



**Australian Government**  
**Australian Taxation Office**

# Australian Taxation Office Submission

Standing Committee on Tax and Revenue

February 2018

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# Commissioner's foreword

2016-17 was both a successful and challenging year for the ATO.

It was a year that saw the ATO deliver a highly successful Tax Time; increase pre-filling of data and improve the experience with myTax; have significant wins in the courts; achieve good results under Taskforces; including the newly established Tax Avoidance Taskforce; increase our use of early engagement and alternative dispute resolution; provide improved advice, guidance and assistance; engage meaningfully with small business and tax agents, in particular via our community conversations in regional and metro locations; continue leadership, contribution and participation in the OECD's Forum on Tax Administration's work program, including projects such as the Panama Papers (and now the Paradise Papers); and keep focussed on tackling tax crime.

And while this Committee's inquiry is focused on 2016-17, we are pleased to let you know that Tax Time 2017 was even more successful than 2016 – in terms of ease of experience, speed of return, client satisfaction and number of complaints. Despite the setback of the Storage Area Network (SAN) failure and the consequential outages, we were able to recover, rebuild, reprioritise and deliver Tax Time 2017 to even better levels than 2016.

This was an outstanding effort of the ATO, our IT partners, the superannuation industry and the tax profession – and I want to acknowledge the patience, persistence and commitment by everyone to making things work during 2016-17. We are now embarked on an IT Systems Improvement Program to build resilience, capability and performance of our IT systems – to ensure we reduce the risks of unplanned degradation or interruptions and to be fit and secure for the increased provision and use of digital services and the rising volume of data.

As I said at the time of finalising our annual report last year, we have been very conscious of the need to restore confidence in our services, performance and integrity. We are still extra attentive to these issues; and while we have gotten on with business and our Reinvention, in addition to the IT Program, we have invested heavily in our relationship and services for the tax profession, increased our engagement with the superannuation industry, raised the profile of our assurance and enforcement activities in different segments, increased our own scrutiny internally and appointed a new Integrity Advisor.

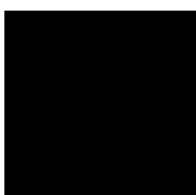
And while we have challenges, just like all other APS agencies, large organisations and counterpart revenue authorities, we are in a good position to finish 2017-18 on a high note with trust and confidence in us restored.

In the attached submission you will find additional information on the topical matters the Committee has expressed an interest in:

- Operation Elbrus
- Support for Small Business
- Debt and payments
- Administration of the Australian Business Register

We look forward to discussing these matters, and other aspects of our Annual Report 2016-17, at the hearing set for 28 March.

Yours sincerely



**Chris Jordan AO**

Commissioner of Taxation and  
Registrar of the Australian Business Register

# Operation Elbrus

1. Operation Elbrus was a joint operation between the ATO and the Australian Federal Police (AFP) assisted by the Australian Criminal Intelligence Commission that became public in May 2017. It was (and is) an excellent piece of investigative work and demonstrates the capabilities of the agencies involved to separately and jointly detect and take action against those we have reason to suspect are doing the wrong thing.
2. The investigation was originally conducted covertly over several months, on a strictly need to know basis and confidentiality was maintained throughout. As the AFP has stated, they received “significant co-operation from the Australian Taxation Office who provided us with expertise to assist us throughout the investigation”. ATO officers were also present “on the ground” to assist in the execution of the warrants when that point was reached.
3. There are multiple legal proceedings on foot and these will take some to work through and finalise.
4. Operation Elbrus has been operationally successful so far, however the association of former Deputy Commissioner Michael Cranston by way of family connection gave rise to questions about the ATO’s integrity, its people, processes and culture.
5. As has been said publicly before, what we know to date is that Michael Cranston is not suspected of being involved in the syndicate and its activities of defrauding the Commonwealth. Evidence to date shows that at no time did Michael Cranston directly access taxpayer data systems or the audit cases under this investigation. While the Inspector General is yet to make findings in his review there is no evidence that we are aware of, of actual intervention or influence on the audit cases, or of money being refunded, or of tax liability being changed. And no deals were done.
6. We have a very strong culture of integrity and our procedures, controls and monitoring systems work well. In this case, when the family link was identified, the ‘tension’ referred to above was anticipated and safeguards were put in place. Those safeguards worked.
7. The ATO has a long history of quality tax administration and a strong culture of integrity. We understand the importance of community confidence in the ATO and in our integrity, objectivity and expertise.
8. We have an extremely low incidence of fraud by ATO staff and it is rare for there to be any doubt about the honesty of the people in the ATO. We have robust frameworks, policies and procedures in place to support a culture of professionalism and high ethical standards, and our procedures, controls and monitoring systems work well and worked well in this case. But of course where people are involved, you cannot completely eliminate risk and no system is infallible.

