
The Parliament of the Commonwealth of Australia

NUMBERS ON THE RUN

**Review of the ANAO Report No.37 1998-99 on the Management of
Tax File Numbers**

**House of Representatives
Standing Committee on Economics, Finance and Public Administration**

August 2000

Canberra

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Foreword

The starting point for this inquiry was \$460 million in revenue that the Australian Taxation Office is not collecting.

As part of their audit, the ANAO found a Tax File Number system with:

- 3.2 million more Tax File Numbers than people in Australia at the last census;
- 185 000 potential duplicate tax records for individuals;
- 62 per cent of deceased clients not recorded as deceased in a sample match; and
- 40 per cent of deregistered companies still recorded as active in a sample match.

We considered that these findings were so significant that they warranted closer examination. As part of our inquiry, we investigated administrative, policy and client service issues of TFN management. We also considered a number of broader policy issues, and in particular looked at the growing problems of illegal work by non-residents and identity fraud.

As stated in the report, what we found was an organisation that is reactive rather than proactive; where emphasis is placed on strategies that return a short term financial gain rather than ensuring the long term integrity of the system; and where management philosophies are not well translated through the organisation.

This report adds to 15 years of Auditor-General and parliamentary inquiries that have found shortcomings in the quality of ATO's data and systems.

While in a general sense the tax revenue system is working well, each problem we have uncovered is another instance of sand slipping through the cracks - all of which adds up, and in this case adds up to uncollected revenue well beyond the \$460 million identified by the ANAO. The implications of these problems are even greater when the flow-on effects to other areas of government administration, including the ABN system, are taken into account.

In our report we have made a range of recommendations aimed at ensuring the ongoing quality and coverage of the TFN system. This is important for the administration of taxation, income support, superannuation and employment generally. It is also crucial for ongoing community and government confidence in the TFN system as a system that treats people fairly.

On behalf of the Committee I thank the members of the public and experts who participated in this inquiry by either making submissions or appearing at public hearings. Their input has provided significant depth to this inquiry.

I also thank the ANAO for the significant support that they provided during this inquiry. In particular I note the support provided by Mr Richard Mackey, who provided valuable expert advice and Ms Anna Przybylski, who played a major role during her secondment to the secretariat.

We also appreciate the cooperation that we received from the ATO during the inquiry, especially from Mr Chris Marsden, the ATO contact officer, Ms Gaida Blenkinsop and Ms Cathy Denino.

Finally I thank all of the members of the Economics, Finance and Public Administration Committee for their contributions to this inquiry.

David Hawker MP
Chair



Membership of the Committee

Chair Mr D P M Hawker MP

Deputy Chair Mr G S Wilton MP (until 14/6/00)

Ms A E Burke MP (from 29/6/00)

Members Mr A N Albanese MP

Ms T Gambaro MP

Mrs K E Hull MP

Mr M W Latham MP

Mr C M Pyne MP

Hon A M Somlyay MP

Dr A J Southcott MP

Committee Secretariat

Secretary Ms B Forbes

Inquiry Secretary Ms M Stutsel

Inquiry Staff Ms A Pryzbylski

Ms L McIntyre

Ms S Rogers



Terms of reference

The House of Representatives Standing Committee on Economics, Finance and Public Administration will investigate administrative, policy and client service issues of TFN management, as recently reported by the Australian National Audit Office in Audit Report No. 37 1998-99. The Committee will also inquire into other aspects of the TFN system in Australia.

The Committee will pursue its investigation under House Standing Orders (324b), which states that the reports of the Auditor-General stand referred to the relevant committee for any inquiry the committee may wish to make.



List of abbreviations

ABA	Australian Bankers' Association
ABN	Australian Business Number
ABS	Australian Bureau of Statistics
AEC	Australian Electoral Commission
AFP	Australian Federal Police
AGP	Assessable Government Payment
AIC	Australian Institute of Criminology
AIR	Annual Investment Income Report
ANAO	Australian National Audit Office
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
CCCR	Commonwealth Childcare Cash Rebates
CDMP	Corporate Data Management Plan
CGT	Capital Gains Tax
CSA	Child Support Agency
CSN	Client Service Number
CUSCAL	Credit Union Services Corporation (Australia) Ltd

DETYA	Department of Education, Training and Youth Affairs
DHAC	Department of Health and Aged Care
DIMA	Department of Immigration and Multicultural Affairs
DoFA	Department of Finance and Administration
DVA	Department of Veterans' Affairs
EDF	Employment Declaration Form
FaCS	Department of Family and Community Services
FTR	Financial Transactions Reports
GST	Goods and Services Tax
HECS	Higher Education Contribution Scheme
HIC	Health Insurance Commission
IRW	Investment, Royalties and Withholding
NCA	National Crime Authority
OECD	Organisation for Economic Cooperation and Development
PAYE	Pay As You Earn
PoI	Proof of Identity
PPS	Prescribed Payments System
RPS	Reportable Payments System
SEP	Schools Education Program
TIA	Taxation Institute of Australia
TFN	Tax File Number
TFNIP	Tax File Number Improvement Project



List of recommendations

1 Introduction

2 ATO data and systems quality

Recommendation 1

That the ATO place a higher priority on having the strategic capacity to ensure the long term integrity of the Tax File Number system, including through:

- proactively managing the Tax File Number system and its interrelationships with other systems within the Australian Taxation Office and across government; and
- ensuring that management philosophies and planning are put into practice throughout the organisation. (para 2.15)

Recommendation 2

That the Australian Taxation Office act as a matter of priority to improve the significant shortcomings with its data integrity. This should include addressing the issue of excess and duplicate Tax File Numbers and archiving of redundant Tax File Numbers. (para 2.46)

Recommendation 3

That the Australian Taxation Office take all necessary steps to improve Tax File Number systems quality to more properly reflect the importance of the Tax File Number system within the Australian Taxation Office and across government. (para 2.50)

Recommendation 4

That the Australian Taxation Office review its current planning mechanisms in relation to the Tax File Number system, with a view to properly upgrading data management practices at both the agency and business line level. (para 2.57)

Recommendation 5

That the Department of Finance and Administration and the Australian Taxation Office review the Australian Taxation Office Pricing Agreement to ensure that it reflects the whole-of-government requirements in relation to the Tax File Number system. (para 2.64)

3 Data matching

Recommendation 6

That the Australian Taxation Office or an appropriately qualified consultant review the databases and information sources the ATO currently has access to in order to determine the value of systemic data matching against this information. (para 3.14)

Recommendation 7

That the Australian Taxation Office implement data matching strategies aimed at improving Australian Taxation Office data quality and reducing tax fraud, including in the areas of:

- Data cleansing;
- Fact of Death data matching;
- Department of Immigration and Multicultural Affairs movements records data matching; and
- Investigating the reintroduction of Health Insurance Commission data matching for purposes of compliance with Tax File Number identification. (para 3.60)

Recommendation 8

That the Australian Taxation Office focus on steps to improve the quality of data it receives in order to improve its data matching capabilities, including through working with other agencies and organisations. A first priority for the Australian Taxation Office in this regard should be to review and improve reporting in Annual Investment Income Reports by financial institutions. (para 3.70)

Recommendation 9

That the Australian Taxation Office evaluate and act on data matching opportunities provided by new Australian Business Number arrangements, including putting in place mechanisms to ensure that relevant data is captured and able to be used for data matching purposes. (para 3.80)

4 Tax File Number registration**Recommendation 10**

That the Australian Taxation Office review its Tax File Number registration processes, including automating checks for duplicate Tax File Numbers, making better use of available software, and improving the format and content of Tax File Number advice supplied to Tax File Number applicants. (para 4.19)

Recommendation 11

That the Australian Taxation Office take steps to improve the coverage of the Schools Education Program, including through working with the Department of Education, Training and Youth Affairs in approaching peak school organisations in order to seek their support for this program. (para 4.34)

Recommendation 12

That Centrelink be able to accept Tax File Number applications from any applicant and not just Centrelink customers as an option for those with limited access to alternatives, and that a system for electronically transferring this information to the Australian Taxation Office be introduced. (para 4.42)

Recommendation 13

That the Department of Immigration and Multicultural Affairs and the Australian Taxation Office introduce automated Tax File Number registration for new arrivals into Australia. (para 4.50)

5 Tax treatment and work rights of non-residents

Recommendation 14

That the Australian Taxation Office introduce systematic data matching against Department of Immigration and Multicultural Affairs visa data in order to identify illegal workers. As part of this process, the Australian Taxation Office has to improve its data quality and data recording processes. (para 5.27)

Recommendation 15

That the Department of Immigration and Multicultural Affairs and the Australian Taxation Office investigate options for addressing taxation and work rights issues in relation to harvest labour, including in relation to known areas of fraud and without overly burdening employers in this industry. (para 5.34)

Recommendation 16

That the Australian Taxation Office:

- identify the extent of tax fraud being committed by non-residents;
- review potential vulnerabilities with the current tax treatment of non-residents;
- propose ways to address this issue, particularly focussing on options within existing laws; and
- seek to implement these proposals as soon as practicable. (para 5.47)

Recommendation 17

That the Australian Taxation Office more actively work with the Department of Immigration and Multicultural Affairs to implement reforms in the area of work rights for non-residents, including full consideration of possible Australian Taxation Office delivered solutions. (para 5.61)

6 Identity fraud and Proof of Identity processes

Recommendation 18

That the Commonwealth Government work with other levels of government and industry to develop national statistics on the extent and cost of identity fraud in Australia. (para 6.20)

Recommendation 19

That the Australian Taxation Office improve its internal processes for establishing identity and preventing identity fraud. This should include investigation of the extent of the problem within the Australian Taxation Office, including a trial of the New South Wales Registry of Births, Deaths and Marriages' Certificate Validation Service. (para 6.31)

Recommendation 20

That the Commonwealth Government instigate a formal process for assessing Proof of Identity risks and reform across the Commonwealth, drawing on relevant policy and administrative departments and agencies. (para 6.41)

Recommendation 21

That the Commonwealth Government formalise a process for working with other levels of government and industry to develop options for reducing and preventing identity fraud. This should include investigation and development of a national electronic gateway for document verification. (para 6.57)

7 Extending Tax File Number quotation**Recommendation 22**

That the Australian Transaction Reports and Analysis Centre and the Australian Taxation Office:

- analyse the revenue at risk from Australian Transaction Reports and Analysis Centre transactions being outside Tax File Number quotation arrangements;
- consider the proportion of Australian Transaction Reports and Analysis Centre transactions to which a Tax File Number may be able to be attached; and
- undertake a consultation process with industry to develop a detailed option for attaching Tax File Numbers to Australian Transaction Reports and Analysis Centre reported transactions. (para 7.27)

Recommendation 23

That, after the proposed business tax reforms have been introduced, the Australian Taxation Office investigate the remaining risk to revenue from real estate transactions being outside Tax File Number withholding arrangements and take appropriate steps to address this risk. (para 7.36)

Recommendation 24

That the Treasury investigate extending Tax File Number quotation and withholding arrangements to include business with the Commonwealth Government, particularly in the case of Assessable Government Payments. (para 7.51)

