

*Monday, 21 November 2016*

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

Dear Sir/Madam

**SUBMISSION**

**– 2016 ANNUAL REPORT OF THE AUSTRALIAN TAXATION OFFICE**

We wish to provide your committee any assistance we can with your review into the ATO's 2016 Annual Report, in particular with reference to the ATO's:

- Progress on new technology projects, including *myTax*;
- Relationships with tax practitioners.

**myTax**

In July 2015, with the rush of people using the '*myTax*' app to obtain their incorrect refunds from the ATO, there were repeated crashes which affected users being able to complete their tax returns, complete their tax returns correctly, and achieve successful lodgements. As part of the 'digital by default' mantra and the linking of *myTax* through *myGov*, the high demand put strains on the system and also affected other *myGov* affected departments, including Human Services and users of other systems, in a forerunner episode that should have been a warning to the August 2016 'Census fail'.

The ATO acknowledges this on Page 36:

An increase in digital interactions including traffic in the *myTax* lodgment channel requires much more infrastructure capacity in our IT systems. There were some problems very early on in Tax Time 2015 around capacity and timeliness, but these were quickly fixed and plans for Tax Time 2016 ensured IT system capacity problems were not an issue.

Fortunately the same did not occur on 1-2 July 2016, with people being unable to lodge just before they headed to their local school hall to vote in the Federal Election.

But the latest problem arose at the end of October 2016, with the deadline rush:

- "Online tax returns hit by cyberattack", per The New Daily website, 4 November 2016 <http://thenewdaily.com.au/money/finance-news/2016/11/04/online-tax-returns-hit-by-cyber-attack/>

With *myTax* fully taking over from 'etax' (retired from 2016), on 16 September 2015 the Commissioner Mr Jordan advised your committee:

*... with myTax and next year it will be open for all individual taxpayers, no matter how complex...*  
(Page 6, Hansard)

Of course, being able to hold a scalpel, does not make one a surgeon.

Our office frequently attends to clients with variously simple/moderate/'complex' tax affairs, and wonders how accurate many tax returns lodged via *myTax* really are, and what revenue is being lost:

- ) if a taxpayer has private health cover, but they "and their dependents" are not covered by the same or an equivalent policy, they are inappropriately avoiding exposure to the Medicare Levy Surcharge:
  - o what proportion of the working age population have no spouse (marital status 'single')? How does this compare to the percentage of taxpayers reporting spouse disclosures (*including* de facto, legally married, same sex) to their income tax returns, including their taxable income, their reportable superannuation contributions, their reportable fringe benefits amounts, or any other reportable values? Failure to correctly/honestly report spouse details, means the Medicare Levy Surcharge may not be correctly applied, and entitlements to private health insurance tax offsets are likely to be incorrect;
- ) If a taxpayer:
  - o has ceased their tax residency and gone to live and work overseas, have reported the deemed disposal of their 'non taxable Australian real property' (eg ASX listed shares), and paid tax on their capital gains?
  - o has sold their home, and not reported any capital gain:
    - but they have had two properties and claimed/will claim the main residence exemption for the other property, concurrent with the ownership of the property they have just sold, and incorrectly claim 'two main residence exemptions';
  - o has sold shares or an investment property, and claims the full benefit of the 50% CGT discount, but they were a non-resident of Australia for part of the ownership periods and overlooked the change in tax law from 8 May 2012 which denies the benefit of the discount.

These are mostly simple examples, which surely affect many *myTax* lodgements, and would be (1) causing loss of revenue to the government (2) cause incorrect tax lodgements (3) be very difficult for the ATO to identify and correct.

Yet the ATO proudly boasts its successes with *myTax*, including in the 2016 Annual Report. In the introduction, the Commissioner's Review states:

*A number of our new and improved services were well received:*

- ) *the streamlined online tax return, with 1.8 million individuals using myTax, up by 725,000 over the previous year ....*

One would hope the numbers were up, given people could no longer use *etax*, so now it is even easier for people to more quickly lodge their incomplete and incorrect income tax returns.

