

3. Issues and recommendations

An efficient and fair tax system

- 3.1 The Australian Tax Office's Annual Report for 2015–16 covers a period of consolidation under the Reinvention strategy and its delivery of the ATO's operation objective, to promote:

Confidence in the administration of aspects of Australia's taxation and superannuation systems through helping people understand their rights and obligations, improving ease of compliance and access to benefits, and managing non-compliance with the law.¹

- 3.2 The outcomes recorded in the Annual Report reveal a Tax Office that has shifted its core strategic focus from end compliance to early engagement with the tax payer. The structure of the report, which highlights the tax performance of key sectors of the community—small or large business, tax professionals, as well as in management of revenue collection, the tax gap, and ATO performance culture—reflects the ATO's new take on person to person engagement, simultaneous to the digital automation of the majority of its lodgement and advice systems.
- 3.3 Reflecting back on achievements in the new ATO Corporate Plan for 2016-17, Tax Commissioner Chris Jordan stated:

¹ ATO Outcome Statement, ATO, *Tax Commissioner's Annual Report 2015–16, Volume 1 (Vol. 1)*, p. 4.

We have been driving significant change—to improve the client and staff experience, to improve our organisational performance, and to increase trust and confidence in the tax and superannuation systems.

We are making it easier for people to do the right thing and providing certainty for them. We are engaging early with stakeholders in the tax and superannuation professions, software providers, government and other organisations to provide contemporary services that foster willing participation.²

- 3.4 The Committee’s review of the year’s activities with representatives from the tax profession and the small business community registered overall a new level of satisfaction with the ATO’s attitude to, and engagement with, their members. There was a sense of collective purpose; the ATO’s extensive consultation processes were not only improving the compatibility of online lodgement, business registration and payment tools, but they were providing opportunities for industry bodies, businesses and individuals to give ATO tax experts and management a better sense of the needs and objectives of taxpayers.
- 3.5 The Inspector-General of Taxation, commenting on the increase in the number of complaints to his Office over the period, took this to indicate that the system was working more effectively. The ATO recorded significant falls in the number of complaints it received over tax time 2016, with litigation cases and appeals also much reduced, suggesting online efficiency and redesigned dispute resolution services had been a success. For those still aggrieved, there was the Inspector-General on call for advice and scrutiny of ATO decision making.
- 3.6 In review of this fairer and more efficient ATO, the Committee nevertheless identified a number of issues which merited a more thorough investigation. One area of interest was in the ratios of staff deployed in online services and innovation relative to the ‘high touch’ person to person engagement the ATO is carrying on with small business, for example, and less digitally enabled sectors of the community. This was not easily discernible from the

² Commissioner’s Forward, *ATO Corporate Plan 2016–17*, August 2016, p. 1

<www.ato.gov.au/uploadedFiles/Content/CR/downloads/n7769-07-2016_js37088_w.pdf> viewed 14 February 2017.

activity and financial statements in the Annual Report,³ nor was a question given to the ATO on this matter answered.⁴

- 3.7 Further, in view of the ATO's new focus on improving staff capability, following the decrease of 17 per cent in ATO staff over the previous three years, and with the organisational alignment now concluded, it would be useful to know where current staff is deployed and how they are being trained.⁵ An addendum to this would be about the extent to which the ATO is now using local networks and volunteers as additional supports, and on what basis.
- 3.8 The Committee therefore considers it is important to get a truer picture of ATO staff deployment and skills at this point in time, given the potential for errors to be made in digital processing, when matters are complex, or to ensure that grievances are quickly resolved. In evidence to the Committee, the Commissioner himself made this point clear in highlighting the importance of the ATO Fix-it Squads and Visits programs, and of telephone advice to clarify compliance requirements, and to resolve disputes.

Recommendation 1

- 3.9 **The Committee recommends that the Australian Taxation Office (ATO) report on:**
- **the ratios of staff deployment in person to person advice, both telephone and in community outreach, compared with online delivery and maintenance, relative to each business line;**
 - **the investment in training, and the nature of training, for staff who have a direct engagement with taxpayers; and**
 - **the extent to which the ATO is using contract staff and volunteers, their training and contracts of appointment.**

³ Appendix 8 in the Annual Report provides Work Force Demographics by business line and location. See ATO, *Tax Commissioner's Annual Report 2015–16, Volume 1 (Vol.1)*, pp. 116–18.

⁴ Specifically in relation to assistance provided to small business. Detail was provided on the range of services, not staff ratios. See ATO, *Submission 1.3*, pp. 13–14.

⁵ ATO, *Tax Commissioner's Annual Report 2015–16, Vol.1*, pp. 49–50.

Recommendation 2

3.10 The Committee also recommends that the ATO:

- **provide total cost figures for deployment of staff across all ATO service bands to allow for a cost benefit analysis by business function; and**
- **advise on any comparative analysis that has been done on the outsourcings of particular business lines.**

3.11 This information could be usefully reported over time as more services are digitised and could be used to calibrate staff needs as the community demographics and ATO compliance foci changes. Specific concerns raised in relation to the ATO's digital transformation processes and other matters discussed in the body of the report are addressed below.

Digital transition

3.12 The ATO's evidence to this review sets out a number of milestones for this tax year, with the majority of taxpayers able to interact with ATO online services and, by November 2016, nearly all individual returns, 92 per cent of non-individual returns, and 83 per cent of activity statements having been lodged electronically with the ATO.⁶

3.13 The digitisation of government services, business transactions and payments are accepted as inevitable by most people in the community. This supposition is supported by ATO research, that of the Digital Transformation Agency, and also in evidence to this review.

3.14 The Committee considers that it is nevertheless important not to underestimate the impact that a digitisation transformation of tax services on the scale undertaken by the ATO must have on some sectors in the community. This entails uncertainty and inefficiencies caused by digital transition and disruption to lodgement and processing services, by incompatible software used by business operators (including tax agents), as

⁶ ATO, *Submission 1*, p. 6.

well as the proportion of businesses and others in the community who have poor access to internet services or do not routinely use them.

- 3.15 Past reviews have not focussed in particular on the challenges of digital transition in a nation like Australia, where internet access is unreliable or unavailable in many regions. The services that the ATO has outlined in its report and other evidence to this inquiry, including that provided in detailed supplementary material, suggests that the ATO is genuinely committed to help those in rural and remote areas in the medium to long term as needed.
- 3.16 The ATO's flexibility during the first mandatory year of SuperStream implementation was another plus for regional businesses. The ATO highlighted, in this regard, its adherence to the Digital Transformation Agency's Digital Service Standard. The ATO is also contributing to the whole-of-government Digital Transformation Roadmap which is 'delivering a range of initiatives that are designed to make it as simple and fast for people to get things done, through any channel, wherever they are.'⁷
- 3.17 The Committee was pleased to note that the ATO's submission provided a timeline for transition to the new Tax Agents Portal, as recommended in the Committee's review of the previous annual report. Peak tax bodies also appeared satisfied with the ATO's support to them during the phased transition to the upgraded portal and the Electronic Lodgement System (ELS) and Standard Business Reporting (SBR), now planned for March 2018.⁸ Small business was pleased with progress on compatible software systems, and confident that the ATO is committed to resolving issues.⁹
- 3.18 Notwithstanding this, one tax agent's submission was strongly critical of the ATO's constant iterations of new features and updates for key lodgement services, considering that the uncertainty created by transition was a threat

⁷ ATO, *Submission 1.3*, p. 5.

