

**Subject:** ATO Additional Tax and Revenue Questions on Notice [SEC=UNCLASSIFIED]  
**Date:** Monday, 30 January 2017 6:15:15 PM  
**Attachments:** [Draft Rulings.pdf](#)  
[Perceptions of fairness and complaints handling.pdf](#)  
[myTax 2016.pdf](#)  
[Bell Group received at hearing.pdf](#)  
[Tax Agent Portal.pdf](#)  
[Assistance to small business and compliance issues.pdf](#)  
[Attachment A.pdf](#)

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Good afternoon

Please find attached the remaining ATO responses to Questions received on Notice following the Tax and Revenue hearing on 30 November 2016.

Thank you kindly for the extension of time to provide these.

**5. Tax Agent Portal**

**6. Assistance to small business and compliance issues**

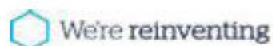
**Attachment A – (question 1 in Assistance to small business and compliance issues)**

Please give me a call if you have any questions.

Kind Regards

**Kelly Simpson**

Parliamentary Services | ATO Corporate  
Australian Taxation Office



**Sent:** Wednesday, 25 January 2017 6:01 PM  
**To:** 'TaxRev.reps@aph.gov.au'

**Subject:** ATO Additional Tax and Revenue Questions on Notice [SEC=UNCLASSIFIED]

Good afternoon

Please find attached ATO responses to Questions received on Notice following the Tax and Revenue hearing on 30 November 2016.

1. **Bell Group – received at hearing**
2. **Draft Rulings**
3. **myTax 2016**
4. **Perceptions of fairness and complaints handling**

As discussed, the remaining ATO questions on notice will be sent through on Monday.

Please advise if you have any questions.

Kind Regards

**Kelly Simpson**  
Parliamentary Services | ATO Corporate  
Australian Taxation Office



**Standing Committee on Tax and Revenue**

**ANSWERS TO QUESTIONS ON NOTICE**

Australian Taxation Office

30 November 2016

**Department/Agency: ATO**

**Topic: Bell Group**

**Reference: Questions on Notice to the ATO – Public Hearing 30 November 2016**

**Question:**

1. Mr Milton Dick MP to Second Commissioner Andrew Mills on the Bell Group litigation, *Committee Hansard*, pp. 12–13 (also ref. QON no.15, Deputy Chair Ms Julie Owen MP).
  - a) At what time did the ATO first brief its Minister, current and previous, in writing or orally, about litigation to be undertaken by the ATO on the proceeds of the Bell Group of companies?
  - b) Given your confirmation that the ATO had been engaging in the Bell matter since November 2015, why was the current minister, Ms Kelly O’Dwyer MP, not advised previously?
  - c) What exactly was the process of consultation between the ATO, the Attorney-General and Solicitor-General in review of the case, and leading to the apparent delay of advice to the Minister?
2. Ms Terri Butler MP to Second Commissioner Mills on the Bell Group litigation, *Committee Hansard*, p. 14.
  - a) Did the ATO have discussions with Minister Frydenberg, or with any other minister, about the Bell matter from the time the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill was introduced into the Western Australian Parliament in August 2015 and its being passed in November 2015.

**Answer:**

1.
  - a) 4 March 2016.
  - b) The ATO did not brief the Minister earlier. It was only on 4 March 2016 that the decision was made to separately intervene in the litigation rather than to do so as part of a wider Commonwealth intervention.
  - c) All of the ATO’s interactions with the Solicitor-General were conducted via the Australian Government Solicitor. These interactions were limited to obtaining legal advice on intervention, and subsequently in preparing legal arguments for the High Court hearing.
2. Between May and November 2015, the ATO was contacted by staff members of each of Treasurer Hockey, Assistant Treasurer Frydenberg, the Minister for Finance, and the Attorney-General.

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### ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

30 November 2016

**Department/Agency: ATO**

**Topic: Draft Rulings**

**Reference: Additional written – 14 December 2016**

#### Question:

1. The Tax and Revenue Committee's report on the ATO's 2014–15 Annual Report recommended that in future, all draft public rulings should cease on a certain date or when they are made redundant by legislation (Recommendation 3).
  - a) The ATO has committed to finalise draft rulings as soon possible.<sup>1</sup> What resources have been allocated to process the rulings and what measures put in place to regulate for future timeliness?
  - b) The ATO has also advised that it will not withdraw all draft rulings because this might cause 'greater uncertainty' to tax payers. What is the basis of this view, and has it been tested among stakeholders?
2. In contrast to previous annual reports, the ATO Annual Report 2015–16 does not appear to report on the number of draft rulings issues and determinations made over the reporting period. Please provide these statistics, and also information on the number of complaints received about draft rulings over the last year.

#### Answer:

1. a) In relation to our aged draft rulings, we have allocated the responsibility of review and management to a Director who is drawing on resources across the ATO to progress them. This has enabled us to identify and action rulings that can be finalised quickly, and understand the reasons others remain outstanding so that we can manage them effectively. The Director is working directly to the Deputy Chief Tax Counsel, Public Advice and Guidance Centre on this project.

To improve the timeliness and usefulness of our public advice and guidance, the ATO has implemented a new approach to managing public advice and guidance (including rulings). The Public Advice and Guidance Centre (PAG Centre) was established in the Tax Counsel Network in late 2015, bringing together tax interpretation specialists from the graduate to SES level (currently 27 people) to lead and support the new approach. At the same time, Public Advice and Guidance (PAG) Units were established in each of the ATO business areas responsible for authoring public advice and guidance. The PAG Units work closely with public advice and guidance authors within their business areas to help those authors effectively manage the development of public advice and guidance, including ensuring that sufficient resources are allocated to the work.