The experience is anecdotal, but frequent, that professional tax agents often have staff who are involved with tax preparation, who use professional tax software, but to do their own personal income tax returns outside of the office and use the *myTax* system. Consistently they are critical of the return that is 'pre-filled' by the ATO, with many errors and omissions, and 'pre-filled' data being difficult to change and correct.

As reported by Accountants Daily, 'most' income tax returns lodged using *myTax* are wrong:

- ) See article **Majority of myTax returns inaccurate, study finds, 16 November 2016** (<http://www.accountantsdaily.com.au/tax-compliance/9687-majority-of-mytax-returns-inaccurate-study-finds> )

The reality is that a 'simple' *myTax* app can't bridge the gap between a non-expert self-lodger and the highly complex Australian tax system.

### Relationships with Tax Agents

The ATO's actions appear directed to encouraging and even compelling people to engage using *myTax* and *myGov*.

An example, is when a taxpayer wishes to repay their student debt, such as their HELP balance, they are told to do so via *myGov*:

- ) <http://studyassist.gov.au/sites/studyassist/payingbackmyloan>

When a taxpayer links their *myGov* account to tax (ATO), a range of problems/difficulties arise to the tax agent concurrently engaged by the taxpayer.

In particular, Notices of Assessment and other crucial documents are no longer issued to the 'service address' of the tax agent.

Often, the tax agent only discovers when a problem arises, for example:

- ) PAYG instalments will issue via *myGov*. Often, the taxpayer does not receive the notice because (1) there is a system/link problem, meaning they never receive the message that they have something in their inbox (2) they assume it is a scam, and ignore the message (3) they forget. Not many people logon to *myGov* as often as they check their mail, or their social media accounts. Once the instalment, or instalments, become late for payment – sometimes very late depending upon the ATO's variable debt collection performance – a nasty letter issues, this time to the tax agent, and the tax agent has 'no idea' what the debt is about, having not received the notices that have been miss-directed via *myGov*. The agent is then in the unenviable position, of (1) accessing and reviewing the taxpayers files, accounts with the ATO, etc to try to work out what the debt relates to (2) prepare detailed correspondence to the taxpayer explaining / reconciling the amount outstanding. The taxpayer, who previously relied upon and expected the agent to be across their tax affairs, loses confidence in the agent, and is annoyed they have a debt they have not been made aware of until it is overwhelmingly late for payment, with catch-up payments often required.

This is just one example of the ATO making professional tax agents look silly.

The ATO 'helps', with the 'Client Communication List' (recently obscurely renamed from Client Correspondence List), which appears very much to be a rushed development by the ATO in March/April 2015 when the ATO realised they were issuing notices direct to taxpayers but not being provided to the tax agents who lodged the returns.

But really, this should be called a 'Partial Communication List', as significant items of correspondence do not appear on the list:

- ) For example, letters that the ATO issue to the service address following up a late tax return, does not appear on the list, and nor does any correspondence generated on the "legacy" systems of the ATO, as if tax agents are to know what the legacy system is compared to any other ATO

system, and what correspondence is included and what is not, and how these variables change from one week to the next.

Only in the last few weeks, our office has received some follow-up letters from the ATO, for taxpayers on our Agent Listing that our office has 'failed' to lodge on time:

- ) from time to time, our office lodges a 'final' income tax return for a taxpayer, either because they have died and do not need to lodge further tax returns, or they have left the country and ceased their residency, and their circumstances do not warrant future tax returns (unless/until their circumstances change, and they can start lodging again);
  - o In early November, our office received a follow-up for the lodgement of a 2015 income tax return. On the day of receipt, we scanned it and sent it under cover of letter to our client, recommending that he attend to the ATO notice as a priority. The taxpayer pointed out, that his 2014 income tax return that we lodged for him on 1 December 2014, was flagged as a 'final' income tax return.