8 Implications for the Australian Business Number**Recommendation 25**

That the Auditor-General conduct a performance audit of the Australian Taxation Office's administration of the Australian Business Number system, and that this audit include, but not be limited to, the examination of the following issues:

- registration and issue of Australian Business Numbers;
- data quality/integrity;
- data matching; and
- privacy implications. (para 8.23)

9 Conclusions**Recommendation 26**

That the Auditor-General conduct a follow-up performance audit of the Australian Taxation Office's management of the Tax File Number system, and that this audit include, but not be limited to, progress by the Australian Taxation Office against recommendations for improving the Tax File Number system made by the Australian National Audit Office and this Committee. (para 9.20)

Introduction

Background

- 1.1 On 30 June 1999, the House Economics Committee agreed to investigate administrative and policy issues in relation to the Tax File Number (TFN) system, as raised by a recent report by the Australian National Audit Office (ANAO) Report No.37 1998-99 entitled *Management of Tax File Numbers*¹. The Committee's investigation was conducted under House Standing Order (324b), which states that the reports of the Auditor-General stand referred to the relevant committee for any inquiry the committee may wish to make.
- 1.2 As noted by the ANAO:
- In 1997-98 the ATO collected tax revenue of \$110.34 billion ... The TFN system is a cornerstone of the tax revenue system as well as regulating part of the superannuation industry that managed in 1997-98 total annual contributions of approximately \$30 billion and Commonwealth benefit payment systems that distributed in 1997-98 about \$50 billion. The efficiency and effectiveness with which these collection, regulation and distribution systems work now depends crucially on the integrity of the TFN system.²
- 1.3 The ANAO's performance audit set out to ascertain how efficiently and effectively the Australian Taxation Office (ATO) administers the Tax File Number system and to identify opportunities for improvement to that system.

1 Auditor-General. 1999. *Management of Tax File Numbers: Australian Taxation Office*. Audit Report No.37 1998-99 Performance Audit. Canberra, ANAO, 126p. (Referred to as ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*).

2 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.13.

ANAO findings

- 1.4 The ANAO confirmed that the TFN system has led to the collection of additional tax revenue and provision of better services to clients at lower costs. However, further efficiency and effectiveness gains of the order of \$460 million are achievable for the Commonwealth if the audit recommendations are implemented. Given the nature of the ANAO's work, these estimates are likely to be conservative.
- 1.5 The ANAO identified less than optimal efficiency and effectiveness of the TFN system due to:
- shortcomings in the quality of the ATO's data bases, eg data matching studies by the ANAO revealed '3.2 million more individual TFN registrations than people in Australia counted at the last census ... [and] an estimated 185 000 potential duplicate records of individual taxpayers amongst 17.1 million active tax records of such taxpayers'³;
 - weaknesses in the management of the risk associated with verification of the identity of the TFN applicant;
 - deficiencies in the systems supporting the administration of the TFN withholding tax, eg the ATO cannot reconcile the accounts of almost all investment bodies and there are gaps in the coverage of the TFN system particularly for real estate transactions and transactions reported to the Australian Transaction Reports and Analysis Centre (AUSTRAC); and
 - less than full compliance by the ATO's clients with the TFN quotation arrangements.
- 1.6 The ANAO believes the ATO could have been more proactive in advising government about problems with the TFN system and options to address these problems.
- 1.7 The ATO agreed with the ANAO's recommendations, with some qualifications. During the course of the inquiry, the Committee has heard from the ATO about the progress they have made against the ANAO recommendations. While the ATO appears cooperative in implementing these reforms, the Committee is concerned that significant priority has not been given to the proposals. In particular, the Committee is concerned that the ATO has made limited progress, primarily due to resource constraints, and that steps have not been taken to make resources available. This is of increased concern given that the Australian Business Number (ABN) relies on the use of TFNs as a major identifier of applicants.

Scope and conduct of the inquiry

- 1.8 The Committee has examined administrative, policy and client service issues of TFN management. In particular, the report addresses administrative measures that could strengthen the TFN system and revenue collection, focussing on the areas of data and systems quality, data matching and TFN registration. The report then moves on to consider broader policy issues confronting the ATO, namely tax treatment of non-residents, Proof of Identity (PoI) issues and possible extensions to the TFN system. Lastly, there is a brief consideration of the implications of these findings for the new ABN system.
- 1.9 The inquiry was advertised in the *Weekend Australian* on 25/26 September 1999. The inquiry received 39 submissions from the public, the ATO, interested government agencies, ATO staff, tax practitioners, various interest groups and others. A list of the submissions is at Appendix 1. The 26 sets of documents listed at Appendix 2 were accepted as exhibits. The Committee held eight public hearings through December 1999 to April 2000. Hearings were held in Sydney and Canberra. A list of the hearings and witnesses is at Appendix 3. The Committee also inspected TFN withholding tax arrangements through a site visit to an Investment, Royalties and Withholding (IRW) unit of the ATO in Sydney.

ATO data and systems quality

Historical context

- 2.1 The ATO is an organisation that is heavily dependent on high quality data and systems. Data and systems form the underpinnings of the TFN system and must continually evolve in order to address the challenges faced by the ATO and to ensure the integrity of the tax system.
- 2.2 In its decision making about data and systems, the ATO must balance:
- the priorities of the day;
 - the management of business as usual;
 - maximising the amount of revenue collected in any one year;
 - the complexity of legislation;
 - rapidly changing technology; and
 - planning for the future.¹
- 2.3 The Committee acknowledges the significant efforts of the ATO in balancing these competing priorities. However, against this backdrop, the persistent findings by the Auditor-General and parliamentary inquiries of shortcomings in the quality of the ATO's data and systems over the last 15 years is of significant concern².

1 Auditor-General. 1999. *ATO Data and Systems Quality - An ANAO Discussion Paper*. Canberra, unpublished, p.13. (Referred to as *ATO Data and Systems Quality - An ANAO Discussion Paper*).

2 *ATO Data and Systems Quality - An ANAO Discussion Paper*, 15p.

- 2.4 While specific problems identified by these inquiries are likely to have been addressed, what is disturbing is the themes flowing through these reports. Recurrent problems found in these inquiries with the ATO's data and systems include:
- shortcomings in the accuracy of information held on the ATO's information systems;
 - databases of which the ATO does not make full use³;
 - continuing concern about the quality and usefulness of the information that financial institutions are required by statute to provide the ATO;
 - scope for improvement in choice of technology;
 - scope for improvement in ATO management of data and systems;
 - shortcomings in the implementation of ATO standards on data and systems quality; and
 - concerns about the adequacy of the ATO's quality assurance systems⁴.
- 2.5 These findings are repeated in the TFN Audit Report, which found large numbers of duplicate and inactive TFNs; failure by the ATO to use more up-to-date methods for generating secure TFNs; and 'fundamentally defective' information technology being used for Investment, Royalties and Withholding arrangements⁵. In addition:
- The ATO was advised during the audit, through its own internal research, that the quality of its main databases was probably somewhere between unsatisfactory and average.⁶
- 2.6 The Committee notes that the ATO's Tax File Number Improvement Project (TFNIP), which commenced in late 1998, should address a number of data and systems quality issues⁷.

3 Examples cited by the ANAO include 'receipt of databases by the ATO from external agencies (eg banks) that the ATO is unable to use because of poor quality, or cannot put to good use because it is received too late for income checking purposes (and) the ATO's inability to link existing databases for compliance checking purposes'. (*ATO Data and Systems Quality - An ANAO Discussion Paper*, p.3.)

4 *ATO Data and Systems Quality - An ANAO Discussion Paper*, pp.14-15.

5 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, pp.17, 18 & 21.

6 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.20.

7 ATO, Submission No.17, p.12.

Modernisation

- 2.7 The Audit Office has noted the significant transformation of the ATO during the 1980s and 1990s,
- ... from an organisation structured on seven states using a mix of largely state based manual records and simple mainframe computer systems to one that has a national focus and is almost entirely dependent on national computer based systems⁸.
- 2.8 The ATO consider that they have 'put great effort into continuing to develop integrated systems, with a significant transformation over the last ten years'.⁹
- 2.9 Of significance in respect of systems reform is the ATO's 'Modernisation Project', which was established in 1989 with the aim of taking advantage of the opportunities of new technologies. The Project consisted of over 100 component projects affecting most areas of the ATO. 'The Government invested over \$1.1 billion over a ten year period, and the ATO contributed to this cost by the achievement of staff savings over the same period'¹⁰.
- 2.10 In the ATO's *1988-89 Annual Report*, the Commissioner of Taxation stated:
- The Modernisation Project is a major focus of organisational change for the ATO. It provides the ATO with the opportunity to examine the way it administers tax laws and removes many of the barriers to change posed by the existing computer systems.¹¹
- 2.11 **However, as outlined in this chapter, the TFN audit report and the Committee's inquiry cast significant doubt on the quality of the ATO's data and systems, suggesting that ten years of the Modernisation Project have not delivered improvements commensurate with the expectations and investment in that project.**

8 *ATO Data and Systems Quality - An ANAO Discussion Paper*, p.13.

9 Transcript, p.6.

10 *ATO Data and Systems Quality - An ANAO Discussion Paper*, p.12 - 'This is drawn from the following: The Commissioner of Taxation's *Annual Report 1988-89* pages 79-81 and *The Explanatory Notes 1990-91 Treasury Portfolio* pages 216-217'.

11 *ATO Data and Systems Quality - An ANAO Discussion Paper*, p.13 - based on The Commissioner of Taxation's *Annual Report 1988-89*, p.81.

Management culture

- 2.12 Management culture is an important determinant of an organisation's operations in terms of the organisation's approach to problem solving and the focus and priorities of the organisation.
- 2.13 Instances that lead the Committee to question the ATO's approach to managing its databases include:
- that 'the less than satisfactory integrity of the ATO's TFN information is generally acknowledged throughout the ATO'¹² and yet, based on evidence from the TFN audit report and this inquiry, this has not been appropriately acted on;
 - that projects funded under the TFNIP have only been given relatively short term funding¹³; and
 - that the ANAO considered that despite a soundly articulated strategy on data management practices and procedures in the ATO's Corporate Data Management Plan (CDMP) that was issued by the authority of the Commissioner, the Plan had not been accepted in practice and implemented at the operational level by the Business Service Lines¹⁴. The ANAO considered that had there been full operational implementation of the CDMP, as apparently required by the Commissioner's promulgation of it in 1991, there wouldn't have been the problems of poor data quality revealed by the large numbers of excess and duplicate TFNs.
- 2.14 Evidence presented in the TFN Audit Report¹⁵ and to this inquiry suggest that the approach the ATO takes to managing its data bases is fairly short term, focussed on solving the crisis today rather than looking at the longer term. **The impression that has emerged from this inquiry is of an organisation that is reactive rather than proactive; where emphasis is placed on strategies that return a short term financial gain rather than ensuring the long term integrity of the system; and where management philosophies and planning are not well translated through the organisation.**

12 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.20.

13 Informal advice from the ATO.

14 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.80.

15 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*.

Recommendation 1

- 2.15 That the ATO place a higher priority on having the strategic capacity to ensure the long term integrity of the Tax File Number system, including through:
- proactively managing the Tax File Number system and its interrelationships with other systems within the Australian Taxation Office and across government; and
 - ensuring that management philosophies and planning are put into practice throughout the organisation.

