



THE TAX INSTITUTE
THE MARK OF EXPERTISE

1 February 2016

Mr David Monk
Inquiry Secretary
Standing Committee on Tax and Revenue
House of Representatives
PO Box 6021
Parliament House
Canberra ACT 2600

By email: taxrev.reps@aph.gov.au

Dear Mr Monk,

Inquiry into the *Annual Report of the Australian Taxation Office 2015*

The Tax Institute welcomes the opportunity to make a submission to the House of Representatives Standing Committee on Tax and Revenue (**Committee**) in relation to its Inquiry into the *Annual Report of the Australian Taxation Office 2015 (Inquiry)*.

Executive summary

Given the broad terms of this Inquiry, we have focussed on those aspects of the ATO's practice where there have been developments relevant to our members since our last submission to the Committee on its Inquiry into *the Annual Report of the Australian Taxation Office 2014*. Our 18 August 2015 submission is attached for your reference.

In summary, the Tax Institute commends the ATO on its high profile achievements to date in relation to its 'reinvention'. These achievements have primarily focussed on the ATO's direct interactions with taxpayers. The vast majority of taxpayers comply with their tax obligations through a tax agent. The Institute recommends that the Committee inquire into the progress of the ATO's 'reinvention' as relevant to its dealings with tax agents. We have previously noted tax practitioners' issues regarding the Tax Agent Portal (**Portal**), Standard Business Reporting (**SBR**) and the Client Correspondence List (**CCL**) and we still have concerns as to the progress that has been made in relation to these ATO systems.

ATO reinvention

The Tax Institute supports the ATO's 'reinvention' and its leadership amongst government agencies in promoting more digital interactions with clients. The ATO has delivered a number of high profile improvements as part of its reinvention, particularly in the electronic services for individual taxpayers and small businesses. Significant achievements from the ATO reinvention program so far have included myTax, the ATO app, myDeductions, voice authentication for individuals and providing contemporary service channels for small businesses such web chat facility.

We also commend the ATO for consulting with the community broadly on initiatives such as Digital by Default and its Review of Private Guidance. The ATO's approach to consultation on these topics has been made easily accessible to the public through the use of the ATO's Let's Talk website.¹ Members have provided positive feedback on usefulness of the plain language, high level consultation material available on this website for themselves and their clients. The Institute strongly supports broad public consultation on all new ATO initiatives unless there are exceptional reasons in favour of targeted confidential consultation.

Approximately 74% of personal income tax returns and 90% of corporate income tax returns in Australia are lodged by tax agents.² Some members have expressed concerns that the ATO's 'reinvention' has to date focused on improving the ATO's direct interactions with taxpayers, targeting the relatively small subset of taxpayers not using a tax agent. Tax agents continue to express concern about their future level of involvement in their client's affairs given the ATO's strategy of dealing with taxpayers directly. The ATO needs to balance their intention by also promoting the ability of tax agents to be directly involved in the affairs of their clients, with their clients' consent.

Tax practitioners continue to complain about the lack of improvement in the ATO systems they deal with. The Tax Institute provides a forum for tax practitioner members to write in and provide feedback on their interactions with the ATO through the 'Member Feedback' section of our weekly TaxVine newsletter. From 2014 to 2015 we have seen the amount of feedback provided by tax practitioners on this forum increase dramatically, with issues regarding ATO technology featuring regularly.

We appreciate the Committee's interest in the impact of the modernising ATO on tax practitioners. As recently recognised by the Committee, issues with electronic services for tax agents such as the Portal and the CCL are of particular concern given that the vast majority of taxpayers lodge their tax return through a tax agent.³ As acknowledged by the Commissioner at the Committee hearing on 16 September 2015, the CCL was an example of the ATO "*trying to do something for the benefit of the citizen, the individual taxpayer, and probably not taking into account sufficiently the impact on the business model of the agent.*"⁴

¹ <http://lets-talk.ato.gov.au/home> (accessed on 20 January 2016).

² OECD (2015), *Tax Administration 2015: Comparative Information on OECD and other Advanced and Emerging Economies*, OECD Publishing, Paris http://dx.doi.org/10.1787/tax_admin-2015-en at Table 8.1 on page 267.

