

ATO Submission – Tax and Revenue Committee

Inquiry into tax disputes

4 July 2014



Commissioner's foreword

Putting the client first

In my first submission to this Committee, I outlined how the ATO's new leadership team is driving a program that will transform and significantly improve the experience of Australian individuals and businesses with the tax and superannuation systems.

At the program's core is reinventing the ATO to put the client first, where for individual Australians and businesses it is easy to do the right thing and hard not to. If you do have to interact with us, our service ethic means we are helpful, accurate, timely and pragmatic.

I am aware of feedback that in the past our approach to dispute management has resulted in the ATO losing touch with some of our key stakeholders and segments of the community. We are listening to that feedback and re-visiting our measures to include views from others on our effectiveness, including our dispute management. We are also reviewing our practices to respond to taxpayers concerns much earlier and therefore reducing the need to enter into formal dispute processes.

We are building constructive relationships to deliver a better taxation experience for all stakeholders.

Timely and effective dispute resolution

Of course, we do review the tax and superannuation affairs of both individuals and small businesses and there will inevitably be some disputes. I would like to emphasise however that the number of disputes raised with us is very low when compared to the number of compliance activities we undertake. For example in the 2012-13 year we undertook compliance action in approximately 480,000 cases resulting in liability adjustments with about 24,500 resulting in a taxpayer in lodging an objection. About 15,000 of these related to individuals, and around 3,600 of these related to the imposition of shortfall interest charge.

One of my early priorities as Commissioner has been to ensure that the ATO has appropriate structures and pragmatic processes to resolve disputes earlier and more effectively.

We recognise that disputes for individuals and small businesses affect the people involved personally and we are working to improve our engagement with the community. We are now emphasising the need for earlier face-to-face discussions with taxpayers (and their advisors)

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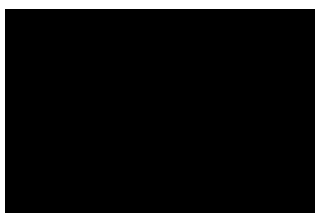
to get to the core issues more quickly and short-circuit unproductive paper wars between the parties.

We are already seeing very positive results in the large market and for private groups controlled by high wealth individuals, with both parties willing to come to the table early and discuss issues openly and in good faith.

The lessons from our large market experience are informing our approach to both individuals and small business clients. We are now engaging with small business and individuals earlier in the process and ensuring that when we do approach clients we have already gathered most of the relevant information by using publicly available information in a smarter way. This will ensure that any further information we request from the client is targeted.

In resolving disputes, we are also providing small business and individual clients the opportunity to engage with auditors directly or with the assistance of a trained ATO facilitator, to reduce the incidence of disputes, while retaining their right to have a genuinely independent decision-maker consider their objection if a dispute cannot be dealt with earlier in the process.

I trust this submission will assist you in your review, and I look forward to your guidance in helping the ATO improve the way we manage disputes.



Chris Jordan AO
Commissioner of Taxation

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EXECUTIVE SUMMARY

- 1 The ATO takes seriously its obligation to manage taxation disputes in a fair, effective and efficient way. For our individual, small and medium business clients we also understand that a dispute with the ATO may be a daunting and costly experience. Accordingly we welcome this opportunity to explain to the Committee our approach to dispute management and our work underway to improve the client experience.
- 2 It has been long standing ATO practice that disputes are managed separately (in separate teams) to the audit decision making process. Recently, we have made that approach more visible in the large business market, by moving the objection process to a separate division of the ATO. Disputes in the large business market are small in number but often involve complex factual and legal matters involving significant amounts of revenue. We are now considering whether this approach should be implemented more broadly.
- 3 While some disputes will be inevitable our clear preference is to either avoid disputes or to resolve them as efficiently and effectively as possible.
- 4 We are reforming our dispute management approach with the goals of early dispute resolution at least possible cost to the client and the ATO. These are significant and broad reforms, including engagement with clients and stakeholders, the embedding of dispute resolution best practice in our audit and review processes, improving the skills of our auditors and review officers and building an in-house capability to facilitate early dispute management.
- 5 This submission provides examples of our efforts to date, as well as details of our ongoing work, such as the refreshing of the Settlement Code to make it a streamlined, simple to understand documents accessible to individuals and small business clients. We do not underestimate, however, the amount of work we still need to do to build community confidence in our dispute management, particularly in the individual and small business market.
- 6 Our view is that we will gain this confidence when we can demonstrate that we help the majority of the community who want to do the right thing while taking a common sense and timely risk-based approach to our efforts to maintain the integrity of the tax

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system. Accordingly we are highly aware of the strong imperative for the ATO to continue to improve its dispute management.

- 7 We encourage face-to-face or telephone discussions with taxpayers and their advisers at the earliest possible stage of the dispute to get to the core issues more quickly. We recognise that discussing the issues openly with taxpayers is effective in clarifying and narrowing issues in dispute. Where it is not possible to resolve a dispute through direct contact with taxpayers, we now offer in-house facilitation as another option.
- 8 Our approach includes understanding the reasons why disputes manifest (described as themes in our submission) so that we can develop targeted approaches to minimise such disputes in the future. To give one example, a theme in both the individual and small business market is the production of relevant information by the client after the finalisation of the audit. Accordingly we are changing our approach to both the initial information collection activities as well as developing more streamlined ways to resolve these cases when the information is produced.
- 9 In addition to the themes, we are also identifying broader opportunities to improve our dispute management, such as improving access for case officers to more senior and experienced technical and dispute management resources. Clients also want to be assured that they have access to a review by someone who is genuinely separate to the original decision maker.

MANAGING DISPUTES IN THE ATO

ATO AT A GLANCE

- 11 The Australian Taxation Office (ATO) is the Australian Government's main revenue collection agency. Our role is to effectively manage and shape the tax, excise and superannuation systems that support and fund services for Australians. Our responsibilities include administering legislation for taxes, superannuation and excise (but not customs duty). We are the custodian of the Australian Business Register.
- 12 Australia's tax and superannuation systems generally work on a self-assessment model, which means we accept the claims made by our clients in tax returns or business activity statements, usually without adjustment, to work out, or assess, liabilities or obligations.

Scope

- 13 This submission includes details relating to:
 - individual taxpayers with no business activity
 - small businesses with income less than \$2 million
 - medium business with income between \$2 million and \$250 million.

In order to be consistent with the inquiry name, when we refer to small business it includes small and medium businesses. Also note that the Individuals statistical information in Appendix 1 also includes High Wealth Individual data.

- 14 The Inspector-General of Taxation is covering large business and high wealth individuals in his review into the *ATO's Management of Tax Disputes with Large Businesses and High Wealth Individuals*.
- 15 This submission also provides information in relation to our approaches to dispute management more generally.

What is a tax dispute?

- 16 A tax dispute occurs where a taxpayer disagrees with an opinion or decision of the ATO. One avenue for the dispute to be addressed is for the taxpayer to lodge an objection. There are four main sources that give rise to objections, these are:

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- Assessments flowing from ATO compliance activities including audits and reviews. These accounted for about two-thirds of all objections in 2012-13 and the vast majority of these were for individual and small businesses. Refer to Appendix 1: Table 1 for completed audit source in comparison to audit activities total and also by market.
 - Other actions or decisions taken by the ATO such as not exercising a discretion.
 - Taxpayers objecting to their own self-assessed liability.
 - Private rulings decisions
- 17 Where the taxpayer disagrees with the decision on the objection the taxpayer can make an application to the Administrative Appeals Tribunal to review the decision or to the Federal Court to appeal the decision. A taxpayer can also lodge a complaint directly with the ATO or the Commonwealth Ombudsman. The [Taxpayers' Charter](#) outlines the relationship that the ATO seeks with the community – a relationship based on mutual trust and respect.
- 18 Refer to Appendix 1: Tables 2-5 for objections data.

GENERAL APPROACH, POLICIES AND CONSULTATION

ATO vision for dispute management

- 19 Although only a small proportion of our clients end up in dispute with us, we recognise that disputes can come at a significant cost to both the taxpayer and ourselves. For those clients in dispute with us the emotional and opportunity costs of the dispute can have a significant impact. Our preference is to avoid disputes or where we cannot avoid them to resolve them as quickly and painlessly as we can and at the lowest possible cost.
- 20 Over the last few years the ATO has completely reviewed and updated our approach to dispute management. We have made concerted efforts to analyse different types of disputes, to identify opportunities to resolve them earlier and to remove any unnecessary obstacles to their earlier resolution. We are now working to make these changes part of how the ATO routinely deals with taxpayers.

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- 21 We have sought the perspective of key stakeholders through consultation. By consulting effectively we know what problems exist and get their ideas for possible solutions.
- 22 Our aim is to resolve disputes earlier, to reduce legal costs for taxpayers and the ATO and to reduce the other resources devoted to management of disputes by the ATO and in the community. We recognise that inevitably there will be some tax disputes that will go through to hearing in the Administrative Appeals Tribunal or the courts. However we want to ensure that our resources are focussed on the most strategically important issues being dealt with in the tribunals or the courts. We also recognise that the earlier disputes are resolved the lower the expenditure on legal costs and resources by both parties.
- 23 We have increased our emphasis on earlier resolution of disputes including by utilising alternative dispute resolution. This has been a consistent topic in [speeches by Commissioner of Taxation](#) since his appointment at the start of 2013, and many changes to the organisational structure of the ATO have been made to give effect to this aim, including by better consultation and engagement with the tax profession and the community.
- 24 The ATO has a clear vision for a contemporary and pragmatic approach to dispute resolution and has instigated a number of strategies to achieving:
- Considered and innovative approaches to dispute resolution based on broad consultation and regular reviews of outcomes from different types of alternative dispute resolution in different contexts.
 - Best practice dispute resolution approaches for different types of disputes are embedded and being widely accepted and applied across the ATO.
 - Improved skills of our audit and objection case officers including:
 - Understanding the need to support business and the community by resolving disputes as quickly and efficiently as possible
 - Using a communication style that encourages open communication and collaborative approaches to resolve disputes where appropriate
 - Understanding basic negotiation and alternative dispute resolution approaches including the benefits of in-house facilitation

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- Understanding the criteria that the ATO uses to review which disputes should progress to hearing in litigation.

