



THE TAX INSTITUTE

THE MARK OF EXPERTISE

18 August 2015

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 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 'by-passed' 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

[REDACTED]

Stephen Healey
President

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