³ House of Representatives Tax and Revenue Committee *Inquiry into the 2014 Annual Report of the Australian Taxation Office* Second Report dated November 2015 at paragraph 2.102.

⁴ House of Representatives Tax and Revenue Committee *Inquiry into the 2014 Annual Report of the Australian Taxation Office* hearing on 16 September 2015 Hansard transcript at page 3; Second Report dated November 2015 at paragraph 2.12.

We understand that the ATO is planning to create a secure government inbox for business clients. It is important that lessons from the design process in relation to the client correspondence list are applied in developing this new project for business clients. Tax agents lodge approximately 90% of all corporate income tax returns, which is no doubt due to the complexity of the tax issues faced by these clients compared to individuals. Any delays in tax agents receiving copies of correspondence sent directly to their corporate clients has the potential to exacerbate the issues we have already seen with myGov.

We recommend that the Committee seek further information about the progress of the ATO's reinvention work as it applies to tax practitioners.

Tax Agent Portal

In accordance with the Commissioner's comments at the Committee hearing on 16 September 2015, the ATO has started publishing the availability and response times for accessing the Portal on a 'portal dashboard'. We expect the portal dashboard to inform discussion between the ATO and the tax practitioner community on the availability of the Portal and increase transparency and accountability in this regard. A member recently provided feedback that they found the correspondence function on the Portal to be unavailable even though the portal dashboard reported that this function was working well. When the member contacted the ATO, call centre staff said that there were known issues with the correspondence function at the time. Based on this feedback, we would be interested to know the threshold number of users that need to experience an error message or slow response on the Portal before it is reflected on the portal dashboard.

The ATO has been visiting tax practitioners to better understand their issues with the Portal. Through these visits, the ATO has detected issues relating to the availability and stability of the Portal, error messaging, browser compatibility and reliance on workarounds for some tasks. Whilst we welcome the ATO reaching out to the tax practitioner community with direct site visits, we note that the issues detected to date are longstanding and have been raised previously.

The project to update the Portal appears to be progressing more slowly (still at the diagnostic phase) compared with the ATO's other digital projects. Given the role the Portal plays in tax practitioners supporting the vast majority of taxpayers in complying with their tax obligations, The Tax Institute recommends that the ATO give this project its highest priority.

Standard Business Reporting

From 1 July 2016, SBR is set to become the default method by which tax agents communicate with the ATO. In November 2015 there was a change to this timeline when the ATO acknowledged that an Electronic Lodgment Service (ELS) safety net may be required for some software providers. The ATO announced that it will extend the transition period by maintaining ELS until 31 March 2017. We commend the ATO for being flexible and consultative in its implementation of the SBR platform.

We are hopeful that ATO and software developers will work together to provide a platform by which practitioners can lodge electronically and that relevant changes to practice management software will be communicated in a timely fashion. Provided this happens, there should be no difference to tax practitioners whether lodgments are made through ELS or SBR during Tax Time 2016.

We have received anecdotal feedback that on key lodgment dates, the SBR platform has been slow or unavailable. This is of concern because it is currently only being used to lodge by early adopters and the SBR platform will be under more strain on key lodgment dates after 1 July 2016 if it is to be the default platform for lodgment. We seek assurance from the Commissioner that ATO systems will be able to handle the anticipated load through SBR once it becomes the default platform.

Client Correspondence List

At the Committee hearing on 16 September 2015, the Commissioner said that issues with the CCL, which was the subject of strong feedback from tax practitioners, had been rectified. Yet our members continue to complain about the CCL and the ATO website indicates that it is continuing to make changes to the CCL.⁵ Members complain that the CCL is not a complete list of correspondence sent to clients of tax practitioners. Important documents such as Notices of Objection Decision are not included on the CCL.⁶ Currently, tax practitioners have to check with their client, traditional mail, and the CCL, in order to obtain a complete record of their clients' tax affairs. It is important that the ATO provide the likely timeframe to make all client correspondence available to tax agents through one channel.