Data and systems administration

- 2.16 Effective data and systems administration ensures the integrity of the TFN system and its role in tax revenue collection, benefit payments and administration of the superannuation system. High quality data and systems are also important for community confidence in the TFN system which is a key to ensuring voluntary compliance by individuals with their tax obligations.

Data integrity

- 2.17 In its recommendations, the ANAO set out a number of steps that the ATO could take to improve the quality and integrity of its data¹⁶. These proposals are considered in detail below.
- 2.18 The Committee notes that:
- ... the ATO is currently conducting a two phased exercise to develop a methodology and enable the measurement of the cost of holding poor quality/excess data on ATO databases and is piloting this methodology¹⁷.
- 2.19 The ATO have since advised that the 'cost of bad data methodology report [has been] completed and [is] being considered'¹⁸.
- 2.20 In undertaking such an exercise, the Committee considers that the ATO should make sure that it does not focus solely on the costs and benefits

16 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 7, p.24.

17 ATO, Submission No.30, p.7.

18 ATO, Submission No.37, p.5.

that relate directly to the ATO. Rather, the ATO should take a broader view of costs and benefits. Benefits across Commonwealth administration resulting from the TFN system have been emphasised throughout the Committee's inquiry. Similarly, there are costs across Commonwealth administration associated with shortcomings. Benefits across Commonwealth administration include fraud prevention, improved quality of decision making, improved efficiency and effectiveness as well as improved client service.

- 2.21 In relation to the costs and benefits specific to the ATO, the Committee considers that the ATO should be mindful of the impact of poor data quality on ATO decision making. Possible benefits include large scale systemic data matching and analysis that can only be done with high quality data with which it is possible to establish the connections that link taxpayers to their multiple roles and associated entities where such links exist. Such high levels of interconnectivity would allow the electronic construction of a whole of taxpayer view enabling the ATO to see at once the totality of a taxpayer's tax arrangements.
- 2.22 The Committee considers that the ATO needs to take care that it uses a methodology of cost effectiveness analysis commensurate to the magnitude of the task.

Excess TFNs

- 2.23 The ANAO found that there were '3.2 million more individual TFN registrations than people in Australia counted in the last census'¹⁹. In further reviewing this issue, the ATO identified 5.3 million potentially inactive (ie excess) registrations on the ATO individuals data base²⁰.
- 2.24 There are two key concerns with these excess TFNs - the extent to which these TFNs are being used to commit fraud, against both the Commonwealth and in the broader community; and the fact that it compromises the quality of the ATO database.
- 2.25 The potential for fraud arises through:
- tax avoidance, eg through income splitting or falsely claiming tax concessions;
 - falsely claiming benefits such as income support payments by minimising taxable income against a particular TFN; and
 - using the TFN as a means of creating a false identity which is then used to commit fraud in the broader community.

19 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.21.

20 ATO, Submission No.30, p.6.

2.26 The ATO have advised that:

... we do not believe that there is a significant risk arising from this as the vast majority of the TFNs are readily explainable and are not being utilised. The main components of this apparent 'excess' number of TFNs are:

- short term visitor departures not notified to the ATO;
- permanent departures not notified to the ATO;
- clients who are deceased, but the ATO has not been advised of this fact; and
- clients who have registered, but have not lodged for the first time yet²¹.

2.27 Given the scale of excess, it is hard for anyone, the ATO or others, to be confident of the above claim by the ATO.

2.28 While the Committee agrees that these categories are likely to account for the majority of excess TFNs, it is still concerned that the ATO fully investigate these inactive TFNs to determine whether any are being used to commit fraud, and the level of revenue at risk from this fraud.

2.29 In particular, the Committee has received anecdotal evidence that suggest that a proportion of these TFNs are being used to commit fraud. A number of submissions and witnesses have advised the Committee of concern regarding the use of TFNs issued to non-residents following their departure from Australia, such as the sale of TFNs by non-residents²² and the posting of lists of TFNs in youth hostels²³.

2.30 In addition to a potential reduction in fraud, the ATO should place priority on the improvements to data quality and therefore decision making that can result from resolving these excess TFNs.

2.31 The Committee recommends as a priority that the ATO should implement strategies to resolve and remove excess TFNs, as would seem to be required by the CDMP promulgated by the Commissioner in 1991. The Committee notes that the two key proposals for advancing these strategies would be for the ATO to data match against Fact of Death data from State Registrars-General of Births, Deaths and Marriages and movements data from the Department of Immigration and Multicultural Affairs (DIMA). Further measures could include use of Australian Electoral (AEC) data and random mail checks.

2.32 The Committee strongly supports matching against Fact of Death data and movements records as a means of improving ATO data quality. These

21 ATO, Submission No.30, p.6.

22 Transcript, p.94; ATO, Submission No.23, p.2.

23 Transcript, p.120.

proposals are considered in more detail in Chapter 3. The Committee notes that while access to movements data is dependent on legislative amendment, that this is not the case for matching against Fact of Death data. In the case of Fact of Death data, the only impediment is a failure by ATO management to commit adequate resources. As stated by the Dr Bob Webb, Deputy Commissioner, Individuals (Non-business), ATO, 'it is purely a matter of technology systems prioritising'²⁴ and this issue has not been top priority. In this regard, the Committee notes that Centrelink and the AEC have been using this data for several years. ATO implementation of matching against Fact of Death data would have benefits that would accumulate across the ATO and have whole of government consequences as well. The Committee considers that the use of Fact of Death data in the way indicated would be a standard consequence of properly implementing the previously mentioned CDMP.

Duplicates

- 2.33 ATO research undertaken during the audit found 'an estimated 185 000 potential duplicate records of individual taxpayers amongst 17.1 million active tax records of such taxpayers'²⁵. The ATO also advised the Committee of a second activity in relation to duplicates, undertaken 'to look at more subtle cases where potential duplications may have occurred'²⁶. This process 'identified a further 65 000 potential duplications (130 000 TFNs)'²⁷.
- 2.34 As with excess TFNs, and as noted in the ANAO's report, duplicate TFNs represent a risk to revenue and reduce the quality of information used for ATO decision making and have adverse whole of government impacts.
- 2.35 The Taxation Institute of Australia (TIA) have advised the Committee of their concerns regarding duplicate TFNs, noting in particular that:
- ... it appears that the process for removing duplicate TFNs does not tie in with other systems such as HECS, and that elimination of duplications takes considerable time.²⁸
- 2.36 The TIA have given an example of where 'it took 17 months to cancel one duplicate TFN'²⁹. This example highlights the inefficiency of the process, failure to automatically update related systems (in this case the Higher

24 Transcript, p.189.

25 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.21.

26 ATO, Submission No.37, p.8.

27 ATO, Submission No.37, p.8.

28 Transcript, p.67.

29 TIA, Submission No.14, p.4.

Education Contribution Scheme (HECS)) and the cost to tax agents of needing to continually follow-up with the ATO.

- 2.37 In relation to the 185 000 potential duplicates reported in the ANAO report, the ATO advised at the hearing on 12 April 2000 that they 'had successfully resolved around 24 000 cases so far'³⁰ of which only a very small number were expected to involve identity fraud. In further advice to the Committee, the ATO advised that:
- After applying a risk assessment to these records and then using a resolution process on those considered to be of substantial possible risk to revenue, these cases have been resolved.³¹
- 2.38 The ATO have advised that the 65 000 potential duplicates identified by considering more subtle cases (as noted in paragraph 2.33) will be addressed in the next financial year.
- 2.39 The Committee commends the ATO on its efforts to date to address the issue of duplicate TFNs. As previously mentioned, the Committee considers that the proper implementation of the CDMP promulgated by the Commissioner in 1991 would result in ATO databases free of duplicate records.
- 2.40 The Committee has some concerns about the risk assessment process used by the ATO to identify duplicates that were worthy of investigation. In particular, in its comments to the Committee, the ATO appeared to be assessing duplicate TFNs from the perspective of addressing identity fraud and 'substantial possible risk to the revenue'³². While safeguarding revenue collections is clearly important, the Committee would also draw attention to the need to remove duplicate TFNs to improve data quality, as well as the need to ensure that lessons learnt from the analysis are applied to the TFN registration process in order to minimise future cases of duplicate TFNs (TFN registration process are discussed in Chapter 4) and any flow-on effects to ABNs.

30 Transcript, p.179.

31 ATO, Submission No.37, p.8.

32 ATO Submission No.37, p.8.

2.41 The ATO focus on identity fraud and substantial revenue risk also fails to take into account the risks of duplicates as identified by the ANAO. The ANAO has stated that:

Duplicates represent risk to:

- revenue through inappropriate use of the TFNs, invariably as a result of fraud (such as income splitting fraud);
- revenue through not being able to use external data income because of duplicate records; and
- the accuracy of information used for decision making (as in including duplicate records in client profiling and other exercises).³³

Archiving

2.42 The ANAO report noted that ‘the ATO has not undertaken archival action in relation to TFNs since the late 1980s’³⁴. The ANAO recommended, based on better practice records management principles, that the ATO progress strategies for the archival of these inactive records³⁵.

2.43 The ATO noted reservations about such an approach, including that archiving data was too expensive and that aspects of the process were resource intensive. Their current approach is to flag TFNs on their system as inactive. While the ATO have stated that they are investigating this issue, they have noted that any decision will need to be balanced against other internal priorities³⁶.

2.44 In contrast to ATO data management practices, the Committee has heard from a number of Commonwealth agencies about their use of archiving. This has included Centrelink, which consider that removing inactive data from their system improves the operation of the system³⁷; the AEC, which have three separate, linked data bases that contain current, deleted and archived records³⁸; the Health Insurance Commission (HIC), which have a two stage process of end-dating records that are not active, and then archiving this information over time³⁹; and the Child Support Agency (CSA), which are currently in the process of introducing an archiving system⁴⁰.

33 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, pp.82-83.

34 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.81.

35 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.24.

36 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.96.

37 Transcript, pp.115-116.

38 AEC, Submission No.39, p.3.

39 Transcript, p.137.

40 Transcript, p.161.

- 2.45 Given the widespread use of archiving amongst Commonwealth agencies, and the ANAO's identification of it as good record management practice, the Committee considers that the ATO needs to reexamine its approach to archiving. In particular, the ATO could benefit from examining what constitutes good archiving practice among comparable Commonwealth agencies.

Recommendation 2

- 2.46 **That the Australian Taxation Office act as a matter of priority to improve the significant shortcomings with its data integrity. This should include addressing the issue of excess and duplicate Tax File Numbers and archiving of redundant Tax File Numbers.**

Systems quality

- 2.47 As outlined above, the solution to a number of the ATO's data integrity problems lies with systems solutions. Systems quality influences both the ability to improve data quality and the ability to make effective use of data.
- 2.48 Examples of current systems limitations include:
- a lack of automation
 - ⇒ TFN registrations accepted by Centrelink are manually transferred to the ATO
 - ⇒ checks for duplicate TFNs at registration point are manually generated at the discretion of the operator
 - difficulties in retrieving data
 - ⇒ Income data requests from Centrelink are manually, individually processed
 - ⇒ Interconnectivity problems between ATO data bases mean that 'ATO staff experience difficulty in accessing data from various IT systems during their work'⁴¹
 - outdated IT systems
 - ⇒ 'the information technology system upon which IRW administration depends is fundamentally defective'⁴².