Inspector-General of Taxation Reviews

- 25 In 2009 the Inspector-General of Taxation commenced his *Review into the Underlying Causes and the Management of Objections to Tax Office Decisions*. The Inspector-General of Taxation commenced this review as a result of stakeholder concerns with the ATO's management of the statutory tax dispute resolution process that provides internal review of ATO decisions, namely the objections process.
- 26 In 2012 the Inspector-General of Taxation carried out a [Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution](#). The review included consideration of ATO policies and procedures relating to dispute resolution and alternative dispute resolution, what steps the ATO takes to avoid unnecessary disputes, who generally initiated alternative dispute resolution discussions or processes, the level of engagement in alternative dispute resolution and the independence of reviews.

Corporate focus on dispute resolution

- 27 A restructure of the ATO in 2013 reshaped the role of Second Commissioner Law to be responsible for the Law Design and Practice Group. This group has a particular focus on delivering new ways of undertaking specific activities that include ATO wide responsibility for:
- resolving disputes earlier
 - championing the use of alternative dispute resolution to resolve disputes
 - establishing an independent review process for large business
 - managing and improving the objections function for large business.

Dispute Management Plans, Practice Statement 2013/3 and the Plain English Guide to Alternative Dispute Resolution

- 28 The ATO was the first agency to release a [Dispute Management Plan](#) and [supporting Dispute Management Policy](#) in October 2012.

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- 29 The inaugural Dispute Management Plan 2012-13 focussed on tax and superannuation disputes. The latest Dispute Management Plan 2013-14 continues the approach and strategies in the first plan and places special emphasis on resolving disputes relating to debt.
- 30 Our Dispute Management Plans set out the following key dispute management principles:
- avoid disputes where possible
 - resolve disputes in the simplest and most cost-effective manner taking into account the merits and the risks
 - resolve disputes as early as possible
 - clarify disputes by listening to the taxpayer's views and considering all resolution options
 - manage disputes in a courteous and fair manner.
- 31 The [Dispute Management Plan](#) is the cornerstone for dispute management across the ATO and applies to all disputes at any stage within the ATO, and is not confined to litigation.
- 32 In accordance with recommendations of the Inspector-General of Taxation in his [Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution](#), the ATO published a [Plain English Guide to alternative dispute resolution](#), which provides, in simple language, an explanation of dispute resolution, alternative dispute resolution and the types of alternative dispute resolution processes that are used in tax and superannuation disputes. This was published in response to a recommendation by the Inspector-General of Taxation.
- 33 In 2013 we reviewed and reissued our [Law Administration Practice Statement](#), which relates to our policy and approach on use of alternative dispute resolution in tax disputes. The Law Administration Practice Statement on alternative dispute resolution was first published in 2007.¹ This refreshed practice statement contains more detail on use of alternative dispute resolution, when it is appropriate or not appropriate to use alternative dispute resolution in tax disputes, and the respective roles of parties in

¹ Law Administration Practice Statements (LAPS) form part of the ATO's corporate policy framework and provide direction and assistance to ATO staff in performing duties involving the application of the laws administered by the Commissioner of Taxation.

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alternative dispute resolution. These documents are published on our external website to inform and assist the community, the tax profession and our staff of our approach.

Organisational changes to the handling of disputes

- 34 The ATO has a long standing practice of objections processing being removed in a management sense from the people who make the initial decision. These arrangements are still in place, and most objections are dealt with in the Compliance Group with organisational separation between the teams that make the original decision and the teams that determine the objections to those decisions.
- 35 Independent Review is a new tailored service which has been offered to large market taxpayers since 1 July 2013. It is available at position paper stage in audits, prior to the issue of assessments. The review is undertaken by a fresh set of eyes in Review and Dispute Resolution, separate from the Compliance area of the ATO. The aim of Independent Review is to promote the earlier resolution of large market disputes.
- 36 From 1 July 2013 objections for clients with income over \$250 million were transferred to Review and Dispute Resolution and on 1 July 2014 for those with income over \$100 million. The ATO will continue to monitor outcomes from these changes and consider whether we should further extend these approaches to other parts of our taxpayer populations.

DISPUTE RESOLUTION OPTIONS

Direct negotiation and discussions

- 37 Early, direct and open contact with taxpayers is always our first preference for resolving disputes and we find that this provides the best opportunity for quick, efficient and effective resolution of the dispute. This ongoing process of direct engagement with taxpayers is now a preferred approach in the majority of our compliance work (except for high volume automated interactions where the engagement with the taxpayer is done on an exceptions basis), meaning that many issues are resolved before becoming a formal dispute.

Early assessment and resolution

- 38 We are working to implement the strategies in our Dispute Management Plan. The aim of early assessment and resolution is to achieve resolution of disputes as early as practicable, reducing the costs of managing disputes to taxpayers, the community and the ATO. The early assessment and resolution initiative encourages case officers to make direct communication with taxpayers and their advisers at the earliest possible stage of the dispute, and to change from a 'letter writing' approach to simple and direct communication. We also recognise that earlier engagement with taxpayers, preferably in person, provides the best opportunity to resolve disputes at the earliest possible stage. We recognise that listening to taxpayers directly and hearing their version of events can be very useful in clarifying issues in dispute and evidentiary issues.
- 39 We also encourage earlier engagement of internal experts and decision makers to bring forward the resolution of disputes to the earliest possible stage.

In-house facilitation

- 40 A pilot to assess the utility and effectiveness of using trained ATO officers to act as facilitators to assist in resolving smaller, less complex disputes was conducted in 2013 in response to a recommendation in the Inspector-General of Taxation's 2012 *Review into the Australian Taxation Office's Use of Early and Alternative Dispute Resolution*. In the pilot, trained ATO facilitators, who had not been involved in the dispute, were used to bring the objection decision maker and the taxpayer and their representative together in a face-to-face facilitated discussion. The intention of holding the facilitation was to encourage constructive communication, to assist in clarifying facts and issues, to ensure both parties understood each other's point of view, and took a realistic approach to their risks and issues, in order to promote resolution of the dispute. The pilot demonstrated the benefits of early engagement with taxpayers and the acceptance of taxpayers and their advisers of an ATO officer facilitating the discussion.
- 41 Following the success of the pilot, since April 2014 we have used trained ATO facilitators in disputes at the audit or objection stages. Taxpayers, their agents, or ATO officers can request this service to help resolve less complex disputes involving indirect tax, small business and for individual taxpayers. We are also asking more experienced facilitators to mentor less experienced facilitators.

Independent review

- 42 The Independent Review service is a tailored service, aimed at large market taxpayers. It replaces the former Internal Review, which was also conducted at the position paper stage. Internal Review was an initiative introduced following the Inspector-General of Taxation's Report into large business, released in May 2011. Independent Review, through a number of important changes, has gone further than the former internal review process. Firstly, independent review is a technical merits review, whereas the former internal review was a review of process. Secondly, Independent Review is undertaken by a senior technical person in Review and Dispute Resolution, whereas internal review was undertaken by someone in the Large Business and International business line who was not part of the original audit team. Finally, we have clear communication protocols to assist with maintaining the transparency and independence of the process.
- 43 Essentially Independent Review is a technical merits review by a 'fresh set of eyes', with the reviewer having no prior involvement in the audit. We consulted quite extensively in the months leading up to the introduction of Independent Review, with the National Tax Liaison Group, the Inspector-General of Taxation, the former Dispute Resolution subcommittee of the National Tax Liaison Group, the Large Business Advisory Group, the Ombudsman, the Administrative Appeals Tribunal and the ATO Audit Committee.
- 44 The review has a 12 week timeframe. We have met this timeframe in all completed cases so far.
- 45 A post implementation review was conducted in January 2014, with all stakeholders who had been involved in the service. Feedback from internal and external stakeholders was positive and constructive, noting the independence of process and the professionalism of the reviewers. From 1 July 2014, the ATO has extended the service to all large market indirect tax audits.
- 46 So far there have been 14 finalised reviews. The results have been evenly balanced in favour of the audit team and the taxpayer. In cases where the taxpayer has the better view of the law, the audit concludes without adjustment. The results signals our commitment to fairness and willingness to question our own position.

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- 47 Independent review has also identified opportunities to improve our auditing capability and performance. As a result of this we have introduced new initiatives to assist in gathering facts and evidence during audits.

Earlier engagement of external experts and alternative dispute resolution practitioners in the large market and high wealth disputes

- 48 We have been extending our use of external experts, particularly former Federal Court and High Court judges, to conduct mediations or early neutral evaluations in complex large market and high wealth disputes.
- 49 As well as using alternative dispute resolution more frequently in these disputes, we are also increasingly using it at earlier stages in the dispute (during the audit or objection). During 2013-14 we were engaged in alternative dispute resolution in 26 highly complex matters, the majority of which were at either audit or objection stages. This compares to 6 alternative dispute resolution matters conducted by former judges in 2010-11, 8 in 2011-12 and 7 in 2012-13.

CONTINUOUS IMPROVEMENT

Refreshing the settlement code

- 50 A settlement involves an agreement between the ATO and a taxpayer to resolve matters in dispute where one or both parties make concessions on what they consider is the legally correct position.
- 51 Settling disputed matters is consistent with good management of the tax system, overall fairness and best use of ATO and other community resources. Currently ATO officers are guided by two practice statements and the Code of Settlement, a document over 45 pages long.
- 52 We have commenced consultation to refresh and streamline the settlement code and explanatory material. The new draft code is a two-page document that is intended to be clear, concise and positive, reflecting our new and more pragmatic (but still principles based) approach to dispute resolution, and responds to the issues raised by those who have been in dispute with us.