The Public Advice and Guidance Executive (made up of SES officers from the PAG Centre and PAG Units) meets periodically to discuss specific high risk issues

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<sup>1</sup> ATO, *Submission 1*, p. 24.

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and monitor performance. A key focus of these measures is earlier and better consultation, as well as more effective management of the rulings process, leading to improved timeliness.

- b) While we have not specifically tested this view with stakeholders, the ATO considers that a general approach of withdrawing draft rulings after a certain period without replacement could create uncertainty for taxpayers. This is because it would leave taxpayers without any guidance from the ATO on the relevant issues and, potentially, without the protection from penalties and interest that arises from relying on an ATO view in a draft ruling.

The automatic withdrawal of all draft rulings without replacement would create an absence of guidance on relevant issues and could imply that the ATO no longer holds the views expressed in the withdrawn draft rulings. This could lead to taxpayer uncertainty about what the current ATO view is, and speculation that different views have been taken.

2. During 2015-16, the ATO issued 69 public rulings (draft and final rulings). Of that total, 20 were draft public rulings. During 2014-15, the ATO issued 25 draft public rulings.

There are no formal complaints recorded on ATO systems in relation to draft rulings over the last year.

## Standing Committee on Tax and Revenue

### ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

30 November 2016

**Department/Agency: ATO**

**Topic: myTax 2016**

**Reference: Additional written – 14 December 2016**

#### Question:

1. The ATO submission contains statistics indicating positive outcomes for the overall take-up and performance of myTax in 2016.<sup>1</sup> Has the ATO an indication of trends for myTax lodgement among less digitally enabled groups<sup>2</sup> this Tax Time compared with last?
  - a) The ATO has committed to support low income earners and less digitally enabled social groups to lodge online, and to increase engagement among the young and migrants. What tailored mechanisms will assist, in particular, migrants, people with a disability and the elderly?
  - b) Does the ATO have commitment to a whole-of-government IT strategy to support regional and remote Australians to lodge online in the short to medium term?
2. Research by H&R Block at mid October 2016 has suggested that two thirds of self-lodged assessments had errors which favoured the ATO,<sup>3</sup> while a submitter raised the prospect of revenue loss from inaccurate medicare, overseas resident status and capital gains declarations.<sup>4</sup>
  - a) What is the current capacity of the ATO to monitor for error or deliberate falsification in online lodgements?
  - b) What remedial action from the ATO can self-lodgers expect if errors have been made, in terms of lost entitlements, compensation or compliance action if inadmissible claims are identified?
3. During last year's assessment, system technical overloads were reported.<sup>5</sup> This Tax Time, a 'short disruption' to the myTax service occurred, which was attributed in the media to cyber-attacks on myGov.<sup>6</sup>
  - a) Has the ATO identified the causes and negotiated new safeguards with the Department of Human Services to prevent a repeat in future?
  - b) The recent crash of ATO's internal data and customer service systems (in mid-December 2016) resulted in massive data loss.<sup>7</sup> What are the priorities going forward to protect the integrity of the ATO's online lodgement processes and the client information held?

#### Answer:

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<sup>1</sup> ATO, *Submission 1*, p. 10.

<sup>2</sup> Those in rural and regional areas, lower education and income levels, and the elderly, in ATO, *Submission 1*, p. 7.

<sup>3</sup> K Taurian, 'Majority of myTax Returns Inaccurate Study finds', *Accountants Daily*, 15 November 2016, Name Withheld, *Submission 5*, Attachment.

<sup>4</sup> Name Withheld, *Submission 5*, p. 3.

<sup>5</sup> ATO *Annual Report 2015-16*, p. 36.

<sup>6</sup> Noel Towell, 'ATO fumes after Cyber Criminals attack myGov Portal during last days of Tax Time, 2016', *Canberra Times*, 4 November 2016.

<sup>7</sup> N Towell, 'Public Servants Sit Idle as ATO's IT Melts Down', *Sydney Morning Herald*, 14 December 2016 <[www.smh.com.au/national/public-service/thousands-of-public-servants-sit-idle-as-atos-it-melts-down-20161213-gt9xfd.html](http://www.smh.com.au/national/public-service/thousands-of-public-servants-sit-idle-as-atos-it-melts-down-20161213-gt9xfd.html)>

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1. Trends across our lodgment channels have remained relatively stable over the past three years. Analysis of myTax lodgment among less digitally enabled groups does not indicate any material trends when compared to previous years.

- a) We provide a broad range of services and products to assist individual taxpayers, including those less digitally enabled, migrants and non-English speaking taxpayer, those with a disability and the elderly to meet their tax and superannuation obligations. Our contact centre and Shopfront staff are able to assist taxpayers to access and use digital services.

Our Tax Help program is a free and confidential service to help people complete their tax returns at tax time. The program uses a network of skilled community volunteers who give up their time each year. They are not ATO staff, but they receive training and support from the ATO. In 2016 Tax Help assisted taxpayers with over 24,000 lodgments (with a further 3,000 interactions) from 613 centres across the country by 818 volunteers.

During 2016, the ATO delivered 31 pop up offices around Australia to assist the community with accessing the ATO's digital products including myTax during Tax Time. Some of these pop up offices were located in areas with a high proportion of migrant communities. In addition, the ATO delivered tax time seminars across Australia to assist individuals with the lodgment process including partnering with key migrant service providers in the delivery of these education seminars.

We continue to work with migrant advisory and settlement services and government agencies to deliver education and information to migrants about the tax and superannuation systems. We are also focussing on increasing the uptake of online lodgment among students by working with universities and schools. We have been involved in classroom presentations, expos and events demonstrating the ATO's online service with the aim of supporting taxpayers to better understand and engage with the tax and superannuation systems.