⁸ CPA Australia, *Submission 2*, p. 1; Chartered Accountants of Australia and New Zealand (CAANZ), *Submission 3*, p. 2; Mr Tony Anathasiou, [former] President, The Tax Institute, *Committee Hansard*, Canberra, 23 November 2016, pp. 2–3.

⁹ Mr Peter Strong, CEO, Council of Small Business of Australia (COSBOA), *Committee Hansard*, Canberra, 30 November 2016, p. 3.

to his business.¹⁰ There was also discussion of calls for the ATO to provide budget for compensation to tax agents affected by digital transition impacts, although the ATO considered arrangements adequate at this time.

- 3.19 This, in the Committee's view, highlights the importance of the ATO's continuing commitment to enhance online services, including those for myTax 2017, with a 'focus on continuing improvement and building taxpayer feedback to further streamline and improve the experience'.¹¹ Maintaining momentum in the transition process will be important for this.
- 3.20 The digitisation of ATO services is part of the broader Reinvention Program, a whole-of-organisation reform launched in 2015. The Committee notes that detailed information for the transformation of each service area is available on the public record.¹² Nevertheless, the Committee considers that it would be helpful if the ATO were to provide a timeline showing the implementation of the digitisation project in its Annual Report, with information on how the ATO is tracking against its original delivery targets for each service area.

Recommendation 3

- 3.21 The Committee recommends that the ATO in its Annual Report tabulate progress of the digitisation of ATO's services from conception to current status, with information on how the ATO is tracking against original delivery targets.**
- 3.22 Recommendations 5, 6 and 9 in this report address the need for improvements to reportage on outcomes and time frames for specific services since the last annual report review.
- 3.23 In terms of the ATO's broader focus on assisting the community during transition, the Committee commends the Tax Office's efforts to support less digitally enabled sectors – people with a disability, older people and new taxpayers, migrants and youth. In particular, the ATO is demonstrating its

¹⁰ Name Withheld, *Submission 5*.

¹¹ ATO, *Submission 1*, p. 11.

¹² See ATO, *Reinventing the ATO* at <www.ato.gov.au/About-ATO/About-us/Reinventing-the-ATO/> viewed 3 March 2017.

online services in a range of contexts to ensure these groups better understand our tax and superannuation systems.¹³

- 3.24 The Committee would hope to see continuing investment in the mitigation of impacts on the tax profession and the business community, and in education of the broader community both to secure revenue collection and, in fairness to taxpayers—the most vulnerable of whom may be more likely to attract compliance action if they fail to meet their obligations.

Data integrity and compliance issues

- 3.25 According to the ATO, a total of 80.4 million tax records were prefilled by November 2016, with less than 30 complaints received.¹⁴ This is a remarkable achievement which, considered with increases in online lodgement through myTax over tax time 2016, suggests that Australian taxpayers are happy to have a simpler, easier and less stressful way of meeting their tax obligations. While this might be expected to increase the number of self-lodged applications, there was also evidence that tax agents' business increased over the tax year rather than otherwise.
- 3.26 Tax professional bodies were overall more positive about the ATO's management of lodgement processes over 2016, although there were some reservations. Discussion focussed on the accuracy of data obtained in prefilling, that provided by self-lodgers, and the potential for data-matching to distort tax outcomes for some in the community. More fundamentally, ethical questions were raised about the use of data-matching to identify tax defaults, and the ATO's role as tax administrator and regulator as digitisation of personal tax and business information becomes automatic.
- 3.27 In relation to the breadth of these concerns, the Inspector-General of Taxation advised:

That is a concern of some in the tax profession: you do not want to get your advice from the regulator; there needs to be some level of independence. That is very true, but myTax should be used for what it is. It is for somebody with simple affairs who wants to lodge a return. For anything more complex than

¹³ ATO, *Submission 1*, 3, p. 5.

¹⁴ See ATO, *Submission 1*, p. 11.

that, they might need to seek the advice of a tax agent or a tax practitioner, or myTax needs to evolve more, to ask a few more questions, or whatever. So I agree with you to some extent that you cannot replace an independent adviser with technology. You will always have some need for that, depending on the level of sophistication that you require.¹⁵

- 3.28 The Committee was pleased to note that the ATO has developed automated systems to improve the quality of prefilled data and has ‘sophisticated analytical rules’ to scrutinise tax returns to ‘identify unusual, inaccurate and fraudulent claims’ as well as to ‘identify taxpayers who have made an error’, and will consider amending their returns to disallow a deduction.¹⁶ Mr Tony Anathasiou, President of The Tax Institute, commented:

In terms of information being provided to the ATO, the idea is to ensure that you are able to get the best possible information which can be quickly gathered, is accurate and can be easily disseminated through to the ATO. Once it goes into the ATO, that same information should then be able to be used by the whole of government. The point is that information should only be sent once and should be able to be used.¹⁷

- 3.29 Events during the last part of 2016 brought new concerns about the potential for error in data sharing between agencies. The Committee anticipates the ATO will also prioritise higher scrutiny of the accuracy of tax information shared with other agencies. Areas of concern discussed in this report include alleged inconsistencies in ATO information provided to Centrelink and errors made incidentally. There was also potential for deliberate distortion of ABN and BAS information provided in online registration by ‘rogue’ advisers offshore.¹⁸ In many of these cases, only auditing by a tax staff member might reveal errors.

- 3.30 The Committee further notes the ATO’s advice that it expects to contact over 300 000 taxpayers this year where ‘once only’ discrepancies are identified in

¹⁵ Mr Ali Naroozi, Inspector-General of Taxation, *Committee Hansard*, Canberra, 30 November 2016, pp. 20–21

¹⁶ ATO, *Submission 1.3*, p. 6.

¹⁷ Mr Anathasiou, The Tax Institute, *Committee Hansard*, Canberra, 23 November 2016, p. 5.

¹⁸ Mr Michael Croker, Tax Leader Australia, CAANZ, *Committee Hansard*, Canberra, 23 November 2016, pp. 3, 4.

tax returns. If the tax payer disagrees with the assessment they can contact the ATO prior to the due date and provide supporting information.¹⁹ Given concerns about this process, in which the onus of proof is on the tax payer, the Committee sees room for greater scrutiny of automated data matching and related tax debt audit processes, and greater investment in scrutiny of each case before debt letters are sent out.

