



15 March 2017

Mr Kevin Hogan MP
Chair
Standing Committee on Tax and Revenue
Parliament House
Canberra ACT 2600

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Sent by email to TaxRev.reps@aph.gov.au

**RE: Submission to the House of Representatives Standing Committee on Tax and Revenue -
Inquiry into Taxpayer Engagement with the Tax System**

Dear Mr Hogan,

Etax Accountants is grateful for the opportunity to provide a submission to the Committee's Inquiry into Taxpayer Engagement with the Tax System. Below we will discuss facts, observations and recommendations relating to two main items in the Inquiry's terms of reference:

How taxpayers currently interact with the tax system, and

The contemporary use of information and communication technology by the Australian Taxation Office.

Etax Accountants is a large, family-owned tax agent practice operating solely in Australia since 1998. We employ and train hundreds of degree-qualified accountants and other professionals every year with no outsourcing or offshoring. Etax Accountants is recognised by the ATO as a Key Agent. Our practice is a CPA firm and maintains ISO9001 Quality Systems certification.

Etax Accountants represents Australian taxpayers numbering in the hundreds of thousands. Our clients loyally choose our service for preparation and lodgement of tax returns, with associated technological tools, advice and support services. Our practice is committed to providing quality tax agent services to Australians at an affordable cost. We are dedicated to ongoing improvement in tax compliance practice and we enthusiastically seek to assist and collaborate with the ATO, with whom we are in frequent contact at many levels.

At our practice, we tirelessly measure client satisfaction, collecting extremely high satisfaction ratings from our clients, and strive constantly to improve the services we deliver to taxpayers. These are natural activities for a business operating in a free market and they contribute to better consumer outcomes.

Tax agents serve as partners advancing ATO and Commonwealth goals relating to taxation compliance. Tax agents' efforts improve the accuracy of lodged returns. Tax agents encourage on-time lodgement and invest efforts here, both to encourage taxpayers to remain on top of their taxes, to help ATO colleagues to meet compliance goals and for commercial reasons. The efforts of tax

agents feed direct benefits to the ATO in terms of helping to meet compliance measures and thereby shouldering some of the cost of administering compliance.

Tax agents have been surprised to hear, across years of time, various ATO suggestions that agents should cease to be concerned with providing services to individual taxpayers and should instead redefine their business models.

The fact that ATO officers refer to their own “retail” and “wholesale” products and services seems to illustrate a curiously commercial orientation for a government agency. What we see emerging over time (with respect to myTax and a range of ATO projects) is ongoing ATO activity that is being stretched and extended to include ever more features, products and services provided directly by the ATO, at the expense of taxpayers and, we suggest, without enough regard for simple observation of the existing preferences of taxpayers in how they engage with the tax system.

Appropriate advice to taxpayers

It should not be a role undertaken by the ATO, nor any 3rd party not directly involved with the individual taxpayer, to tell a taxpayer how their affairs might fit into a certain “box” – especially when those parties might make such recommendations with no knowledge of any but the roughest details of the individual’s tax and financial affairs, or without qualifications to offer such guidance (as might arguably be the case with, for example, some advice dispensed to taxpayers by ATO call centre staff or 3rd-party employees at ATO-contracted call centres).

Although the ATO should provide basic taxation information in an accessible manner online and via other channels, the ATO should not offer services that would lead the public to believe these services might represent personally appropriate, impartial and/or professional advice. This includes services or advice via phone, online chat, online robots, meetings and forums where public servants or ATO contractors, including ATO staff or contractors not qualified as accountants or tax agents, presently might answer taxpayer questions that should be directed to registered tax agents, in the interest of taxpayers receiving accurate and personally relevant advice.

Recommendation 1

The ATO and its staff should not provide general information in a way that taxpayers may infer to represent impartial or considered individual advice.

“Simple tax affairs”

Having a relatively simple tax return or a complex return does not predict how a taxpayer will choose to prepare their return, nor does it dictate how that person *should* manage their tax affairs.

To say that the apparent, relative simplicity or complexity of an individual taxpayer’s affairs should determine their own decision about using a tax agent is to misunderstand the nature of tax agents’ services, the nature of the tax agent / client relationship and the nature of demand in the tax agent market. That misunderstanding may lead to the taxpayer’s choice being disregarded.