- b) The ATO remains committed to the Government's digital transformation agenda and supporting regional and remote Australians to lodge online.

Our application of the Digital Transformation Agency's Digital Service Standard ensures that as each new or updated ATO service is released, it will be simpler, clearer and faster to use. This includes making sure that all users can change channels if needed, without repetition or confusion.

We are also contributing to the development of the whole-of-government Digital Transformation Roadmap and are delivering a range of initiatives that are designed to make it as simple and fast for people to get things done, through any channel, wherever they are.

We are proactively identifying taxpayers who may require more help moving to

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digital through risk-based analytics – this includes people from regional and remote areas. We can then tailor how we engage with them, from sending SMS reminder messages, to giving them a call and providing one-on-one help. We are also committed to maintaining face-to-face, paper and telephone lodgement and help channels for those who need them.

We promote and assist regional and remote Australians with our products and services through our Tax Help program, pop up offices, a network of third party providers in regional and remote locations, schools program and participation in the Department of Human Services Mobile Service Centre trucks.

2. a) Irrespectively of whether a taxpayer lodges online or not, our approach is to engage with individuals to prevent non-compliance. We do this by providing a range of products and services as well as work closely with tax agents, employers, professional associations and community groups to help individuals understand their tax obligations and entitlements.

Our ability to identify unusual or inaccurate claims is advancing due to enhancements in technology and improvements in the quality and volume of data we receive from employers, banks, government agencies and other third parties. Where data is available we prefill online tax returns to make it easier and quicker for individuals to complete their return and reduce the risk of errors. In myTax 2016 we introduced real time prompting that encourages taxpayers to review their deduction claims where they are higher than expected.

We have sophisticated analytical rules in place that scrutinise every tax return to identify unusual, inaccurate and fraudulent claims, prior to refunds issuing. We also use data matching techniques to identify discrepancies and compare taxpayer claims with their peers to identify those that are higher than expected which we then examine more closely.

- b) Through our audit processes, where we identify taxpayers to have made an error we amend their return to disallow the deduction/s or to include income that has not been declared. The law provides us with administrative powers to impose interest charges and administrative penalties and in certain circumstances we have the discretion to remit them in full or in part. Some cases may lead to prosecution where the taxpayer has deliberately provided false and misleading information. Likewise, where taxpayers have made mistakes that disadvantage them or have not made claims for expenses they are entitled to, we amend the tax return in their favour.

If taxpayers disagree with the outcome of our compliance activity, they have access to a range of formal and informal review options. Where we agree with their position and amend their assessment in their favour we will also pay them interest on any overpayments they have made. In some instances, taxpayers can apply for compensation which includes professional fees, interest for delays in



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providing funds where no statutory interest has been paid and bank or other administrative fees.

3. a) The ATO continues to work closely with the Department of Human Services (DHS) as the administrator of the myGov service. DHS understands the important and integral part of the ATO's digital service offering to the community that myGov provides.

The agencies work particularly closely together in the lead up to Tax Time to complete capacity planning activities and incident-handling rehearsals. During the Tax Time period itself, combined real-time monitoring and messaging are in place with ATO and DHS myGov incident management teams co-located on peak days, which enables both agencies to respond quickly to any issues that occur.

- b) The ATO responded to media reports of massive data loss including the specific article mentioned at the time stating that *“the petabyte of data referred to in media reports relates to storage capacity, which includes not only data but applications and systems as well. This figure does not relate to data impacted by the outages. While we experienced some data corruption, we are in the process of fully restoring this data from back-up”*. The reports of massive data loss were simply incorrect. We are confident that no taxpayer data has been lost or compromised.

In December 2016 the Commissioner announced an independent review into the outage. This will help us fully understand what happened and why, and what needs to be done to ensure we are not exposed to this type of incident in future.

We have appointed Price Waterhouse Coopers (PwC) to conduct the independent review because of their specific expertise with the ICT storage that is at the centre of the incident.

PwC have already commenced their review and are due to report back to us in March 2017 addressing questions such as:

- What caused the outage?
- Why was there such a significant impact?
- Was the ATO response appropriate?
- What are the residual risks – if any?
- What actions can be taken to mitigate further or future issues?

Separate to this we are also undertaking our own internal review to ensure we account for business impacts and experiences.

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Australian Taxation Office

30 November 2016

**Department/Agency: ATO**

**Topic: Perceptions of fairness and complaints handling**

**Reference: Additional written – 14 December 2016**

**Question:**

1. The Committee has received submissions which express concerns about the fairness and transparency of ATO determinations on fraud and evasion, with retrospective debt action a consequence.<sup>1</sup>
  - a) What are the general principles which support the ATO taking retrospective action beyond the two years specified in section 170 of the Tax Act?
  - b) Does the ATO seek external advice in making determinations on such matters?
  - c) To what extent are litigants advised about the reasons for the ATO's determinations?
2. The Inspector-General's decisions have no binding effect on the ATO in review of such cases. It has been suggested that the Inspector be given wider jurisdiction and resourced to act with binding effect. Have you a comment?

**Answer:**

1. a) The self-assessment system of taxation relies upon taxpayers self-assessing their own liability through the lodgment of taxation returns and formal assessment. Under section 170 of the Income Tax Assessment Act 1936, a limited period of two years (or four years for taxpayers with more complex affairs) generally applies for the Commissioner to amend assessments; providing certainty and finality. However, by way of exception, the Commissioner has an unlimited amendment period to amend income tax assessments when he is of the opinion there has been fraud or evasion. This power embodies a longstanding principle that people who engage in calculated behaviour to evade tax should remain permanently at risk.  
  