- 3.31 The ATO may also consider whether requirements for the taxpayer to provide very old information at short notice, requires a review of the automatic deduction of debts and a corresponding need for greater investment in telephone support for quick resolution in case of error.

Recommendation 4

- 3.32 The Committee recommends that the ATO should further invest in data analytics and auditing to promote the integrity of the tax system and work with the Department of Human Services and other agencies to enhance the auditing and review of apparent discrepancies identified through data matching.**

The Committee also recommends that the ATO should ensure there is adequate telephone support provided, particularly in peak times or when there is a disruption to online services.

Data security

- 3.34 The ongoing disruption to ATO online services over December 2016 and into 2017 brought into focus the potential risks associated with the digitisation of core government processing and support services, such as those managed by the tax, health and social security services.
- 3.35 The ATO Commissioner has been forthright in public statements about the recent outages of ATO internal and external services. In an ATO Systems Update statement, he criticised the media for sensationalising reports during the outages, which he described as ‘a challenging and testing time for the community and the ATO’. Mr Jordan went on to advise on the preliminary findings of the independent review, being conducted by Price Waters

¹⁹ ATO, *Submission 1*, p. 12.

Cooper (PwC) following the December outages, which identified a 'failure by the contractor Hewlett Packard Enterprise (HPE) to provide contracted services in a reliable way and ensure stability of our systems'.²⁰

- 3.36 While the ATO has given reassurance that no taxpayer data was lost during the outage, the Committee notes that concerns about the security of government held data exacerbates the effects on tax professionals and others in the community when core government processing and payment services, assistance and advice, goes offline.
- 3.37 As noted in this report, the Australian Cyber Security Centre (ACSC) has highlighted an increasing cyber security risk to Australian government systems. However, the ACSC's 2016 cyber threat review also considered that government agencies are increasingly aware of the risks and are managing them more effectively, with reported threats correspondingly decreasing.²¹
- 3.38 Tax peak bodies expressed confidence in the ATO's work in this area to date, however, there was the view that the international nature of cyber threats requires a more developed 'whole-of-government' approach as more government data is held and shared.²² In this regard, the Chartered Accountants of Australia and New Zealand (CAANZ) noted the value of government work with the ACSC, and the supplementary need to work with bodies such as the Tax Practitioners Board to consider how to regulate the threat of the 'digital disruption' of financial advice and information from offshore.²³
- 3.39 Also discussed in this report, the ATO established a Cyber Security Working Group (CSWG) in early 2016 to consult with government and specific industry bodies to collectively consider cyber risks to tax information and services, with internal and external reviews underway to consider the causes

²⁰ Commissioner's statement – ATO Systems, ATO Systems Update, 8 February 2017
<www.ato.gov.au/Media-centre/Media-releases/ATO-systems-update> viewed 13 February 2017.

²¹ Australian Government, *ACSC Australian Cyber Security Centre 2016 Threat Report*, p. 10.

²² Mr Croker, CAANZ, and Mr Anathasiou, *The Tax Institute, Committee Hansard*, 23 November 2016, pp. 7 and 8 respectively.

²³ Mr Croker, CAANZ *Committee Hansard*, 23 November 2016, pp. 7, 3.

of 2016 outages and reduce future risks associated with them.²⁴ The ATO also advised that it works in close partnership with the Department of Human Services, as administrator of myGov, to plan for and address incidents, particularly in the lead-up to tax time.²⁵

- 3.40 The Committee supports further development of a ‘whole-of-government’ approach to cyber threats and the Government’s continued investment in the work of the ACSC.

Recommendation 5

- 3.41 To provide greater certainty to Australian taxpayers, the Committee recommends that the ATO develop best practice benchmarks for measuring and reporting on the security and functionality of its online systems in its Annual Report.**

- 3.42 The Committee also would expect to see a full disclosure of the findings of the PwC review of the ATO outages, with potential for the ATO to discuss its response at future meetings with the Committee.

Partnerships with tax agents

- 3.43 The very positive responses from peak tax professional bodies during this review indicate that the ATO has been working hard to include them as integral supports to Australia’s taxation and superannuation systems. As already noted, there was a new sense of partnership with the ATO, with the agency now engaging directly with tax professionals, both through newly formed expert level consultation groups, and out in the community under the ATO Agent’s Visit Program.
- 3.44 The ATO’s submission described how its system design for lodgement systems and the Tax Agents Portal now ‘focusses on providing the right services while mitigating costs to tax practitioners’, with design solutions

²⁴ ATO, *Submission 1.3*, pp. 14–15.

²⁵ ATO, *Submission 1.3*, p. 7.

that are ‘incrementally informed by the agents themselves’.²⁶ The 2016 Annual Report confirmed:

The ATO is working with tax professionals and software developers to streamline practice processes. We will work with tax professionals to develop and establish a trusted relationship model that allows them more flexibility in the way they use digital services to serve their clients.²⁷

- 3.45 The Committee noted in particular that in early 2016 the ATO took the step of visiting around 250 tax practitioners in the pilot Agents Visit program to consult on ‘irritants’, concerns and seek ideas for enhancement of the portals.²⁸ The ATO describes how agents from small to large practices then trialled systems at end user testing centres. Consultations with software designers informed the development of the final tax service through agent practice software.²⁹ Over February to March this year, the ATO will involve another 20 tax agents in a private phase to test a number of foundational features of the Tax Agent Portal service, including navigation, activity statements and income tax history, as well as improved services including the ‘add client’ function and an extended list of accounts and transactions.³⁰
- 3.46 Against the background of past concerns, the Committee welcomes this progress in the refinement of the Portal’s features. The improved performance of the Client Communications List (formerly client correspondence list), and its rollout to the BAS Portal, are major advances over 2016. While the Committee did receive criticism of the rebadged CLS, the Committee notes that the ATO has committed to ensure agents have a comprehensive view of all correspondence received by myGov and other agencies progressively as the changes are made to ATO systems.³¹ The Committee anticipates that the trialling with agents in late 2016 of the new

²⁶ ATO, *Submission 1*, p. 17

²⁷ ATO, *Commissioner of Taxation Annual Report 2015–16, Vol. 1*, p. 34.

²⁸ ATO, *Commissioner of Taxation Annual Report 2015–16, Vol. 1*, p. 35.

²⁹ ATO, *Submission 1*, pp. 17–18.

³⁰ ATO, *Submission 1*, p. 20.

³¹ ATO, *Submission 1*, p. 18.