We support the Committee's strong suggestion that the ATO develop a notification for tax practitioners when correspondence is sent to clients through myGov so that practitioners can be made aware of correspondence despite technical difficulties with accessing the Portal.⁷ At the Committee hearing on 16 September 2015, the Commissioner agreed with a push notification for client correspondence and stated that he would be happy to prioritise this.⁸ We would be interested to know the progress of this proposed improvement to the CCL.

If you would like to discuss this matter, please contact me or Tax Counsel, Thilini Wickramasuriya on [REDACTED]

Yours sincerely,

[REDACTED]

Arthur Athanasiou
President

Attachment – The Tax Institute Submission to the Committee dated 18 August 2015

⁵ <https://www.ato.gov.au/tax-professionals/newsroom/digital-interaction-with-us/client-mail-in-the-portal/> (accessed 18 January 2016).

⁶ <https://www.ato.gov.au/Tax-professionals/Tax-Agent-Portal/Using-the-Tax-Agent-Portal/Client-correspondence/> (accessed 20 January 2016).

⁷ House of Representatives Tax and Revenue Committee *Inquiry into the 2014 Annual Report of the Australian Taxation Office* Second Report dated November 2015 at paragraph 2.104.

⁸ House of Representatives Tax and Revenue Committee *Inquiry into the 2014 Annual Report of the Australian Taxation Office* hearing on 16 September 2015 Hansard transcript at page 16; Second Report dated November 2015 at paragraph 2.26.



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Dear Mr Monk,

Inquiry into the *Annual Report of the Australian Taxation Office 2014*

The Tax Institute welcomes the opportunity to make a submission to the House of Representatives Standing Committee on Tax and Revenue (**Committee**) in relation to its Inquiry into the *Annual Report of the Australian Taxation Office 2014 (Inquiry)*.

We support the Australian Taxation Office's (**ATO**) 'reinvention' and its leadership amongst government agencies in promoting more digital interactions with clients. Overall, positive changes have resulted from the unprecedented number of private sector appointments to the ATO and we have noticed that the ATO is more responsive and flexible in its dealings with us.

Executive summary

Given the broad terms of this Inquiry, we have focussed on those aspects of the ATO's practice where there have been developments relevant to our members since our last submission to the Committee. Our 16 March 2015 submission is included in **Attachment 1** for ease of reference.

In summary, the main points contained in this submission are:

- (a) We support the flexible and consultative approach that is being taken by the ATO in relation to the Single Touch Payroll initiative.
- (b) Technical and communication issues with respect to the implementation of systems such as myGov are having a detrimental impact on the relationship between tax agents and the ATO.

- (c) We request further information from the ATO in relation to the progress of its review of correspondence.
- (d) We welcome the ATO's assessment of its Lodgment Program differentiated framework, which has sufficiently addressed our concerns.

Single Touch Payroll

On 10 June 2015, the Small Business Minister Bruce Billson MP announced that Single Touch Payroll will now only be mandatory in relation to reporting and not in relation to payment obligations. This addressed one of the main concerns raised by our members in relation to the initiative.

The Institute has since been involved in consultation with ATO and Treasury to discuss the 1 July 2016 commencement date for the initiative and the design of a targeted pilot for businesses most affected by the initiative.

The proposal to further test the initiative with a pilot program is welcome news, and shows that the feedback of smaller businesses has been taken on board and their need for further support and assistance to prepare for Single Touch Payroll is being recognised. The pilot should bear out whether the initiative is beneficial for very small businesses and closely-held entities who currently do not use payroll software.

The ATO has been flexible and consultative in its approach to the revised scope of the initiative and has involved a broad range of key stakeholders including the Institute in this project. It has openly shared key themes from consultations undertaken to date and sought early external input into the design of the pilot.

Technological changes

We welcome the ATO's leadership amongst government agencies in promoting more digital interactions with clients. We encourage continuing development and adoption of new technology to make life easier for taxpayers and agents in the long term, however our members continue to express concerns regarding current ATO technology. Technical difficulties and a lack of clear and transparent communication with respect to the implementation of systems such as Standard Business Reporting (**SBR**) and myGov has had a detrimental impact on the relationship between tax agents and the ATO.

Tax Agent Portal

We appreciate comments by Geoff Leeper, Second Commissioner, at the hearing of this Inquiry on 8 March that the Tax Agent Portal (**Portal**) will not be closed in future without consultation and agreement from tax practitioners. The Portal remains a fundamental tool for agents and the ATO should communicate a firm timeline for improvements to the Portal.