In cases of non-lodgment where no assessment has yet been made, section 170 is not applicable such that the Commissioner may issue an assessment at any time.
- b) The ATO does not generally seek external advice in making determinations on such matters. The ATO generally relies on its in-house resources, including internal technical panels. However, in limited instances the ATO does seek advice from external counsel.
- c) Taxpayers who end up in litigation with the ATO (either by challenging the ATO's assessment decisions or in defending against ATO recovery action) are advised of the ATO's reasons for determinations at various stages. For instance:

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<sup>1</sup> See *Submissions 4*, and *5*.

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- An opinion on fraud or evasion will usually be formed at the audit stage. Litigants will have been provided with reasons as to why the opinion was formed by the auditor.
- If the Litigant lodges an objection to have the opinion reviewed, the objections officer will consider the objection and make a decision as to whether to allow the objection or disallow it. The Objections officer will issue reasons for his/her decision. Accordingly the Litigant will again be advised of the reasons if the opinion in respect of fraud or evasion still stands.
- If the Litigant proceeds to file an application in either the Federal Court or in the Administrative Appeals Tribunal to have the Objection Decision reviewed in respect of the opinion, the Commissioner will be required to provide the Court and the Tribunal with either an Appeal Statement or a Reasons for Decision (depending upon the jurisdiction) which will set out the Commissioner's reasons for forming an opinion on fraud or evasion, and which would reflect and reference earlier explanations already provided to the taxpayer. The Litigant is provided with a copy of this document.

The above processes occur in the overwhelming majority of cases involving the formation of an opinion of fraud or evasion. There are a very limited number of cases where the Litigant may not be provided with the reasons as to why the opinion was formed by the auditor before an assessment issues.

For example, where there are concerns the Litigant may be involved in organised crime or the Commissioner considers there to be a high risk of dissipation of assets, the Commissioner may conduct the audit on a covert basis and proceed to issue assessments to the Litigant with limited notice of the reasons for forming the opinion. This type of action is not taken lightly and serious considerations would need to exist before the Commissioner would take this approach.

2. This is a matter for Government.

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### ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

30 November 2016

**Department/Agency:** ATO

**Question:**

**Topic:** Tax Agent Portal

**Reference:** Written – 14 December 2016

**Member:**

**Question:**

1. The ATO submission highlights the ongoing refinement of the rebadged Client Communication list (CLS).<sup>1</sup> A submitter reported that the new CLS imposes a substantial administrative burden on agents as each client account must be individually calibrated.<sup>2</sup> Does the ATO acknowledge this as a problem to be addressed?
2. The ATO directs students to myGov to manage their HECs debts. A submission identified problems with late payment notes not going to agents.<sup>3</sup> Has the ATO received complaints from students and agents about inaccurate HEC's assessments or debt letters being issued direct to students this Tax Time?
3. The Practitioner Lodgement Service (PLS) was launched for Tax Time 2016. Consultation between software and tax practitioners identified the projected conversion to a single Standard Business Reporting (SBR) platform by March 2017 as a risk.<sup>4</sup> Would the ATO provide more detail on those risks and the future transition plan for those who are not SBR enabled?
4. The Tax Agents Portal has been unavailable to tax professionals during the digital failure mentioned at 3(b).<sup>5</sup> In February, CPA Australia had called on the ATO to budget for compensations to tax professionals in such cases.<sup>6</sup> The Inspector-General of Taxation has been reported to support this.<sup>7</sup> Your response?

**Answer:**

1. The Commissioner of Taxation in his speech to the Tax Institute [of Australia] in March 2016 and in his statements to the Senate Economics Legislation Committee hearings in October 2016 acknowledged that, "Clearly, we are now in a digital world". This means, in practical terms, that how we communicate with taxpayers and their representatives is shifting from a traditional paper-based approach to being on a more digital basis to ensure the ATO provides a contemporary service to the community.

As part of the ATO's strategy in meeting this challenge, it has been mindful and supportive of taxpayers that choose to use an agent and those that choose to manage

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<sup>1</sup> ATO, *Submission 1*, pp. 18-19, and see *Commissioner of Taxation Annual Report 2015-16*, Vol. 1, p. 34.

<sup>2</sup> Tax agent's advice to the Secretariat, 23 November 2016.

<sup>3</sup> Name Withheld, *Submission 5*, p. 4.

<sup>4</sup> ATO, *Tax Commissioner's Annual Report 2015-16, Volume 1*, p. 35.

<sup>5</sup> N Towell, 'Public Servants Sit Idle as ATO's IT Melts Down', *Sydney Morning Herald* (SMH), 14 December 2016.

<sup>6</sup> Mr Paul Drum, Head of Policy, CPA Australia, *Committee Hansard*, Canberra, 10 February 2016, pp. 4, 2.

<sup>7</sup> N Kahadem, Inspector-General of Taxation Ali Noroozi says ATO needs to Say "Sorry" for Errors', SMH, 13 December 2016 <[www.smh.com.au/business/the-economy/inspector-general-of-taxation-ali-noroozi-says-ato-needs-to-say-sorry-for-errors-compensate-taxpayers-for-it-outages-20161212-gt9q3c.html](http://www.smh.com.au/business/the-economy/inspector-general-of-taxation-ali-noroozi-says-ato-needs-to-say-sorry-for-errors-compensate-taxpayers-for-it-outages-20161212-gt9q3c.html)>

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their own tax affairs and provide a solution that will meet the needs of both.

In supporting agents through this change, we have worked extensively with the profession since the launch of the Client Communication List in March 2015, to ensure that the design effectively supports agents. While there was a significant level of agent feedback when the list was first released, we have since used this feedback to improve the service. This has involved asking agents from different sectors of the profession (for example small, medium and large practices as well as representatives from the professional associations) to assist in the design of the Client Communication List. This work is ongoing as the Client Communication List evolves.

