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30th November 2016

Standing Committee on Tax and Revenue
Parliament House
via MyParliament account

Dear Committee,

**Re: - Compensation under the Commonwealth's Scheme for Compensation for Detriment Caused by Defective Administration
- The inability to have a decision independently reviewed.**

The Commissioner reports his attendance to compensation claims. At Table 4.12 it is noted 124 claims are unpaid.

Issue.

When the Commissioner denies a claim, there is no merit review available of that decision (external to the Commissioner). In blunt terms the Commissioner is a law unto himself in terms of denying a compensation claim.

It is contended the inability to have the merits of a claim reviewed separate from the Commissioner is poor public administration and should be corrected.

Details

On the 9th July 2014 I made a claim for Defective Administration in regard to the repetitive failures of the Commissioner in maintaining the Tax Agent Portal.

The claim was denied on the 13th October 2014, a review by the Commissioner was requested and this review completed 23rd October 2015 it upheld the original decision to decline compensation.

The Inspector – General of taxation, Senior Tax Complaint and Review Officer, on the 11th January 2016 advised ; *"... the IGT is not empowered to conduct merit reviews."*

The Commonwealth Ombudsman, Investigating Officer, on the 7th March 2016, advised ; *"...the Commonwealth Ombudsman no longer has jurisdiction to consider complaints about the ATO. ... The jurisdiction now rest with the IGT."* Further *"..it (the IGT) cannot conduct a merits review of the ATO's decision. Nor is our office able to do so."*

It is noted the Commonwealth Ombudsman's Fact Sheet – Compensation for defective administration, says an applicant can also complain to the Ombudsman if dissatisfied with the agency's decision. It seems this is misleading.

The Department of Finance, Director, Discretionary Payment Team, advised on the 14th April 2016, the Department "*... has no role in the management or determination of the CDDA Scheme claims*".

Request

It is requested the Committee consider the inadequacy / deficiency of a claimant under the CDDA Scheme to have a denied claim not be merit reviewed beyond the Commissioner.

In the event the deficiency is confirmed, it is further requested the Committee put forward a resolution.

If you require further information please do not hesitate to contact me.

Yours sincerely,

(Richard Wytkin)