So the 2015 income tax return that the ATO was following-up, that was not on the 'partial communication list', was not required, as the 2014 income tax return had been lodged as 'final':

- ) This brings us to another inappropriate policy of the ATO. The ATO persists with a policy of expecting tax agents to lodge 85% or more of taxpayer income tax returns, who are on agent listings:
  - o But the ATO incorrectly calculates 'performance' / adherence to the arbitrary 85% benchmark – for instances, our 2015 and 2016 lodgement performance is compromised by the ATO's inclusion of the taxpayers' 'outstanding' income tax returns for 2015 and 2016, even though we lodged 2014 as final on 1 November 2014:
    - it also calls into question the integrity of all statistics quoted by the ATO, such as the 'improving' statistics quoted by the ATO in their report about lodgement performance (Page 36 of Volume 1, ATO 2016 Annual Report):
      - ) **indeed, table 2.1 shows the ATO has not achieved 85% for any lodgement type, for any year – yet this very high standard is demanded of tax agents;**
  - o We have also had clients who have died, we have lodged their 'final' tax return, but the ATO still wants subsequent year lodgements according to the incorrect statistics quoted to our office;
  - o Our office first obligation is to our clients consistent with our terms of engagement and the professional ethics and other standards of our relevant professional bodies and increasingly to the Tax Practitioners board – the ATO's 85% on-time lodgement policy is often in conflict with those broader requirements;
  - o Tax professionals do not 'control' our clients, and can't force them to give us their tax information in a timely or even on an 'annual' basis:
    - Our office has helped people with 10 or 20 or more years of tax returns outstanding. They were not on our agent listing for those decades, but the ATO has failed for that entire time to achieve lodgement by these taxpayers. The taxpayers come to our office to get help, as they certainly can't lodge the returns via myTax. It is not our fault, that we are lodging many late tax returns for them;
  - o In late 2011 and early 2012, the ATO 'helped' tax professionals to achieve 85% by providing a bulk deletion process, where agents could identify multiple taxpayers who were late with their tax returns and to remove them from agent listings. As a result (1) over 700,000 taxpayers were removed from agent listings (2) the ATO lost contact with many as they did not have the latest address record that tax agents had, and:
    - The ATO, as part of this 85% policy this Committee reported in April 2016 that, as part of 'taking back' these 700,000 recalcitrant taxpayers, have no idea what they have done since:

- 3.20 With regard to the Committee's question on the consequences of the 85 per cent rule, the Committee accepts that the ATO has not yet been able to produce information on how many clients have 'dropped off the ATO's books', what action the ATO has taken to follow this up, and the effect on tax revenue. It acknowledges that the answer is complex, and looks forward to receiving it in due course.

Whilst professional tax agents continue to waste time managing these ATO policies and errors, we are encumbered with other failings that drain significant resources from our businesses including:

- ) Tax Agent Portal – this system continues to be unreliable, at a time when the information on it (eg the communication listing) becomes increasingly critical for regular/daily access;
  - o The replacement ATO Online seems to have its commencement date pushed-out each few months, with little directly or adherence to any timetable by the ATO;
- ) New lodgement platform: for months leading up to 1 July 2016 the ATO repeatedly / frequently communicated that the 'principal' lodgement platform from 1 July 2016 would no longer be ELS but the Practitioner Lodgement System (PLS) on the Standard Business Reporting (SBR) platform and ELS retained as a backup until March 2017:
  - o Yet the ATO has only achieved 5% of agent lodgements via SBR by late September 2016:
    - <https://www.ato.gov.au/Tax-professionals/Prepare-and- lodge/Tax-Time-2016/TPSG---tax-time-key-messages/Tax-Time-update---27-September-2016/>
      - ) At the "Australian Technology Showcase" held in Sydney in 2015, Second Commissioner Geoff Leeper who previously attended Committee hearings suggested that there had been some 'dragging of the feet' of the tax software community in implementing PLS/SBR, which drew a curious a vocal response from the software industry representatives present. We do not know, if this is connected at all with the 5% achieved to date through the 'principal' lodgement channel or if Mr Leeper's apparent departure from the ATO in August 2016 are at all related;
- ) The ATO continues to fail to issue Notices of Assessment and Notices of Withholding Tax – and when they do they frequently contain errors. This Committee made a recommendation to the ATO in April 2016, that as-yet appears pending:
  - 3.21 The Committee notes that the ATO does not always issue notices of assessment to certain classes of taxpayers, but will issue a notice to an individual with a nil taxable income, upon request. This leaves the taxpayer in an uncertain position, and given the ease of electronic communication, the Committee believes that issuing of notices of assessment should be automatic in all cases.
- ) The ATO still does not communicate with tax agents, when they issue correspondence and do not send it to their service addresses. Mr Jordan told this committee on 16 September 2015 "...I think there are some measures that could be taken—and I come back to that concept of the push notifications to the tax agent—as potential solutions in the short term as we move to those new platforms.", In response, in the final report by this committee into the review of the 2014 Annual Report published on 29 April 2016, this committee addressed this:

- 3.11 However, the problems will not be solved until there is a fully integrated system that captures all correspondence. In the interim, the Committee reiterates its suggestion that a positive notification be sent to agents when any correspondence is sent to their clients, and again requests the ATO to report on steps it has taken to implement a push notification or other solution so that tax practitioners are made aware when correspondence has been sent to clients.

Yet this too, remains outstanding from the ATO.

### **Concerns**

We obviously raise quite a number of concerns as to the ATO's demonstrated failings when it comes to attempting to deploy 'digital by default' and the cost this is having on taxpayers and the tax profession. The reverse workflow generated from this process is so catastrophic, we wonder how much worse this will be allowed to get, before enough is enough.

We also implore that Committee Members consider, how broadly these systemic failings may extend across the ATO and the impact on annual revenue collection this is having – either directly as a result of the failings noted above or across all areas of the ATO.

We support the 'digital' strategy, to the extent that it should be efficient to work with and allow for an improved client/taxpayer experience, but the ATO consistently demonstrates that its deployment of IT solutions leaves a lot to be desired, is affecting all parts of society with failing/compromised *myTax* and it is not reasonable to think that revenue collection is being significantly compromised.

Yours faithfully



MONEY • FINANCE NEWS • 10:50pm, Nov 4, 2016 **Updated: 10:46pm, Nov 4**

## Online tax returns hit by cyber attack



  
**Rod Myer**  
YourSuper Editor

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Just months after Australia's first ever attempt at an online census collapsed, another online government first has suffered cyber disruption.

On Monday, as many rushed to lodge their tax returns over the internet to meet that evening's deadline, the MyGov website crashed. It apparently failed under a sustained cyber barrage which delivered distributed denial of service (DDOS).

That is where a site experiences a flood of traffic designed to disrupt it from malevolent hackers. The collapse of the census website on census night had the same cause along with technical glitches.

Thousands of last-minute tax lodgers were caught in the crossfire of the cyber warfare and were unable to complete their forms. Those trying to get over the lodgement deadline were not amused and took to social media to make their views clear.

The Australian Taxation Office recognised the problems taxpayers were having and gave affected people a day's grace.

"Anyone who was impacted by the issue won't have penalties applied if they lodged their tax return the following day," an ATO spokesperson told *The New Daily*.

However the ATO seemed keen to characterise the event as "slowness" rather than an outage. "Some taxpayers were experiencing slowness in logging on for a short time on 31 October," the spokesperson said.

#### Related Coverage



Turning router off and on may have prevented census outage

But out there in taxpayer land the problem was seen as more significant than that.

The Department of Human Services, which runs the MyGov web site, appeared to view it as a cyber security issue but did not offer details about its cause.

#### 'No Comment'

The department's general manager, Hank Jongen, said in a statement: "The department does not at any time comment on cyber security. The department's services, which include myGov, were affected by a short disruption on 31 October 2016, after which services were restored."

"We apologise to any customers who were inconvenienced."

Like the collapse of the census website, which lasted two days and was of far greater magnitude, the failure of MyGov marred the launch of a new government online service. This year the ATO had moved completely to a new online tax platform called MyTax which replaced ETax.

The targeting of Australian government websites was highlighted recently with the release of the annual report of The Australian Cyber Security Centre. It said systems in government agencies had been hit with 1095 cyber security incidents considered serious enough to trigger an operational response over the previous year.

Along with MyGov and the census, which was attacked through the Australian Bureau of Statistics site, there has been evidence of attempted cyber attacks at the Bureau of Meteorology and the Reserve Bank of Australia.

#### Business is vulnerable



## 2015-16 Annual Report of the Australian Taxation Office Submission 5

A joint study between Cambridge University and the Lloyd's insurance giant has found the growing risk of cyber attacks leaves the Australian economy exposed to a potential \$16 billion damage bill over the next decade.