ATO suggestions that taxpayers with “simple” affairs are suited to myTax or should not be a business priority for tax agents merely repeats a misunderstanding of the tax agent market and repeats a disregard for the preferences shown by taxpayers.

The ways that taxpayers engage with the tax system

The significant majority of Australians *choose* to use a tax agent. That fact is the most resonant message regarding taxpayers’ preferences and their engagement with the tax system and it provides a singular, paramount answer to questions raised repeatedly in Australia about how taxpayers do or should engage with the tax system.

Tax agents have evolved and matured to a point where they offer taxpayers the simplicity, confidence, ease of mind, consumer protections, advice and assistance they desire, delivered by the means taxpayers prefer (including predominantly locally in-person, plus online and with newer technology like mobile apps), at fees that are remarkably low for the provision of such professional services.

We propose that, while the ATO may have a responsibility to provide a basic means for self-preparation of tax returns, the Government’s role via the ATO should not dictate or influence who should choose to use a tax agent to manage their tax affairs.

Further, that role should not influence or dictate the business environment where tax agents are Australian businesses operating in a free market. Yet we hear ATO messages suggesting that tax agents should reposition away from compliance services and toward business advisory services, and we see ATO projects conducted and marketed in distinctly commercial and competitive fashions.

We would draw two hypothetical analogies:

1. Most Australians eat sometimes at restaurants and buy various sorts of prepared foods. There is no reason to assume that e.g., they can’t cook, don’t have access to ingredients or are not getting the meals and nutrition they want and need. The consumers choose the product or service that they prefer. It would not be the place of a Government agency to advise those people to purchase only unprepared food from a Government-owned, taxpayer-funded grocery outlet staffed by public servants, competing with independent retailers and restaurants.
2. Australians needing legal guidance or facing legal actions consult with lawyers. We propose, it would not be the place of the Attorney General’s Department to launch marketing campaigns telling the public that, as an alternative to consulting a legal professional, they should instead self-represent in court and rely on services and advice provided by public sector staff or workers at contracted call centres.

The ATO should observe and respect the fact that tax agents operating in a free and competitive business market deliver efficient and effective services meeting compliance needs and taxpayer

preferences, where some commercially-styled or competitively-conducted ATO activities may be unnecessary or wasteful of public resources and can disorder the proper function of a free market.

We acknowledge that the ATO is obliged to provide a competent means of lodgement for taxpayers who wish to self-prepare. In recent years, the ATO has well met its legislated responsibilities in this regard.

However, the ATO has unnecessarily gone further to invest in the development and operation of more complex tools and services, including mobile apps for recording deductions, which were pre-existing offerings available elsewhere at low or no cost to consumers. We perceive that the ATO's striving for more value-add and expansion upon what it has already achieved is somewhat of an ongoing trend or culture and may need adjustment.

Recommendation 2

ATO priorities, practice and communications should specifically and consistently reflect indifference to, not preference over, the way that taxpayers choose to manage their tax affairs, which also means an indifference, not preference, as to whether myTax usage should grow.

Recommendation 3

The ATO should not behave as a taxpayer-funded competitor against free-market Australian businesses, including against tax agents, and should not seek to copy, duplicate or challenge commercially available services without clear, early-stage and public justification and evaluation including transparently addressing costs and contestability.

Recommendation 4

The ATO should not pursue ongoing projects and expenditures on "value add" and premium retail services and tools.

Cost of managing tax affairs

Over recent years the ATO and a range of stakeholders and groups have raised questions or arguments about the "high" cost of tax compliance. It is not uncommon that such statements will reference raw ATO statistics on the average amount claimed for cost of managing tax affairs (i.e. average total claimed at D10, varying in recent years around \$370). We suggest that this statistic may be misleading if it is used to describe the reality of tax agent services readily available to the majority of Australians, and even more inadequate if cited with comparison to or as justification for "free" ATO systems, because:

- Describing average cost of managing tax affairs might often be received as meaning "tax agent fees for an individual tax return lodgement" yet "cost of managing tax affairs" also includes,
 - interest on tax debts owing to the ATO, which cannot reasonably be cited in discussions about tax agent fees nor about the practical costs of obtaining tax related services,

- consultants' fees and tax planning advice,
- tax-related legal services, and
- unusual taxpayers having very high complexity in their own affairs and very high costs in the tax-related services they engage, which may skew the averages.
- Drawing comparison between the average claim for cost of managing tax affairs (or even a more realistic average available tax agent fee) versus “free” ATO systems and services is inappropriate because the ATO products and services are in fact delivered at a significant – but opaque – cost to taxpayers.
- Some have used the average claim amount in an over-simplified manner, disregarding the fact that the cost is tax deductible and/or implying that it represents tax agent fees paid by a typical taxpayer, which is not an accurate interpretation.