9. However, we have zero tolerance towards fraud and corruption and we take all reasonable measures to prevent, detect and respond to fraud and corruption risks so that the community can trust and be confident in its tax and superannuation administration.

## Integrity and fraud control work program

10. Process improvement is an ongoing ATO business activity, and since Elbrus we have paid particular attention to ensuring our integrity controls are of the highest standard. Some of the work we have undertaken is listed below.
- We appointed Dr Simon Longstaff AO as an independent Integrity Adviser to help reinforce a culture that personifies and values integrity. This role focuses on education, support and advice, rather than conformance and governance. Dr Longstaff is eminent in the ethics field and is currently the Executive Director of The Ethics Centre.
  - We have established an Integrity Unit to provide a focal point for integrity. The Unit will articulate the ATO's integrity expectations, use a wide range of intelligence sources to identify and analyse any integrity risks and emerging trends, and centrally manage our new integrity register where we keep records of declarations of private interests and conflicts of interest, the gifts register and details of outside employment.
  - We reviewed and refreshed, as we do annually, our overarching Fraud and Corruption Control Plan, which is a mandatory requirement of the Commonwealth Fraud Control Framework. We also published the plan for the first time on our website, to be transparent and assist the public to understand our approach.
  - We commissioned an independent assessment of our Corruption Risk Profile to ensure that our frameworks, including integrity, were and are, fit for purpose. (This assessment and review is yet to report to me).
  - Our Fraud Prevention and Internal Investigations and Internal Audit branches jointly examined our conflict of interest regime to see where improvements or enhancements could be made. This has resulted in a number of changes including:
    - An updated Conflict of Interest Chief Executive Instruction, including additional examples of when a conflict might arise, as well as associations or relationships that should be reported. This helps staff know what needs to be reported.
    - A centralised declarations register that includes other integrity related declarations (e.g. gifts, outside employment) to enhance cross checking.
    - A new process to ensure conflict of interest declarations of our SES are updated regularly, and that any conflicts are managed appropriately.

- We are continually looking for ways to expand our integrity monitoring and detection capability. Work with the Department of Human Services has identified new data/analytic opportunities and these are being implemented.
- A model was developed to identify high risk positions throughout the ATO. These are positions where potential misconduct by the occupant would seriously undermine confidence in the ATO's integrity, and which might therefore warrant additional treatments or controls (e.g. extra or more frequent integrity checking). This is currently being applied across our SES employees.
- We have updated the process by which we identify any mismatches between security clearances held by employees and the level of clearance required for the role. Appropriate action to address the mismatch is then implemented.
- Our mandatory integrity-related training has been updated to include the changes identified above. We have also implemented a revised process to ensure that the training, including the regular refresher training, is completed within specified timeframes.
- We included 'integrity' as a prominent focus in our annual Security and Fraud Awareness week. Thirty one sessions were held across the ATO.

## Next steps

11. Our Integrity Adviser will be asked to provide a further level of assurance around our efforts to shore up our approaches to integrity matters, and we will respond to any further enhancement opportunities identified. We will also have regard to any additional insights which may be identified when the Inspector General of Taxation (IGT) reports to the Senate Economics Reference Committee towards the end of this financial year.
12. We continue to work collaboratively with external bodies, particularly the AFP and the CDPP, to identify and respond to criminal activity. We also actively contribute to a range of taskforces and committees whose focus is the disruption of financial crime (e.g. the Serious Financial Crime and Phoenix Taskforces) and the prioritisation of serious financial crime risk treatments across the Commonwealth (e.g. the Serious Financial Crime Taskforce CEO Forum).

# Administration of the Australian Business Register

13. The Australian Business Register (ABR) is the source of registered business information for government and businesses operating in Australia. Since its introduction in 1999, the ABR has undergone significant improvements that have provided greater transparency and simpler reporting requirements for Australian businesses.
14. The Commissioner of Taxation is also the Registrar of the ABR. The Registrar has separate and distinct responsibilities as outlined in section 28 of the *A New Tax System (Australian Business Number) Act 1999*. Part of this role includes implementing a comprehensive compliance program to ensure the accuracy and reliability of the ABR, so that partner government agencies and the community can have confidence in the ABR information that is made available.