41 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.84.

42 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.61.

- 2.49 The Committee believes that at the base of these problems is an inability of executive management to see the maintenance of high quality data and systems as a high priority issue. The result has been a lack of resources for systems improvements and a lack of willingness to prioritise allocation of systems resources to the TFN system. This approach appears to be continuing, as evidenced by the ATO's comment that 'IT priorities within ATO diminish opportunities for big-step improvements'⁴³ in the 'Management Information Systems for TFN operations' (a sub-project of the TFN Improvement Project).

Recommendation 3

- 2.50 **That the Australian Taxation Office take all necessary steps to improve Tax File Number systems quality to more properly reflect the importance of the Tax File Number system within the Australian Taxation Office and across government.**

Data and systems planning

- 2.51 Underlying the individual elements of data and systems administration is the broader question of ATO data and systems planning. Based on the Committee's investigations, the ATO appears to have in place many of the better practice principles identified in ANAO Audit Report No.48 1997-98, *Data Management in the APS*⁴⁴.
- 2.52 However, while the ATO may have the principles in place, the data and systems difficulties outlined above suggest a need to review the practice of ATO data management at both the corporate and operational or business line level. In addition, there appears to be a need to better anticipate data and systems requirements.

43 ATO, Submission No.37, p.6.

44 Auditor-General. 1998. *Data Management in the APS*. Audit Report No.48 1997-98 Performance Audit. Canberra, ANAO, xxviii 102p. (Referred to as ANAO Audit Report No.48 1997-98, *Data Management in the APS*).

- 2.53 Key issues to consider with regard to corporate level planning and resource allocation for the TFN system are:
- the quality of performance information that management is receiving in relation to the TFN system; and
 - the extent to which flow-on effects of the TFN system are incorporated into decision making.
- 2.54 With regard to the first of these areas; effective data management at a business line level ensures that comprehensive performance information is flowing from this operational level to the corporate level. The Committee is concerned that TFN system data management is not fully identifying and evaluating data and systems problems - the problems identified by the ANAO in the TFN audit report⁴⁵ should not have been news to ATO management. Improving performance information generated at an operational level may help in demonstrating the importance of addressing TFN system problems.
- 2.55 In terms of considering the full implications for the ATO of TFN system problems, this is one of the key reasons for corporate level planning – to consider ‘data management from the perspective of the whole of the agency’⁴⁶. It appears that in its decision making on resourcing for the TFN system, that the ATO is not considering the flow on effects of TFN data and systems quality. As noted, the TFN is one of the key identifiers for the issuing of an ABN. This means that the quality of TFN data will potentially have a significant impact on the integrity of the ABN system (the link between the TFN and the ABN is dealt with in more detail in Chapter 4).
- 2.56 The Committee acknowledges that at a corporate level, the ATO must balance resources across competing priorities within the organisation and that this is a key decider in data and systems planning. However, the Committee considers that there is a need to review the practice of data management in relation to the TFN system to ensure that data and systems problems and their implications are fully identified and that data management properly supports management decision making.

45 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*.

46 ANAO Audit Report No.48 1997-98, *Data Management in the APS*, p.51.

Recommendation 4

- 2.57 That the Australian Taxation Office review its current planning mechanisms in relation to the Tax File Number system, with a view to properly upgrading data management practices at both the agency and business line level.**

Whole-of-government approach

- 2.58 In addition to considering flow-on effects of TFN data and systems quality across the ATO, there is also a need to consider the reliance of other Commonwealth agencies on the TFN system when making resourcing decisions.
- 2.59 As outlined earlier in the report, the role of the TFN system is much broader than ensuring the collection of tax revenue. The TFN system plays an important role in the management of both the superannuation industry and the Commonwealth benefits payment system; and ATO data bases are used by a wide range of other Commonwealth government departments to facilitate the operation of their systems.
- 2.60 One possible vehicle for considering the importance of the TFN system to other agencies is through the ATO Pricing Agreement. The Pricing Agreement is an agreement between the Department of Finance and Administration (DoFA) and the ATO that sets out ATO funding against specified outputs⁴⁷. The Committee considers that there is scope to broaden the perspective of the Pricing Agreement to include consideration of the whole-of-government service provided by the TFN system.
- 2.61 The Committee understands that negotiations for the next ATO Pricing Agreement will commence next financial year, with the Agreement to take effect from July 2002. DoFA have advised the Committee that they 'will use information such as the ANAO findings to inform [them] on issues that may arise in forming the next pricing agreement'⁴⁸.
- 2.62 In formulating the next ATO Pricing Agreement, the Committee considers that DoFA and the ATO should also consider means of better reflecting the use of the TFN system across government. This could include consideration of incorporation of aspects of TFN system performance under the outcome of 'cross-agency support' and the possible input by

47 Transcript, pp.139-140.

48 Transcript, p.141.

other agencies on their use of ATO outputs as part of Pricing Agreement negotiations and review.

- 2.63 Formally including the broader use of the TFN system in the Pricing Agreement may be an effective means of ensuring that these activities are given suitable priority and are not subsumed by other ATO internal priorities.

Recommendation 5

- 2.64 **That the Department of Finance and Administration and the Australian Taxation Office review the Australian Taxation Office Pricing Agreement to ensure that it reflects the whole-of-government requirements in relation to the Tax File Number system.**

Data matching

- 3.1 'Information matching is the comparison of any one information set with other information sets for the purpose of producing or verifying information'¹.
- 3.2 The primary reasons for the ATO to conduct data matching are:
- to improve the quality of data held on their database;
 - to uncover and reduce fraud; and
 - to encourage better compliance.
- 3.3 As part of the performance audit, the ANAO reviewed TFN information matching. This included conducting a number of special data-matching studies carried out under section 32 of the *Auditor-General Act 1997*². These studies obtained information otherwise not obtainable about:
- quality of the ATO's data bases;
 - likelihood of fraud against Commonwealth law;
 - value of the TFN as a matching key; and
 - scope for additional savings to the Commonwealth's income support payments by extending the use of the TFN as a matching key.³
- 3.4 The Committee commends the ANAO on their initiative in performing these studies in order to provide government with a more complete picture of these policy options.

1 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.76.

2 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.36.

3 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.36.

Data matching and privacy protections

- 3.5 The adequacy of current privacy protections are an important factor when considering any changes to data matching. Legislation stipulates certain limitations over the use and distribution of the TFN and the information attached to it.
- 3.6 The *Privacy Act 1988*, regulates the collection, storage, use and security of TFNs by Commonwealth agencies through its information privacy principles. The ATO's compliance with privacy legislation was examined by the ANAO in the audit of the ATO's management of TFNs. The Auditor-General reported that 'the audit team found no systemic failures in relation to ATO's management of TFN privacy issues'⁴. Similarly, the Federal Privacy Commissioner advised the Committee that he considers privacy protections regulating the use of the TFN are working well⁵. This is demonstrated by the low level of TFN complaints investigated by the Privacy Commissioner, namely only 72 complaints investigated since the commencement of the privacy legislation through to 1998-99, and numbering one, zero and one for each of the years 1996-97 through to 1998-99 respectively⁶.
- 3.7 TFN-based data matching is regulated by the *Data-matching Program (Assistance and Tax) Act 1990*. All agencies authorised by this Act to carry out TFN-based data matching must report to Parliament annually. The Privacy Commissioner monitors compliance with the Guidelines issued under the Act, and reports annually on 'the extent of the program's compliance with the Act, the Guidelines and the Privacy Act 1988'⁷. Data matching is also supervised by the Auditor-General who may conduct audits of data matching and report these findings to Parliament.
- 3.8 In his *1998-99 Annual Report*, the Privacy Commissioner stated that:
- The Data-matching program has continued to operate under strict conditions and has been closely monitored by the Privacy Commissioner. The participating agencies have complied with the requirements of the Act and the Guidelines.⁸

4 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.92.

5 Transcript, p.44.

6 Transcript, p.51.

7 Privacy Commissioner. 1999. *Eleventh Annual Report of the Operation of the Privacy Act: For the period 1 July 1998 - 30 June 1999*. Sydney, Human Rights and Equal Opportunity Commission, p.74.

8 Privacy Commissioner. 1999. *Eleventh Annual Report of the Operation of the Privacy Act: For the period 1 July 1998 - 30 June 1999*. Sydney, Human Rights and Equal Opportunity Commission, p.76.

- 3.9 The Committee considers that the privacy framework established by Parliament to regulate data matching, the use of the TFN and protect personal privacy has been a highly successful policy and well administered by all concerned, and in particular by the Federal Privacy Commissioner.
- 3.10 Current privacy protections provide a strong accountability framework for the use of personal information. The Committee considers that the opportunity exists to build on this foundation in order to improve the effectiveness of data matching. In particular, the Committee considers that there is scope to consider extending data matching provided that the successful privacy protection arrangements are extended in a commensurate way.

The systemic use of external data bases

- 3.11 The ATO has access to a range of government agency databases that it data matches against on a case by case basis, for example 'as a vehicle to find a more up-to-date address'⁹. This includes databases of the AEC¹⁰ and the CSA¹¹.
- 3.12 Given the usefulness of data matching in improving compliance, uncovering fraud and improving data quality, there may be benefits from data matching more systemically against these databases. For example, the fact that the CSA is able to obtain client information from a range of sources means that its data may be higher quality than the ATO and hence may be worth matching against.
- 3.13 The Committee is concerned that the ATO appears to have failed to fully investigate the data matching capacities of the data sources it currently has access to. This failing reinforces the concern of the TIA that the ATO does not fully utilise the range of personal and business information that it collects and has access to.

9 Transcript, p.188.

10 Transcript, p.188.

11 CSA, Submission No.24, p.3 & Transcript, pp.160 & 188.

Recommendation 6

- 3.14 **That the Australian Taxation Office or an appropriately qualified consultant review the databases and information sources the ATO currently has access to in order to determine the value of systemic data matching against this information.**

Extending data matching to additional data sets**Improving data quality**

- 3.15 As outlined in Chapter 2, poor data quality has significant implications for the ATO and across the Commonwealth in terms of fraud prevention, effective decision making, client service and revenue collection. It also limits the effectiveness of data matching, resulting in a cost due to 'loss of revenue; additional administrative costs; and loss of savings to income support payments'¹².
- 3.16 The ANAO's report clearly demonstrated significant failings in relation to data quality in the TFN system. In addition to the large number of duplicate and excess TFNs, the audit also found a large number of TFNs that were not recorded with the correct status. **For example, the ANAO found 62 per cent of deceased clients not recorded as deceased on the ATO client data base in a sample match against Fact of Death records; and 40 per cent of deregistered companies still recorded as active on the ATO client data base in a sample match against records of deregistered companies.**
- 3.17 Increased data-matching can improve the quality of information held on the ATO databases by ensuring that the information is up-to-date and correct. Data matching to test data quality will also provide valuable information about the quality of the information that the ATO is receiving and the possible need for addressing sources of poor quality information. It may also increase respect by tax practitioners leading to better compliance, further increasing collection of data and revenue.