With the implementation of MyGov (discussed further below), tax agents are becoming even more reliant on the Portal to correspond with the ATO. In recent months we have continued to see a steady flow of complaints from our members regarding technical difficulties plaguing the Portal.

One member's recent complaint is extracted below. This example is consistent with many others we receive on a weekly basis:

"The transitional ATO systems leave a lot to be desired, yet we (and our clients) are increasingly forced to use technology etc. that either does not function properly, or is difficult to administer/streamline, or does not work/not available/drops out/is not seamless."

Standard Business Reporting

In our submission dated 16 March 2015, we explained the confusion amongst tax agents as to upcoming technological changes, including SBR. We also noted that some practitioners have interpreted statements by the ATO in relation to such changes as eliminating them from compliance work. We reiterate the comments in our earlier submission, and request clear and transparent communication with tax practitioners about these changes.

At the time of our earlier submission, we looked forward to the publication of an ATO roadmap of changes for tax practitioners (**Roadmap**), which has since been published.¹ Our expectations have not been matched by the published Roadmap. The Roadmap is mostly populated with ATO consultations rather than being a sequential map of the future changes. What is needed is a concise table that is updated with the changes to systems impacting on tax practitioners, with a timeline for implementation for those changes. If such a table is published on a particular webpage on ato.gov.au, tax practitioners could bookmark this page and revisit it periodically to keep track of changes.

The Institute has been consulted by the ATO in relation to upcoming technological changes through the Future of the Tax Profession working group. Those consultations have been confidential, which has impacted on our ability to discuss the changes with our members. Currently we see agents attempting to "fill in the gaps" in information available by reference to their experiences with previous ATO projects such as the upgrade of ATO processing (Change Program). The Institute strongly reconsiders that there be an open dialogue between the ATO and tax practitioners about proposed technological changes. This could foster a stronger partnership and minimise the anxiety felt by many members about changes that directly affect their practices.

MyGov

The 'ATO guidelines when contacting clients of tax practitioners'² (**Guidelines**) were developed in 2012 in consultation with members of the ATO Tax Practitioners Advisory Group, including the Institute. The purpose of the Guidelines was to set out the (agreed) circumstances in which the ATO would correspond directly with clients of tax practitioners. The Guidelines simultaneously recognise the important role tax practitioners play as a conduit for taxpayer interactions with the ATO and the ATO's overarching right to engage with taxpayers directly. As a result of MyGov, the Guidelines have not been complied with in recent times, causing concerns to our members and impacting on their relationship with the ATO and their clients.

¹ <http://lets-talk.ato.gov.au/tproadmapprint> (accessed 5 August 2015)

² <https://www.ato.gov.au/Tax-professionals/Your-practice/Tax-and-BAS-agents/Contacting-you-or-your-clients/> (accessed 5 August 2015)

What prompted the development of the Guidelines in the first place was that members consistently reported to us that their clients were receiving letters directly from the ATO querying certain aspects of their tax affairs. These queries caused the client consternation, and often led the client to contact their tax practitioner's office seeking an explanation. This placed the tax practitioners in the awkward position of not having any prior knowledge of the issue that had been raised with the client directly by the ATO, as well as putting the tax practitioner 'on the spot' of having to explain it to their client (and calm their client down). In addition, members could not understand why the ATO was sending correspondence directly to their client when noted clearly in the ATO's file for that client was the tax practitioner's contact details for correspondence for that client. Members felt that they were being 'bypassed' and their role as the appointed agent was not respected, putting into question the role they played in the eyes of their client. Members found this very distressing.

In response, the Guidelines were developed. They set out the circumstances agreed between the ATO and the profession for when the ATO would correspond with clients who had appointed a tax or BAS agent directly and when they would correspond with clients via their agent.

The implementation of MyGov (a secure online portal which links clients with a range of Australian Government services) has resulted in clients receiving ATO correspondence into the MyGov inbox which they would have previously received from the tax agent. This has meant that the concerns voiced by tax practitioners, which instigated the implementation of the Guidelines, have resurfaced.

