrangements, but is not bound by them.
- 1.14 Mr Jordan has welcomed the new inquiry. He suggested that the Committee could examine whether:
- ... the scrutiny [is] the most useful, purposeful and fit for purpose now, some years on from some of these scrutiny issues being put in place, or is it simply more red tape that really does not help necessarily position and improve the tax system and the ATO for the future ...⁷

Inquiry overview

- 1.15 The inquiry was advertised by media release, social media and direct mail. The Committee sought submissions from relevant Australian Government ministers, legal, accounting, and tax representative bodies, tax practitioners, and think tanks.
- 1.16 The Committee received 30 submissions and three supplementary submissions. Three submissions were confidential. The submissions are listed at Appendix A.

7 Mr Chris Jordan, Commissioner of Taxation, *Committee Hansard*, Standing Committee on Tax and Revenue, Australian Taxation Office Annual Report 2015-16, 24 February 2016, p. 1.

- 1.17 The Committee held two public hearings in Canberra. Public hearing details are listed at Appendix B. The Committee received two exhibits, which are listed at Appendix C.
- 1.18 The report structure is as follows.
- 1.19 Chapter 2 covers the background to ATO scrutiny, including a profile of the scrutineers, the volume of reports, and international comparisons.
- 1.20 Chapter 3 reviews the evidence and makes recommendations on the three main points in the terms of reference, as well as other relevant topics raised during the inquiry on external scrutiny of the ATO. The two key issues in the inquiry were:
- the extent of any possible overlap in reviews by the Auditor-General and the Inspector-General
 - communication between the ATO and the Inspector-General.