Reducing fraud

- 3.18 Data matching is an important tool for uncovering and preventing fraud both within the ATO and across other Commonwealth agencies. The fraud uncovered by data matching includes individuals who are not meeting their tax obligations, for example by not lodging a tax return; individuals who are falsely claiming Commonwealth government benefits; and identity fraud.
- 3.19 Data matching can also reduce fraud by increasing voluntary compliance. Ensuring that people meet their tax obligations increases community confidence in the tax system as a fair system, which is an important component of voluntary compliance. The known existence of mechanisms to detect fraud will also have a deterrent effect and hence increase voluntary compliance with tax obligations.

Strategies

Data cleansing

- 3.20 The ANAO have suggested that ‘an organisation faced with data integrity problems might periodically clean up data sets’¹³.
- 3.21 The ATO have advised the Committee that they are ‘in principle in favour of having at least a once off and maybe a regular identity data match effort with other government agencies’¹⁴, and have had preliminary discussions with other agencies and the Privacy Commissioner about conducting such an exercise¹⁵.
- 3.22 The Committee notes that a data-match cleansing project is identified as one of the components of the ATO’s hierarchy of options for improving PoI processes¹⁶. While data cleansing will have the benefit of identifying cases of identity fraud, this is only one aspect of the benefits that would result from such an exercise.
- 3.23 The Committee is strongly of the view that the ATO must consider the full range of benefits that would flow from data cleansing when investigating this option. The Committee considers that there would be significant value in the ATO undertaking a data cleansing exercise on its data base, including in terms of identifying better practice for future data recording.

13 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.80.

14 Transcript, p.8.

15 ATO, Submission No.17, p.19.

16 ATO, Submission No.17, p.12.

Matching with Fact of Death data

- 3.24 As noted in Chapter 2, data quality could be improved by data matching against additional external data sets, and in particular by matching against Fact of Death data from State Registrars-General of Births, Deaths and Marriages. This category of inactive TFNs is considered by the ANAO and the ATO to account for a large number of the excess, inactive TFNs.
- 3.25 The ATO agreed with the value of matching against Fact of Death data¹⁷.
- 3.26 The ATO have advised the Committee that they have been receiving quarterly Fact of Death data since April 1999, and that they have matched the data with ATO records and have gotten 'a fairly high quality match'¹⁸. However, the ATO's client register has not been updated with this information due to a lack of systems resources. In particular, the ATO have advised that:
- Our client register needs to be modified in order to create an indicator that we can store this information in and that is the work that needs some priority.¹⁹
- 3.27 This is an example of a proposal that will have clear benefits for the quality of TFN data, where there are no legislative impediments to data matching and where the ATO has had access to the required data for over a year. While the ATO have stated support for this proposal²⁰, they have failed to act on this support by not allocating systems resources. This simply means that ATO management considers that improving the quality of data by this means (and thereby reaping the benefits from doing so) is low priority.
- 3.28 In addition, it is of significant concern that the ATO appears unable to mark as inactive TFN records for deceased clients.
- 3.29 The ATO's failure to implement matching against Fact of Death data stands in stark contrast to Centrelink²¹ and the AEC²², which have been matching against Fact of Death data for several years. The AEC have, in fact, made use of information on recorded deaths provided by State Registrars-General 'since the turn of the century'²³ and currently match against these records on a monthly basis for those aged over 17, as well as

17 ATO, Submission No.17, p.32.

18 Transcript, p.189.

19 Transcript, p.190.

20 ATO, Submission No.17, p.32.

21 Transcript, p.114.

22 AEC, Submission No.39, pp.2-3.

23 AEC, Submission No.39, p.2.

monitoring 'death notices in newspapers'²⁴ and having recently purchased the Fact of Death File for 1999 and 2000.

Matching with movements records

- 3.30 The Committee notes that the ATO is currently discussing the issue of access to movement records with the Department of Immigration and Multicultural Affairs (DIMA).
- 3.31 Under 'section 488 of the Migration Act ... [DIMA is] unable to provide movements data to the ATO for this purpose at this time'²⁵. In this regard, DIMA has advised the Committee that:
- ... we are seeking legal opinions and we are looking for an administrative solution. If necessary, we will go down the path of legislative amendment to address the issue.²⁶
- 3.32 In more recent advice to the Committee, the ATO have noted that :
- DIMA have responded positively to the proposal [of ATO access to movements data] and are currently reviewing their legislative timetable. The relevant Section (s488) of their Act is included in this review for potential amendment²⁷.
- 3.33 Data matching against movement records would enable identification of inactive TFNs that were issued to short term visitors who have since left Australia. This would improve data quality and reduce the possibility of the fraudulent use of these TFNs following the non-residents departure from Australia.
- 3.34 As discussed in Chapter 5, TFN information for short term visitors that accurately records whether or not they are currently in the country may also open up additional mechanisms for addressing some of the problems with establishing working rights of non-residents.
- 3.35 The Committee supports the amendment of legislation to allow the ATO to data-match against DIMA's movement records. The Committee notes that allocation of appropriate resourcing by ATO management will also play a significant part in the effective implementation of this strategy.

24 AEC, Submission No.39, p.3.

25 Transcript, p.119.

26 Transcript, p.122.

27 ATO, Submission No.30, p.6.

Matching with HIC data

- 3.36 The ANAO support ATO data matching with the HIC, noting that this 'would give the ATO access to more current, almost real time data and enable the ATO to conduct more detailed cross referencing of its data'²⁸.
- 3.37 The ANAO report identifies \$180 million of additional revenue as a result of data matching ATO and HIC data²⁹. This figure is based on 1986-87 research by the ATO. The ANAO have advised the Committee that this figure consists of \$140 million due to the under-reporting of income received from patients in the annual income tax returns of medical doctors and practitioners, and \$40 million through uncovering Medicare recipients who are not lodging tax returns or are committing identity fraud³⁰.
- 3.38 In addition, the ANAO conducted two special data-matching studies that matched those in receipt of Medicare benefits and those in receipt of Commonwealth Childcare Cash Rebates (CCCR) against the ATO's main client data base³¹.
- 3.39 In the sample match against Medicare benefits:
... 4.07 per cent of the Medicare records could not be matched to an existing tax record. **More than 5 per cent of males and females between the ages of 21 and 30 who receive Medicare benefits could not be matched to an existing tax record.**³²
- 3.40 The sample match against CCCR resulted in a much better match, with only around 2 per cent of CCCR claimants being unable to be matched against a tax record. However, 'the approximate value of the unmatched CCCR claims was \$2.8 million'³³.
- 3.41 As noted by the ANAO, an analysis of the reasons for these unmatched Medicare and CCCR cases was beyond the scope of their audit. However, what this evidence does indicate is that there may be a compliance problem. The ATO and the HIC could do a study to establish the magnitude of this problem, however this may require special legislation. Alternatively, the Auditor-General could be asked to do the detailed study in order to provide a measure of the size of the problem.
- 3.42 The Committee notes that the ATO has formally approached the HIC to seek their views about the potential for a data match of identity

28 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.83.

29 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.85.

30 Informal advice from the ANAO.

31 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.85.

32 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.86.

33 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.86.

information³⁴. Such matching will not uncover under-reporting of income by medical doctors and practitioners. This would require the matching of ATO records with rebates received from the HIC by doctors and medical practitioners.

- 3.43 The Committee notes that the ATO had access to HIC data under *the Data-matching Program (Assistance and Tax) Act 1990* up until 1995, when the HIC and AEC were removed from the program. The Committee notes Centrelink advice that AEC and HIC 'data had been used as an additional check on the validity of identity data matched under the Program, but improvements in the quality of data provided by the assistance agencies and the ATO by 1995 meant that the AEC and HIC identity data was no longer required'³⁵ In light of the significant limitations in ATO data quality and the potential for uncovering fraud, the Committee considers that data matching between the ATO and HIC is worth pursuing.
- 3.44 In addition, any decision to proceed with data matching will need to consider the protection of individuals' privacy, particularly given the sensitivities associated with medical records.
- 3.45 The Australian Privacy Foundation noted significant concern about the privacy aspects of ATO-HIC data matching:
- ... What would be even more alarming , and totally unacceptable is the use of the TFN as the matching key for ATO-HIC matching.
... We call on the Committee to firmly rule out any suggestion that the TFN should be used in the health care administration arena.³⁶
- 3.46 The Committee agrees that it would be unacceptable to allow the ATO access to individuals' medical records. However, the benefits of data matching in the case of individuals could be achieved by isolating individuals' medical records and claims histories from the data matching. Similarly, there would be no need for the ATO to access details of individuals' medical records in matching rebates received by medical practitioners.
- 3.47 The Committee also notes that, since 1 January 1999, the HIC has been providing the ATO with information in connection with the Private Health Rebate Scheme, including provision of information that can be used to verify claims on income tax returns.

34 ATO, Submission No.30, p.6.

35 AEC, Submission No.39, p.8.

36 Australian Privacy Foundation, Submission No.16, p.7.

Matching with AEC data

- 3.48 The ATO has access to AEC data under the *Commonwealth Electoral Act 1918*, including information that is not publicly available, provided that this information is used for purposes permitted by the *Privacy Act 1988* (note the qualification in paragraph 3.50). The ATO have advised that they get regular updates of the electoral information, and that this information 'largely would be used on a case by case basis or for tracing purposes where we perhaps were unable to locate a particular client.'³⁷
- 3.49 AEC data is likely to be higher quality than TFN data for a number of reasons. This includes the fact that AEC has a continual turnover of data due to the range of elections that are conducted throughout the country using the electoral role, as opposed to the ATO where clients are only required to provide a once a year update at the point of lodging a tax return. The AEC also has a range of quality assurance mechanisms in place to ensure the quality and veracity of electoral role applications and changes, such as monthly (and at times more frequent) matching against Fact of Death data received from the States, an Address Register 'against which all enrolment transactions are matched' and a range of Continuous Roll Update activities³⁸.
- 3.50 On the basis of legal advice at the time, the AEC had been providing information to the ATO in both electronic and microfiche format. The AEC have advised the Committee that:
- On 8 June 2000 the Solicitor-General advised that section 91(10) of the Electoral Act did not allow the AEC to provide prescribed authorities with enrolment information in electronic format, but could provide in electronic format under paragraph 91(4A)(e) of the Act. However, the supply of enrolment information in electronic format under paragraph 91(4A)(e) will require regulations under section 91A of the Electoral Act, in order for prescribed authorities to make use of the information.³⁹
- 3.51 The ATO needs to investigate the benefits of more comprehensively data matching against electoral data. In light of the AEC's recent legal advice, this will also require consideration and development of regulations under section 91A of the Electoral Act.
- 3.52 The Committee notes that in reporting on the 1996 Federal Election, the Joint Standing Committee on Electoral Matters recommended that the

37 Transcript, p.188.

38 AEC, Submission No.39, pp.5-6.

39 AEC, Submission No.39, p.6.

AEC investigate options for expanding data matching of enrolment data⁴⁰. The Committee notes that the AEC wrote to the ATO regarding this issue and that the AEC has had 'no response to date'⁴¹.