Recent examples of improved functions released during 2016 include:

- increased content being provided via the Client Communication List, including emails and SMS messages sent directly to taxpayers
- improved naming standards for items of correspondence to make items easier to identify
- capacity to view up to 5 years of communication for individual taxpayers online
- improved search facilities that allow practices at the click of one button to see what new correspondence has been issued by the ATO to taxpayers on a day by day basis
- an ability to search on correspondence sent to those taxpayers that have linked their myGov mailbox to the ATO.

2. The ATO received 44 complaints from students (42) and agents (two) in Tax Time 2016 who disagreed with their HELP assessment. After investigation:

- 39 of these were not upheld as the complainant was either confused by their HELP liability or disagreed with the amount of HELP charged by their educational institution
- two were upheld, one where supporting information had not been fully considered by the ATO and the other where the ATO had processed the person's HELP incorrectly
- three were withdrawn.

Clients do not receive debt letters showing their HELP loan balance. In the past we issued annual letters to clients but now they can access the most up to date HELP account information online using MyGov at any time. However, if a client is required to make a HELP repayment based on their income it will be shown on their income tax notice of assessment. Where there is a shortfall between the income tax account balance and any tax already paid or withheld, the client will receive an income tax bill. No complaints were received about 'debt related HELP letters' this tax time.

3. The Electronic Lodgment Service (ELS) shutdown will commence from 31 March 2017. We have considered feedback from some software developers and tax practitioners who have advised they are not confident they can be fully converted to the Practitioner Lodgment Service by 31 March 2017.

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A decision has been made to continue to support the Electronic Lodgment Service as a back-up channel for individual income tax returns until March 2018. The Fringe Benefits Tax return will not be made available for the Electronic Lodgment Service for 2017. Other income tax forms will be progressively removed from the Electronic Lodgment Service safety net throughout 2017.

In late 2016 senior ATO executives met one on one with their software developer counterparts to identify and address key concerns. We have co-designed and implemented an engagement campaign, using a broad range of innovative channels, including face to face events, live webcast panel debates (between ATO, tax professional and professional association representatives) and social media.

Progressively removing return forms from the Electronic Lodgment Service allows greater flexibility for software developers to smoothly transition their remaining tax agent customers to the Practitioner Lodgment Service throughout 2017.

4. In its report “Review into the Taxpayer’s Charter and Taxpayer Protections”, released December 2016, the Inspector-General of Taxation said at paragraph 4.52:

“The IGT remains of the view that, where the ATO undertakes large scale projects, such as those relating to significant IT upgrades, it should as a matter of risk assessment and good governance, particularly in the light of the requirements under the PGPA Act, consider catering for potential outages and teething issues which may lead to unintended delays and outcomes. In doing so, the ATO could consider a range of contingencies including setting aside appropriate portions of the budget to account for potential compensatory payments ...”

In response the ATO advised the Inspector-General that a separate budget allocation for specific projects is not necessary as ATO General Counsel currently has a centrally managed budget allocation for compensation purposes.

## Standing Committee on Tax and Revenue

### ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

30 November 2016

**Department/Agency: ATO**

**Topic: Assistance to small business and compliance issues**

**Reference: Additional written – 14 December 2016**

**Member:**

**Question:**

1. The ATO has committed to ensure small business understands tax and super obligations upfront to reduce escalating tax debt in the sector.<sup>1</sup> Could the ATO provide a diagrammatic summary or succinct overview of the new service focus for small business over 2016–17?
  - a) The ATO is currently redesigning its small business assistance page.<sup>2</sup> What are the key features of the new page and what is the timeline for launch?
  - b) What are the ATO's investments in online support relative to person to person assistance for small business? Has the total number of staff engaged in this area increased or decreased?
2. Tax practitioners have stated that cybersecurity is a major issue for business in the digital economy.<sup>3</sup> Has the ATO worked with the business sector to reduce software related cybersecurity risks?
3. The ATO has issued a discussion paper for a new penalty regime for small business and individuals which proposes imposition of significant fines for those who do not lodge on time.<sup>4</sup> Could you comment on any mitigating considerations, and the potential of the measure to increase tax compliance and reduce the revenue gap?

**Answer:**

1. Please refer to attachment A.
- a) The ATO launched our redesigned small business assistance page on 14 November 2016.

The key features of the page include:

- An online registration for new business startups to register for ABN and tax obligations
- Information on GST, Superannuation and employer registration and reporting obligations
- Access to online tools, calculators and business portal for lodging activity statements online

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<sup>1</sup> ATO, *Tax Commissioner's Annual Report 2015–16, Volume 1*, p. 25.

<sup>2</sup> At 12 December 2016, See [www.ato.gov.au/Business/Starting-your-own-business/](http://www.ato.gov.au/Business/Starting-your-own-business/)

<sup>3</sup> CPA, *Submission 2*, p. 1–2, CAANZ, *Submission 3*, p. 4

<sup>4</sup> ATO, 'Proposed Changes to Penalties for Small Business and Individuals—Consultation' October 2016 [lets-talk.ato.gov.au/penaltyconsultation/news\\_feed/proposed-changes-to-penalties-for-small-business-and-individuals-consultation](http://lets-talk.ato.gov.au/penaltyconsultation/news_feed/proposed-changes-to-penalties-for-small-business-and-individuals-consultation)