The study found that of 301 global cities, Sydney ranks 12th in terms cyber attack exposure with \$4.86 billion of economic growth at risk. That makes it the riskiest Australian city, followed by Melbourne, Brisbane, Perth, Adelaide and Canberra.

The Australian Electoral Commission says additional government funding is needed to update its IT systems that run elections, warning they are "at the end of their useful life", the ABC has **reported**.

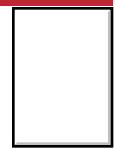


Australia's electoral IT needs updating. Photo: AAP

In a submission to a Senate inquiry into the running of the July election the AEC acknowledged there were issues with the length of queues and a shortage of ballot papers in several polling places.

Electoral Commissioner Tom Rogers said electronic polling management systems, like the ones used in the recent ACT and Northern Territory elections, would improve productivity and reduce instances of multiple voting.

He warned the current IT systems that managed the election and the electoral roll are "at the end of their useful life".



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## Majority of myTax returns inaccurate, study finds



A study of returns submitted through myTax has found over half contain errors, two thirds of which favour the ATO.

KATARINA TAURIAN - Tuesday, 15 November 2016  1 comments



H&R Block recently undertook a study to review the accuracy of tax returns submitted through myTax.



Of the sample studied, just over 60 per cent contain errors. About two thirds of those errors favour the ATO and a third favour the taxpayer, said H&R Block's director of communications Mark Chapman.



“Those findings were supported by other recent research which highlighted that whilst over 90 per cent of self-lodgers were confident that they had completed their myTax returns correctly, over 50 per cent of the same group was unable to accurately identify the correct treatment of common deduction items,” Mr Chapman told

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SHARES

AccountantsDaily.

“[These include] self-education costs and work-related clothing, and well over half [were] unaware that income from pursuits such as ride-sharing is taxable,” he said.

As of mid-October, nearly 7.4 million individuals had lodged their 2016 tax returns, nearly 2.5 million of them using the ATO's online lodgement system myTax. The rest – well over 5 million returns – were lodged by tax agents.

“On the face of it, those look like healthy figures for tax agents, but with an apparent market share of around 67 per cent, it's worth noting that the percentage of returns lodged by tax agents so far this tax season is notably lower than the overall figure for 2015, when the percentage reached about 74 per

cent, a figure that's broadly in line with the trend for tax agent lodgements over many years," Mr Chapman said.

"Of course, there are still plenty more lodgements to come in between now and the final deadline for agent-lodged returns next May, and it can be expected that the trend over that period will turn decisively in favour of tax agents, partly because the deadline for self-lodgers is now past and partly because remaining returns tend to be more complex in nature and less suited to the ATO's do-it-yourself system."

[Join the discussion](#)



**Australian Government**

# Study**Assist**

Information for students about government assistance for financing tertiary study.

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You are here:   [Study Assist](#)   [Paying Back My Loan](#)

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### **Paying Back My Loan**

- Loan repayment
- Interest and indexation
- HECS-HELP Benefit
- Cancelling\* a HELP debt under 'Special Circumstances'
- Overseas debt

## **Paying Back My Loan**

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It is your responsibility to be aware of all requirements regarding your HELP loan. This section will explain your obligations and your options to repay your loan. Once you incur a HELP loan it becomes an 'accumulated HELP debt'.

An accumulated HELP debt includes any unpaid HECS-HELP, FEE-HELP, VET FEE-HELP, OS-HELP and SA-HELP debts (it also includes any Higher Education Contribution Scheme (HECS), Postgraduate Education Loan Scheme (PELS), Open Learning Deferred Payment Scheme (OLDPS) and Bridging for Overseas-Trained Professionals Loan Scheme (BOTPLS) debts you incurred before 2005).

**You can view your HELP debt and make repayments online via the [MyGov website](#).**

The HELP voluntary repayment bonus will be removed from 1 January 2017. [Click here](#) for more information about key dates to ensure you get the bonus.

The following pages may also be useful to you:

[Loan Repayment](#) – Find out how to pay back your HELP loan and when you must start making repayments.