The tax agent market is highly competitive, with remarkably low fees emerging among many competitors who often compete on price and who are evolving in sophistication and efficiency. This makes the tax agent business difficult to compete in profitably, but it has been a win for consumers.

Our clients' actual, average claim for the total cost of managing tax affairs in 2016 is about \$108 (which would include our tax-deductible fees, averaging under \$100, plus other costs not charged by us); this reflects the actual cost of managing tax affairs incurred and claimed by hundreds of thousands of “regular” Australian taxpayers.

Some taxpayers may choose to engage tax agents charging higher fees, and this is their choice as consumers. People will pay what they regard as fair for the value they receive. The cost of tax agent services may in many cases be more reflective of how taxpayers value their own time, rather than perceived complexity of the tax system.

Our perspective is that cost of managing tax affairs is a poorly evidenced justification for calls for tax simplification and inadequate justification for ATO projects conducted at largely undisclosed cost of development and operation.

Tax simplification

Some have described the earlier increase in preference to use a tax agent as a market response to taxation complexity. This is sometimes implied as a problem calling for a tax simplification “solution”.

Attempts to simplify the individual tax return, including decisions made during the development of myTax, appear to create in some instances a “veneer of simplicity”, simplifying matters by omission more than real solution.

Simplification, we suggest, can in many cases be equated a reduction in opportunities for tax deductions and consequently, may reduce fairness and balance in taxation.

It has been suggested, including by CPA Australia in their submission to the present inquiry, that debate on the topic to date indicates some likelihood that formal tax simplification proposals, either by design or later when put into practice, may be entwined with revenue or budget goals or the withdrawal or manipulation of tax deductions in a revenue-positive fashion. The resulting political or electoral ramifications would be tremendous challenges and details may fluctuate across government changes.

We perceive that the current public climate in Australia is one where taxpayers are seeking more assistance with their tax returns, more advice about legitimate and compliant taxable income reduction – and are not amenable to reduction of available tax deductions.

Tax agents are well attuned to potential complexities in tax returns. The basic checks performed by our practice, for example, number in the hundreds and many of these can trigger a great deal of further checking and analysis on a given tax return.

Tax agents, by the nature of the services they provide, remove the significance of taxation simplification proposals by offering the taxpayer a service achieving the same result, being, simpler and more worry-free engagement with the tax system while achieving fairness and compliance.

Stability and parity in delivering services to taxpayers

The technical systems underpinning the ATO's "retail products" such as myTax are superior to wholesale ATO systems in both features and stability. This is a long-standing differential that creates a perpetual disadvantage for tax agents and their clients.

It was recently indicated to us by ATO officers that, during tax time 2017, the ATO's first priority in terms of systems stability and outage resolution would be myTax.

We find the ATO's priorities difficult to understand, where across years we see a focus on investment, development, operation and promotion of systems and services that serve a minority of taxpayers.

During the past year we've been happy to see rollout of the long awaited SBR system and we commend the ATO for its efforts on this project. We note, however, that SBR functionality remains inferior in terms of the data available and, subjectively, the present stability and expected future stability, relative to the existing systems underpinning ATO retail products.

The overall stability of ATO systems that must be relied upon by tax agents, viewed according to the measures and expectations that are commonly followed in the private sector, is deficient by orders of magnitude. Private companies will agonize about measuring and troubleshooting minutes of downtime in a month, whereas the ATO has averaged some days' downtime. This downtime typically equals operational downtime for tax agents who, in the eyes of the taxpayers, often wear full but unfair responsibility for delays.

Recommendation 5

Wholesale systems required by tax agents, which underpin the tax services chosen by and delivered to the majority of taxpayers, including the assurance of stability and outage resolution for such systems, should take precedence in funding and prioritisation over “retail” systems that serve a minority of taxpayers.