Appendix 2: Draft revised Code of Settlement

Australian Centre for Justice Innovation feedback survey

- 53 We have engaged the Australian Centre for Justice Innovation (a part of Monash University Law School), to independently evaluate the ATO's use of alternative dispute resolution in tax disputes in the period 1 July 2013 to 30 June 2014. This review was also a recommendation of the Inspector-General of Taxation's *Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution*.
- 54 Data for the project is obtained by seeking feedback from those involved in alternative dispute resolution processes conducted by alternative dispute resolution practitioners in tax disputes. Questionnaires are sent to those who do not opt out of the process. Those surveyed are taxpayers, their agents / legal representatives, ATO staff and the alternative dispute resolution practitioners (including court and Administrative Appeals Tribunal representatives). Feedback is provided voluntarily and anonymously. Surveys are tailored to each of the groups with some, but not all, common questions.
- 55 De-identified base data on each of the (code numbered) disputes is provided to the Australian Centre for Justice Innovation by the ATO and enables the researchers to ensure the data is representative of the entire sample. This data includes taxpayer market group and the complexity of the dispute.
- 56 The alternative dispute resolution processes referred to are conducted in disputes at the audit and objection stages as well as in disputes at the Administrative Appeals Tribunal and Federal Court. The alternative dispute resolution processes in scope are conciliation, mediation, neutral evaluation and case appraisal but not in-house facilitation.
- 57 We have recently received an interim report from the first six months of the survey. It is too early to draw any firm conclusions at this stage of the survey of all alternative dispute resolution conducted in tax disputes. However, overall, the report indicated that there were positive perceptions and feedback about the alternative dispute resolution processes and the ATO's commitment to alternative dispute resolution.

Consultation on dispute resolution

- 58 Consultation has played an important role over several years in helping us to refine and improve our approaches to alternative dispute resolution. Between 2011 and 2013, the former Dispute Resolution subcommittee of the National Tax Liaison Group

made a very significant contribution on a number of alternative dispute resolution issues. It was established to foster continuous improvement of dispute resolution strategies.

- 59 The Dispute Resolution Working Group was formed in December 2013, to consult on specific strategies around dispute prevention and early resolution of disputes. Representation in this consultative group includes the main tax professional associations including the Law Council of Australia, the Federal Court, the Administrative Appeals Tribunal, as well as Professor Tania Sourdin. We have commenced consultation on the ATO's draft updated Code of Settlement, as outlined above.

Review of alternative dispute resolution in large, high risk matters

- 60 We are currently conducting a review of alternative dispute resolution in disputes relating to large business or high wealth taxpayers at the audit, objection or litigation stage. The disputes usually relate to highly complex factual and legal issues. Tax in dispute usually ranges from tens of millions of dollars to hundreds of millions of dollars. Taxpayers in this group and their representatives currently usually prefer a retired Federal or High Court judge to conduct a mediation or early neutral evaluation process.
- 61 The purpose of the review is to look at alternative dispute process and practice options in tax disputes in this very specific context. We will use our findings to form a view on best practice and make recommendations which will assist those considering alternative dispute resolution options in these kinds of tax disputes in the future. We want to identify improvements to our current processes which promote resolution of these disputes. We also want to ensure that the parties get the best value from the costs associated with alternative dispute resolution processes.
- 62 We have interviewed many participants in these types of complex disputes including former judges and solicitors for the parties. We have consulted with the Dispute Resolution Working Group to seek their views. We propose to share the results of our findings with the Dispute Resolution Working Group in the next month or two to seek their views on how to best use those findings to assist the taxpayer and the ATO when considering and participating in these types of alternative dispute resolution.

Strategies to achieve the ATO vision for dispute management

- 63 The ATO has implemented the following strategies to further improve dispute management practices within the ATO:
- Using the Dispute Resolution / Alternative Dispute Resolution Network effectively to communicate as widely as possible across the ATO best practices in dispute resolution and alternative dispute resolution. The Network also gives feedback to the relevant teams on the outcome from facilitation processes, including how some of the disputes could have been avoided.
 - Continuing skilling and mentoring of case officers in:
 - service orientation to taxpayers and their advisers
 - transparent communication with taxpayers and their advisers
 - negotiation and alternative dispute resolution techniques, including in-house facilitation
 - criteria for litigating tax disputes.
 - Regular review of alternative dispute resolution techniques to ensure we maintain a considered and innovative approach to dispute management.
- 64 In terms of the roll-out of in-house facilitation in less complex disputes the ATO has 55 trained facilitators nationally, located across our functional areas. Geographically, we have facilitators in almost every ATO central business district site – 15 in Victoria, 14 in NSW, 11 in Queensland, 8 in South Australia, 4 in Western Australia, 2 in the Australian Capital Territory, and 1 in Tasmania – allowing good opportunities to use these facilitators to help address disputes where direct negotiation has not resolved the matter.
- 65 The ATO has engaged external providers to provide a four day mediation training course for our facilitators. In addition, compliance officers have been offered ‘awareness’ level training on facilitation approaches and how they might best be used to help to resolve disputes.
- 66 Review and Dispute Resolution is currently leading and managing an enterprise in-house facilitation process for the ATO.
- 67 More broadly, the ATO Learning and Development team has been working on building an enterprise wide curriculum for dispute management and resolution. A

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comprehensive dispute resolution curriculum has been designed containing many different negotiation and dispute resolution related courses which suit the needs of different ATO roles. The 2014 calendar year delivery schedule for the Dispute Curriculum includes face-to-face and online courses for hundreds of ATO officers.

- 68 We are endeavouring to target these courses to those who need to use the skills in their day-to-day roles.

SMALL BUSINESS AND INDIVIDUALS DISPUTE MANAGEMENT

69 Our approach to managing compliance risks for small and medium business and individuals is outlined in Appendix 3.

IMPROVING DISPUTE MANAGEMENT ON SPECIFIC TYPES OF CASES

70 The administration of our tax system will continue to result in some disputes, and in some case these will require determination by the Administrative Appeals Tribunal or the courts. However, the ATO has put in place mechanisms to better understand the common themes that impact on the incidence and resolution of disputes for small business and individual taxpayers, so that we can resolve disputes earlier and more efficiently and effectively.

71 Some of these themes are more common for taxpayers with more complex affairs (for example high wealth individuals) and those who are involved with behavioural risks like tax crime, tax avoidance or evasion and the cash economy.

72 Recognising and analysing these recurring themes allow us to further improve our education and compliance approaches, as well as to tailor information we make available to the public to minimise the incidence of disputes and resolve them earlier and more effectively where they do arise.

73 Refer to Appendix 1: Tables 6-8 for dispute reasons for decisions including audit revenue totals.

Common themes for small business and individual taxpayer disputes

74 We recognise that taxpayers with simpler affairs need greater support in managing potential disputes, especially where they are unrepresented or are represented by smaller or less sophisticated intermediaries. Our work on in-house facilitation is an example of the approaches that we have implemented to provide this support where direct engagement has not resolved the dispute effectively.

75 In addition, there are several recurring themes that are common to both taxpayers with simpler affairs and those with more complex affairs. These include the following themes:

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Taxpayers disagreeing with the tax effect

- 76 There are a number of cases, particularly at the smaller end of the market, in which the taxpayer considers that the effect of the legislation unfairly impacts them. We have found that this is best resolved through direct conversations with the taxpayer to assist them in better understanding the scope of the legislation.

Questions of fact, quantum, valuation

- 77 These cases primarily revolve around substantiation, valuation or quantification issues, which require a determination as to the correct facts rather than an exercise of legal interpretation.
- 78 The ATO is pursuing an increasingly pragmatic approach to resolving such valuation disputes, as seen in our recent discussions with the Inspector-General of Taxation in his review of valuation issues.
- 79 Many of our recent settlements have featured practical resolution of valuation issues, rather than pursuing costly and time-consuming litigation approaches to resolve factual matters.
- 80 Further, the ATO's review of the Code of Settlement and Model Deed will further support this pragmatic approach.

Default assessments

- 81 Default assessments are issued where we have incomplete information available at audit, including cash economy cases using comparative benchmark information, where we have conducted a covert audit in tax crime cases, or where there is pressing urgency due to risk of flight or dissipation of assets.
- 82 It is not uncommon for taxpayers to provide additional information or arguments following the audit process, which can lead to a reversal of the assessment in full or in part or an objection process in which the objection officer is effectively required to conduct a further audit to review the new information.

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Disputes regarding penalties

- 83 The tax laws impose penalties for making false and misleading statements, for promoting avoidance schemes, for taking inarguable positions and for failing to lodge statements or returns on time.
- 84 As a result, many adjustments to the tax liabilities of taxpayers involve such penalties, giving rise to a large percentage of disputes either only on penalties or on both substantive liability issues and penalties.
- 85 The ATO has learned from our experience with penalty disputes and has improved our processes and educated our staff to better deal with the imposition of penalties.
- 86 We have worked particularly around our engagement with taxpayers about how the penalty laws work and more accurately determining taxpayer circumstances to apply these laws.
- 87 There are also some particular issues with penalty cases for matters involving tax crime, which are covered below in the tax crime section.

Taxpayers with more complex affairs, especially private groups

- 88 Due to the complexity of the structures used by private groups and the interactions between parts of the tax laws applying to the various entities within a group, we often encounter issues which complicate the resolution of identified issues. These issues can also affect the management of debt collection processes (such as where alternative assessments have been issued). These include the following themes:

Fraud or evasion findings

- 89 Generally, the Commissioner can only amend assessments for a limited period of time, called the period of review. However, there is an exception providing an unlimited period for cases involving fraud or evasion, which requires a finding that fraud or evasion exists.
- 90 These cases are particularly prevalent in tax crime (involving concealment of transactions and acts of dishonesty that may be the subject of criminal processes) and tax avoidance (involving a failure to accurately report the circumstances of the arrangement to the ATO).

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- 91 In our work on disputes on fraud or evasion cases, we have found that it is important to directly engage with taxpayers in order to test our understanding of their circumstances and to actively explore options, such as settlements, to resolve emerging disputes (which may involve agreement on the number of years to be subject to amended assessment).

Alternative assessments of different taxpayers for the same issue

- 92 Alternative assessments may be issued where genuine uncertainty exists as to which of several taxpayers is properly assessable. This occurs particularly in the context of trust structures and with some potential tax avoidance arrangements. In such cases, the total assessed liability across the alternative entities may be far in excess of the liability the Commissioner ultimately intends to collect. Taxpayers are concerned that multiple liabilities are collectable and we need to directly engage with taxpayers to explain the ATO approach in order to resolve such matters more effectively.

