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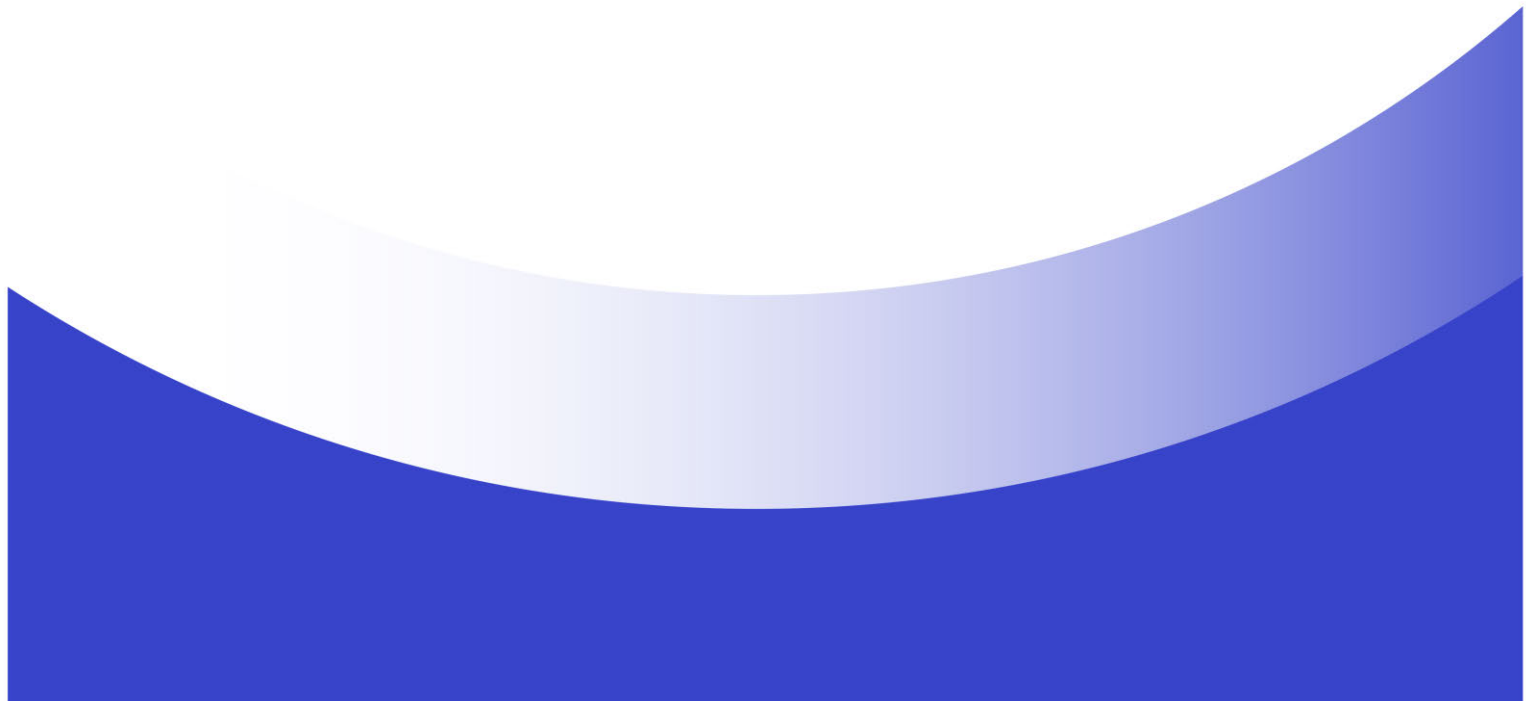


**Australian Government**  
**Australian Taxation Office**

# ATO Submission

## Inquiry into use of artificial intelligence systems by public sector entities

25 October 2024



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## Introduction

1. The ATO welcomes the opportunity to provide a submission to the Joint Committee of Public Accounts and Audit Inquiry into the use and governance of artificial intelligence systems by public sector entities.
2. AI technology is becoming more mainstream, but also continues to rapidly evolve. Ethical considerations in the use of data and analytics (D&A), particularly AI, have always been important but are becoming increasingly crucial with the rapid advancement of generative AI.
3. The ATO has extensive experience using AI safely and responsibly to assist in its administration of the tax and superannuation systems. The ATO has a strong focus on protecting ATO data and privacy when using AI, this means AI solutions are built within the ATO systems.
4. The ATO actively engages with whole-of-government D&A and AI initiatives, including the development of governance frameworks, approaching these from an ethical and pragmatic perspective focused on implementation. The ATO also plays an active role in developing D&A capability, sharing experience and expertise across the public service.