Use of the TFN in Employment Declaration Form (EDF), Prescribed Payments System (PPS) and Reportable Payments System (RPS) data matching with Centrelink

3.53 In their report, the ANAO identified \$28 million through 'expenditure savings on income support payments from the use of the TFN in Employment Declaration Form (EDF), Prescribed Payments System (PPS) and Reportable Payments System (RPS) data-matching with Centrelink'⁴². The Committee notes that the Government introduced this measure in the 1999-2000 Budget⁴³.

TFN trust data

3.54 As part of their report, the ANAO considered the level of TFN quotation in relation to Partnership and Trust Income Tax Returns. The ANAO found:

Nearly half of the 430 572 Trust Returns received by the ATO during 1997 do not list the TFNs of all beneficiaries. About 18 per cent of the two million trust beneficiaries do not have their TFN affixed to the distribution information recorded about them on Trust Income Tax Returns.⁴⁴

3.55 This contrasted markedly with TFN quotation rates by taxpayers generally. Taxpayers are requested to provide their TFNs for a wide range of tax systems and the ANAO reported TFN quotation rates in relation to them. TFNs were quoted on 96 per cent of EDFs and on almost 90 per cent of financial transactions reported to the ATO by financial institutions. The lowest rate was 89.3 per cent for the Prescribed Payments System.⁴⁵

40 Joint Standing Committee on Electoral Matters. 1997. *Report of the inquiry into all aspects of the conduct of the 1996 Federal Election and matters related thereto*. Canberra, Australian Government Publishing Service, Recommendation 4, p.xviii.

41 AEC, Submission No.39, p.9.

42 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.95.

43 The Honourable Peter Costello, M.P., Treasurer of the Commonwealth of Australia and the Honourable John Fahey, M.P., Minister for Finance and Administration. 1999. *Budget Measures 1999-2000: Budget Paper No.2*. Canberra, CanPrint Communications Pty Limited, p.86.

44 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.84.

45 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Table 9, p.118.

- 3.56 The Government has since addressed this compliance problem through introducing a measure:
- ... to ensure that income tax is paid on all net income distribute [sic] through chains of trust. This is done by establishing a tax liability in cases where closely held trusts distribute to other trusts and the ultimate beneficiary of the distribution is not accurately and sufficiently identified.⁴⁶
- 3.57 The effect of this measure is to require that names and TFNs for ultimate beneficiaries of certain classes of trusts are identified, with income subject to Ultimate Beneficiary Non-disclosure Tax at 48.5 per cent, this being the highest marginal rate plus Medicare, in cases where this information is not provided. Benefits identified from this new measure include increased integrity of the tax system, improved tax compliance and collection of additional revenue of '\$30 million in each of 1999-2000 and 2000-2001'⁴⁷.
- 3.58 The Taxation Institute of Australia advised the Committee of their concern in relation to ultimate beneficiary statements, particularly in respect of certain charities and low-income beneficiaries. This is because income received by beneficiaries which has been subject to the 48.5 per cent tax is classified as exempt income, rather than income with an attached tax credit. Hence, if a beneficiary is subject to an income tax rate lower than 48.5 per cent, they are unable to claim back the difference between 48.5 per cent and their tax rate.
- 3.59 Mr Cooper, President of the TIA acknowledged that this measure 'has merit and was a crucial anti-avoidance measure'⁴⁸ but is concerned that:
- ... it is a way in which effectively the tax file number system is being made compulsory. You can still say there is a choice but the choice in not quoting is that you lose 48.5 per cent.⁴⁹

46 Parliament of the Commonwealth of Australia. House of Representatives. 1999. *A New Tax System (Closely Held Trusts) package: Explanatory Memorandum*. Circulated by authority of the Treasurer, the Hon Peter Costello, MP. p.27.

47 Parliament of the Commonwealth of Australia. House of Representatives. 1999. *A New Tax System (Closely Held Trusts) package: Explanatory Memorandum*. Circulated by authority of the Treasurer, the Hon Peter Costello, MP. p.30.

48 Transcript, p.70.

49 Transcript, p.70.

Recommendation 7

- 3.60 **That the Australian Taxation Office implement data matching strategies aimed at improving Australian Taxation Office data quality and reducing tax fraud, including in the areas of:**
- **Data cleansing;**
 - **Fact of Death data matching;**
 - **Department of Immigration and Multicultural Affairs movements records data matching; and**
 - **Investigating the reintroduction of Health Insurance Commission data matching for purposes of compliance with Tax File Number identification.**

The quality of data received

- 3.61 The quality of data received by the ATO will affect the quality of data matching that can be performed. The ATO must continually review options for working with other agencies and organisations to improve the quality of data received and hence enhance ATO data matching capacity.
- 3.62 An area of particular concern, as highlighted by the ANAO⁵⁰, is the reporting by financial institutions, particularly with regard to the Annual Investment Income Reports (AIIR) that financial institutions must provide to the ATO. The extent to which AIIR data can not be matched to the ATO's data bases could be indicative of compliance problems amongst those with accounts in financial institutions or of shortcomings in the quality of the AIIR data.
- 3.63 In particular, the ANAO found:
- 'instances of non compliance of remitters with the quarterly and annual reporting requirements' that extended over several years⁵¹;

50 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 5, pp.23-24.

51 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.71.

- that 'the ATO has been unable to reconcile the accounts of almost all investment bodies for each of the eight years that the TFN withholding tax arrangements have been operating'⁵²;
- using 1997 AIIR data, the ATO could not match 12.7 per cent of AIIR transactions to an ATO taxpayer. This represents 3 730 000 transactions with a total value of over \$14 billion⁵³; and
- using 1997 AIIR data there were 186 049 valid AIIR transactions that did not have a TFN, that the TFN withholding tax was withheld from and that the ATO could not match to a taxpayer. These transactions had a total value of almost \$70 million and the total amount of TFN withholding tax withheld was \$30.5 million⁵⁴.

3.64 The problems with reporting by financial institutions is an ongoing problem. In 1984, the Auditor-General reported that banks had not provided the ATO with satisfactory information since 1936, when the statutory requirement for them to do so was first promulgated⁵⁵.

In Audit's view the ATO has not shown evidence of a firm and consistent approach in this area. This has resulted in significant deficiencies in information submitted by the banks. Consequently revenue that might have been collected has not been. The receipt of complete statements of interest from the banks as required by Income Tax Regulation 11(2) since 1936 has yet to be achieved.

Using ATO estimating techniques and the results of research which the ATO had carried out in respect of the 1978-79 income year, Audit concluded that the amount of tax evaded in respect of undisclosed dividends and interest (mainly the latter) could be currently up to some \$500 million per annum. Because of various deficiencies in the ATO checking system and its failure to utilise all available information, it also appeared to Audit that there was little prospect of remedying the situation without significantly greater efforts by the ATO.⁵⁶

3.65 In response to ANAO's findings in relation to AIIRs, the ATO have advised the Committee that the number of financial institutions which do not comply with these reporting requirements is very small and limited to

52 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.71.

53 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Table 5, p.117.

54 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Table 11, p.119.

55 *ATO Data and Systems Quality - An ANAO Discussion Paper*, p.6. - based on *Checking of Dividends and Interest Disclosed in Income Tax Returns by the ATO*, AGPS, 1984, p.33.

56 *ATO Data and Systems Quality - An ANAO Discussion Paper*, p.6. - quoted from *Checking of Dividends and Interest Disclosed in Income Tax Returns by the ATO*, AGPS 1984, pp.33 & 28.

smaller financial institutions⁵⁷. This corresponds to comments by the Australian Bankers' Association (ABA) that the majority of their members comply with reporting requirements⁵⁸.

- 3.66 The Committee is concerned that the ATO has not further investigated these findings. In particular, the ATO needs to investigate why these institutions are not reporting and whether, based on a risk assessment, the reporting requirements are too onerous for smaller institutions. Less detailed but more accurate reporting is likely to be more useful to the ATO than no reporting at all. In addition, the ATO should investigate the ANAO's concern that non-compliers may be obtaining a competitive advantage over investment bodies that do comply by avoiding investment in the IT systems required for reporting.
- 3.67 The ATO has advised the Committee that 52 per cent of the unmatched transactions have a dollar value less than \$100. However this would appear to suggest that there are a small number of high value AIIR transactions that are unable to be matched. This would suggest that even if it is not cost effective for the ATO to achieve a perfect matching of AIIR reports, that it is worthwhile for the ATO to undertake work to detect these particular high value transactions.
- 3.68 In addition to compliance problems and poor data quality associated with AIIR information, there is also the additional issue that ATO is not remitting withholding tax in all cases where it should be remitted. The ANAO estimate that 'the total amount of the TFN withholding tax collected that was not returned to taxpayers since the scheme began [in 1992] is at least \$200 million'⁵⁹. The ANAO considered that non-remittance was a concern, particularly in relation to exempt investors such as income support recipients, and recommended that the ATO review its processes to ensure that this tax is remitted⁶⁰. The Committee notes ATO action in response to these recommendations, including:

... a legislative proposal [that] is included in a bill currently before parliament to enable exempt investors to claim refunds directly from financial institutions. This will considerably simplify [sic] the refund process for exempt investors. In addition, via the joint consultative forum, the ATO has liaised with financial institutions and recommended steps to minimise refund claims by

57 ATO, Submission No.30, p.10.

58 Transcript, p.99.

59 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.73.

60 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 6, p.75.

encouraging investors to notify their exempt status to the financial institution when opening accounts⁶¹.

- 3.69 There is scope to consider further simplifying processes in relation to exempt investors. For example, it may be possible for Centrelink to code exempt status into the information that they provide to financial institutions which could then not deduct withholding tax from these accounts.

Recommendation 8

- 3.70 **That the Australian Taxation Office focus on steps to improve the quality of data it receives in order to improve its data matching capabilities, including through working with other agencies and organisations. A first priority for the Australian Taxation Office in this regard should be to review and improve reporting in Annual Investment Income Reports by financial institutions.**

Extending data matching to additional transactions

- 3.71 In addition to extending current data matching by increasing the number of external data bases that the ATO matches against, it is also possible to enhance data matching by widening the types of transactions that can be data matched.
- 3.72 For example, if the withholding tax system were expanded in the way that the ANAO has recommended, so that TFNs were recorded for a range of additional transactions such as AUSTRAC and real estate transactions, one of the flow-on effects would be the ability to data match these transactions against other data sets. This additional information would have benefits for transaction matching within the ATO. It would also enhance the information that the ATO makes available for data matching against external data sets, such as through the Data Matching Program, and hence improve the ability of this data matching to uncover fraud committed against other Commonwealth agencies.

61 ATO, Submission No.17, p.31.

- 3.73 The Committee notes the concerns raised by Mr Johnston⁶², the Taxation Institute of Australia⁶³ and at the roundtable hearing of tax practitioners⁶⁴ that data matching and ATO access to additional information should not be extended until the ATO better utilises its existing sources of data.
- 3.74 The Committee agrees that it is a significant concern that the ATO has failed to make full use of existing information sources through either not fully investigating potential uses of the information and/or failing to make resources available to allow the use of information. However, the Committee still considers that there is value in considering the potential use of additional data sets due to the range of benefits this can bring, as noted above and highlighted in the ANAO's report. In particular, additional data matching may improve the integrity of the tax system by improving data quality and detecting tax evasion.