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- Videos and webinars explaining tax and super information
  - Registration for free small business workshops
  - Our ‘Small business assist’ tool provides tailored information, offers live web chat and the option to book after hours and weekend call back service with an experienced ATO support officer.
- b) Significant investment has been made to deliver online services to support the community, especially for Small Business operators. A number of service offerings are now available to provide self, and assisted, support as they engage with the ATO online including:
- myTax expansion for sole traders Income Tax lodgment
  - Cloud authentication and authorisation
  - ATO Online available for sole traders
  - Web chat for small business
  - ‘Alex’ Virtual Assistant
  - ATO app
  - Manage ABN Connections
  - “Show me How” Field Services

There is still significant ongoing work occurring to improve online services to the public, including the small business community. The ATO’s Digital Strategy outlines the future state of online interaction and we have a dedicated capability to deliver these services for the community. The future experience is intended to enable business owners to access our digital services from any device, manage third part authorisations at a whole-of-government level, and, eventually, transition to automated event-based reporting. The ATO’s commitment to continued collaboration and engagement with the small business community will assist in shaping these future experiences.

2. The ATO established a Cyber Security Working Group (CSWG) in early 2016 to consult with government and specific industry bodies to collectively consider the risks of tax-related information/ identity theft and determine how they can be reduced and managed from the tax practitioner perspective. The group is comprised of the accounting associations, tax professional bodies and the Australian Business Software Industry Association (ABSIA).

The group compiled Top Cyber Security tips for individuals and business which were published on ato.gov.au in December 2016. Design specifications for pamphlets of these tips will be made available to CSWG representatives for distribution to their members and their clients from February 2017.

The ATO has a communications plan for fraud and online security messaging with scheduled cyber security awareness campaigns run for various audience groups through online newsrooms, newsletter subscriptions, consultation forums, social media and media releases.



## **Standing Committee on Tax and Revenue**

### **ANSWERS TO QUESTIONS ON NOTICE**

Australian Taxation Office

30 November 2016

The ATO currently has a process in place for dealing with information incidents identified by software providers which is managed by our Software Industry Partnership Office (SIPO).

With the growth of cyber security risk the ATO is developing minimum requirements for software products and supporting systems to ensure they have the appropriate security controls in place to protect business information. We are also maturing our monitoring process so we can be aware of and respond to incidents in a timely manner.

3. The ATO approach outlined in the discussion paper is supported by academic theory that advises by giving people a chance to get back on track without penalty they are more likely to willingly participant in future and increase their tax compliance. Where penalties are imposed the Commissioner will continue to consider individual circumstances and apply remission where appropriate consistent with the law administration practice statements so that taxpayers will not be in any worse position under the new proposal than they would be under current rules.

The consultation period for this discussion paper has now closed. The community feedback including professional accounting and law associations indicated that the majority supported a one chance approach as suggested in the paper. Some of the community were concerned about how it would work in practice; however, overwhelmingly, most agreed that a one chance approach would positively increase the perception of fairness of the system. It was also highlighted that some clients should be excluded, such as those with a poor compliance history, and that further development of the proposal for failure to lodge is required.



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

# Supporting small business

The ATO has been working with small business to understand their needs and to improve the overall experience when dealing with the Tax Office.

This document provides an overview of services for small business which assist in making it easier to meet taxation and superannuation obligations, including:

- Community consultation processes including key forums and fix-it squads
- Community education and engagement
- Digital service offering
- Key focus areas for 2016/17

# Supporting small business

as at 24 January 2017

## Current services supporting small business

### Contact Details

Emma Rosenzweig– 0435 967 487  
Jill O'Malley– 0418 410 040



### ATO App

Our free mobile optimised app provides quick access to handy tools and calculators, answers to frequently asked questions, key dates and reminder.

Some of the things small businesses can do:

- find out if their employee is eligible for super guarantee (SG) and calculate SG contributions
- compare a business to industry benchmarks through the 'Business Performance Check' tool, and
- watch videos and access checklists and other helpful information for SMSF trustees.



### ato.gov.au

Our website has been improved to make it easier for small business people to get answers to their tax and super questions. Most importantly, the search function has greatly improved and is providing the right content to meet clients' needs.

Calculators and tools are also integrated with content to provide a natural transition from awareness of a topic to doing a task or getting a specific answer.

### Small business newsroom

The newsroom is our digital news and information service that provides businesses all the latest small business tax and super news in one place.

Small businesses can set preferences for news and updates and with one click they can download key tax and super dates to their business calendar.



### Web chat

After hours real-time, online conversation with an ATO customer service officer who can provide guidance and general information on small business topics. The range of topics covered is continually being expanded.



### Afterhours call back service

Small business people who don't want to take time away from their business during our office hours can book a call on-line at a time that's convenient to them between 6-9pm Monday to Thursday.



### Alex Virtual Assistant

Alex is a 'virtual assistant' available 24/7 on ato.gov.au to help clients with their tax queries. Clients can ask Alex questions about tax just as if they were talking to a person.

Alex understands conversational language and can clarify what clients want and answer questions. Alex builds capability with every interaction and will continue to improve over time.



### MyTax 2016

myTax is available for sole traders who prepare their own return. It will provide a personalised, seamless, mobile accessible and streamlined experience for sole traders through:

- An integrated Personal Services Income tool
- Pre-filling of business related payment summaries (including taxable payments for the building and construction industry)
- A new tool to calculate the income amounts needed to claim the new "small business income tax offset".



### New to Excise or Wine Equalisation Tax

We will be providing additional support for small business who start to have excise or wine equalisation tax obligations through regular targeted assistance to help them stay on track in their first year.

## Current services to assist small business



### Easier access to online services through MyGov authentication

Sole traders can now use their myGov credential to access ATO online services to complete a range of transactions at anytime from any device, such as:

- Lodge, view and revise activity statements
- Manage PAYG instalments
- Make payments
- Set up payment arrangements for income tax debts

All these services can also be accessed via the ATO app.