Alternative grounds for assessments of the same taxpayer

- 93 In more complex cases, especially involving potential tax avoidance, there may be several potential bases for an assessment of a taxpayer in respect of relevant transactions – such as where a taxpayer may alternatively be subject to an ordinary tax provision and to one or several anti-avoidance rules.
- 94 In order to protect the revenue position, it is necessary to issue an assessment relying upon these alternative positions, sometimes with differing amounts, to be finally determined upon resolution of the issues.
- 95 Taxpayers may find this difficult to understand and we need to directly engage with taxpayers to explain the ATO approach in order to resolve such matters more effectively.

Potential non-arm's length transactions within private groups

- 96 Potential non-arm's length transactions between members of non-consolidated private group entities that give rise to valuation and market value substitution issues that create both factual and legal interpretation issues.

Tax crime

- 97 The ATO deals with various forms of tax crime, ranging from isolated actions by taxpayers making false statements through more complex instances of tax fraud through to complex networks of organised criminals operating within Australia or internationally. The ATO works closely with law enforcement agency partners, at the Commonwealth and State / Territory levels, and with other revenue agencies internationally through our tax treaty network and via international bodies like the Organisation for Economic Cooperation and Development. Strategically, the ATO manages tax crime under two over-arching strategies dealing with the tax impacts flowing from economic crime (including Project Wickenby) and those flowing from serious and organised crime.
- 98 From a tax crime perspective, there are often issues which impact upon the incidence of tax disputes as concurrent criminal investigation, proceeds of crime action, tax assessment action and tax collection processes may be undertaken. As a result these matters are subject to particularly careful handling by specialist officers who manage the assessment and potential dispute processes.
- 99 Given the characteristics of the tax crime population, there is a higher likelihood of disputes than for most other classes of taxpayer. The more common themes for disputes on tax crime matters involve:
- Fraud or evasion findings – more usually considering potentially fraudulent conduct that is likely to be subject to criminal proceedings. As discussed above, these matters require clear evidence of the taxpayer’s circumstances, although direct engagement with the taxpayer may be more complicated due to the overlapping criminal processes.
 - Higher levels of penalty for false or misleading statements and / or for aggravating factors for obstruction – often emerging as a result of concealment of transactions, production of false documents or other acts of dishonesty that are the subject of criminal processes. As discussed above, these cases require careful consideration of taxpayer circumstances to ensure that higher levels of penalty are appropriate and defensible.

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- Taxpayers utilising the objection process as a mechanism to challenge tax matters subject to criminal proceedings (such as where a tax fraud charge has been laid), while deferring collection of tax debts until the criminal proceeding is finalised.

100 Some relevant statistics for tax crime disputes are:

- approximately 80% of Project Wickenby audits result in an objection (with only 4% allowed in full, and 15% allowed in part, this is often due to provision of new evidence at objection), and
- approximately 85% of serious and organised crime audits result in an objection (with only 8% allowed in full, and 38% allowed in part, this is often in relation to a relatively minor issue in the audit and / or due to provision of new evidence at objection).

101 For our work on tax crime cases, two recent reviews touching upon these issues have been the Australian National Audit Office's Report into the Administration of Project Wickenby (February 2012) and an Ombudsman investigation (April 2012) into complaints about Project Wickenby by a number of high profile taxpayers. Note that a number of these complaints were made to the Inspector-General of Taxation, however given the other agencies involved in Project Wickenby and the Inspector-General of Taxation's lack of jurisdiction over those agencies, the matters were referred to the Ombudsman. Some lessons from these and other reviews about how the ATO should deal with tax crime cases have included:

- The high number of disputes adds to the complexity, cost and time taken to administer the ATO's tax crime compliance interventions. Therefore, reducing the incidence of disputes is a positive step for reducing taxpayers' cost of compliance and for improving the ATO's effectiveness.
- The ATO can and should be more open in providing relevant information to the taxpayer at an earlier stage to help them prepare their case. This includes explaining the ATO position even where there may be concerns that the taxpayer may then adjust their position to more effectively counter the ATO's actions (such as in collection processes).
- The ATO can and should give taxpayers sufficient opportunity to respond, particularly where the compliance action covers a significant period of time, which makes it more difficult for the taxpayer to produce the evidence requested.

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- Taxpayers subject to ATO tax crime action are sometimes guilty of not ‘helping themselves’ by failing to be more forthcoming at an earlier stage. We are trying to make the environment more conducive to allowing taxpayers to help themselves (recent examples of this include the recent offshore voluntary disclosure project, Project DO IT, and inviting alternative dispute resolution earlier in the process).
- 102 Notwithstanding the above issues, our tax crime work results in a very high number of disputes that settle before litigation. An increased focus on alternative dispute resolution and the importance of cash collections (as opposed to concentrating on succeeding in litigation, yet failing to recover the debt) have added to these largely successful settlements for the ATO.

Tax avoidance or evasion

- 103 The aggressive tax planning risk manifests in all revenue products, market segments, focus areas and entity types. ATO clients involved in tax avoidance can be both promoters and participants in such avoidance schemes.
- 104 Our approach to aggressive tax planning is to act quickly to stop the proliferation of potential tax avoidance and evasion schemes. We adopt a ‘prevention is better than cure’ strategy to prevent disputes from arising and to help people extricate themselves from aggressive tax planning arrangements.
- 105 As part of the ‘prevention is better than cure’ strategy, we issue early warnings and guidance material to the public (e.g. Taxpayer Alerts and You-Tube videos) about higher risk tax planning issues about which we have concern.
- 106 We encourage taxpayers and advisers to engage in early and alternative dispute resolution and to speak to us as soon as they encounter difficulties so that we avoid costly and time-consuming disputes. We have successfully mediated matters at objection and encourage voluntary disclosures by promoters and participants. We use widely based settlements for greater consistency and fairness.
- 107 Ultimately, the history of tax avoidance and tax evasion schemes shows the importance of the role of promoters in creating and marketing such schemes. Since April 2006, we have had the ability to apply to the Federal Court for the imposition of a pecuniary penalty or the grant of an injunction where the promoter penalty laws in Division 290 of Schedule 1 to the *Taxation Administration Act* 1953 have been

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contravened. We view civil penalty action as a last resort to deter this sort of behaviour and prefer early engagement with entities to provide opportunities for self-correction. We have successfully litigated several promoter penalty civil penalty matters in the Federal Court on more serious conduct and have other matters underway or likely to be initiated in the near future.

- 108 Most entities contacted by the ATO on promoter penalty matters act quickly to self-correct and to limit damage to their business and their clients / customers, including through changing arrangements, amending marketing or website materials, contacting clients / customers or even paying tax-related liabilities from arrangements on behalf of taxpayers. Some entities offer us enforceable voluntary undertakings relating to their conduct to address ATO concerns or to demonstrate their cooperation with the ATO if the matter were to proceed to litigation.

Cash economy

- 109 The ATO cash economy strategy is focussed on creating a level playing field for the small business population by addressing those who seek to gain an unfair advantage over honest businesses. The strategy includes more than 6000 audits each year with 55% of cases resulting in an adjustment. Approximately 7.5% of audit adjustments result in objection, with 10% of these objections leading to applications for review to the Administrative Appeals Tribunal and / or appeals to the Federal Court. The nature of the cash economy industries is such that there is a higher level of disengagement and disputation when compared to the business taxpayer population generally.
- 110 In 2010 the cash economy strategy adopted the use of industry based benchmarks. In the initial phase of the ATO benchmark program, the numbers of objections increased. The drivers of this increase were two-fold: the low level of acceptance by the community of the application of a benchmark as an acceptable mechanism to calculate income levels in the absence of acceptable records, and the application of significant penalties in these circumstances. Traditionally the dispute level against penalties where default assessments are raised is higher than objections against other audit outcomes.
- 111 A review of the ATO's benchmark program by the Inspector-General of Taxation in 2012 made a number of recommendations related to objections, which have been implemented.

Common themes for cash economy cases

Penalty imposition

- 112 As an example of our approach to improving handling of penalty cases to minimise and resolve disputes, the ATO has analysed the outcomes of objections to penalty imposition for cash economy cases and has identified and addressed common issues through staff updates and training.
- 113 The cash economy audit area has established penalty review panels to provide additional support for staff, drawing from experience in the other business lines who deal with taxpayers with more complex affairs.
- 114 We have provided additional on-the-job and formal technical training to cash economy staff, drawing regularly upon the experience from the resolution of cash economy objections and from monthly quality reviews of cases.

Late provision of information at objection

- 115 A key characteristic of cash economy objections is the tendency of taxpayers to produce more detailed information and records at the objection phase than is provided at the audit stage. We have significantly improved the way we gather information during cash economy audits to address this issue.
- 116 In addition, we have recognised this issue and have taken it into account in dealing with cash economy objections and in using forms of alternative dispute resolution, such as mediation.

Factual issues

- 117 More broadly, disputes arising from cash economy cases are predominately around factual issues, rather than questions of law. As a result, we have implemented a tailored alternative dispute resolution strategy for cash economy cases, which has been very successful in reducing cash economy objections that move to litigation (10%).

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Use of cash economy benchmarks

- 118 Importantly, a number of cash economy cases based on the industry benchmark approach have now been heard by the Administrative Appeals Tribunal with favourable decisions. The level of objections since these decisions and since the implementation of the Inspector-General recommendations has reduced.
- 119 In 2011-12, 19% of audits involving the use of a benchmark and the imposition of a penalty led to an objection. In 2013-14 cases involving a benchmark and penalty have an objection rate of 7.5%.

IMPROVING DISPUTE MANAGEMENT GENERALLY

- 120 Consistent with our new direction, we are adopting approaches of early engagement and a focus on resolving disputes progressively through our compliance work and into our handling of disputes – with a particular focus on alternative dispute resolution where this is appropriate.
- 121 We are also focusing on identifying the key lessons from our handling of disputes and sharing these lessons with the compliance areas so that they can better deal with these issues in their initial engagement with taxpayers. For example, a common source of dispute is when individuals identify relevant factual information (such as a receipt for an expense) after an audit is completed. Previously, individuals were required to formally object in these circumstances. Under recent arrangements for simpler matters, when information is provided late to the ATO the case can be returned to the audit area. If the information is satisfactory, the audit action can be reversed quickly.
- 122 Similarly, we have drawn lessons from our objection work on cash economy cases that have led to improved information gathering on these cases (and other similar matters) at the audit stage. This addresses one of the key recurring themes mentioned above.
- 123 More generally, we are implementing strategies with a ‘pick up the phone’ theme, to encourage case officers to make direct communication with taxpayers and their advisers at the earliest possible stage of the dispute, moving from a ‘letter writing’ approach to simple and direct communication.