Communication Preferencing function will also ensure agents have a user friendly system by the projected release date of July 2017.³²

- 3.47 In relation to the implementation of the Practitioner Lodgement Service (PLS), the ATO has wisely taken a staged progression approach, with the parallel electronic system to operate on into March 2018. The Committee notes that over July–October 2016, 280 000 lodgements had been made successfully by 3 000 Tax practitioners using the PLS.³³ The Annual Report further records a 90 per cent increase in Standard Business Reporting (SBR) gateway lodgements compared with the previous year, totalling one million in 2015–16.³⁴ Gross savings from combined lodgement using SBR, the Australian Business Register and AusKey lodgements were estimated at \$1.2 billion for the period.³⁵
- 3.48 The Committee welcomes Commissioner Jordan’s commitments to work with the tax profession to ensure the ATO remains on track in its development of a seamless new PLS.³⁶ However, it is also aware of concerns arising from frequent changes and sporadic upgrades to the system. The Committee notes, for example, ATO advice that the Fringe Benefits Tax return will not be made available under the old Electronic Lodgement System for 2017, and that income tax forms will be progressively removed from the ELS safety net throughout 2017.³⁷
- 3.49 The Committee would appreciate a response from the ATO on the anticipated timeframe for the roll out of new features and publication of this on the Tax Agents Dashboard. Advice on the development of the additional lodgement gateway to reduce risk of overload on the PLS for 2017 tax time should also be posted.

³² ATO, *Submission 1*, p. 21.

³³ ATO, *Submission 1*, p. 21.

³⁴ ATO, *Tax Commissioner’s Annual Report 2015–16, Vol. 1*, p. 55.

³⁵ ATO, *Tax Commissioner’s Annual Report 2015–16, Vol. 1*, p. 56.

³⁶ Commissioner Jordan, *Committee Hansard*, Canberra, 30 November 2016, p. 8.

³⁷ ATO, *Submission 1.3*, p. 12.

Recommendation 6

3.50 The Committee recommends that the ATO, to improve certainty and reduce business impacts on tax agents, should publish on the Tax Agents Dashboard:

- **a projected schedule and service updates on enhancements to the Practitioner Lodgement Service and corresponding changes on the Electronic Lodgement Service as an ongoing feature, with**
- **advice on the timeframe and milestones for launch of the additional lodgement gateway for 2017 tax time and its functionality thereafter.**

Assisting small business

3.51 The Committee commends the ATO's focus on promoting compliance among small business under its program of early engagement. This includes extensive work online and face to face out in the community under the 'Show me what, how and why' strategy.³⁸

3.52 In its supplementary advice to the Committee, the ATO provided detail on the wide range of online services and tools accessible on the updated small business web page (launched 14 November 2016), which now provides:

- An online registration for new business start-ups to register for ABN and tax obligations
- Information on GST, Superannuation and employer registration and reporting obligations
- Access to online tools, calculators and business portal for lodging activity statements online
- Videos and webinars explaining tax and super information
- Registration for free small business workshops

³⁸ ATO, *Tax Commissioner's Annual Report 2015–16, Vol. 1*, p. 25, and see ATO, *Submission 1*, pp. 9–10.

- Our 'Small business assist' tool provides tailored information, offers live web chat and the option to book after hours and weekend call back service with an experienced ATO support officer.³⁹

3.53 In an attachment, the ATO further outlined the full suite of assistance offered to small business, with priorities for the 2016–17 period being Mental Health initiatives, a simpler BAS for the GST, a Better Telephone experience, easier access and authentication, and a Small Business Record Keeping Tool.⁴⁰

3.54 In terms of the reception of these products, the Committee was satisfied that the Tax Office is on track. Chief Executive Officer (CEO) of the Council of Small Business of Australia (COSBOA) Mr Peter Strong highlighted programs enabled by the ATO on mental health issues associated with small business debt:

We have had Kate Carnell, the Small Business and Family Enterprise Ombudsman, talk to groups of staff. We have had a woman called Leanne Faulkner, who is working for us in the mental health area, also talk to them about what happens when you get paid late from a big business and the pressure that puts upon you as an individual. It is not just a business issue, where you have got to manage cash flow, which is hard enough, but you have got to go home and think, 'How am I going to pay my BAS? How am I going to pay my super?' or 'How am I going to put food on the table,' in worst-case scenarios. But they are educating their staff so that, when you are talking to someone, it is not just a tax bill that they have got. Indeed, there is probably something else going on as well.⁴¹

3.55 The ATO's work with COSBOA and other stakeholders to develop compatible lodgement systems and software tools for small business in particular, is both a practical and commendable approach to improve tax compliance in an underperforming sector. Mr Strong saw that development of these business friendly systems will both ease the burden on business operators and simplify compliance.⁴² He also welcomed the ATO's flexibility in the rollout of SuperStream, with development of complimentary solutions

³⁹ ATO, *Submission 1.3*, p. 13.

⁴⁰ Attachment A, ATO, *Submission 1.3*.

⁴¹ Mr Strong, COSBOA, *Committee Hansard*, Canberra, 30 November 2016, p. 2.

⁴² Mr Strong, COSBOA, *Committee Hansard*, Canberra, 30 November 2016, p. 3.

being a big positive for small business.⁴³ The ATO, meanwhile, reported early success in the sector with around 70 per cent implementing SuperStream by 30 June 2016, following a program of ATO assistance and support.⁴⁴

- 3.56 The Committee notes and congratulates the ATO for receiving the Gold Award in the 2016 Prime Minister's Awards for Excellence in Public Sector Management for implementation of the SuperStream project.⁴⁵ The Committee also commends the ATO on its new flexibility in dealing with small business debt, with online debt plans available, and mental health support as a focus throughout 2017.
- 3.57 However, given the plethora of online services and tools, the Committee also takes note of advice from tax professionals that assistance to small business must be well targeted, as their operators are often time poor and can be overwhelmed by digital commerce options.⁴⁶ In its evidence, the ATO highlighted the value of the Fix-It Squads as a major support to the small business sector in this regard:

We are very proud of the fix-it squads. What we have done there is, in a sense, not just to co-design the removal of irritants for small business; we have actually empowered small business to help with removing those irritants. So the fix-it squads were cross-agency groups of people that identified: 'What is a real irritant for small business?' and then did a bit of a fast-tracked design, asking: 'How can that irritant be removed? How can it be resolved?' We are extremely proud of the outcomes there. I do have some figures here about the fix-it squads. We have actually had five fix-it squads across a whole range of particular areas that have come up with recommendations; I think at least 27 or 28 recommendations have come out of it, of which 21 have already been

⁴³ Mr Strong, COSBOA, *Committee Hansard*, Canberra, 30 November 2016, p. 6.

⁴⁴ ATO, *Tax Commissioner's Annual Report 2015–16, Vol. 1*, p. 23.

⁴⁵ S Easton, 'Tax Office takes Top Honour at PM's Management Awards', *The Mandarin*, 9 November 2016, <www.themandarin.com.au/72398-tax-office-takes-top-honour-at-prime-ministers-management-awards/> viewed 3 February 2017.