## Definitions

5. The ATO applies the OECD definition of AI as per the *Policy for responsible use of AI in government*<sup>1</sup> which is important as terms are often used interchangeably.
6. In addition, the ATO refers to any application of machine learning, deep learning and generative AI as AI. But does not consider rules-based analytics to be AI, as this form of analytics does not infer how to generate outputs from the inputs they receive.
7. The ATO notes:
  - although AI and automation are sometimes combined to deliver outcomes, they are distinct capabilities. Automated processes can be implemented without the use of AI and vice versa.
  - data can be used in multiple ways for multiple purposes and can be an input into manual, automated and AI systems and processes. The level of governance required to ensure data is used ethically and responsibility depends on what the system or process outputs will be used for, not the type of system or process.

## Effective use of AI in the ATO

8. The ATO has significant experience using AI safely and responsibly to assist in its administration of the tax and superannuation systems. This includes using AI to review large quantities of unstructured data, generate risk models to identify potential non-compliance, provide real time prompts to taxpayers and draft and edit communications.
9. An example is the ATO's use of natural language processing to rapidly process 36 million documents, identifying entities of interest and their relationships. Since 2016, this initiative helped raise more than \$256 million in liabilities and collect over \$65 million in cash as of September 2024.

<sup>1</sup> <https://www.digital.gov.au/policy/ai/implementation>

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10. The ATO takes a measured and cautious approach to the exploration of AI tools and techniques. A use case approach is used to determine and explore new uses of AI.
11. The ATO continues to mature its D&A (including AI) governance and management to maintain trust and confidence in how data is used and help minimise misuse. This includes consideration of the data to be used and accessed by AI tools and techniques.

## Governance and safe use of AI in the ATO

12. Our safe, responsible and effective use of AI is guided by a range of established arrangements, including dedicated governance, support and training provided to staff to develop and maintain AI capability.
13. The ATO uses AI in the context of a broader program to deliver services and address specific behaviours. Program, project and risk management approaches support the design of these work programs to deliver intended benefits while also identifying and managing risks.
14. The ATO has a range of governance arrangements for D&A activities including:
  - Chief executive instructions (CEI) – mandatory instructions for all ATO staff. The *Data management CEI* sets out obligations for using data, including using data in AI systems.
  - *ATO data ethics principles*<sup>2</sup> – applied to all ATO D&A activities, including AI, to help address some of the risks associated with use. A D&A ethics assessment supports ATO staff in applying the principles and is undertaken when commencing D&A activities. Staff must complete annual mandatory training on the application of the ATO data ethics principles.
  - Privacy impact assessments – adhere to the *Privacy (Australian Government Agencies – Governance) APP Code 2017*<sup>3</sup>, and are undertaken for high privacy risk projects.
  - Security approval to operate (SATO) – assessment of the security risk of new technology and ensure the safety of ATO systems and data. A SATO is required before any new technology is brought into the ATO IT environment.
15. As AI becomes more powerful, the ability of humans to explain AI determinations has generally diminished, and ensuring there is human oversight and/or decision-making has subsequently become more important. The ATO maintains human oversight to appropriately consider the impact of any AI inputs in any adverse decision making that impacts taxpayers. The ATO ensures a right of review of decision is provided in all uses of automation and AI.
16. The ATO adheres to all relevant legislative, regulatory and policy frameworks in its use of AI. This includes:
  - a. laws governing tax, superannuation and business registration
  - b. *Privacy Act 1988*<sup>4</sup>
  - c. *Privacy (Australian Government Agencies – Governance) APP Code 2017*<sup>5</sup>

<sup>2</sup> <https://www.ato.gov.au/about-ato/commitments-and-reporting/information-and-privacy/how-we-use-data-and-analytics#ato-Howweprotectyourdataandprivacy>

<sup>3</sup> <https://www.oaic.gov.au/privacy/privacy-guidance-for-organisations-and-government-agencies/government-agencies/australian-government-agencies-privacy-code/privacy-australian-government-agencies-governance-app-code-2017>

<sup>4</sup> <https://www.legislation.gov.au/Details/C2023C00130>

<sup>5</sup> <https://www.oaic.gov.au/privacy/privacy-guidance-for-organisations-and-government-agencies/government-agencies/australian-government-agencies-privacy-code/privacy-australian-government-agencies-governance-app-code-2017>

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- d. *Archives Act 1983*<sup>6</sup>
  - e. frameworks issued by other agencies (e.g. the *Commonwealth Ombudsman Automated Decision-making Better Practice Guide*).<sup>7</sup>
17. The ATO recognises the rapidly evolving AI landscape requires AI specific policies. The use of generative AI in the ATO is managed under the ATO's *Use of publicly available generative AI technology policy*. This policy outlines the process for assessing the risk of new publicly available generative AI technologies and uses for them and aligns with the *Interim guidance on government use of public generative AI tools*<sup>8</sup> released by the Digital Transformation Agency (DTA) and Department of Industry Science and Resources in July 2023. Use of generative AI is strictly limited under this policy.
  18. Other AI specific policies are currently in development. These will work in concert with existing D&A policies and align to current regulatory and policy frameworks, including the *Policy for responsible use of AI in government*<sup>9</sup> released by the DTA.
  19. The Australian National Audit Office (ANAO) is currently undertaking a performance audit of the ATO's adoption of artificial intelligence.<sup>10</sup> The ATO welcomes the ANAO's report and its recommendations as an opportunity to further strengthen governance of its use of AI.