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- 124 We have expanded the use of in-house facilitation following the 2012-13 pilot and are applying these approaches to a range of cases involving both taxpayers with simple affairs and those with more complex affairs. The feedback from all participants in the pilot indicated that the facilitation assisted the dispute resolution process and that they would be happy to engage in the process again.
- 125 For cases that do proceed to litigation, our people doing dispute work are partnering with those who deal with litigation cases to ensure that clients have the opportunity for early engagement at the earliest stage.
- 126 We are also recognising circumstances which require differentiated responses, such as disputes with employers about superannuation guarantees (unlike income tax disputes) which are effectively about entitlements for employees. Therefore, our dispute resolution processes are better taking into account the interests of affected employees.
- 127 For taxpayers with more complex affairs, we have refined the strategies that we utilise in reducing the incidence of and resolving disputes. We have recognised the need to both apply our technical resources earlier and to use a differentiated approach to dealing with potential dispute cases to more promptly and effectively resolve them, specifically through:
- Actively exploring opportunities for client engagement, direct negotiation, agreements to finalise disputes, including by settlement, dispute resolution processes and formal alternative dispute resolution processes to deal with disputes as issues arise throughout the life of compliance cases – continuing into objection and litigation processes where appropriate.
 - Establishing technical areas to provide leadership on the interpretation of the income and indirect tax and superannuation laws and their application to the circumstances of individual cases – covering matters from the identification of potential compliance risks, through compliance activity and into potential objection and litigation, where appropriate.
 - Bringing more senior case leadership resources to work on compliance cases from their initiation, through their resolution and especially to help to resolve emerging disputes – continuing into the objection and litigation processes where appropriate.

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- Implementing call-over processes where senior leaders regularly review the most significant cases from a revenue perspective, those cases with the most reputational sensitivity and those cases which are becoming aged – to ensure that these matters are properly managed in the context of both taxpayer circumstances and broader compliance risks.
- Establishing clearer and more consistent approaches to actively manage all of our objection cases by monitoring performance at the individual, team and system level – supporting differentiation of cases, application of senior technical resources to support cases that are not proceeding effectively and driving the continuing focus on client engagement to ensure dispute resolution, where possible.
- Aggregating the handling of all relevant cases for a private group or a compliance risk project, so that related or similar matters are being dealt with in a coherent way (mirroring the approach to compliance cases, but noting that separate decision-makers handle objection and litigation decisions to ensure independence).
- Working to identify and actively manage cases at an early stage that are likely to proceed to litigation and manage their impact on the management of compliance risks, so that we can ensure that these matters are appropriate to progress through litigation and are properly managed in the process through the early assessment and resolution approach discussed above.
- Consciously identifying and applying lessons learned from dispute resolution processes to provide feedback, capability improvement and enhanced decision-making support for future cases at the individual, team and system level.

Improvements Going Forward

- 128 Most of the improvements outlined above are now embedded into our procedures as best practice and will continue into the future. We have put in place a communication strategy to ensure case officers and their leaders are keeping pace with our changed processes and the particular focus on active case management and enhanced dispute resolution.
- 129 We recognise that there needs to be a continued focus on early engagement with clients and their representatives at all stages of the end to end process. Early access to technical specialists and the continuation of allocating cases to specialist teams, where practical, should also enhance our ability to reduce cycle times and determine disputes with commercially realistic outcomes.

ATO'S APPROACH TO THE MANAGEMENT OF DISPUTED DEBT CASES

- 130 The management of 'disputed debts', debts where the taxpayer has lodged an objection to or is appealing some or all of their assessments (formal disputes) and debts where the taxpayer is 'disputing' their obligation to pay the full amount outstanding (informal disputes), is centralised in one area. This ensures that disputed debt cases are managed by staff with the necessary skills and also facilitates a whole-of-ATO approach to the management of tax disputes.
- 131 The majority of disputed debts are those where there is a formal dispute. At any point in time we are managing around 3,000-5,000 of these cases, representing 0.3% or less of total debt cases.
- 132 Our approach to managing disputed debts, and indeed all debts, is based on a consideration of each taxpayer's individual circumstances and the need to ensure a level playing field for business and fairness for the broader community. However, we recognise the specific issues relating to tax disputes and tailor our approach to address these. Specifically, we endeavour to minimise debt recovery action pending resolution of a dispute while also addressing any significant risks to revenue.
- 133 For debt matters, since the release of the ATO's first Dispute Management Plan in 2012, our approach to disputed debts has changed significantly. We are now very much focussed on early resolution. For example, we are now much more willing to consider and, where they deliver good outcomes for the ATO and the taxpayer, agree to settlements.
- 134 We are also continuing to improve our procedures and policies to make the management of disputed debts simpler and more consistent. A recent example of this was the change in March 2014 to our policy on 50 / 50 arrangements, which was made in response to the Inspector-General of Taxation's review into the ATO's administration of penalties. The change involved replacing the complex 'mandatory and optional amounts payable' calculations – which varied according to the year of income and included not only the principal tax but also penalties and interest charges – with a single fixed amount payable (50% of the disputed principal tax) except in high risk cases. This change will be incorporated into Law Administration Practice Statement PS LA 2011/4 Recovering Disputed Debts when it is revised later this year.

135 Refer to Appendix 1: Table 9 for disputed debt data.

Resolution strategies - formal disputes

136 In most lower-risk cases, we defer active recovery action until after the dispute has been resolved. We actively manage cases where the debt is greater than \$1 million, the taxpayer is either in the large market or is a high wealth individual, or where there are significant revenue or other risks. These cases generally constitute about 10-15% of all disputed debts where there is a formal dispute. In other words, payment is not actively pursued for most individuals and small businesses until after the dispute is resolved.

137 Improvements in our approach to the management of disputes have contributed to a 37.8% reduction in the number of disputed debt cases over the past two financial years, with most of this reduction occurring since June 2013 (35.3%). Since June 2013 we have seen significant reductions in the number of disputed debt cases for small business (31.2%) and individuals (41.3%).

138 Our focus on managing higher value disputed debts has, in the last 12 months, contributed to a significant reduction in both the number and value of disputed debt cases in medium businesses, where the number of disputed cases has reduced by 32.4% and the amount of disputed debt has reduced by 31.8%.

139 Where the level of risk necessitates action to secure payment of the debt before the resolution of a dispute, the following options are considered as an alternative to legal recovery action:

- payment of the whole debt in full upon demand
- payment of the whole debt by instalments
- payment of 50% of the disputed debt in a lump sum with the balance being paid by instalments
- payment of 50% of the disputed debt together with the provision of acceptable security
- provision of acceptable security for the whole debt
- provision of financial documents to substantiate that payment of the disputed debt would cause serious hardship.

MEASURING OUR PERFORMANCE

OUR APPROACH TO QUALITY AND OUR QUALITY MEASURES

140 We are committed to measuring our performance around the handling of disputes and being transparent about that performance. We include material in our annual report to parliament. We assess our performance through a number of lenses:

- service commitments
- quality
- early resolution
- aged cases
- complaints
- legal expenditure.

Service Commitments

141 We monitor and publish two key service commitments for dispute:

- Timely – we aim to resolve 70% disputes within 56 calendar days of receiving all necessary information or within a date negotiated with the taxpayer.
- Keep Me Informed - if we find that the dispute raises particularly complex matters that will take more than 28 calendar days to resolve, after receiving all the necessary information, we aim to contact the taxpayer within 14 calendar days to negotiate an acceptable timeframe for resolution.

142 Against these measures our performance has improved substantially over the last few years.

143 Refer to Appendix 1: Table 10 for service commitments data.

Quality measures

144 We monitor the quality of disputes by assessing a representative sample of finalised disputes. Traditionally this has involved Community Engagement Workshops, which comprises ATO staff members and representatives from the community.

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- 145 The model for management of quality is currently undergoing significant change with a new ATO Quality Model being phased in from 1 July 2014 to ensure that our approach is contemporary and aligned to best practice. The new model focuses on four quality measures (Customer Service, Accountability, Accuracy and Performance) instead of the nine measures previously used under the now-retired Integrated Quality Framework.
- 146 Refer to Appendix 1: Table 11 for quality of assurance for objections data.

Early Resolution

- 147 The ATO's focus on earlier resolution of disputes is demonstrated in the settlement figures for the 2014 financial year (up to 30 April 2014). In 2013-14, 78% of settlements occurred prior to litigation, with 52% of these occurring at pre-audit or audit stages. This compares to 2010-11 where 53% of settlements occurred prior to litigation, with 31% of them being at pre-audit and audit stages. In other words, we are identifying and settling disputes earlier in our engagement with taxpayers. We are also settling more cases.
- 148 Refer to Appendix 1: Table 12 for settlements data indicating the stage at which settlement occurred.
- 149 The trend in earlier resolution of cases is now also evident in the number of litigation decisions in both the Administrative Appeals Tribunal and Federal Court. In the Administrative Appeals Tribunal there were 110 decisions in 2011-12 and 125 in 2012-13. From 1 July 2013 to 31 May 2014 there were only 95 tax decisions in the Administrative Appeals Tribunal. There is a similar trend in appeal decisions at first instance in the Federal Court. In 2011-12 there were 29 decisions, with 32 in 2012-13. From 1 July 2013 to 31 May 2014 there were 18 decisions at first instance.
- 150 We routinely publish in our annual report details of settlement variances. For example, see page 58 of our 2012-13 Annual report.

Aged Cases

- 151 Monitoring and active management of cases involving disputes has been a focus in the last 12 months, resulting in an improved response time and a decrease in the number of cases on hand. An increased focus on aged stock on hand cases has resulted in:

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- total objections on hand have reduced by 17%
- objections between 4 months and one year old have reduced by 25%
- objections greater than one year old have reduced by 19%.

