



7 March 2018

The Secretary
House Standing Committee on Tax and Revenue
PO Box 6021
Parliament House
CANBERRA ACT 2600

Submission emailed to: TaxRev.reps@aph.gov.au

Dear Madam\Sir

Inquiry into 2016-17 Annual Report of the Australia Taxation Office

Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ) appreciates the opportunity to contribute to the Committee's Inquiry into 2016-17 Annual Report of the Australia Taxation Office (ATO).

The Terms of Reference raise many interesting, topical issues about the current and future state of the Australian taxation system and we expect the Committee will receive a range of views.

To do justice to the topics raised in the Terms of Reference would require a very long submission indeed, but we have endeavoured to convey our key points.

Chartered Accountants Australia and New Zealand

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Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations. We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation accounting professionals across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.

Recurring tax matters highlighted in the Annual Report

The Commissioner's 2017 Annual Report highlights a number of tax issues that appear to be recurring irritants in our tax system and have large fiscal consequences, including, inter alia:-

- Serious tax crimes such as tax fraud and phoenix activity
- Black economy activity such as unreported cash income
- Questionable expense related claims, and
- The quantum of outstanding tax debts

These tax issues are particularly relevant in the individual and small business taxpayer segments.

At the outset, we acknowledge there is no shortage of initiatives already trying to accurately gauge the size of the problems, seeking to find possible solutions and take some immediate remedial action, including:-

- Tax gap analytics, smarter data proposals as well as digital compliance and educational tools
- A vast array of multi-agency Taskforces to address the more egregious behaviour
- Additional ATO funding for targeted programs announced in last year's Budget and the recent 2017-18 MYEFO update
- Some integrity measures have already been legislated, more are currently the subject of consultation and we await the Government's response to the final report of the Black Economy Taskforce
- Parliamentary Inquires have, or are, considering corporate tax avoidance, tax deductions and taxpayers that are disengaged from the tax system.

Notwithstanding these actions, the 2017 Annual Report lays bare some obvious shortcomings with our current tax system.

It highlights there are nearly 11 million individuals and 4 million small businesses interacting with the tax system. The Annual Report concedes it is not possible to 'audit our way to [tax gap] success' with this population, let alone adding an additional 'high maintenance' disengaged element to this total population. The Annual Report also conceded that the ATO's ability to do data matching is limited for deduction claims and we presume it is much harder to do data matching for unreported income of individuals and small business.

In contrast, the nature and size of the large business population and the information the ATO obtains from that population means the ATO can set compliance targets for the Top 1,000 businesses that should give the community confidence in its regulatory oversight of this segment.

Notwithstanding the obvious differences between the abovementioned taxpayer segments, we believe there are two salient lessons from the recent large business tax compliance initiatives that are worthy of further consideration in the individual and small business segments. That is, both legislative changes (some of which were very blunt instruments indeed) and resourcing decisions were needed before the Commissioner could publicly affirm his confidence in dealing with the large business tax compliance task at hand.



We would encourage the Committee to explore, in conjunction with the Commissioner and the community, whether some legislative options (which no doubt are likely to be unpalatable) are nevertheless now a necessary element of any realistic plan to deal with the ongoing compliance issues in the small business and individual taxpayer segments.

In addition, we recommend the Committee explore with the Commissioner and the community, whether the current resources directed at these compliance concerns are adequate, are delivering optimal outcomes and, what might be the ongoing resourcing impacts under alternate legislative options.

Ideas for future ATO reporting

Given the size of the ATO's 2016-17 Annual Report and the fact there appears to be an Inquiry each year into the Commissioner's report, we are somewhat reticent to make recommendations that add to the level of existing reporting (albeit that is exactly what some of our ideas listed below envisage).

However, we suggest that the Committee may wish to explore with the Government, Commissioner and the community the following matters:-

- **Tax System Health Check once every 5 years**

We recognise the continued importance of an 'annual check in' with the Commissioner.

However, is also important to look beyond the events of the last 12 months and beyond detailed statistical reporting of annual service standards.

We should be asking and encouraging our key revenue agencies, such as the Commissioner, the Inspector General of Taxation, the Treasury's Revenue Group and the Board of Taxation, to think deeply and provide insights on the strength of our tax bases and their tax administration systems. No doubt such insights are already communicated to Government, but in the interests of informed public debate on taxation, greater transparency is needed between these tax agencies and the community, particularly on their opinions on the current strengths and weaknesses of our tax systems.