Data matching with the ABN

- 3.75 It is important to note that data matching using the TFN is not the only approach to uncovering additional fraud. While matching against the TFN has been shown to be a successful method of achieving a high quality match, it may be possible that there are alternative means of uncovering or preventing fraud that are less obtrusive, more cost effective and which make better use of existing processes or information collections. Alternative approaches will not have a comparable success level with data matching using a unique numeric identifier such as the TFN, but may be considered a more appropriate approach based on a cost-benefit analysis. Alternative approaches focussed on uncovering fraud are also unlikely to have the flow-on effects for data quality that result from matching with the TFN.
- 3.76 For example, the introduction of the ABN and the new GST fraud control mechanisms offers the opportunity to review data matching opportunities, including a number of the proposals included in the ANAO report, such as data matching against AUSTRAC transactions and HIC data. Any data matching with the ABN is likely to require systems enhancements amongst Commonwealth agencies so that the requisite data is actually captured and rendered matchable. In addition, data matching using the ABN will have little impact if tax evasion in the particular area is

62 Mr Johnston, Submission No.20, p.3.

63 Transcript, p.65.

64 Transcript, pp.65-82.

primarily being committed by individuals, as these transactions will fall outside ABN data collections.

- 3.77 In the case of data matching with HIC data, the Auditor-General reported the results of ATO research completed in 1987 that, at that time, the ATO had identified \$180 million in potential revenue savings from this matching, with \$140 million of this directly attributable to under-declaring of income by medical practitioners.
- 3.78 The introduction of the ABN will require medical practitioners to quote their ABN to the HIC for payments or face the deduction of withholding tax from HIC payments. At face value, this approach appears to provide an alternative means of ensuring collection of the \$140 million identified by the ANAO. However, there is still scope for fraud if medical practitioners understate their income to the ATO. To successfully address this issue, the ATO would require access to the HIC data which contains the rebate records in order to verify the income declared in medical practitioners' tax returns.
- 3.79 ABN quotation and data matching also has the potential to improve revenue collections across Commonwealth administration. As detailed in Chapter 7, current administrative arrangements do not guarantee that correct tax is paid on all taxable payments and like benefits made by the Commonwealth. A large number of these transactions relate to business and hence will be subject to ABN quotation and withholding arrangements. This means that many of the benefits achievable by extending TFN quotation to these arrangements can be achieved through the ABN.

Recommendation 9

- 3.80 **That the Australian Taxation Office evaluate and act on data matching opportunities provided by new Australian Business Number arrangements, including putting in place mechanisms to ensure that relevant data is captured and able to be used for data matching purposes.**

Tax File Number registration

- 4.1 High quality, accessible TFN registration procedures are important for ensuring the integrity of the TFN system and for delivering good customer service. They also assist the efficient operation of those systems within the ATO and across government that rely on TFN information.
- 4.2 The ANAO emphasised the importance of the registration process, particularly in terms of ensuring ‘correct identification of individual taxpayers’¹, as required by legislation.
- Legislation requires that the Commissioner be satisfied that the applicant’s identity be established before issuing the person with the TFN. The Commissioner has discretion to refuse to issue a TFN if he is not satisfied as to the applicant’s true identity.²
- 4.3 Ensuring that individuals are correctly identified and issued with a single TFN, and that their details are properly recorded will:
- ensure that quality information is entered into the ATO’s data bases;
 - improve the quality of management information by ensuring that the data base correctly represents the profile of current taxpayers; and
 - reduce the scope for fraud by minimising cases of identity fraud or possession of multiple TFNs.
- 4.4 Stringent registration procedures are a cost effective means of reducing fraud as registration occurs in almost all cases before a tax obligation has been incurred. They also ensure data quality, as only high quality data is entered into the database. This has a benefit for the ATO and more broadly across the Commonwealth. A focus on the front-end registration point can limit the need to deal with downstream consequences such as recovering tax debt and removing poor quality data from the database.
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1 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.17.

2 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.39.

- 4.5 Efficient and accessible TFN registration procedures are also an important component of providing good quality customer service. Ensuring that people have equal access to TFN registration is an important part of delivering on the ATO's commitment to treating all taxpayers fairly, as required by the ATO's Taxpayers' Charter. In addition, given the importance of a TFN for individuals in meeting their tax obligations, the ATO has an obligation to ensure that people can easily obtain a TFN.

ATO registration procedures

- 4.6 The large number of duplicate TFNs and the poor quality of ATO data support the need to refine ATO registration processes. The effectiveness of the registration process as a means of minimising duplicate TFNs and identity fraud was supported by Ms Mackenzie, an officer with the ATO, in a submission that she made to the Committee³ (see also paragraphs 5.9 and 5.38).
- 4.7 **The ATO's 'preliminary research has shown that approximately one in ten individual TFN applications already have an existing TFN'⁴.** This provides further support for reviewing the ATO registration procedures to ensure that these applications are detected and that the number of people accidentally applying for a duplicate TFN is reduced.
- 4.8 Improving ATO registration procedures can also improve client service by improving accessibility and processing time.

Use of information technology

- 4.9 Information technology can provide improvements to the accessibility of TFN registration processes and the generating of TFNs.
- 4.10 The Committee recognises the wide range of mediums the ATO uses to make information available to the public. The Committee encourages the ATO to continue to review its procedures and seek client feedback to ensure that it is making effective use of available technologies in order to streamline TFN registration. Of note in this regard is advice that the Committee received from Mr Muirhead of the difficulties he had in obtaining a TFN registration form – noting that while the ATO website does include downloadable forms, that these were not compatible with his system and hence were not printable; that the ATO helpline was only

3 Ms Mackenzie, Submission No.1, p.1.

4 ATO, Submission No.17, p.26.

available during business hours; and that there was not a fax number available for information⁵.

- 4.11 With regard to the generating of TFNs, there is a need to improve the ability of the ATO's system to pick up potential duplicate TFNs at the point of registration. The ATO should consider introducing software solutions for automating checks for duplicate TFNs.
- 4.12 The current process for registering new TFNs on the ATO data base does allow operators to conduct a number of checks to determine whether the individual already has an existing TFN. However, the checks are at the discretion of the operator, rather than carried out automatically by the computer system, and the system is also only able to perform a very basic level of checking.
- 4.13 The Taxation Institute of Australia have provided the Committee with an example where a duplicate TFN was generated, and the ATO explanation was that 'apparently the "...TFN registration operative failed to utilise the registration system's matching capacity and a second TFN was issued in error" (extract from undated ATO letter received on 28 August 1998)⁶.
- 4.14 In contrast with this approach to checking for duplicate registrations, the AEC has a number of automated checks on name and address at the point of registering people on the electoral role. The AEC Roll Management System also 'uses "Sounds-like" (Soundex) name matching software'⁷ and 'a number of in-house software applications ... that allow various inquiry criteria to be used'⁸.
- 4.15 The ATO needs to investigate the range of systems solutions available to improve TFN registration, including the possible use of IT fuzzy logic and other techniques of advanced mathematics. These systems need not be expensive to implement. The Committee understands that a number of the AEC in-house software applications were developed at relatively low cost⁹.

5 Mr Muirhead, Submission No.2, p.1.

6 TIA, Submission No.14, p.3.

7 AEC, Submission No.39, p.4.

8 AEC, Submission No.39, p.4.

9 Informal advice from the AEC.

Issuing of TFNs

- 4.16 The ANAO considers that there is a need for the ATO to review the format in which the TFN is provided in order to ensure that it 'is easy for clients to access, use and maintain, while protecting their individual privacy'¹⁰. This is based on assessment that the current paper notification provided by mail 'is not particularly user friendly or secure'¹¹. The ANAO have suggested that the ATO should review current practices in the United States for issuing Social Security Numbers and the work of financial institutions for issuing Personal Identification Numbers in order to identify better practice.
- 4.17 The ATO have advised the Committee that, as part of the TFNIP, they are reviewing the format and content of TFN advice supplied to TFN applicants. In reviewing the method of TFN notification, the ATO is focussing on developing a more retainable format. The ATO is also considering options for improving taxpayer education at TFN issuing point, including consideration of tailoring advice to market segments and including information about the importance of retaining TFN details. This project appears well advanced, with the ATO having advised that they are currently 'developing some prototypes'¹².
- 4.18 This review also offers an opportunity to consider the information sent to people who have applied for a new TFN but already have an existing TFN. The Committee understands that in this situation, that the advice sent to individuals does not indicate that there was an existing TFN, hence potentially missing an opportunity to improve taxpayer awareness.

Recommendation 10

- 4.19 **That the Australian Taxation Office review its Tax File Number registration processes, including automating checks for duplicate Tax File Numbers, making better use of available software, and improving the format and content of Tax File Number advice supplied to Tax File Number applicants.**

10 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation. 2(e), p.56.

11 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.54.

12 ATO, Submission No.17, Appendix 3, p.3.

Alternative means of TFN registration

- 4.20 Using alternative means of TFN registration can improve client service and verification of the identity of applicants. In their report, the ANAO suggested a number of additional means of TFN registration, particularly in relation to increasing registration by external agencies.
- 4.21 The potential for increased TFN registration by schools, Centrelink and the Department of Immigration and Multicultural Affairs is investigated below.

School registrations

- 4.22 The ANAO recommended that the ATO take steps to improve and extend the Schools Education Program (SEP)¹³, which is an ATO program for educating school students about their future taxation obligations and providing an opportunity for issuing TFNs. The ANAO considered this program to be a low cost, low risk approach to TFN registration, in particular as there is greater certainty of individuals' identity through this registration process.
- 4.23 The Auditor-General found that:
- The benefits arising from SEP include:
- it helps young people better understand their tax rights and responsibilities under Commonwealth law;
 - it is an efficient way of obtaining quality, low cost TFN registrations for a significant proportion of eligible Australians; and
 - it ensures that young people about to enter the workforce have a TFN and therefore do not incur the TFN withholding tax levied at the highest marginal rate.¹⁴
- 4.24 While the ATO agreed with the ANAO's recommendations, the Committee is concerned that the ATO appears to be placing a low priority on this issue. For example, despite having software and systems that would be highly suited to offering schools an electronic TFN application service, the trial of such a service 'was delayed because of other priorities'¹⁵.
- 4.25 The Committee received a mixed reaction to the proposal to extend the SEP and hence the level of TFN registration conducted through schools.

13 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 1, p.22.

14 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.42.