⁴⁶ Mr Croker, CAANZ, *Committee Hansard*, Canberra, 23 November 2016, p. 7.

implemented. It is really about empowering small business to assist in that removal of those irritants.⁴⁷

- 3.58 Person to person services carried out under the ATO Fix-It Squads and the pilot Agents Visit Programs, trialled earlier in 2016, were also highly regarded by agents and small business representatives.
- 3.59 The Committee therefore considers that the ATO should continue with similar programs of engagement as an ongoing feature of ATO support to digital lodgement systems.

Recommendation 7

- 3.60 The Committee recommends that the ATO continue to invest in community outreach and assistance programs such as the ATO Fix-It Squads and Agents Visit Program beyond system development for consultation and ongoing refinement of user friendly digital service systems for the small business sector.**

- 3.61 This will be particularly beneficial for very small businesses, the Committee was advised, a large number of which do not use software.⁴⁸As CPA Australia suggested, this also has broader implications than tax compliance:

We do an annual survey of six countries in the Asia-Pacific and, in the context of Asian countries, 83 per cent get revenue from ecommerce, whereas in Australia it is only about 30 per cent of businesses. That is quite a big difference. The stats are similar for the use of social media as a medium to promote or market businesses. Certainly I think that is the way we are going. A lot of your conversation was really about payment more than the broader ecommerce issue, but I thought for the record it was worthwhile noting where we are at.⁴⁹

- 3.62 The Committee agrees that, to become competitive, Australia's small business sector must move online. The ATO could be in a position to facilitate this by continuing to work on small business compatible services and systems, with ongoing investment in industry consultation, telephone

⁴⁷ Deputy Commissioner Vesperman, *Committee Hansard*, Canberra, 30 November 2016, pp. 13–14.

⁴⁸ Mr Strong, COSBOA, *Committee Hansard*, Canberra, 30 November 2016, p. 6.

⁴⁹ Mr Drum, CPA Australia, *Committee Hansard*, Canberra, 23 November 2016, p. 8.

assistance, information fora and visits to assist the sector with software issues.

Draft rulings and tax law complexity

- 3.63 In its last annual report review the Committee called on the ATO to improve certainty for taxpayers around its public rulings by automatic withdrawal of aged draft rulings after a specified timeframe.⁵⁰
- 3.64 The ATO has rejected this recommendation, suggesting that without replacement, automatic withdrawal would create an 'absence of guidance on relevant issues and could imply that the ATO no longer holds the views expressed in the withdrawn draft rulings', leading to greater speculation and uncertainty.⁵¹ The ATO acknowledged, however, that unfinalised aged draft rulings (over 12 months old) may also contribute to tax payer uncertainty. Accordingly, new processes to promote timeliness have been introduced as part of the ATO's development of public advice and guidance.⁵²
- 3.65 The Australian Taxpayers' Alliance saw an urgent need for tax payers and tax professionals to have timely advice on the issuing and status of public rulings, also noting that the ATO's Annual Report for 2016 had failed to advise on the number and timeliness of public rulings and determinations, in contrast to previous years.⁵³ The ATO subsequently submitted this information to the Committee.⁵⁴
- 3.66 The Committee supports the view that the ATO should provide more public information on the introduction and progress of rulings to improve certainty for taxpayers and the tax profession. The Committee notes in this regard, the recent launch of the Advice under Development Program website, which aims to provide early guidance in one location to tax agents and the public

⁵⁰ Recommendation 3, House of Representatives (HoR) Standing Committee on Tax and Revenue, *2015 Annual Report of the Australian Taxation Office*, First Report, April 2016.

⁵¹ ATO, *Submission 1.3*, p. 2.

⁵² ATO, *Submission 1*, p. 23.

⁵³ Australian Taxpayers' Alliance, *Submission 6*, p. 2.

⁵⁴ ATO, *Submission 1.3*, p. 3.

on rulings.⁵⁵ According to the ATO, the measure will to increase ‘the transparency of its consultation and community engagement by alerting the public to issues which we are considering for public advice and guidance’.⁵⁶

3.67 The Committee believes that this measure should help to address issues outlined in the Committee’s previous annual report review, in regard to the role of conflict of opinion in finalising rulings and the need for improved consultation.⁵⁷ However, in the Committee’s view, there remains an ongoing concern about the overall complexity of taxation law, which may impede the finalisation of these rulings, and potentially provide an incentive or contribute to the prevalence of tax avoidance in the community.

3.68 As the Tax Commissioner has noted, tax systems ‘by their nature are quite detailed and are very rules-based’. He went on to advise the Committee that:

We have some complex legislation that has emerged over the last 20 years, which is in a certain style, and that style is trying to make sure that no person can ever possibly get around these provisions. It is designed for the last worst person. And we are trying to turn this around and we are trying to move to more of a situation of designing for the majority. The vast majority of people want to do the right thing.⁵⁸

3.69 The Committee commends the ATO for its work in simplifying tax law as part of its agenda to promote voluntary compliance.⁵⁹ However, the Committee also considers that the ATO should document its trajectory in the redesign of tax law to simplify compliance, as well as regularly report on the number and timeliness of public rulings, issued and finalised, in its Annual Report.

⁵⁵ ATO, ‘Advice under Development Program’ <www.ato.gov.au/General/ATO-advice-and-guidance/Advice-under-development-program/> viewed 20 February 2017.

⁵⁶ ATO, *Submission 1*, p. 23.

⁵⁷ HoR Standing Committee on Tax and Revenue, *2015 Annual Report of the Australian Taxation Office*, First Report, April 2016, pp. 23–24.

⁵⁸ Mr Chris Jordan, Tax Commissioner, ATO, *Committee Hansard*, Canberra, 30 November 2016, p. 16.

⁵⁹ Including by commissioning the ACIL Allen Report on tax complexity in July 2015. See ATO, ‘A Potential Path to Simpler Tax Law’ <www.ato.gov.au/General/Gen/A-potential-path-to-simpler-tax-law/> viewed 9 March 2017.

Recommendation 8

3.70 The Committee recommends that the ATO provide information in its Annual Report on:

- its trajectory and progress in the redesign of tax law to simplify compliance; and
- the number and timeliness of public rulings, issued and finalised, over the reporting period.

Complaints handling and perceptions of fairness

3.71 A key indicator of the ATO's performance in managing objections and disputes and compliance handling are community perceptions of fairness.⁶⁰

3.72 As discussed in Chapter 2, the ATO's fairness assessments are conducted on the basis of taxpayer experience of the outcome; the process; the information provided; and interaction with staff. The ATO advised that over 2015–16 the ATO had improved ratings in all categories, with a high of 75 per cent achieved for interpersonal fairness in staff contact.⁶¹ The Commissioner reported:

I should also say that our complaints are now at a level 26 per cent lower than at this time last year. We are performing well against our performance measures including improvements to results of our fairness surveys that we do with taxpayers.⁶²

3.73 The Committee notes that the ATO Corporate Perceptions Survey 2015–16 is also documented on the ATO website, and records that 74 per cent of ATO clients and 67 per cent of tax agents were satisfied with the service they

⁶⁰ ATO, *Tax Commissioner's Annual Report 2015–16, Vol. 1*, p. 47.