We therefore ask the Committee to explore whether it would be beneficial for key revenue agencies to report, say, every 5 years on the state of the tax system (i.e. a '5 year look back and a 5 year look forward').

In recognition of their importance, such reports may warrant greater scrutiny once every 5 years.

On the other hand, the intervening Annual Reports and their associated Inquiries might be less detailed, more selective of the matters to be considered and recommendations might be more nuanced (i.e. is action really required now or can it wait for the next 5 year plan?)

- **Streamlining ATO Annual Report Inquiry process**

The previous Inquiry into the ATO's 2016 Annual Report was not completed until October 2017, when the Government's response to the Committee's report was released.

Whilst we would not want to see the consultation process compromised by being too truncated, the current reporting timeline for an annual report appears too long.

We therefore encourage the Committee to explore ways to shorten the Inquiry timeline and the Government's response thereto.



We would encourage the Committee to explore the possibilities of:-

- A tax system health check every 5 years
- Shortening the timeline for any Annual Report Inquiry.

Other ideas that the Committee may wish to explore are briefly listed below:-

- **‘Wider revenue effects’ reporting from audit and preventative compliance activities**

There appears to be a myriad of new numbers reported on revenues saved or assured and this type of reporting appears to be a work in progress. This appears to be a worthy initiative but it would be interesting to explore with the ATO the robustness of the numbers quoted; whether they are used to update Treasury’s revenue forecasts; and, whether the ATO’s Annual Report could better present the information.

- **Work related expense (WRE) case study**

At face value, this case study is somewhat alarming and worthy of further explanation. It seems 10,000 employees received a WRE fact sheet and ultimately 5,600 tax returns were amended. Even though we presume the amendments may have resulted in a taxpayer receiving multiple amendments covering prior income years, the taxpayer error rate is still very sizable.

It is also apparent from this case study and the Annual Report’s commentary on the cash economy that the sooner we have some credible tax gap numbers for the individual and small business taxpayer segments, the sooner we can have an informed discussion about possible solutions.

- **Single Touch Payroll, Taxable Payments Reporting System plus ATO Deduction and Employee/contractor decision tools**

We would encourage the Committee to explore with the Commissioner and the community the extent to which these existing legislative and administrative responses are, or could be, effective responses to existing areas of tax gap concern and what other responses may be needed.

- **ATO’s Enterprise Solutions Technology Group and Data Delivery area**

These appear to be key areas within the ATO that will have an ongoing important impact on taxpayers, their advisors and their interactions with the tax system. For example, the ATO is clearly a lead agency in the implementation of the trusted digital identity framework, and Single Touch Payroll provides a technology base which is expandable into other areas of tax and non-tax regulation. The Committee may wish to explore the ATO’s key goals for the next 5 years.

- **Tax policy development commentary, the use of the Commissioner’s remedial powers and strategic litigation impacts**

The Committee may wish to consider whether these areas might be more insightful if addressed by the ATO and Treasury jointly (possibly reporting in detail once every 5 years and then annually on an exception basis)

- **ANAO’s report on External Compliance Assurance Program (ECAP)**

We acknowledge that the ATO’s use of the ECAP pilot program was viewed as controversial in parts of the community (albeit its modus operandi was sometimes misunderstood which did not help matters).

Nevertheless, the Committee may wish to reflect on the [ANAO’s report on the ECAP pilot project](#) in light of the emerging issue that the ATO ‘cannot audit its way to success’ in certain market segments. That is, we wonder whether some form of *external* assurance resource (provided in accordance with ATO directions and oversight) could be a partial solution for certain taxpayers and certain types of taxpayer behaviours, particularly where there is a history of poor tax compliance under self-assessment principles?

Chartered Accountants ANZ would be happy to provide additional input to the Inquiry by appearing before the Committee should it choose to conduct public hearings.

We also consent to our submission being published on the Committee's website.

Please do not hesitate to contact me should you have any questions or comments on the topics we have raised.

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Yours sincerely,

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Michael Croker
Tax Leader – Australia
Chartered Accountants Australia and New Zealand