



THE TAX INSTITUTE

27 September 2017

Ms Sharon Bryant
Inquiry Secretary
House of Representatives Standing Committee on Tax and Revenue
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: TaxRev.reps@aph.gov.au

Dear Ms Bryant,

Inquiry into Taxpayer Engagement with the Tax System – Supplementary Submission

The Tax Institute welcomes the opportunity to make a further submission to the House of Representatives Standing Committee on Tax and Revenue (**Committee**) in relation to the *Inquiry into Taxpayer Engagement with the Tax System* (**Inquiry**) following the Institute's appearance before the Committee on Wednesday 6 September 2017 (**Hearing**).

The questions that the Committee has sought further information on are drawn from the draft Hansard transcript from the Committee hearing in which myself and Tax Counsel Stephanie Caredes appeared.

1. Question from Mr Falinski (p3 transcript)

In the terms of reference that you were referring to we've got here that electronic currency trading and the emergence of payment platforms which facilitate 24-hour global transactions et cetera could be used to challenge tax compliance. I was just wondering: from your perspective, could the converse also be true?

[Guidance from Inquiry Secretariat - What benefits and risks for regulators and revenue collection might be associated with the emergence of electronic currency trading and payment platforms which facilitate 24-hour global transactions? (eg What are the pros and the cons for tax compliance in an environment with emerging payment platforms/cyber-currencies?)]

Tax Institute response:

While this is not an area of expertise for the Institute, we would consider the following:

- A benefit would be the capturing of all payment and currency transactions on an electronic platform which could potentially be provided to the ATO in real time;
- A risk may be the difficulty in valuing the currency transaction, particularly for electronic currencies (for example Bitcoin) which have unpredictable values. This would make the amount of the tax payable associated with the transaction (if any) difficult to determine.

2. Question from Mr Falinski (p3 transcript)

In comparison to international benchmarks or, indeed, even benchmarks just in the corporate sector of this nature, how under-resourced is the ATO when it comes to the implementation of these IT systems? Hypothetically, could it be that they're actually over-resourced? Why would you doubt that is the case? Maybe you could consider that and let us know.

[Guidance from Inquiry Secretariat - *Is the ATO adequately resourced to implement and manage secure and efficient IT services compared with its international counterparts (or the corporate sector)? Do you believe the ATO has the capacity to ensure it can cope with IT outages? And what mechanisms do they require to do so? Is it, possibly, over resourced? (ie should the private sector be contracted instead to develop and manage such systems? – Any risks in doing this?)*]

Tax Institute response:

Following the hardware failure in December 2016 and subsequent IT system outages, we have been in constant discussions with the ATO regarding its progress in addressing this issue. While we are not IT experts, we do not believe that any IT system can be 100% fail-safe. Any organisation needs to consistently and continuously invest in its IT systems to ensure it has the highest available standards of security and stability in place. This requires the provision of ongoing resources for this purpose. Per our comments in the Hearing, the ATO needs to be well-resourced to ensure that IT systems are as fail-safe as possible. The fact that there have been additional outages since December 2016 is prima facie evidence that the ATO IT systems are not yet 'fail-safe', suggesting that further resources are still required.

3. Question from Mr Falinski (p3 transcript)

In terms of payments as compensation, are there systems that you have observed in other jurisdictions in which it's not just a compensation payment but the payments used to send, in a funny sort of way, a price signal to the monopoly provider in one sense, and, secondly, to incentivise them to ensure that their systems are robust and, if something does go wrong, the redundancies in place ensure that there is continuity?

[Guidance from Inquiry Secretariat - Do you know of other tax systems which compensate tax agents for digital outages - and how? Could compensation act as an incentive to governments to ensure system functionality? (What else might improve Government performance in this area? - ie the Committee has recommended for ATO reportage against benchmarks in the last ATO Annual Report review)]

Tax Institute response:

The United States of America, for example, offers compensation pursuant to their Taxpayer Bill of Rights. This is discussed in detail in the Inspector-General of Taxation's *Review into the Taxpayers' Charter and Taxpayer Protections* Report¹ at pages 18-22. Similar regimes in other jurisdictions are also discussed in that report. We are unsure whether compensation should necessarily be given for an IT system outage.

We are unable to comment further.

4. Question from Mr Falinski (p4 transcript)

The ATO appears to have taken an end-to-end solution to their information technology platforms. Do you think there's room for them to step back and provide instead a simple backbone and allow other providers into the market to allow, for example, interface products?

[Guidance from Inquiry Secretariat - Should the private sector develop and manage ATO interfaces and systems? What are the disadvantages of the ATO freeing up this control? The transcript mentions your sister organisation in the UK – overseas experience with these scenarios would be most valuable.]

Tax Institute response:

The ATO provides the Tax Agent Portal itself to tax agents. It also relies on third party software developers to provide software to tax agents for the lodgement of tax returns and activity statements, among other things. Please refer to the ATO's website (<https://softwaredevelopers.ato.gov.au/SwD-SWG>) in relation to the 'Strategic Working Group' between the ATO and software developers.

Our sister body, in the UK, the Chartered Institute of Tax, has advised that in the UK, the HMRC has published its 'Application Program Interface' strategy on its website (<https://www.gov.uk/government/news/hmrc-launches-ambitious-api-strategy>) which may be of use to the Committee. The ATO may have similar information available in relation to its own 'application program interface', but we have not been able to locate it. More information may be sought in this regard directly from the ATO's 'Strategic Working Group'.

¹ <https://cdn.tspace.gov.au/uploads/sites/16/2016/12/Review-into-the-Taxpayers-Charter-and-Taxpayer-Protections.pdf>

We are unable to comment further.

5. Question from Mr Leeser (p6 transcript)

I want to hear a little bit more on why you don't think that there should be a requirement for the non-cash payment of wages.

Tax Institute response:

This query relates to The Tax Institute's submission² to the *Black Economy Taskforce: Additional Policy Ideas* dated 30 August 2017 with particular reference to *Additional Policy idea no. 24: Requiring non-cash payment of wages*.

The Tax Institute does not support the requirement for all wages to be paid electronically. If appropriate records are maintained, taxpayers and employers should not be penalised for using cash. The idea has the potential to adversely affect employers, employees and industries that are not causing any issues for the black economy. Further, not all employees or employers would have the administrative systems to deal with non-cash payment of wages.

The rationale for this view is that it would place too great a burden to require all employers who do not have systems set up for electronic payments to pay their employees by electronic means. In effect, this idea is trying to address a compliance issue of some by imposing a burden on all employers. We acknowledge the issue with cash payment of wages but do not believe the solution is to completely remove cash from the economy. This idea penalises everyone for the non-compliance of some. A more appropriate solution may be to target non-compliant businesses and individuals and the industries where the non-compliance is most prevalent.

If you would like to discuss any of the above, please contact either myself or Tax Counsel, Stephanie Caredes, on 02 8223 0059.

Yours faithfully,

Matthew Pawson

President

² <https://www.taxinstitute.com.au/tisubmission/black-economy-taskforce-additional-policy-ideas>