152 Refer to Appendix 1: Table 13 for aged case trends.

Complaints

153 In the ATO, a complaint is defined as a statement about expectations that have not been met. We are committed to treating complaints seriously, dealing with them quickly and learning from them. Handling complaints appropriately is an important part of the ATO's ongoing relationship with our clients.

154 Our aim is that our clients are confident that they can come to us with any problems or complaints and have them resolved quickly and fairly, prior to going to people such as the Commonwealth Ombudsman.

155 We see the effective handling of an audit related complaint as an important step in rebuilding a client's confidence in the ATO; as part of our broader goal of fostering willing participation in the tax system.

156 Complaints can be made via a hotline, on line, by mail or fax. We have a national complaints network to ensure complaints are managed promptly.

157 We also review our complaints to identify systemic issues (that is, an issue that is likely to recur and generate complaints if not addressed).

158 Refer to Appendix 1: Table 14 for the number of complaints relating to audit decisions.

Legal expenditure

159 We carefully monitor legal expenditure to ensure value for money in the management of the ATO's legal work. However, it is also an indicator of earlier resolution, given the generally higher costs of dispute litigation. In line with the trend for litigation decisions and our emphasis on earlier resolution, our legal expenditure has decreased in 2013-14 from 2012-13.

160 Refer to Appendix 1: Table 15 for details on ATO legal expenditure.

APPENDIX 1 – DATA TABLES

Table 1: Completed audit sourced objections in comparison to audit activities total and also by market

Market	Active compliance activities with liability impact	Audit sourced objections
Small business	90,826	7,784
Medium business	10,946	673
Large business	678	84
Government	135	10
Not for profit	1,358	42
Individual	378,687	15,884
Total	482,630	24,477

Active compliance activities include:

- Verification activities delivered through field, phone, letter and office based strategies including prosecution investigations
- Lodgement enforcement activities conducted by field, correspondence and outbound telephone verification staff
- ATO initiated advisory and new business visits
- Leverage activities such as a targeted letter campaign
- Risk reviews

Table 2: Source of objections

Source	Number
ATO action – audit sourced ¹	24,477
ATO action – other ²	3,735
Private ruling ³	214
Taxpayer initiated ⁴	4,223
Total	32,649

¹ includes ATO adjustments pre and post lodgment and default assessments

² includes endorsements, discretions and other reviewable decisions

³ Objections against a private ruling decision

⁴ taxpayer did not understand the assessment, lodged an amendment request and it was appropriate to treat as an objection and out of time amendment requests

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Table 3: Objections by market

Count	2010-11	2011-12	2012-13	2013-14
Government	23	28	27	50
Large business	286	185	311	246
Small business	8,829	11,356	11,129	9,824
Not for profit	153	124	120	117
Medium business	842	986	1,048	1,122
Individual	14,122	20,548	20,014	16,850
Total	24,255	33,227	32,649	28,209

All completed objections

Current business market segments:

- Small business <\$2m
- Medium business between \$2m and \$250m
- Large business >\$250m
- Individuals – individual taxpayers with no business activity

Table 4: Objections by revenue product

Market	Revenue product	2010-11	2011-12	2012-13	2013-14
Small Business	Goods and services tax	1,163	2,278	2,177	1,293
	Excise	17	34	21	24
	Superannuation	1,804	1,453	1,445	1,465
	Income tax related	5,854	7,621	8,018	7,073
	Total	8,829	11,357	11,640	9,831
Individual	Goods and services tax	185	449	191	117
	Excise	2	6	1	1
	Superannuation	801	296	537	455
	Income tax related	11,517	19,797	19,285	16,281
	Total	12,505	20,548	20,014	16,854

Table 5: Source of objections by market

Source	Government	Large business	Small business	Not for Profit	Medium business	Individuals	Segment totals
Audit sourced	10	84	7,784	42	673	15,884	24,477
ATO action - other	3	38	1,460	36	89	2,109	3,735
Private ruling	7	29	82	6	32	58	214
taxpayer initiated	7	160	1,803	36	254	1,963	4,211
Total	27	311	11,129	120	1,048	20,014	32,649

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Table 6: Dispute, reason for decisions - Individuals Market

Outcome of dispute	No. ¹	Reason for Decision
Allowed in full ²	6082	73% Additional information (including information requested during the audit) only received at objection resulting in new decision being made
-	-	11% On review of facts and evidence, audit decision overturned
-	-	7% Additional facts or evidence presented at the time of objection leading to audit decision being overturned.
Allowed in part ²	2165	58% Additional information (including information requested during the audit) only received at objection resulting in new decision being made
-	-	16% On review of facts and evidence, audit decision overturned
Disallowed	3266	51% No new evidence /argument presented at objection

¹Numbers exclude withdrawn, not completed, not applicable

²Allowed in full or part does not always relate to the full audit assessment. Allowed in part or full relates only to the part of the audit decision that was subject to dispute, as often only part of the outcome is disputed as opposed to the whole audit decision.

Table 7: Dispute, reason for decisions - Small Business

Outcome of dispute	No. ¹	Primary Reason for Decision
Allowed in full ²	3226	63% Additional information (including information requested during the audit) only received at objection resulting in new decision being made
-	-	12% On review of facts and evidence, audit decision overturned
-	-	15% Additional facts or evidence presented at the time of objection leading to audit decision being overturned.
Allowed in part ²	1308	44% Additional information (including information requested during the audit) only received at objection resulting in new decision being made
-	-	21% On review of facts and evidence, audit decision overturned
Disallowed	2101	75% No new evidence /argument presented at objection

¹Numbers exclude withdrawn, not completed, not applicable

²Allowed in full or part does not always relate to the full audit assessment. Allowed in part or full relates only to the part of the audit decision that was subject to dispute, as often only part of the outcome is disputed as opposed to the whole audit decision.

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Table 8: Audit Revenue totals subject to objection, totals, also by market, also by revenue product

Market	Audit sourced objection cases ¹	Assessed tax, penalty and interest amount (\$ millions)	Tax, penalty and interest amount in dispute (\$ millions)	Tax, penalty and interest amount allowed at objection (\$ millions)
Small business	6,156	1,193.5	1,009.2	386.9
Medium business	573	464.2	396.4	121.4
Large business	84	3,378.9	1,569.2	759.5
Government	6	3.6	3.6	3.3
Not for profit	36	0.7	0.4	0.2
Individual	15,600	293	277	79.4
Total	22,455	5,333.9	3,255.9	1,350.7

¹Completed objections

Table 9: Disputed debt by market segment

Market		June 2012	June 2013	Movement	June 2013	June 2014	Movement
Small business	Value (\$ Billion)	1.988	1.882	-5.3%	1.882	2.089	11%
	Cases	2,742	2,589	-5.6%	2,589	1,781	-31.2%
Medium business	Value (\$ Billion)	1.435	2.234	55.7%	2.234	1.523	-31.8%
	Cases	381	450	18.1%	450	304	-32.4%
Individuals	Value (\$ Billion)	1.925	2.448	27.1%	2.448	2.507	2.4%
	Cases	2,381	2,243	-5.8%	2,243	1,316	-41.3%

Table 10: Service Commitments

Market	2010-11 ¹		2011-12		2012-13		2013-14 ²	
	Standard achievement ³	Completed	Standard achievement ³	Completed	Standard achievement ³	Completed	Standard achievement ³	Completed
Medium business	78%	782	89%	896	93%	1,031	94%	1,122
Small business	79%	8,829	81%	11,356	86%	11,129	91%	9,825
Individuals	83%	12,505	73%	20,548	84%	20,014	90%	16,849
Total all markets	79%	24,255	77%	33,272	84%	32,649	91%	28,209

¹ Does not include objections against private rulings. Objections against private rulings are included from 2011-2012 on

² Preliminary results at 30 June 2014

³ Percentage completed within 56 days of receiving all information or within the date negotiated with the taxpayer

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Table 11: Quality assurance for objections

Gradings: Aligned and above	2011-12	2012-13	2013-14
Sample size	206	170	157
Administrative Soundness	93%	98%	100%
Correctness	91%	95%	99%
Appropriateness	99%	98%	100%
Transparency	98%	98%	99%
Timeliness	90%	98%	96%

Table 12: Stage at which settlement occurred

Stage	Number of cases		
	2011-12	2012-13	2013-14 (to 30 April 2014)
Pre-audit	15	23	17
Audit	85	144	132
Objection	62	77	77
AAT	53	82	52
Federal court	38	13	12
*Filtered	3	0	0
Total	256	339	290

* Restricted case access - details not available

Table 13: Aged case trends

	2010-11	2011-12	2012-13
Receipts	23,452	34,132	31,205
Completions	24,513	33,272	32,649
Exiting aged ¹	1,451	851	477

¹ Exiting aged cases are cases that remain open and aged at the end of a financial year and are carried over into the next financial year. A case is considered aged once it has exceeded 120 days or exceeds the negotiated completion date.

Table 14: Number of Complaints relating to audit decisions

Compliant type	2011-12	2012-13	2013-14
Dissatisfied with the outcome of an audit	517	670	497
Dissatisfied with the conduct of an audit	766	712	651
Total	1283	1382	1148

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Table 15: Part IVC Legal expenditure

Expenditure	2011-12 (\$ Excluding GST)	2012-13 (\$ Excluding GST)	2013-14 (\$ Excluding GST)
External legal services expenditure	32,189,082	32,669,054	28,528,662
Internal legal services expenditure	11,675,602	11,677,377	10,216,093
Total	43,864,684	44,346,431	38,744,755

External legal expenditure excludes costs awarded against the ATO, external expenditure on compensation and the ATO's Test Case Program legal costs.

APPENDIX 2 – DRAFT CODE OF SETTLEMENT

This document is the ATO policy on settlements

1. What this Code is about

This Code sets out the ATO policy on the settlement of taxation and superannuation disputes, including debt disputes.

The ATO is committed to working with taxpayers to resolve disputes as early and cooperatively as possible.

ATO officers involved in settlements will act with integrity at all times.

2. What is a settlement

A settlement involves an agreement between parties to resolve matters in dispute where one or both parties make concessions on what they consider is the legally correct position.

3. Scope of settlement

The ATO has an obligation to administer the taxation and superannuation laws through assessing, collecting taxes and determining entitlements. The ATO also has an obligation to administer the taxation system in an efficient and effective way, balancing competing considerations and applying discretion and good sense.