## Developing and maintaining AI capability in the ATO

20. Increasing ATO staff data literacy is a key control for ensuring D&A, including the outputs of AI, are used effectively and the risk of any misuse or negative impacts is reduced. The ATO has a range of learning products and tailored approaches for different staff cohorts to increase data literacy and D&A capability of all staff.
21. To support staff effectively using AI tools and outputs, the ATO has made available a range of AI-related learning products, including a foundation product on generative AI. The ATO also provided a number of informal sessions on generative AI to senior executives.
22. The ATO has a hub and spoke operating model for its D&A capability. It has a large team of more than 100 specialist data scientists, in the D&A hub, with significant skills and knowledge across a range of key areas required in effective use of AI, including programming, machine learning and deep learning, and experience in model development, validation, deployment and governance.
23. This team develop AI models and processes directly from source code for use across the ATO. With this capability, the ATO is typically able to build its AI solutions in-house, using pretrained models and open-source packages as a foundation. The ATO also has a strong focus on protecting ATO data and privacy when using AI, this means AI solutions are built within the ATO systems, including customisation of open-source packages. This enables the ATO to maintain ownership and possession of the source code for the AI models it uses, and to protect ATO data.

<sup>6</sup> <https://www.legislation.gov.au/Details/C2023C00206>

<sup>7</sup> [https://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0029/288236/OMB1188-Automated-Decision-Making-Report\\_Final-A1898885.pdf](https://www.ombudsman.gov.au/_data/assets/pdf_file/0029/288236/OMB1188-Automated-Decision-Making-Report_Final-A1898885.pdf)

<sup>8</sup> <https://architecture.digital.gov.au/generative-ai>

<sup>9</sup> <https://architecture.digital.gov.au/responsible-use-of-AI-in-government>

<sup>10</sup> <https://www.anao.gov.au/work/performance-audit/australian-taxation-offices-adoption-of-artificial-intelligence>

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## Growing AI capability across the public service

24. The ATO is actively involved in building D&A (and AI) capability and establishing appropriate policy frameworks across the public service, leveraging its significant experience in the safe and effective use of AI.
25. For example, the ATO is actively involved in efforts to develop appropriate guardrails to ensure AI is used safely and responsibly and the ATO also participated in the Government's Microsoft Co-pilot for Microsoft 365 trial. The ATO is using the findings from this trial to make decisions about the future use of Co-pilot for Microsoft 365.
26. The ATO takes an active role across whole-of-government data initiatives, including chairing the Data Champions Executive, leading development of the *APS Data Ethics Framework*<sup>11</sup>, a deliverable under the Data and Digital Government Strategy, developing 12 APS data job role personas<sup>12</sup> and seconding a data scientist to the AI in Government Taskforce, and a SES Band 1 and data scientist to the DTA to lead the development of AI technical standards to support the *Policy for the responsible use of AI in government*.<sup>13</sup>

## Conclusion

27. AI tools and techniques to support more personalised service delivery and protect government systems will continue to grow in importance for the public sector. The ability to harness AI's potential safely and responsibly will require sound governance structures that balance ethical and privacy considerations with practical application. Uplifting data literacy and D&A capability of all staff at all levels will also be paramount to ensuring safe, responsible and effective use of D&A and AI by the public sector.
28. The ATO takes its role as a leader in D&A use in the public service very seriously and will continue to support whole-of-government initiatives and help build D&A capability across the public service.

<sup>11</sup> <https://www.dataanddigital.gov.au/plan/roadmap/trusted-and-secure/data-ethics-framework#:~:text=A%20whole-of-government%20Data%20Ethics%20Framework>

<sup>12</sup> <https://www.apsc.gov.au/initiatives-and-programs/aps-professional-streams/aps-data-profession/job-personas>

<sup>13</sup> <https://www.digital.gov.au/policy/ai/policy>

## Appendix: Examples illustrating ATO AI, data and automation uses and safeguards

### Optimising preventive risk treatments using AI

29. The ATO focuses on prevention before correction as it is recognised that getting the right amount of tax paid in the first place is the most efficient way to operate a tax system from both administrator and taxpayer perspectives. This helps to reduce taxpayer compliance costs and stress. The ATO takes a proactive approach to help individuals get their tax right from the start.