Recommendation 6

Wholesale systems should be expanded and developed to provide, via tax agents, all services or information that are used in retail ATO products, such that wholesale services should be equal or superior in function, content and stability to retail services, in recognition of the volume of returns handled by wholesale systems and in recognition of the fact that the majority of taxpayers are ultimately served via wholesale systems.

Recommendation 7

The ATO should embrace “digital by default” not only for retail services, but also for tax agents, by enabling the digital delivery of all ATO documents to tax agent clients, typically via the agent on SBR and portals and not sending wasteful paper copies of documents. There should be no exceptions; all documents should be available digitally.

Communicating ATO problems and outages

During outages of ATO systems or reports that are necessarily relied on by tax agents to perform their work, including outages during the tax season peak in 2016, the ATO remained quiet to the public and media. Even ATO staff at taxpayer-facing call centres were unaware and consequently, unintentionally misled consumers with statements casting blame for delays onto tax agents.

This scenario has played out multiple times, each time leaving tax agents to suffer immediate, tangible and long-lasting reputation damage, and ultimately it has meant taxpayers are uninformed or misled about ATO technical outage issues that affect them.

Despite the reliance and trust taxpayers place with tax agents, when the ATO directly contradicts tax agents as we’ve seen happen during ATO outages, some taxpayers tend to believe that the ATO would only provide accurate statements. The resulting unintentional disconnect places the relationship between tax agent and client at unfair risk and is a disservice to taxpayers.

The solutions are quite simple:

Recommendation 8

The ATO should clearly announce, via multiple channels, any outage that prevents tax agents from conducting their business normally. Because the many systems and reports that tax agents rely on are more complex and interconnected than taxpayers, lay people and the media can readily take time to understand, the ATO should announce outages in extremely clear and simple terms that address outcomes, not details, such as, *“The ATO is experiencing a technical*

outage that may prevent your tax agent from doing their work and may cause short delays in your tax refund.”

Recommendation 9

The ATO should adopt a robust internal system for outage announcements and internal messages should be managed by ATO staff who comprehensively understand, and address, possible disconnects such as that between on-screen information viewed by ATO staff vs practical realities created for tax agents during outages.

ATO external communications and promotions

The ATO has recently described tax agents as partners in tax compliance and mentions tax agents in its own communications.

We commend the ATO for its recent shifts in tone and message where tax agents are concerned.

However, we observe that ATO external communication is executed, perhaps inadvertently or mistakenly, at an almost complete exclusion of tangible or balanced information about the prominent roles tax agents play in Australian taxation, and with a tremendous focus instead on competitively-positioned ATO products and programs—which means that the choices and interests of the majority of Australian taxpayers who choose a tax agent are not represented back to the community by the ATO but rather, are challenged.

During tax time the ATO participates as would a commercial competitor in a commercial market, but backed by public money and not answerable to that public or other stakeholders, with no justification of the activities nor indication of what objective is being served to.

The ATO’s marketing promotion and media activities with respect to myTax (and ATO ‘e-tax’ before that) have been competitive toward tax agents, with messages and campaigns targeting individual taxpayers’ opinions and behaviours. These activities pit the ATO against tax agents as advertisers in a commercial market, which drives up costs for all parties—costs ultimately borne by taxpayers.

The ATO should embrace its partnership with tax agents and reform its external communications and marketing to eliminate messages that are competitive or that overlook the importance and prominence of tax agents as a critical part of taxation.

ATO internal and external communications should not suggest there is an inherent good or inherent superiority of ATO retail systems and services when compared with tax agent services. ATO communications concerning self-preparation or any retail ATO services should not be worded or designed in a way that may be seen to prejudice consumer decisions away from similar, related or superior services provided by tax agents—which are already, consistently preferred by most Australians.

Generally, the ATO should be unbiased and impartial on the matter of how taxpayers lodge. This is not however, the case, and we recommend adjustments in this regard.

Recommendation 10

All ATO external communications should represent the value delivered by tax agents and proportionately represent the tax agent's role, thereby reflecting the preference and choices of taxpayers for how they wish to engage with the tax system.

Recommendation 11

The ATO should not advertise in competition with tax agents.

Recommendation 12

The ATO should not advertise on any medium where competitive bidding or spending distorts free market competition or causes inflation that will ultimately be passed on to taxpayers.

We would happily answer any questions the Committee may have regarding our submission and we are grateful for the opportunity to share our perspectives.

Yours sincerely,

Ken Thomas
General Manager