[Interest and Indexation](#) - Find out how indexation is applied to your HELP debt.

The [HECS-HELP Benefit](#) aims to encourage particular graduates to take up employment in particular occupations or to work in specified locations by reducing their HELP debt repayments. The Benefit currently targets:

- [Maths and Science](#)
- [Early Childhood](#)
- [Nursing and Education](#)

To find out how to apply to have your HELP debt cancelled if 'special circumstances' have occurred, go to [Cancelling a HELP debt under 'Special Circumstances'](#).

To find out how to have your VET FEE-HELP debt cancelled because of 'unacceptable conduct' by a VET provider, go to [Cancelling a VET FEE-HELP debt-unacceptable provider conduct](#).

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## Tax Time update – 27 September 2016

**Table 1: Tax returns received – Year to date (overall), current year 2016 and current year 2015 (for comparison)**

<b>Lodgment – Type and channel</b>	<b>Overall - year to date returns received as at 26 September 2016</b>	<b>Current year returns received as at 26 September 2016</b>	<b>Comparison – Current year returns received as at 27 September 2015</b>
<b>Individual</b>			
Electronic	7,215,102	6,584,684	6,396,148
Paper	167,154	130,061	172,806
<b>Non-individual</b>			
Electronic	464,149	285,525	280,673
Paper	34,173	24,698	83,789
<b>Self-preparer</b>			

myTax	N/A	2,251,181	2,046,065 *
			myTax + e-tax
<b>Tax practitioner</b>			
Practitioner Lodgment Service (PLS)	235,892	220,968	N/A
Electronic Lodgment Service (ELS)	5,046,809	4,366,968	4,601,850

**Note \* 28,906 returns were lodged via other electronic means (e.g. IVR)**

<b>Summary</b>	<b>Overall year to date returns received as at 26 September 2016</b>	<b>Current year returns received as at 26 September 2016</b>	<b>Comparison – current year returns received as at 27 September 2015</b>
<b>Electronic returns received</b>			
Individual	7,215,102	6,584,684	6,396,148
Non-Individual	464,149	285,525	280,673
<b>Total electronic</b>	7,679,251	6,870,209	6,676,821
<b>Paper returns received</b>			

Individual	167,154	130,061	172,806
Non-Individual	34,173	24,698	83,789
<b>Total paper</b>	201,327	154,759	256,595

**Note: \*\* September 2015 comparison figures are at 27 September 2015 as figures for 26 September 2015 are unavailable**

### **Tax refunds – Current year as at 26 September 2016**

Refunds issued (\$)	5,954,473
Refunds issued (\$m)	\$16,729m
Average refund (\$)	\$2,810

### **Telephony service standard performance as at close of business 23 September 2016**

As telephony data for 26 September 2016 is unavailable the figures provided below are as at Friday, 23 September 2016.

From 1 July 2016 we have received approximately 2,178,382 inbound calls to general queues and 378,125 to tax practitioner queues and achieved service commitments of:

General taxpayer calls – 92% of calls answered within 5 minutes

Tax practitioner calls – 93% of calls answered within 2 minutes.

### **Media**

A media release will issue shortly reminding taxpayers they have one month remaining to lodge their income tax returns.

Keep up to date with the latest news for tax professionals through the ATO [news and alert services \(/Tax-professionals/Services-and-support/News-and-alert-services/\)](#) website.

## **Tips and links**

Find out how to receive your clients' [myDeductions data \(/Tax-professionals/Newsroom/Income-tax/Receiving-myDeductions-data/\)](#). Watch our video and read the frequently asked questions.

To prevent processing delays, you must [check your clients' details before lodging \(/Tax-professionals/Newsroom/Income-tax/Check-your-clients--details-before-lodging/\)](#) their tax returns.

You can [subscribe \(/Subscription.aspx\)](#) to receive daily email updates from the ATO.

## **Next meeting and reporting**

This was the final Tax Time meeting for 2016. A further meeting may be scheduled should the need arise. If so, members will be notified closer to that time.

Reports providing data on tax returns received and telephony service standard performance will continue to be provided to Tax Practitioner Stewardship Group members on a fortnightly basis.

Last modified: 29 Sep 2016

QC 50213

## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

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Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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