## Ensuring integrity of the register

15. Under the *A New Tax System (Australian Business Number) Act 1999 (ABN Act)*, ABNs are for people carrying on a business or taking steps to start a business. The 'enterprise test' is set out in the GST Act and it excludes employees from eligibility for an ABN. Companies registered under the *Corporations Act 2001* are automatically entitled to an ABN.
16. To ensure government agencies and the community can have confidence in the information contained on the ABR, we undertake a comprehensive integrity program to keep the ABR up to date. We will identify and cancel ABNs when:
  - an ABN was issued where an entity registered for an ABN under an identity that is not its true identity
  - there is no entitlement to an ABN
  - the business is no longer in operation.
17. In 2016-17, there were 810,000 ABNs cancelled by clients and the Registrar, and of these approximately 70,000 were compliance cancellations. We recognise the impact a decision to cancel an ABN could have on an individual who had been issued with an ABN. In considering the cancellation of an ABN, we contact the ABN holder to provide them with an opportunity for input into our deliberations, keeping them informed and working together to minimise impacts.



18. In addition to ensuring the integrity of the ABR, the Registrar must effectively administer the ABN legislation in a way that remains contemporary in today's world, and does not create unintended barriers for businesses and workers to meet their ABN obligations. This is of particular relevance given the impact of technological development on working arrangements, as demonstrated by the rise of the 'sharing' or 'gig' economy.

## Increasing usage of the ABR

19. There are currently over 500 partner agencies (local, state and federal) who have access to the business information contained in the ABR. In addition, ABN Lookup searches, which allow anyone to freely access publicly available business information (and available via the ATO app), have increased by 32.5 per cent from 2015-16, to over 770 million in 2016-17. This large increase is partly due to the use of business accounting software that automatically checks an ABN's validity before transactions occur.
20. We continue to see increased usage of the ABR by government agencies and the community for the purposes of enhancing business productivity, improving government service delivery, assisting disaster management strategies, and enhancing compliance capabilities. Our focus on increasing usage of the ABR continues through:
  - improvements to the ABR Connect program, which allows eligible government agencies to retrieve public and non-public details of ABN records, reducing the need for agencies to separately collect core business information, and reducing the reporting burden for business. In 2016-17, there were six agencies connected to this system and the numbers continue to grow
  - promotion of ABR Explorer, which allows government agencies to search, query, view and download ABR data. In 2016-17, there were 232 agencies using this service, an increase of 66 per cent from the previous year.

## Improving experience with the register

21. There is an increasing expectation from business to be able to easily and seamlessly deal with the government. We have introduced a number of initiatives to deliver on this, including:
  - increasing on-the-spot decisions for online ABN applications from 74 per cent in 2015-16 to over 90 per cent
  - enabling businesses to apply for ABNs, Australian Company Numbers and tax registrations in one place through the new Business Registration Service (BRS) with ASIC and The Department of Industry, Innovation and Science.

22. The Government is also considering establishing a whole-of-government registry platform that will deliver modernised business registration and licensing services for the Australian community. This follows the decision by Government in December 2016 not to proceed with the privatisation of the ASIC Registry business.

## Supporting honest businesses

23. The ATO's strategy to address the cash and hidden economy focusses on protecting honest businesses from unfair competition.
24. In June 2017, the ATO commenced the Supporting Honest Businesses Program focussing on cash only businesses across Australia. This program is often referred to as 'cash-only visits'.
25. This follows on from our successful work with the Working with Industry campaign. This campaign had a specific focus on certain industries which resulted in 5% increase in on time income tax lodgement for businesses visited and an 8% increase for the area. Through the course of the program there was a 34% increase in the numbers of reports to the Tax Evasion Reporting Centre for the hair and beauty industry. Our visibility in the community under the Work with Industry program included over 1,200 business visits and resulted in over \$6.6mil in tax and penalties raised. As a result of these outcomes, we expanded our approach to all industries under our Supporting Honest Business program.
26. The use of cash by a business while legitimate provides greater opportunities for businesses and individuals to avoid tax and superannuation and other obligations. This includes:
- under reporting sales and income
  - failing to meet employer obligations including underpaying wages, keeping employees off the books (which means employees can avoid tax and social welfare obligations), failing to withhold tax, and failing to meet superannuation obligations
  - receiving social welfare benefits that the individuals are not entitled to (which can motivate individuals to request being paid cash off the books), failing to meet obligations like child support, not meeting visa requirements such as work hours restrictions under student visas.
27. Regions with a high proportion of cash-only businesses are identified through ATO data, cross-matched with third party data, including merchant facility data and community information. Businesses without electronic payment facilities are considered at risk of cash economy behaviour.
28. Businesses in the identified regions are notified of the program by letter and are invited to participate in a local information session. Local tax practitioners are also notified of information sessions and visits in advance.