Settlement can occur at any stage including prior to assessments being raised.

Settlement would generally not be considered where:

- there is a contentious point of law which requires clarification and it is in the public interest to litigate, or
- the taxpayer's behaviour is such that we need to send a strong message to the community.

4. Settlement negotiations

Settlement negotiations or offers can be initiated by any party to the dispute.

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The nature of the dispute will dictate who will participate in negotiations on behalf of the ATO.

Alternative dispute resolution approaches, including mediation, may be used during settlement negotiations.

Where there are multiple taxpayers in dispute, or likely to be in dispute, about the same or similar arrangement the ATO would seek to ensure consistency of treatment for taxpayers in comparable circumstances. This may include developing a widely based settlement position.

Statements made during settlement negotiations are not to be construed as an admission of liability and cannot be given in evidence. This is to ensure that, in the event that negotiations break down, parties are not prejudiced as a result of a position taken in the course of trying to resolve the matter.

5. Settlement considerations

When deciding whether or not to settle, the following factors must be considered:

- the relative strength of the parties' position
- the cost versus the benefits of continuing the dispute, and
- the impact on future compliance for the taxpayer and the broader community.

6. Settlement decision

The ATO decision to settle or not must be a fair, effective and efficient means of resolving the matters in dispute.

A decision will be based on an understanding of the facts and issues in dispute and any advice of a settlement advisory panel, or legal or other expert opinions relevant to the matter being considered.

A settlement can only be approved by an officer who has delegation or authorisation to do so.

7. Responsibilities

During settlement negotiations parties are expected to:

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- act fairly, honestly and in good faith, and
- disclose to the best of their knowledge and belief, relevant and material facts which relate to the matters in dispute.

Parties must adhere to the terms of the settlement agreement unless it emerges that relevant and material facts were not disclosed.

8. Settlement deed

Settlements must be finalised by the parties signing a written agreement which sets out the terms. The usual form of the agreement is a deed of settlement. A settlement deed must represent the final agreed position between the parties (including any payment or future obligations).

Settlement agreements are intended to resolve the matters in dispute for both parties. A settlement agreement will only be varied in exceptional circumstances if requested by the taxpayer who is party to the agreement.

The ATO has model deeds available to use as a basis for a deed of settlement.

9. Future years

A settlement agreement provides a reasonable basis for treating similar issues in future years unless it is specifically stated that it is not to apply for future years or transactions, or:

- the taxpayer's circumstances change materially
- the application of the law remains unclear
- there have been subsequent amendments to the law
- a taxation ruling has been released on the issue, or
- there has been a subsequent court or tribunal decision on the issue.

The ATO can provide greater certainty to a taxpayer for future years if required.

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10. Further information

Examples and illustrations of how the code operates in practice are available here:

General information

- [ATO Disputes policy](#)
- [ATO Dispute management plan 2013-14](#)
- [Practice statement PS LA 2013/3](#) – *Alternative dispute resolution in Tax Office disputes and litigation*
- [Practice Statement PS LA 2007/6](#) – *Guidelines for settlement of widely-based tax disputes*
- [Practice Statement PS LA 2009/9](#) – *Conduct of ATO Litigation*

APPENDIX 3 – ATO COMPLIANCE STRATEGIES

- 1 The Compliance Group delivers the ATO's compliance program which outlines to the community both the areas of risk that will attract the interest of the ATO and the compliance response to those risks.
- 2 Our compliance strategies are designed to help taxpayers comply with their tax and super obligations. We:
 - try to make it easy to comply
 - help taxpayers comply
 - detect non-compliance, encouraging others to do the right thing and deterring those who do not
 - use the full force of the law if people decide not to meet their tax obligations.

How we check compliance

- 3 While most people are willing to meet their tax and superannuation responsibilities, a minority are not. We undertake a range of measures to ensure we identify those who seek to avoid their responsibilities.
- 4 There are penalties and interest regimes in place to deal with taxpayers, superannuation funds and trustees who do not fully meet their responsibilities. If evasion or fraud is detected, we take much firmer action. In all situations, our commitment is to treat our clients fairly and professionally, in accordance with the law and our administrative policies. We expect our clients to be honest with us and provide any reasonable assistance and information we require.
- 5 We are also focusing more strongly on early intervention measures to encourage compliance and avoid the need for stronger measures, making it easier and cheaper to comply.

Self-assessment

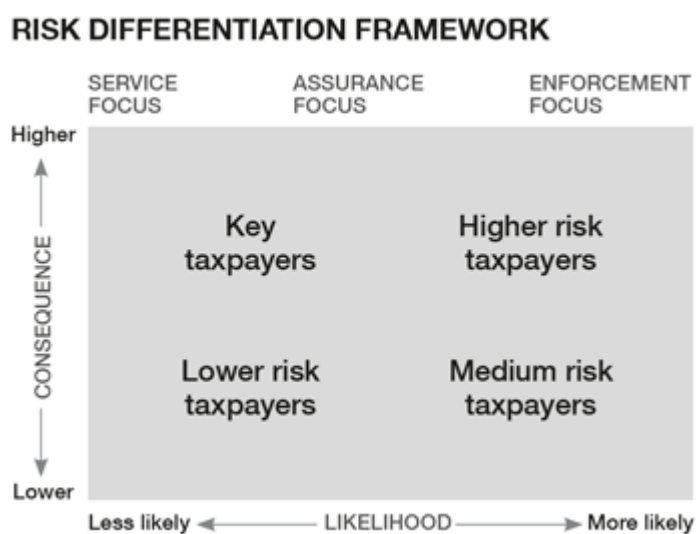
- 6 Our system of self-assessment allows clients to assess the amount they must pay or are to be refunded through the lodgment of the relevant return for the reporting period. This applies when an income tax return or activity statement is lodged. Even though

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we accept the return or activity statement it may still be subject to review at a later stage.

Our approach to compliance

- 7 Our compliance model is a structured way of understanding and improving taxpayer compliance. It helps us to understand the factors that influence taxpayer behaviour and to apply the most appropriate compliance strategy.
- 8 We take a risk management approach to compliance and are increasing our efforts to differentiate our engagement with businesses and tax practitioners, based on our view of their relative likelihood of non-compliance and the consequences of any potential non-compliance. This includes profiling large businesses, tax practitioners, approved self-managed superannuation fund auditors and highly wealthy individuals and categorising them based on the risk they pose to tax revenue or other elements of the system. We use this 'risk differentiation framework' to make our decisions about who we will 'risk review'.
- 9 Our risk differentiation framework categorises taxpayers into 4 risk categories and can be applied across various populations. Our categorisation does not influence the outcome of a risk review, but it will influence the likelihood of us reviewing a taxpayer and the formality and intensity we adopt.



Small business and individuals compliance and dispute management

- 10 As explained above, income tax compliance and review activities are conducted under various reporting structures, described as business lines.
- 11 These business lines apply the [compliance model](#) as a structured way of understanding and improving taxpayer compliance. Applying the model helps us to understand the factors that influence taxpayer behaviour and to apply the most appropriate compliance strategy.
- 12 The following information outlines the client experience from these approaches for:
 - clients with simpler affairs (most individuals and small businesses) and
 - clients with more complex affairs.
- 13 In addition, we also explain how we pay particular attention to some higher risk behaviours that may manifest in any market.

Clients with simpler affairs

- 14 Clients with simple affairs generally include:
 - Individuals: Over 12 million individuals lodge tax returns and the vast majority are willing to comply with their tax and super obligations. We focus on providing information and tools to make lodging their returns as easy as possible. This year this includes an option for many individuals to lodge via myTax, our new streamlined tax return designed specifically for people with straightforward tax affairs. Available on tablets, smart phones and computers, this new return is a fast, convenient way to lodge a tax return.
 - Small businesses: A significant proportion of the estimated 3 million small businesses have simple affairs. Some of these clients may find it difficult to meet their tax and super obligations because they lack time or resources, or have inadequate record keeping and business practices. Recognising the challenges small businesses face, we actively support these businesses to comply with their obligations.

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Making it easy to comply

- 15 Clients with simple affairs will generally have an income tax obligation, and some may have other obligations, such as goods and services tax, or, if they are a small employer, Pay As You Go Withholding and superannuation obligations.
- 16 Our approach is to consult, educate and guide these clients, with a focus on those engaging with the tax and superannuation systems for the first time. We also provide tailored information to clients who we can identify are likely to be affected by a tax law change.
- 17 Our products include simple to use calculators and tools that assist these clients manage their obligations. This year we released some of these tools on our ATO App, meaning businesses have the option to access these services away from the office via their smartphone.
- 18 We focus on supporting new clients entering business, providing more of our products and services online, providing high quality and timely advice, and the early resolution of disputes.

Assistance and support

- 19 We use our comprehensive information-matching capability to provide clients with the information we already hold about them for their review and inclusion in their tax return when we can.
- 20 More than 600 million transactions are reported to us annually from sources such as banks, share registries, employers, merchants, states and territories and other government departments. By providing this information we help people get it right the first time and reduce the need for follow-up activity.
- 21 For small businesses we also offer early assistance and intervention to help them meet their obligations. For example, we provide an online payment plan estimator to assist businesses manage their debt before it reaches unmanageable levels.
- 22 For clients with simple affairs employing staff can be quite daunting. We support employers to do the right thing by providing tables, calculators, tools and other information to help them meet their obligations.

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- 23 Our clients are generally effective in undertaking their goods and services tax obligations, guided by tools, systems and support from intermediaries.
- 24 However, while surveys suggest that small businesses generally feel engaged, comfortable and confident with the tax system, approximately one third of small businesses indicate a level of confusion and lack confidence with their goods and services tax obligations.
- 25 We have therefore increased our efforts to improve community confidence for small businesses, launching online a tool called Small Business Assist to give impetus to our encouragement for small businesses to appropriately participate in the goods and services tax system.
- 26 For employers with superannuation obligations, we are implementing SuperStream. This is a new data and payment standard which provides a consistent and reliable electronic method for making rollovers and superannuation contribution payments. This will simplify the contributions process, reducing unnecessary costs and time for funds and employers, resulting in a more efficient superannuation system (including superannuation guarantee for employers).