### Manage ABN Connections

Small business owners or the people they authorise to act on behalf of their business the choice to link an Australian Business Number (ABN) to their personal myGov account. Once linked it allows the individual to use their myGov credential to access government online business services (including the business portal) without the need for an AUSKey



### Voice Authentication

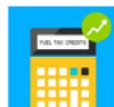
Voice authentication was introduced in the ATO's contact centres as a faster and more secure way of proving identity. More than one million people have enrolled their voiceprint with the ATO so far.

Sole traders can use voice authentication to quickly and securely access our online services via the ATO app without the need for an AUSKey



### Employee/contractor tool

Small businesses can use this new tool to easily work out if their workers are employees or contractors and what they would need to do for their tax and super obligations



### Fuel Tax Credits tool

A new tool that makes it easier to claim fuel tax credits by helping small business people apportion their fuel usage between business and private. The tool is also accessible via our ATO app



### Personal Services Income tool

The tool helps sole traders understand and correctly report their personal services income in their tax return and provides certainty they have done it correctly. The tool is available as a standalone tool on ato.gov.au and is integrated into myTax16 allowing them to have the results prefilled in their myTax return



### Taking on an employee checklist

A whole of government taking on an employee checklist was launched in April 2016 on business.gov.au. This will assist small businesses who take on an employee to get it right from the start. This initiative was implemented as a result of "Taking on an employee" Fix-it Squad.



### Small business superannuation clearing house

This is a free online superannuation payment service that lets employers pay their contributions to a single location in one secure electronic transaction.

The clearing house is a simple way for eligible employers to meet their SuperStream obligation and it's open 24 hours a day, 7 days a week.

**SuperStream**

### SuperStream

SuperStream brings to an end the need to send cheques and paper to funds. Employers submit a single standardised file for their employees rather than have multiple interactions in different formats previously required by each super fund. Under SuperStream employers make employee super guarantee contributions electronically. It streamlines the process by significantly reducing the time it takes to meet their super guarantee obligations.

### Contact Details

Emma Rosenzweig– 0435 967 487  
Jill O'Malley– 0418 410 040

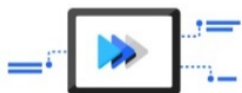
# Supporting small business

as at 24 January 2017

## What's coming soon to assist small business

### Contact Details

Emma Rosenzweig – 0435 967 487  
Jill O'Malley – 0418 410 040



### Single Touch Payroll

Single Touch Payroll will help employers meet payroll-related obligations to government by leveraging their natural payroll processes. It will also enable streamlining of government obligations related to bringing on new employees.

Single Touch Payroll will reduce costs and make the system easier to administer for employers and the ATO. It is one step towards a larger range of online services the government will provide to support Australian business into the future.



### Simpler BAS

This will provide small businesses (less than \$2m turnover) with a simpler BAS that requires less GST information, drives simpler ongoing GST record keeping and delivers red tape reduction.

A select group of agents and clients are testing the Simpler BAS with full implementation planned by 1 July 2017



### Streamlining Business Registrations

A single online portal for business and company registration will allow businesses to apply for an ABN and complete a number of other government registration obligations (including tax roles, business name etc). This portal is being developed by Department of Industry, accessible via [business.gov.au](http://business.gov.au) and is a joint initiative with the ATO and ASIC. ATO and ASIC have developed application programming interfaces (APIs) to support these registrations.



### Small Business Record Keeping tool

Building on the myDeduction app for individuals, we have developed a tool on the ATO App. Individuals with simple business tax affairs can record business income and expenses during the year. Clients will be able to download the data to their tax agents and/or prefill their tax returns at tax time. The first iteration of the tool was delivered in December 2016 delivery



### Improving online interactions

We are working on making it easier, faster and safer for small businesses to transact with us online by improving our authentication and authorisation services by:

- Allowing small business to easily nominate other to act on their behalf through a WofG "Relationship and Authorisation Manager" (RAM)



### Digital Business Account

Businesses (and their authorised representatives) will be able to access a 'one stop shop' to access Whole of Government (WofG) services in one single and secure online location. Clients will be able to:

- update business details across government
- access a digital mailbox to receive messages from government
- customise government information that is relevant to their business.

# Supporting small business

as at 24 January 2017

## Getting what I need when I need it

### Within 30 days of registration new businesses receive:

- New-to-Business Essentials Series Email, linking to online modules
- Small Business Newsroom Email Service
- Invitations to webinars and workshops

### Community Engagement

We hold site based community events and Community conversations with suburban, regional and rural areas.

We have a 'one-to-many-to-many' approach to education. Using our strong relationships with Business Enterprise Centres (BECA), Australian Small Business Services (ASBAS), city councils, business chambers, small business commissioners and service providers, we also 'train the trainer' to enable some of our partners to deliver education sessions on our behalf.

### Cash Flow Management support and education

A new comprehensive cash flow management education package has been developed and is currently being trialled. This package will provide new small business owners with practical, sound and relevant material to help them plan, manage their finances, and budget to meet their obligations, including tax and super.



### Digital Showcase

A number of digital showcases have been held providing small business with a first hand view of our digital initiatives in the form of an exhibition with demonstrations of our new services.



### Contact Details

Emma Rosenzweig– 0435 967 487  
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### Small Business Stewardship Group

The Small Business Stewardship Group is a peak ATO consultation forum which meets formally three times a year and also works actively out-of-session.

Members are refreshed yearly and include the Australian Small Business & Family Enterprise Ombudsman, COSBOA, Australian Chamber of Commerce & Industry, Business Enterprise Centres Australia, Industry associations, Indigenous Business Australia and small business owners. The membership works closely with the ATO to provide valuable insights into specific issues facing their industry or group as well as a deeper understanding of the small business perspective.