29. The local information sessions are supported by an ATO Recordkeeping Workshop and a presentation from the local Business Enterprise Centre Australia (BECA). The presentations delivered by BECA provide practical basic tax information that a new business can utilise in order to meet their tax affairs.
30. Since June 2017, 510 businesses and tax practitioners in the identified regions have participated in the information sessions.
31. Visits commence after the information sessions, providing tailored education and assistance. This includes information about the ATO's digital offer, key contacts and tax evasion reporting options.
32. Following the visits, approximately 60 per cent of businesses are subject to follow up action. For example, some are offered the opportunity to undertake a recordkeeping workshop if we identify record keeping problems. We also provide information on electronic payment options. Higher risk taxpayers are provided an opportunity to voluntarily disclose any errors or omissions before an audit may be initiated.
33. Since June 2017, we have visited 2,600 businesses in areas with a high proportion of cash-only businesses, including: Cabramatta (NSW), Werribee (VIC), Sunnybank (QLD), Liverpool (NSW), Glen Waverley (VIC) and Glenelg (SA).
34. In 2018, the following areas will be visited: Mandurah (WA), Bateman's Bay, metropolitan Sydney and Chatswood (NSW), Toowoomba and Cairns (QLD), Western Adelaide (SA) and metropolitan Melbourne (VIC).
35. The program is promoted through local events, media and through stakeholders. Letters sent to businesses inviting them to attend the program are available in a variety of languages including Arabic, Chinese, Greek, Indonesian, Italian, Japanese, Korean, Thai, and Vietnamese. Language interpreters are also available.

## Insights from cash-only business visits

36. The program has identified a range of issues including:
  - many businesses not meeting their recordkeeping obligations with some businesses admitting to not recording all sales or estimated sales figures. There are many reasons why businesses do not meet their recordkeeping obligations, from a lack of recordkeeping awareness through to an intention to commit tax evasion. Where there is a lack of awareness, we provide recordkeeping support during the visits and through recordkeeping workshops
  - businesses not recording their sales appropriately
  - a general misunderstanding of employer obligations, for example, not registering for PAYGW when employing family, and not paying superannuation
  - some businesses operating outside of the tax system, without current ABN and/or GST business registrations.
37. Businesses are often willing to share local knowledge of those who are not operating on a level playing field, including paying cash wages and not reporting all sales.
38. Feedback from the community on the program, including from tax practitioners, has been positive and our staff have been welcomed by the majority of businesses.
39. As this particular component of our treatment of the cash economy is new, the outcomes will be measured over future years. We have developed an evaluation framework that will measure the changes in behaviours. Outcomes to be measured include the uptake of electronic payment facility options, increases in revenue, improvements in correct reporting, increased awareness of the ATO strategies targeting the cash and hidden economy and increased community confidence that small businesses are complying with their tax and superannuation obligations.
40. This new component treating all small businesses in a higher risk region, aims to influence the behaviours of a wider group of small business.
41. This program will be supported by the work of the Small Business Digital Taskforce, focusing on improving access to digital services for small businesses, so they can operate more efficiently.

42. The landscape of the cash economy is evolving with the rapid take up of new technologies and payment methods, such as ‘tap’n’go’ payments. For example, anecdotal experience suggests a small but growing number of consumer facing business operating on a ‘no-cash’ basis. These changes in the behaviours of businesses and consumers will influence the future operating model of the cash economy. ATO approaches to compliance will adapt with these changes, enabled by the availability of increased electronic data and the release of the Black Economy Taskforce report this year is likely to have an impact on the direction of our activities in this space.