⁶¹ ATO, *Submission 1*, p. 26.

⁶² Commissioner Jordan, ATO, *Committee Hansard*, Canberra, 30 November 2016, p. 8.

received. Satisfaction was reported to be 'high across most delivery channels, however, there was weaker satisfaction with the ATO website'.⁶³

- 3.74 Significant here, is the fact that the impact of the sustained outages in ATO online services in 2016 and early 2017, as discussed in this report, are not reflected in the 2015–16 survey nor in the ATO's Annual Report for the period under review.
- 3.75 To improve accountability in this area, the Committee has recommended that the ATO should develop benchmarks for measuring and reporting on the security and functionality of its online systems in its Annual Report (Recommendation 5). The Committee also recommends that specific targets for the functionality of online services for general clients and tax agents should be developed and that outputs be recorded in the ATO's Annual Report.
- 3.76 The Committee anticipates that this information would be recorded within the ATO's Commitments to Service Performance reporting, which rates the ATO's achievements against its fairness measures for core functions and activities.⁶⁴

Recommendation 9

- 3.77 The Committee recommends that the ATO develop specific output targets for online services used by general taxpayers and by tax agents to benchmark the functionality of these services. The ATO should also include this benchmarking in its Commitments to Service Performance framework, and report outputs in its annual reports.**
- 3.78 Noting that the ATO is currently extending its fairness survey to audit, advice and debt work, and intends to use the findings of these surveys to

⁶³ ATO, Corporate Perceptions Survey 2015-16 <www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Annual-research/ATO-Corporate-perceptions-survey--2015-16/> viewed 1 March 2017.

⁶⁴ ATO, *Tax Commissioner's Annual Report 2015–16, Vol.1*, Table 4.22, Commitments to Service Performance, 2014–15 to 2015-16, Appendix 13, Reporting on Activities (outputs), p. 137.

transform services in these areas,⁶⁵ the Committee would also like to see more detailed reporting against these measures in the next Annual Report.

Recommendation 10

3.79 The Committee also recommends the ATO report against its fairness measures – on the basis of taxpayer and tax agent experience of the outcome; the process; the information provided; and interaction with staff – for specific business lines, including audit, advice and debt work, in its next Annual Report.

3.80 Monitoring of outcomes against these measures will improve scrutiny of the ATO's standards of service delivery over time, and assist in the design of approaches to alleviate detrimental effects on particular sectors of the community, as the ATO's service models transform under the Reinvention program.

Processes for scrutiny of ATO decision making

3.81 As discussed in the body of this report, during the Committee's review there were some concerns raised about the lack of an independent process which can elicit a response from the ATO in review of its decisions or administrative processes, particularly where there were allegations of fraud or deliberate tax evasion.

3.82 The ATO's administration is subject to external review by the Australian National Audit Office (ANAO) and by parliamentary committees, including this Committee, the Joint Committee of Public Accounts and Audit (JCPAA), and two Senate Standing Committees on Economics (Legislation and References). These bodies do not, however, have powers to compel the ATO to act on recommendations made in their respective reports, although it is expected that the ATO will advise on whether it supports, partially supports, or disagrees with the recommendations.⁶⁶

⁶⁵ ATO *Submission 1*, p. 26.

⁶⁶ Government agencies are required to respond to Joint and Senate Committee reports within three months, and House Committee reports by six months from tabling. For some committees, such as the JCPAA, these rules do not generally apply. For a JCPAA report, an agency is however

- 3.83 The ANAO recently issued a report evaluating the ATO's implementation of supported recommendations made in previous ANAO and committee reports.⁶⁷ In relation to the audit reports, the ANAO found that the ATO's performance in implementing recommendations in five audit reports 'compares very well to the nine entities recently audited by the ANAO', with the ATO 'the best performing entity in terms of percentages'.⁶⁸ Further, in relation to a sample of 21 parliamentary committee recommendations that the ANAO surveyed, the ATO had agreed with 17 recommendations and disagreed with two. It also implemented a majority of recommendations it had agreed to.⁶⁹
- 3.84 The ATO's administration is also subject to scrutiny from the Inspector-General of Taxation who undertakes reviews of the ATO's administration of the tax and superannuation systems and makes recommendations to the ATO and Government on matters arising from his complaints handling function.
- 3.85 The Committee has recorded the Inspector-General's advice that, while he has no formal power to compel the ATO to respond to his decisions on complaints cases, he considers there will be increased opportunities to influence ATO decision-making in top level meetings the Inspector-General has arranged in response to Committee recommendations made in its External Scrutiny report on the ATO in May 2016.⁷⁰ The Inspector-General also advised that he plans to expand consultation with community and public sector stakeholders including the Treasury, the ATO, Tax Practitioners Board (TPB) and ANAO,⁷¹ which the Committee considers should also have positive outcomes for taxpayers.

required to respond to 'policy' recommendations. See Department of Prime Minister and Cabinet, 'Guidelines for the Presentation of Documents to the Parliament', August 2016, p. 8.

⁶⁷ Tabled 6 February 2017, see Australian National Audit Office (ANAO), 'The ATO's Implementation of Recommendations', *ANAO Report No.37 2016-17*.

⁶⁸ ANAO, 'The ATO's Implementation of Recommendations', *ANAO Report No.37 2016-17*, p. 21.

⁶⁹ ANAO, 'The ATO's Implementation of Recommendations', *ANAO Report No.37 2016-17*, p. 20.

⁷⁰ Inspector-General of Taxation, *Submission 7*, p. 2, and see Recommendation 3, HoR Standing Committee on Tax and Revenue, *External Scrutiny of the Australian Taxation Office*, 5 May 2016, p. 42

⁷¹ Inspector-General of Taxation, *Submission 7*, p. 2.

3.86 Given the generalised nature of these review processes, the Committee determined to examine the ATO specifically about its processes in relation to matters raised in inquiry evidence. In response to questioning on the principles of fairness and transparency in ATO decision-making, Tax Commissioner Jordan explained:

I should say a general thing: sometimes when people raise specific issues around specific things that happened to a specific taxpayer, it is very difficult for us to respond because we cannot talk about the activities or things around that specific taxpayer. Sometimes it is hard to respond other than in general terms. We cannot disclose facts relevant to that specific taxpayer. And, as I said, we deal with 10s and 10s of millions of transactions and interactions every year. The system works pretty well.⁷²

3.87 Questions on Notice were also lodged on the ATO's decision-making processes, specifically on retrospective auditing of debts (also canvassed in the media during the period of review);⁷³ whether the ATO seeks external advice in making determinations on such matters; to what extent litigants are advised on ATO determinations; and the feasibility of the Inspector-General having wider jurisdiction to review and make recommendations with binding effect on the ATO. In a supplementary submission to the Committee the ATO provided a detailed response to these questions, which is included as *Appendix C* in this report.⁷⁴

3.88 The first issue was raised by Mr Richard Wytkin in his submission, and addressed concerns about the ATO's retrospective audit of the affairs of a client who had not lodged an income tax return having self-assessed as a non-resident while working overseas for a ten-year period.⁷⁵ The ATO's response explained that under Section 170 of the *Income Tax Assessment Act 1936*, self-assessed cases may be audited for a limited two year period, except where deliberate fraud or evasion is suspected. However: *'In cases of*

⁷² Commissioner Jordan, ATO, *Committee Hansard*, Canberra, 30 November 2016, p. 15.