Detecting, and dealing with, non-compliance

- 27 For clients with simpler affairs we apply fair and equitable measures to check taxpayers' compliance with their obligations. This includes end-to-end risk mitigation strategies that include targeted compliance approaches, balanced with help and support. Our compliance activities are differentiated and include letter and telephone contact, visits, reviews and audits.
- 28 We use data matching to assist taxpayers meet their obligations, but also to detect undeclared income or gains and incorrect or fraudulent claims, and in doing this, we protect Australians who are doing the right thing in meeting their obligations.
- 29 We do identify failure to report income and over-claiming of concessions across the small-to-medium business spectrum, from small businesses attempting to hide income and operate in the hidden or cash economy to companies inappropriately seeking capital gains tax concessions available to business.

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- 30 We have expanded our information-gathering capabilities to include more small business transactions, such as payments to contractors in the building and construction industry and capital gains from the sale of shares and property.
- 31 We check compliance through reviews and audits. Reviews are designed to maintain compliance through a mix of intelligence collection, analysis and explanation. Audits address the risk of non-compliance and involve examination of records to establish the correct liability and / or enforce adherence to obligations.
- 32 Our reviews include checks of individuals, small business and employers' compliance with the superannuation guarantee system and the compliance of self-managed superannuation funds.
- 33 The vast majority of employers understand and comply with their superannuation guarantee obligations. We provide information and support tools, including electronic eligibility tools and calculators to help those willing to comply, and investigate employers where we have evidence they are not meeting their obligations.
- 34 The compliance of self-managed superannuation funds with their regulatory and income tax obligations is a significant element in the integrity of the superannuation system. We are expanding our suite of online tools, including some on the ATO App, to assist trustees and approved self-managed superannuation fund auditors.
- 35 Where a person has made an error due to poor record keeping or a misunderstanding of the law, we work with them to make corrections and improve their understanding of their obligations.
- 36 Where a person has deliberately lodged incorrect information penalties may be considered.

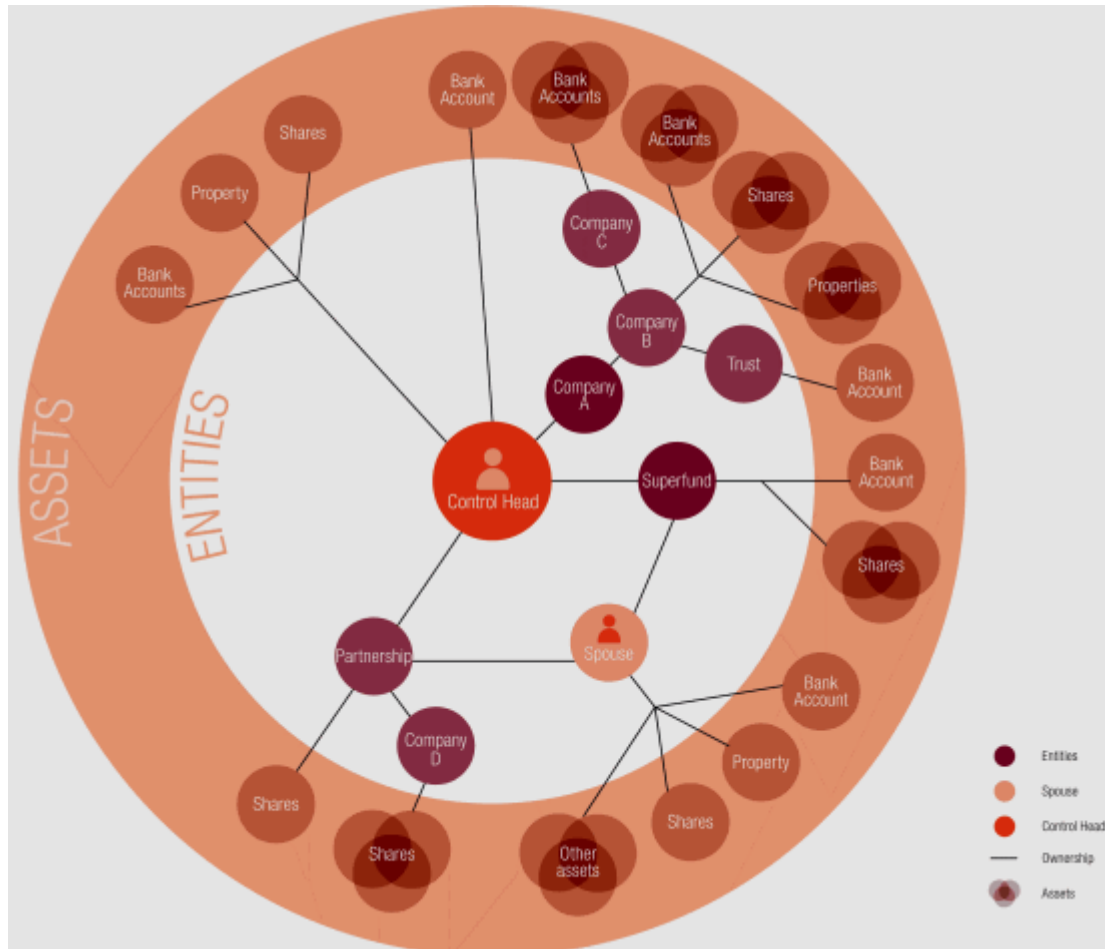
Clients with more complex affairs

- 37 Our compliance strategies for taxpayers with more complex affairs support taxpayers willing to participate and who need our assistance, but also deal firmly with those not willing to comply.
- 38 The way that taxpayers manage their tax risks, including their compliance approach and their dealings with us, influences how we interact with them.

Private group approach

- 39 We use a private group approach to identify and profile wealthy individual taxpayers and their groups within the small business market.
- 40 A 'private group' is a group of entities under the control of an individual and their associates. By control, we mean effective control where an individual has the key decision-making role over the business.
- 41 The private group approach links all entities related to a controlling individual. Subject to privacy restrictions, we generally deal with the head of the group rather than separate group entities when carrying out our activities.
- 42 This approach allows us to better understand the behaviour of the controlling mind behind a private group structure. Using data-mining techniques, we are able to detect relationships between privately grouped entities, including wealthy individuals, companies, trusts and partnerships. As a consequence, we can effectively risk-assess compliance behaviours at a holistic group level rather than at an entity level.
- 43 In addition, the private group approach streamlines our risk-assessment procedures across risks and entities. Approaching taxpayers through a single contact for income tax matters ensures more efficient use of our officers' efforts and helps to minimise the cost of compliance for taxpayers. We also use the same approach from indirect tax matters, where it is appropriate – for example in dealing with property developers operating through the use of several special purpose entities to enforce GST obligations.
- 44 From an organisational perspective, we apply our risk differentiation framework to such private group structures, applying tailored approaches and strategies depending upon the size of the economic group, the industries in which they operate and our understanding of their compliance risks and their willingness to engage with the ATO.

Example of a private group



Making it easy to comply

- 45 We deliver the same range of products, services and strategies discussed above to assist taxpayers with more complex affairs in meeting their taxation, superannuation and employer obligations, while recognising that they will have a wider range of such obligations because of the various entities within their private group.
- 46 The degree of sophistication and level of tax knowledge across taxpayers with more complex affairs varies widely, increasing depending on the size of their private groups. There is also an increasing degree of sophistication in the access they have to professional advisors with whom we work closely to support compliance.

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- 47 In contrast, many not-for-profit organisations (also entities with more complex affairs) are run by volunteers who may have minimal tax knowledge and may not be represented by tax professionals in all their dealings with the ATO.
- 48 In 2012, the ATO issued a booklet explaining its [compliance approach for Small-to-Medium enterprises and wealthy individuals](#). This booklet was co-designed with representatives from the tax profession and explains the mutual expectations between private group taxpayers and the ATO in our interactions. This web-document explains the ATO's approaches to compliance work for these taxpayers and clearly articulates our commitment to early and direct engagement, alternative dispute resolution and settlements where these are achievable.

Detecting, and dealing with non-compliance

- 49 Our compliance approaches for taxpayers with more complex affairs are tailored to reflect different taxpayer attitudes to compliance. As well as responding to tax risks, we also aim to influence behaviour so that taxpayers become more willing to do the right thing.
- 50 We vary our interactions with taxpayers based on our view of their relative likelihood of non-compliance and the consequences of that behaviour. We verify taxpayer compliance using a mix of approaches including compliance verification checks, risk reviews and audits where we perceive a relatively high likelihood of non-compliance and the resulting undesirable consequences.
- 51 Our compliance activities comprise a mix of services, help and active compliance processes tailored to the causes of compliance risk. Activities include campaigns and telephony, pre-lodgment advice, questionnaires and data matching. We are able to move quickly between our assurance processes, to interact with taxpayers, conduct examinations and then progress to the next risks we identify.

Differentiated approaches

- 52 Where we detect potential non-compliance, whether through risk assessment, data matching or referral from another government agency or community member, we adopt differentiated approaches. The intensity of our interaction with taxpayers increases with the compliance risk and we are committed to providing taxpayers with

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opportunities to voluntarily self-correct their positions once we inform them of our concerns – both to reduce costs of compliance and to reduce the incidence of later disputes.

- 53 Our contact with taxpayers can begin with a basic integrity check or information request to help us to assess whether a risk is present. We may proceed to a risk review or audit where we have detected an issue requiring further examination. At this stage, we will provide opportunities for taxpayers to voluntarily disclose any known errors or non-compliance. Voluntary disclosures lead to a reduction in penalties that may otherwise be imposed and reduce the incidence of disputes. Where we make an audit adjustment, penalties and interest may be severe. The most serious cases of fraud and evasion can lead to prosecution or related litigation.
- 54 As with income tax, we are increasingly focusing on early intervention and prevention for indirect taxes. We intend our compliance approaches to provide an acceptable level of assurance that a taxpayer has correctly reported their goods and services tax and excise obligations. Our approach encourages the taxpayer to self-review potential issues identified and advise us of the outcome, including any errors they find. We may undertake this assurance activity via phone, correspondence or face-to-face.
- 55 Where we complete an audit of a private group and perceive an ongoing risk of non-compliance, we may request additional information annually through an expanded tax return.