## Tax debt and payment

### Our approach

43. The ATO makes it as easy as possible for clients to pay their tax on time using a wide range of tools, payment channels and self-serve payment options.
44. We are increasing our use of analytics and behavioural insights to gain a greater understanding of payment behaviours, and applying these insights to better tailor our services and interactions with clients.
45. We recognise that clients may occasionally experience short term cash flow issues that prevent them from paying on time. To assist, we offer payment plans tailored to their individual circumstances.
46. We also recognise that clients can experience longer term financial difficulties due to challenging economic conditions or unexpected events. We take an empathetic approach to working with these clients to get them back on track.
47. Where clients experience serious hardship we provide targeted support using a range of debt relief options, including release from payment in some cases.
48. For the minority of clients that don’t engage with us to address their tax debt we take timely action to prevent them gaining an unfair financial advantage over the majority that pay, ensuring a level playing field for all.

## Tax payment performance

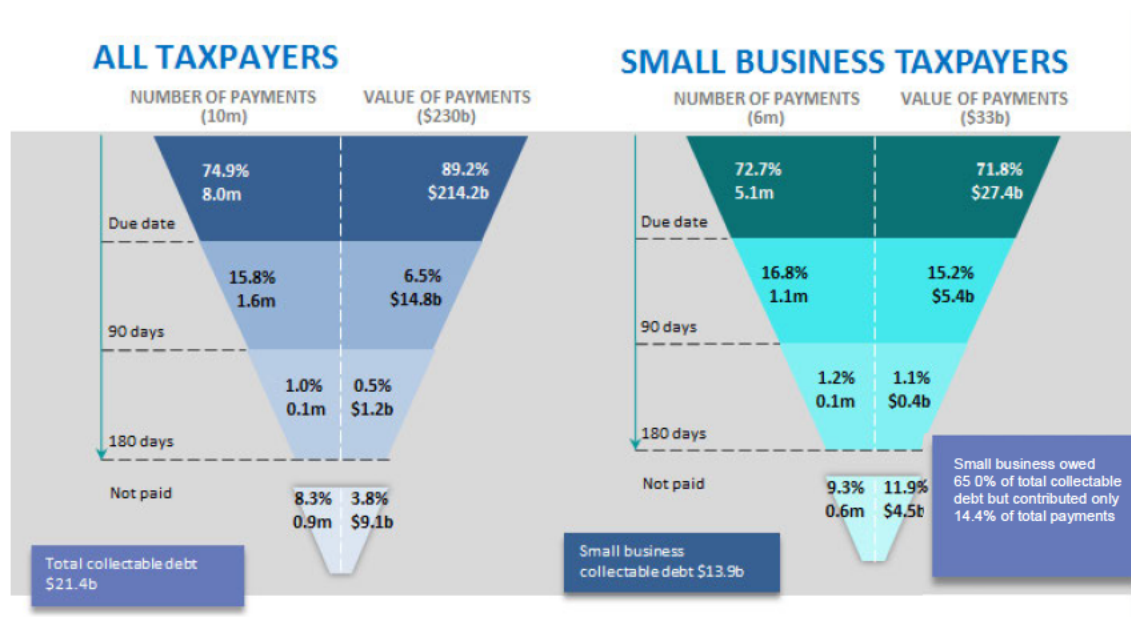
49. The proportion of liabilities paid on time by value in 2017-18 (1 July 2017 to 31 December 2017) was 89.2 per cent, which is achieving the Portfolio Budget Statements target of above 88 per cent.
50. The 12-month rolling average of the ratio of collectable debt to net tax collections at 31 December 2017 was 5.8 per cent, which is not achieving the Portfolio Budget Statements target of below 5.5 per cent. Current trends indicate that we are highly unlikely to meet the target at the end of 2017-18 due to increasing inflow of collectable debt leading to increasing collectable debt holdings.
51. Collectable debt at 31 December 2017 was \$21.4 billion, a year on year increase of 8.5 per cent. In the twelve months to 31 December 2017, net tax collections grew at a similar rate (8.4 per cent) compared to the same period the prior year. Collectable debt is debt that is not subject to objection or appeal or to some form of insolvency administration.
52. Key growth areas were:
  - activity statement debt, which grew by \$1.3 billion or 11.0 per cent year on year
  - small business debt, which grew by 1.5 billion or 12.2 per cent year on year
  - debts of \$100,000 or more, which grew by \$1.2 billion, or 13.2 per cent, year on year.

## Small business debt

53. Small business, which owed 65.0 per cent of total collectable debt at 31 December 2017 but contributed only 14.4 per cent of total payments for liabilities due in 2017-18 (1 July 2017 to 31 December 2017). Clearly, reducing the level of small business debt is a key focus for us and we will be working with stakeholders to identify ways to improve this situation.