⁷³ For example, see R Gottliebesen, 'ATO Attacks Mum and Dad Partnerships', *The Australian*, 19 October 2016.

⁷⁴ Questions and answers are provided in ATO, *Submission 1.3*, pp. 8–9.

⁷⁵ Mr Richard Wytkin, *Submission 4*, p. 1.

non-lodgement where no assessment has yet been made, section 170 is not applicable such that Commissioner may issue a review at any time'.⁷⁶

- 3.89 The Committee was advised that, on his return, Mr Wykin's client was assessed by the ATO as having a very substantial debt which, to meet, would require him to sell his home. The Committee considers that, in the interest of fairness, the ATO should provide an early opportunity to overseas residents to have their status as 'non-resident tax payers with nil income' assessed and automatically issue notices of assessment to these non-residents so they can finalise their annual tax affairs.

Recommendation 11

- 3.90 The Committee recommends that, in the interests of fairness, the ATO should assess and issue automatic notices of assessment to non-resident tax payers with nil income.**

- 3.91 In relation to the broader question of the Inspector-General of Taxation's jurisdiction over ATO decision making, the Committee accepts the ATO's view that this is a matter for government. The Committee believes that the Inspector-General's current role in the amelioration of concerns around more serious disputes, and in explaining ATO advice to debtors, is a valuable complement to the ATO's increasing focus and success in reforming its dispute resolution process.

Tax gap and revenue collection

- 3.92 The current inquiry elicited useful insights into some of the challenges faced by the ATO as it seeks to identify, manage and reduce tax gaps over time.⁷⁷
- 3.93 As recorded in this report, the ATO has advised that it has committed to develop a draft measurement framework to assess a range of matters to assist evaluation of revenue loss from non-compliance in the cash economy.⁷⁸ This was recommended in the Auditor-General's review of the

⁷⁶ Questions and answers are provided in ATO, *Submission 1.3*, pp. 8–9.

⁷⁷ ATO, *Tax Commissioner's Annual Report 2015–16, Vol.1*, p. 43.

⁷⁸ ATO, *Submission 1*, p. 15.

ATO's strategies to address the cash and hidden economy (April 2016), which the ATO states had otherwise concluded that: 'the ATO's approach is consistent with international best practice, sound and increasingly cost effective'.⁷⁹

- 3.94 However, the ANAO, in its recent survey of the ATO's implementation of audit recommendations did not consider the ATO had fulfilled its commitments on measures related to the revenue gap, being to: fully implement recommendations to develop a methodology to assess the 'potential magnitude at risk from non-compliance';⁸⁰ and to 'more efficiently allocate resources' and 'more accurately calculate returns on investment' for High Wealth individuals compliance activities.⁸¹
- 3.95 The ATO's Mr Michael Mr Cranston, Deputy Commissioner, Private Groups and High Wealth Individuals, told the Committee that one way of measuring the prevalence of the revenue gap in different sectors is by evaluating penalties imposed, however:

It actually varies from the large end down to the small end. For example, in the large end generally there are often arguable positions and it is not through lack of reasonable care. At the smaller end, we get some more aggressive penalties. But then even at the smaller end there are a lot of mistakes. So it is probably more in the middle that there are more aggressive penalties.⁸²

- 3.96 The Committee notes that the ATO has made commitments to take 'a well-balanced approach across the different market segments to

⁷⁹ See Personal Services, Recommendation 1—ATO supported, in the Auditor-General, 'Strategies and Activities to address the Cash and Hidden Economy, Australian Taxation Office', *ANAO Report No. 2, 2015–16, Performance Audit, Australian National Audit Office*, April 2016, p. 10, and ATO, *Submission 1*, p. 15.

⁸⁰ Box 1: Report No. 5, 2013–14, *Administration of the Taxation of Personal Services Income*, Recommendation 1, in ANAO, 'The ATO's Implementation of Recommendations', *ANAO Report No. 37, 2016–17*, p. 18.

⁸¹ Box 3: Report No. 35, 2013–14, *Managing Compliance of High Wealth Individuals*, Recommendation 2 in ANAO, 'The ATO's Implementation of Recommendations', *ANAO Report No. 37, 2016–17*, p. 19.

⁸² Mr Michael Cranston, Deputy Commissioner, Private Groups and High Wealth Individuals, *Committee Hansard*, Canberra, 30 November 2016, pp. 10–11.

increasing levels of participation in the tax and super systems'.⁸³ As part of the process, the ATO has determined to re-segment revenue sectors to distinctly assess the gap for individuals as against small business and medium business, in addition to large business and high wealth individuals. This is intended to aid evaluation of the drivers of non-compliance in each sector and help target communications to address the problem.⁸⁴

- 3.97 The ATO has also advised that performance indicators and targets for assessing the size of the revenue gap associated with the cash and shadow economy should be finalised in early 2017.⁸⁵ Evaluations, however, will only be released when they are 'sufficiently creditable', rather than on an annual reporting basis.⁸⁶
- 3.98 The Committee considers that, to better inform public and policy debate and increase community awareness of the problem of non-compliance, the ATO must prioritise publication of the revenue gap measures and report sectoral assessments promptly.

Recommendation 12

3.99 The Committee recommends that the ATO, to better inform public and policy debate and increase community awareness, should publish in 2017 its revenue gap measures and report the total revenue gap estimate and assessments for different community sectors on its website as they become available, and in the 2016–17 Annual Report.

- 3.100 During hearings, the Inspector-General of Taxation advised that unrecoverable debt contributes to the size of the revenue gap and that, on this one measure, the ATO could report more comprehensively in its Annual Report.⁸⁷ The Committee supports the Inspector-General's recommendation for reporting on a fuller differentiation of data showing the contribution of unrecoverable debt to the revenue gap, including by distinguishing between

⁸³ ATO, *Submission 1*, p. 4.

⁸⁴ ATO, *Submission 1*, pp. 29–30.

⁸⁵ ATO, *Submission 1*, p. 15.

⁸⁶ ATO, *Submission 1*, p. 30.