The ATO has notified agents that

*"any mail received by your clients via their myGov Inbox will no longer be sent to you in paper form. By linking ATO to their myGov account your client has agreed to receive ATO correspondence in their myGov Inbox, instead of sending the mail to you."*³

The ATO has notified clients that

*"If you have a tax agent, they will be able to see a copy of the letters, SMS and emails the ATO has sent you. Your tax agent will not have access to your myGov Inbox – instead they will see copies via their own Tax Agent Portal."*⁴

This is creating practical difficulties. Tax practitioners have to continuously access Client Correspondence List on the Portal to check whether their clients have received correspondence to their myGov inbox. Contrary to the Guidelines, tax practitioners are now unable to help manage their client's obligations as pro-actively as they have in the past.

The Institute has asked the ATO whether it was possible to have a 'push' notification on the Portal for client correspondence issued to the taxpayer directly, rather than the tax agent having to regularly browse and seek out that correspondence. The ATO indicated that they will consult further with tax agents on this proposal but that, at least in the short term, it was

³ <https://www.ato.gov.au/Tax-professionals/Newsroom/Digital-interaction-with-us/View-your-individual-clients--mail-in-the-portal/> (accessed 5 August 2015)

⁴ <https://www.ato.gov.au/General/Online-services/In-detail/Transact-Online/ATO-and-the-myGov-Inbox/> (accessed 5 August 2015)

up to the agent to have a process in place to check the Portal as they would have checked their physical mailbox if mail was sent in hard copy. The analogy between the Portal and a physical mailbox is weak given the technical difficulties that continue to plague the Portal.

Moreover the Client Correspondence List on the Portal has not been operating well technically, with agents not being able to access the list, or only being able to access an incomplete list. Members have noted the impact of myGov on their ability to fulfil their responsibilities as a tax agent where the client does not monitor and bring to their attention ATO correspondence sent to the myGov inbox, and agents are unaware of the correspondence due to technical difficulties with the Portal.

We have received a significant amount of negative feedback from members in relation to this initiative. Members are struggling to reconcile comments made by senior ATO officials that the organisation is looking to assist and support tax agents, with developments of such issues. We recommend that the ATO increase the level of open and transparent consultation with tax practitioners on methods to ensure better compliance with the Guidelines in the context of myGov and future developments in technology.

ATO correspondence

In our submission dated 16 March 2015, we recommended that a centralised communications team within the ATO review all correspondence prior to issue in order to ensure consistency. The ATO responded to this concern at a meeting of the ATO Tax Practitioners Advisory Group on 15 May 2015 that it has a protocol to consult with experts and external stakeholders on the design of new correspondence before they are issued in high volume. In relation to existing correspondence, the ATO indicated that it is undertaking a quality review in batches and given the sheer number of the types of ATO correspondence issued, this review will take some time to complete. We request further information from the ATO in relation to the progress of this review.

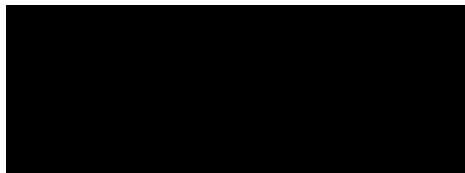
Lodgement Program

We welcome the ATO's assessment of its Lodgement Program differentiated framework, which has sufficiently addressed the concerns in our submission dated 16 March 2015. In that submission, we recommended that the ATO's Lodgement Program differentiated framework be assessed to ensure that it is operating fairly and effectively. On 6 June 2015, the ATO published its survey of tax practitioners in relation to the Lodgement Program Framework.⁵ In advance of the survey being published, on 8 May 2015, the ATO convened a meeting of the Lodgement Working Group where key stakeholders, including the Institute, discussed the results of the survey. We are satisfied with the way that the ATO has handled our feedback on this issue.

⁵ <https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/tax-practitioner-research/lodgment-program-framework---online-survey-results-2015/> (accessed 5 August 2015)

If you would like to discuss any of the above, please contact either me or Tax Counsel, Thilini Wickramasuriya, on [REDACTED].

Yours sincerely



Stephen Healey
President

Attachment 1 – The Tax Institute Submission to the Committee dated 16 March 2015