54. We recognise that even viable, well-run small businesses may occasionally experience short term difficulties that prevent them from paying on time. Drivers of small business tax debt include:
- poor record keeping
  - insufficient cash flow
  - a lack of understanding of tax obligations
  - de-prioritising tax obligations.
55. We offer a range of tools and services to help make it easier for small businesses to meet their obligations.

**Figure 1 - Payment and non-payment in 2017-18 (year to date 1 July 2017 to 31 December 2017)**



**Table 1 - Key performance measures**

Performance measure	31 Dec 2016	31 Dec 2017
Proportion of liabilities paid on time	89.6% Target: above 85%	89.2% Target: above 88%
12-month rolling average of the ratio of collectable debt to net tax collections	5.4% Target: below 5.5%	5.8% Target: 5.5%

## International comparison

56. We participate in the Organisation for Economic Co-operation and Development's Forum (OECD) on Tax Administration program and we are a member of an informal working group of five revenue agencies referred to as the International Debt Management Committee.
57. Although international comparisons are challenging due to different taxes, legislation, methodologies etc., we have consistently compared favourably to other revenue agencies across a range of key indicators, such as collectable debt as a percentage of collections. We are also a leader in terms of our use of behavioural insights and development of analytical models.

## Improving the client experience

58. We are continuing to expand the range of contemporary tools and services we provide to make it as easy as possible for clients to pay on time or manage any debt that arises. This includes:
- enabling pre-payments of activity statement liabilities to assist clients in managing their cash flow
  - sending preventative SMS payment reminders for those clients likely to pay late or not at all. In 2016-17 we sent 560,000 reminder SMS which resulted in payments of \$800 million
  - sending SMS payment reminders after a lodgment due date has passed for those who have not yet paid



- expanding the visibility of ATO accounts online, with individuals and sole traders now able to view activity statement accounts and pay activity statement debts online (previously this was only possible for income tax)
- providing an online payment plan estimator to help clients work out an affordable payment plan tailored to their circumstances (within parameters)
- increasing the amount that payment plans can be entered into from \$25,000 to \$100,000 via our automated phone service
- enabling individuals and sole traders to set up payment plans for debts up to \$100,000 via the ATO website for both income tax and activity statement debts
- accepting verbal direct debit payment plans over the phone from tax agents and/or authorised representatives where there is no existing direct debit request authority
- providing a business performance check tool as part of the ATO app for business operators to quickly check the financial health of their business
- providing an online business viability assessment tool which helps business operators determine whether their business is viable
- re-designing debt letters to make it easier for clients to understand why they are getting the letter, what they have to do, how they can do it, when they have to do it, by and the consequences if they do not take action
- picking up the phone earlier to talk to clients and having natural, tailored conversations about payment of their debt.

## New measures

### Tax debt transparency

59. The Government has announced that the ATO will soon be able to disclose to credit reporting bureaus the tax debt information of businesses that have not effectively engaged with us to manage these debts.
60. Providing transparency of tax debts aims to:
  - reduce unfair financial advantages for businesses that do not pay their tax on time
  - provide valuable information to credit providers and other businesses when determining the risk of extending credit or terms of trade to a business with unpaid tax debts that are not being addressed with the ATO
  - provide an extra incentive for businesses to engage with us and, where an entity is unable to pay a tax debt in full, enter into a payment plan to repay their debts, which will exclude them from credit reporting.

61. Implementation will occur gradually under a phased approach to assess and assure processes, with only a small number of businesses being reported to credit reporting bureaus initially.
62. Under the measure we will have discretion to disclose business tax debt information to credit reporting bureaus, but the measure does not oblige us to disclose this information.
63. Business debts will only be reported to a credit reporting bureau if a client remains disengaged after we have undertaken our usual debt collection activities which could include a letter, phone calls or SMS messages.
64. A business will be notified in writing that we intend to refer their tax debt to a credit reporting bureau before we pass on the information. The business will have 21 days to contact the ATO to address their debt, query being reported or request an internal review.
65. Businesses that are working with us to resolve their debt will not have it reported. Debts genuinely in dispute will not be reported nor will debts under a payment plan.
66. The ATO will consult the Inspector-General of Taxation before a business' debt information is first reported. The ATO will not report a business' debt information for the first time where the Inspector-General is either investigating or intending to investigate a complaint from the business about the ATO's intention to report their tax debt information.
67. Even after we have provided credit reporting bureaus with tax debt information, we will continue debt collection action on outstanding liabilities, while remaining willing to work with the business.