⁸⁷ Inspector-General of Taxation, *Submission 7.1*, p. 2.

the amount of debt written off as unrecoverable at law or that is uneconomical to pursue.⁸⁸

Recommendation 13

3.101 The Committee recommends that the ATO's Annual Report should include a more detailed differentiation of data on unrecoverable debt, including by distinguishing between the amounts of debt written off as unrecoverable at law or that is uneconomical to pursue.

3.102 The Committee considers that this measure may also go to improve ATO performance reporting, as suggested by the ANAO in its recent audit of the ATO's performance in meeting revenue commitments from compliance measures.⁸⁹

3.103 In this regard, the Committee commends the ATO for its commitments to the ANAO to improve guidance and document assumptions made in estimating revenue against outcomes in compliance work.⁹⁰ Asked about this at hearings, the Tax Commissioner advised that: 'around 95 per cent or so of the revenue we collect comes in just...through the existence of the system. Less than five per cent comes in through active compliance measures'.⁹¹

3.104 The Committee notes that ATO annual reports record 'net cost to collect' trends over time. The 2016 Annual Report indicates that while cost to collect ratios trended down by three per cent annually over 2013–14 and 2014–15, there was stasis over 2014–15 and 2015–16.⁹² The Committee would like to see more detailed reporting in this area in the Annual Report.

⁸⁸ Inspector-General of Taxation, *Submission 7.1*, p. 2.

⁸⁹ ANAO, 'Meeting Revenue Commitments from Compliance Measures, Australian Taxation Office', *ANAO Report No.15 of 2016-17*, 12 September 2016.

⁹⁰ See ATO Response to ANAO recommendations, in ANAO, 'Meeting Revenue Commitments from Compliance Measures, ATO', *ANAO Report No.15 of 2016-17*, 12 September 2016, p. 11.

⁹¹ Commissioner Jordan, ATO, *Committee Hansard*, Canberra, 30 November 2016, p. 16.

⁹² The unit of evaluation is the 'cost to collect \$100'. According to the ATO the drag in net collections over the period 2015–16 was related to company tax receipts, which fell below \$4.3 billion and was attributable to declines in commodity prices. See 'Performance Reporting', Table 2.11,

Recommendation 14

3.105 The Committee recommends that the ATO provide more detailed information in its Annual Report about its investment in compliance activity relative to revenue outcomes under debt recovery activities, for both funded pre-existing ATO activities and for indirect additional revenue commitments.

Inquiry into the cash and shadow economy

3.106 On 25 November 2016 the Committee launched an inquiry into tax payer engagement with Australia's tax system, with a focus on improving compliance among small business and individuals. As part of this inquiry, the Committee will examine:

- the prevalence and impact of the 'cash economy' on the tax system, mechanisms to ensure tax compliance and strategies used by comparable countries' revenue authorities;
- how taxpayers currently interact with the tax and superannuation system, including through tax agents and other intermediaries, and the different compliance burdens of doing so;
- the contemporary use of information and communication technology by the Australian Taxation Office and comparative tax administrators to deliver services; and
- behavioural insights from other service delivery agencies including possible ways to better inform taxpayers to help them make decisions in their best interests.⁹³

3.107 The ATO's submission to this review sets out a pragmatic plan to address the problem of the cash and hidden economy, which includes:

Program 1.1 ATO 2013–14 to 2015–16, ATO, *Tax Commissioner's Annual Report 2015–16, Vol.1*, p. 66.

⁹³ HoR Standing Committee on Tax and Revenue, Inquiry into Taxpayer Engagement with the Tax System <www.aph.gov.au/Parliamentary_Business/Committees/House/Tax_and_Revenue/Taxpayerengagement>

- [a shift] from focussing primarily on audit to a broad and overarching community participation and assurance approach that seeks to engage with business and the community on the drivers of cash economy behaviours.
- increased education and assistance activities for businesses, and increasing the visibility of our cash and hidden economy program of work with a view to positively influencing the drivers and behaviours for business and community participation.
- the use of more sophisticated data and analytics techniques to better tailor and target our assistance and assurance activities, and to improve identification of taxpayers operating in the cash and hidden economy.⁹⁴

3.108 The ATO also highlighted the importance of global co-operation and the introduction domestically of a range of legislative tools which the Government had brought to bear on the cash economy and to address high wealth and multinational tax avoidance.⁹⁵

3.109 Tax professionals expressed their keenness to partner with the ATO in this area. At hearings Mr Croker of CAANZ noted a potential to work at the large business end,⁹⁶ and to explore state tax models adopted by the Western Australian Government, South Africa's use of the social contract where by a tax clearance certificate affirms good character before tenders are awarded, and the domestic B2B withholding tax mechanisms used in New Zealand to ensure upfront payment of some taxes in industries of concern, such as the building and construction sector.⁹⁷

3.110 The Committee also invited information on the ATO's benchmarking of its technology systems against that of banks and other countries' tax regulators as background to assessing and improving ATO performance on revenue collection. The ATO's submission suggested, however, that 'the differing nature of business operations makes it difficult to compare [IT] performance between organisations'. The ATO added that it does, however, have

⁹⁴ ATO, *Submission 1*, p. 14.

⁹⁵ ATO, *Submission 1*, p. 4.

⁹⁶ Mr Croker, CAANZ, *Committee Hansard*, Canberra, 23 November 2016, p. 6.

⁹⁷ Mr Croker, CAANZ, *Committee Hansard*, Canberra, 23 November 2016, pp. 11–12.

‘frequent informal discussions with other similar size organisations in Australia, including major banks’.⁹⁸

- 3.111 Tax professionals saw potential for the Government to work more closely with the financial sector, to share data and address avoidance behaviours. Mr Croker observed: ‘It used to just be a triangle—the ATO, the tax agent and the client. Now it is starting to look a little like a box with your financial institution added in, and they are getting a lot of tax-related data coming in as well’.⁹⁹
- 3.112 The Committee shares this view and would like the ATO to engage to more formally with the banking and financial sector on a regular basis, both in Australia and through international fora and research partnerships and programs. Areas for investigation and information sharing might include:
- to ascertain what is the ATO’s current investment in data analysis for compliance related matters compared with that made for related work in similar sized revenue collection agencies;
 - to establish the number of ATO staff deployed in global co-operation and IT comparisons activities; and
 - the findings of the international expert appointed by the ATO to examine ways to assess the wider revenue effects of various tax compliance measures, such as through pre-lodgement interventions.
- 3.113 The Committee further invites the ATO to advise on small business participation in the cash and shadow economy within the broader domestic and global economic context, including the behaviours of larger businesses, high wealth individuals and the black economy.
- 3.114 The Committee looks forward to working with the Tax Office, and with stakeholders, to explore new methods to enhance revenue collection under a fairer and more efficient ATO.

⁹⁸ ATO, *Submission 1*, p. 32.

⁹⁹ Mr Croker, CAANZ, *Committee Hansard*, Canberra, 23 November 2016, p. 8.

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22 March 2017