30. Example 1: Tax Time nudging

- The ATO has AI models that provide real-time prompts to individual taxpayers when they are completing their income tax return online through MyTax.
- The prompts will appear asking the taxpayer to check amounts they have entered for certain tax return labels where these amounts do not match the data the ATO has or what is expected for taxpayer clusters or populations with similar attributes.
- For example:
  - if the gross interest label is blank, the taxpayer receives a prompt to check if this is correct.
  - if the taxpayer claims a deduction for interest expenses that is greater than what was claimed in prior years, they receive a prompt to check if the amount entered is correct.
- This provides the taxpayer an opportunity to check if they have made a mistake before lodging their tax return. If the taxpayer is satisfied with the amounts they have entered, they can proceed to lodge their return.

31. Example 2: SMS nudges before payments are due

- The ATO remains committed to engaging with taxpayers about unpaid debts with a key focus on addressing collectable debt for the benefit of the Australian community.
- The ATO uses AI to identify taxpayers that have an upcoming payment due date (in relation to their income tax and/or activity statement liability) and are unlikely to pay on time.
- Based on the results and additional business rules, the ATO automatically issues an SMS nudge to prompt relevant taxpayers to pay on time. The SMS nudge messages vary depending on the taxpayer's circumstances.
- Some of the ATO business rules exclude certain taxpayers from receiving the nudges, such as those affected by a natural disaster.
- These nudge messages do not change the taxpayer's liabilities, they are simply a payment reminder. As such, there is no decision being made that impacts the taxpayer requiring ATO staff involvement.

### Risk identification and assessment using AI

32. Generally, taxpayers are entitled to claim deductions for work-related expenses incurred that are directly related to their income earned. However, they must be able to substantiate the claim.

33. The ATO uses AI to:

- identify high risk work-related expense claims that warrant a request for substantiation.

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- match the substantiation information submitted by taxpayers against the relevant claims.
- extract and rank the relevant information and recommend the key page(s) or documents ATO staff can focus on for their review to determine whether or not to disallow the deduction. ATO staff are able to view all results and substantiation information provided by the taxpayer, not just those rated high risk.

34. This enables the ATO to focus on the highest risk claims, supports more timely decision making and helps reduce the likelihood of compliant taxpayers being reviewed.

**Fraud detection using AI**

35. myGovID (soon to be called myID) is an easy and secure way for individuals to prove who they are online (for example: their digital identity) with government. It is used to access a range of government online services.
36. The ATO manages the myGovID platform and is responsible for fraud management on the platform.
37. The ATO uses AI to scan all myGovID accounts in the myGovID database to identify and risk score the likelihood (based on a range of parameters) of digital identify theft (third-party fraud).
38. The ranked results and drivers of the risk scores are provided to digital identify fraud investigators (ATO staff) for review. The investigators generally review the results rated high risk and determine whether or not to suspend the relevant myGovID. The investigators are able to view all results, not just those rated high risk.

**Data use**

39. Government entities pay billions of dollars to third party providers to deliver services for many of the programs they administer. The government entities using these service providers have accountability for ensuring the proper use of public resources. The service providers who receive these payments are responsible for meeting their tax and superannuation obligations.
40. The ATO has a Government Payments Program data-matching program that matches data on government payments made to service providers against ATO records to ensure taxpayers comply with their tax and superannuation obligations. It also helps us detect fraud and maintain community confidence in the integrity of the tax system.
41. ATO risk and intelligence staff use a range of techniques to analyse the matched data to identify risks and compliance issues and recommend appropriate treatments. This may include review of a taxpayer by ATO staff.

**Automated process**

42. The First Home Super Saver (FHSS) scheme allows individuals to use some of their eligible voluntary super contributions to help buy their first home.
43. The ATO has provided a self-assessment tool that enables individuals to assess their eligibility and calculate their maximum releasable amount under the scheme.
44. Once a determination is processed, the individual can proceed to submit a release request where they can elect the amount to be released up to the maximum releasable amount calculated at the determination stage. If the release request is processed by the system as a clean skin case, the system will automatically issue the release authority to the superannuation fund request for the money to be released to the ATO.



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45. Where a release is sent to the superannuation fund, the next step is also automated. Once the ATO receives the money from the superannuation fund, the EFT payment to the taxpayer is automatically processed.
46. If the system does not process the release request as a clean skin case, it is reviewed by ATO staff who make the actual FHSS determination. If the individual disagrees with the officers' determination, they may object to the FHSS determination. If the decision is partially or fully favourable and they are satisfied, the process reverts to that in paragraph 43.