### Mental Health

We have been working with small business owners, industry associations and organisations such as COSBOA and Beyond Blue to provide a better service when a small business owner is experiencing mental health issues while running their business. Services include:

- A new web page and YouTube video providing small business owners with advice on how we can assist has been published on [ato.gov.au](http://ato.gov.au)
- A training module has been developed and rolled out to all client facing staff.
- We have held small business mental health panels in several sites to provide insights from small business and mental health experts for client facing staff.

### Small Business Consultation Panel

By consulting directly with small business owners on a fee-for-service basis, we can make it easier for them to interact with government by improving ATO products and services.

The small business consultation panel continues to grow as small business become involved in consultation and co-design activities. The current membership of the panel totals 520 small businesses – of which 115 are tax and BAS agents.

# Supporting small business

as at 24 January 2017

## How our Fix-it Squad has consulted with small business

### Contact Details

Emma Rosenzweig – 0435 967 487  
Jill O'Malley – 0418 410 040

Our Small Business Fix-it Squads work with the community and other agencies (across all levels of government) to develop solutions to problems faced by small business. The squads' successes have been widely acknowledged and we're now seeing the methodology being applied by other areas of the ATO, and other agencies. Over the course of eight squads that have been completed since 2014, we've consulted with over 300 small business owners and approximately 25 industry and advisor groups. We've collaborated with 30 government agencies to deliver 36 squad recommendations that have saved small businesses a significant amount of time and money. The red-tape savings for small business from the first four squads alone have been calculated at an estimated **\$141 million per year** (as at 31 December 2016) Products delivered as a result of our squads include the New to business essentials series developed jointly by ATO and Department of Industry, Innovation and Science, and ASICs First Business app.



### Starting a small business for young adults

Work is progressing towards a launch of the squad outcomes in February 2017. The status of the recommendations is:

- Squad design concepts were incorporated into the redeveloped landing page of business.gov.au, and the finder tools; Advisory Services, Events, and Grants & Assistance. As a result of ongoing feedback, further work is underway to find even better ways to present the available resources. Continuous improvement is ongoing.
- The small business app (First Business) and online learning module are now available on ASICs MoneySmart website to help young people thinking about small business. First business is now live and ready for downloading from the app stores.
- A progressive new business engagement pack (N2B Essentials) has issued to over 320,000 new businesses since February 2016. Information is timely and relevant to new businesses' needs, and issued in 4 stages over their crucial first 12 months. This has been a joint agency initiative between the ATO and the Department of Industry, Innovation and Science.

### Regulations and the sharing economy – getting the balance right

The final cross agency Steering Committee meeting was held in September with the following recommendations being endorsed to proceed:

- Certainty of what making money on Airtasker or similar platforms means across the tax and transfer systems
- A central resource hub for people running a small business via Airtasker or similar platforms
- Record keeping and reporting app for sole traders

Implementation work is underway.



### Drought assistance – “Town Hall” program

The final cross agency Steering Committee meeting was held in December with the following recommendations being endorsed to proceed:

- A whole of government 'hub', the *rural resource finder* will be developed where farmers and conduits can access consolidated information about available drought assistance and best practice for preparing for and recovering from drought
- A cross agency and industry drought reference will group will be initiated to advise and support the hub
- Explore the possibility of a telephony service to assist the hub.

Implementation work has commenced.

### Building and construction industry – recognising the signs of business failure and taking action

The final cross agency Steering Committee meeting was held in December with the following recommendations being endorsed to proceed:

- A paper detailing the Queensland Building and Construction Commission escalation process for promoting payment of invoices within agreed trading terms will be written and escalated to the Small Business minister and other relevant state networks for consideration
- Two industry specific checklists will be developed outlining what to do about non-payment of invoices including “street smarts” and best practice
- Further investigation will be undertaken into a whole of government employee vs contractor tool
- An early intervention and engagement strategy for business that may be in trouble will be piloted.

Implementation work has commenced.

# Supporting small business

as at 24 January 2017

## Small Business Key Priorities

### Contact Details

Emma Rosenzweig– 0435 967 487  
Jill O'Malley– 0418 410 040

We have engaged with Small Business to identify their views on improving the client experience when dealing with the taxation and superannuation systems. As a result we have developed the following Small Business experience priorities:



### Understand small business and their needs

Helping our staff know what it's like to be in business, and providing our staff with the ability to see a complete picture of the client profile.



### Show me what, how and why

Provide small business with awareness of our new digital services, why they are useful and how to use them. Just in time training and ongoing engagement



### Fix the basics

We are focusing on basics which are key irritants for small business.



### Streamlined reporting options

Developing a simple reporting system for very small business.



### Visibility of ATO data

Providing transparency for small business and their intermediaries which means they are able to view their tax and super affairs including their transaction history, risk ratings, and 3rd party data.

*“Every interaction with a small business person is an opportunity to build our relationship with them”*

## Focus Areas for 2016-17

### Mental Health Initiatives

“I can continue to work in by business knowing that the ATO understands my problem and can help me if needed.”

### Simpler BAS for GST

“It's easy for me to set up my accounting systems to do my GST and lodge my BAS online.”

### A Better Telephone Experience

“It is straight forward to phone the ATO, or have them call me back. When I discuss my business issues I find they really get me and want to help”

### Easier Access and Authentication

“I find it easy to go online to do my tax and super”

### Small Business Record Keeping tool

“It's easy using the small business record keeping tool on the ATO app. I know I've got my tax records under control”

*We are continuing to consult with small business on initiatives to make sure we are delivering services which are practical and rational.*