15 ATO, Submission No.17, p.20.

- 4.26 The ABA and Ms Mackenzie, an ATO officer¹⁶, were supportive of extension of the SEP as ‘an effective way of enhancing TFN integrity and ... getting TFN applicants identified with some reliability’¹⁷.
- 4.27 In contrast, the Taxation Institute of Australia do not support extension of the SEP without extensive community consultation and a full review of the program. The TIA claims that the proposal to expand the SEP through systemic access to schools ignores ‘the privacy concerns of principals and school communities’¹⁸ and ‘does not recognise the duplication risks that can and do occur when people join the workforce at a later date’¹⁹.
- 4.28 While the Committee agrees that these concerns should be monitored, it does not consider that they warrant reducing the use of the SEP.
- 4.29 The Committee agrees with the Auditor-General that the SEP produces benefits for both young people and the ATO. In particular, given that 47.2 per cent of 15-19 year olds are employed²⁰, and that a TFN is a condition for receipt of income support and the Higher Education Scheme, it is likely that a large proportion of young people require a TFN. This limits the concern that the time delay between issuing and using a TFN will result in duplicate TFNs being issued because young people have forgotten they were previously issued a TFN.
- 4.30 In addition, the Committee understands informally from the ANAO that most schools, public and private, welcome the ATO officers and appreciate the job that they are doing and that the SEP was particularly appreciated in country schools.
- 4.31 The ATO have also advised that:
- An independent evaluation was completed in January 2000. Report offered positive reinforcement for the Schools Program with some minor changes (mainly in presentation to classes).²¹
- 4.32 More systemic access to schools and better support from ATO management would mean that ATO staff involved in the SEP could spend more time in schools and less time arranging visits. However, an invitation to attend an individual school would remain dependent on the decision of the school’s principal.

16 Ms Mackenzie, Submission No.1, p.1.

17 ABA, Submission No.10, p.2.

18 TIA, Submission No.14, p.2.

19 TIA, Submission No.14, p.3.

20 ABS, Unpublished data, Labour Force Survey, 1998-99.

21 ATO, Submission No.37, p.2.

- 4.33 The Department of Education, Training and Youth Affairs (DETYA) has advised the Committee that they consider that the best way to advance the SEP and encourage school participation would be through peak school organisations such as the Australian Secondary Principals Association, the National Catholic Education Commission and the National Council of Independent Schools Associations²². The Committee welcomes DETYA's offer to facilitate an approach by the ATO to these organisations.

Recommendation 11

- 4.34 **That the Australian Taxation Office take steps to improve the coverage of the Schools Education Program, including through working with the Department of Education, Training and Youth Affairs in approaching peak school organisations in order to seek their support for this program.**

Centrelink registrations

- 4.35 The ANAO considers that there is significant benefit for Centrelink clients in remote and regional areas being able to register for a TFN through Centrelink offices. Consequently, the ANAO has suggested that 'there may be merit in Centrelink being able to accept TFN applications from any applicant, not just those who are Centrelink clients'²³.
- 4.36 This benefit arises from individuals in rural and regional areas being able to register for a TFN over the counter, as opposed to posting original documents to the ATO in order to obtain a TFN. There may also be an improvement to PoI processes if the proposal were to reduce the need for Justices of the Peace to authenticate identity documents in remote areas.
- 4.37 The Committee considers that the ATO should also consider whether there are other agencies that could accept TFN applications in order to improve accessibility to over-the-counter registrations in rural and regional areas. In considering other agencies, the ATO would need to be sure that the agencies were properly able to guarantee PoI verification.

22 DETYA, Submission No.29, p.1.

23 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.44.

- 4.38 In response to the ANAO's recommendations, the ATO advised that they have been 'undertaking work with Centrelink on a range of initiatives, including electronic transfer of Centrelink client applications and POI certification by Centrelink for non-Centrelink clients'²⁴.
- 4.39 The Committee is concerned that this work appears to have stalled. The ATO have advised that 'further work is required in this regard'²⁵ but have not provided advice of any such work occurring.
- 4.40 Centrelink has advised the Committee that, with appropriate funding, that they would be able to accept TFN applications from any applicant and that upon request from the ATO they would develop a costed option for ATO consideration²⁶.
- 4.41 Responsibility for advancing this proposal clearly rests with the ATO, which should act on their agreement to investigate this proposal.

Recommendation 12

- 4.42 That Centrelink be able to accept Tax File Number applications from any applicant and not just Centrelink customers as an option for those with limited access to alternatives, and that a system for electronically transferring this information to the Australian Taxation Office be introduced.**

Department of Immigration and Multicultural Affairs registrations

- 4.43 As noted by the ANAO, 'the ATO advised that a joint project is being undertaken by the ATO and DIMA to systematically exchange visa issue data as the basis for automated TFN registration'²⁷.
- 4.44 This project would improve PoI processes by allowing the ATO to rely on the expertise of DIMA in assessing overseas identity documents and reducing duplicate checking of identity documents by the ATO and DIMA. It would ensure that work rights were properly established through use of DIMA visa data and would also improve client service for people entering the country who had a legitimate requirement for a TFN.

24 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.55.

25 ATO, Submission No.17, p.23.

26 Transcript, p.117.

27 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.44.

- 4.45 While this project would require an initial outlay on systems reforms, it would have a downstream resource saving to the ATO by simplifying the registration process for these people. 'The ATO anticipates that this initiative could automate the registration of potentially 200 000 – 300 000 TFN applications per year'²⁸.
- 4.46 Despite significant progress having been made in developing this option, including obtaining agreement from the Privacy Commissioner for the proposal, the project was suspended due to a claimed lack of IT resources in both agencies²⁹.
- 4.47 Largely in response to ANAO and Committee enquiries, the ATO have advised that DIMA was approached in May 2000 'to provide IT specifications with the intention of developing the system in 2000/01 if resources permit'³⁰.
- 4.48 The Committee notes that the need for a better system was raised by the ANAO as part of efficiency audits of DIMA in 1994³¹ and again in 1998³², and agreed to by both agencies. Clearly both the ATO and DIMA have placed so low a priority on this initiative that they have not been prepared to fund it. **A consequence of several years of such short sightedness is that this year when, of all years, a sophisticated automatic computer based system is needed to manage the huge Olympic influx, the ATO is instead having to consider short term 'band-aid' solutions to this problem.** As stated by the ATO:
- In order to address the likely large influx of overseas visitors in the next year, as a result of the Olympics, the ATO is also currently examining other short-term options to streamline TFN processing.³³
- 4.49 The Committee is concerned that this is another case of the ATO failing to implement reforms due to the failure of management to commit systems resources to the TFN system. Original advice from the ATO was that this project would be deferred 'until at least late 2000'³⁴ – this has since shifted to '2000/01 if resources permit'³⁵. The Committee is not confident that this

28 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.44.

29 Transcript, p.119 & ATO Submission No.17, p.23.

30 ATO, Submission No.37, p.3.

31 Auditor-General. 1994. *The Compliance Function: Department of Immigration and Ethnic Affairs*. Audit Report No.35 1993-94 Efficiency Audit. Canberra, Australian Government Publishing Service, xxv 59p.

32 Auditor-General. 1997. *Immigration Compliance Function: Department of Immigration and Multicultural Affairs*. Audit Report No.7 1997-98 Follow-up Audit. Canberra, ANAO, xvi 65p.

33 ATO, Submission No.17, p.23.

34 ATO, Submission No.17, p.23.

35 ATO Submission No.37, p.3.

project will receive resources in the next financial year, as suggested by the ATO. In addition, while the ATO has identified a number of alternative projects that would make better use of DIMA visa data than is currently the case and improve client service, the ATO has not demonstrated any commitment to implementing these projects and has in fact postponed any action on these proposals due to discussions of timing of the 'DIMA auto-registration' proposal³⁶.

Recommendation 13

- 4.50 That the Department of Immigration and Multicultural Affairs and the Australian Taxation Office introduce automated Tax File Number registration for new arrivals into Australia.**

Tax treatment and work rights of non-residents

- 5.1 Tax treatment of non-residents was raised by the ANAO in relation to shortcomings in coverage of withholding arrangements, the need for streamlined TFN registration for new arrivals and as an explanation for excess and inactive TFNs. These issues are addressed in detail in Chapters 7, 4 and 2 respectively.
- 5.2 During the course of the Committee's inquiry, the issue of tax treatment of non-residents has been highlighted as a much broader problem. In particular, the use of TFNs in a work context has been shown to be an area of particular concern.

Tax treatment of non-residents

- 5.3 The ATO advises taxpayers that:

The tax rates that apply to your taxable income depend on whether or not you are an Australian resident. A higher rate of tax is applied to a non-resident's taxable income and they are not entitled to a tax-free threshold.¹

- 5.4 The Australian system applies differential treatment to non-residents for tax purposes in terms of a range of concessions and penalties that apply in different circumstances. For example, for the financial year 1998-99 a non-resident for tax purposes would have paid a greater rate of tax on income up \$20,700, resulting in up to \$2,943 extra tax². However, non-residents for tax purposes are eligible to pay a flat rate of tax on investment of

1 Exhibit 8. Australian Taxation Office. 1999. *Tax Pack 99*. Canberra, Australian Taxation Office, p.8.

2 Exhibit 8, *Tax Pack 99*, p.114.

10 per cent, which in some cases may result in a lower tax obligation than if this interest were treated as income as in the case of residents.

5.5 This variation in tax treatment means that it can be beneficial for non-residents to misrepresent their taxation status in order to lower their taxes.

5.6 This situation is further complicated due to the fact that:

The standards the ATO uses to determine your residency status are not the same as those used by the Department of Immigration and Multicultural Affairs.³

5.7 In particular, there is no close correlation between visas types granted and tax treatment, nor is there any correlation between visa type issued and the need for an individual to obtain a TFN.

5.8 The Committee received three submissions from ATO officers⁴, and all three submissions raised the issue of non-residents as a concern with the current tax system.

5.9 Ms Mackenzie raised the issue of the fraudulent use and sale of TFNs issued to non-residents and the need to refine 'the method of issuing TFN's to immigrants and persons working temporarily in Australia'⁵ including through improving PoI processes.

5.10 Mr Deane noted 'the simplicity of changing residency status under 'self-assessment''⁶, the resulting ability of non-residents to avoid tax and the difficulties this caused for ATO counter staff.

5.11 In his submission to the Committee⁷, Mr Johnston, an ATO officer, provided detailed information on the ways in which non-residents can currently avoid tax. For example:

- *self assessment* – self assessment means that non-residents can tick the residency box on their tax assessment form and pay tax at resident rates⁸;
- *long stay student visa* – international students taking courses of less than six months are taxed as non-residents. By applying for a seven month visa, the student is treated as a long stay student and taxed at resident rates⁹; and

3 Exhibit 8, *Tax Pack 99*, p.8.

4 Ms Mackenzie, Submission No.1; Mr Deane, Submission No.3; Mr Johnston, Submission No.20.

5 Ms Mackenzie, Submission No.1, p.1.

6 Mr Deane, Submission No.3, p.1.

7 Mr Johnston, Submission No.20.

8 Mr Johnston, Submission No.20, pp.5, 6&7.

9 Mr Johnston, Submission No.20, p.7.

- *protection visa* – visitors can arrive on a visitor or business activities visa and then apply for a protection visa once in Australia. This means the ATO classify the individual as a resident – so they get working entitlements with resident rates of taxation for up to three years (depending on time required to process protection application), regardless of the outcome of their application or whether they actually stay in Australia¹⁰.

5.12 Mr Johnston also noted that non-residents can often end up avoiding tax unintentionally due to the complexity of the current system and through misinformation from employers. For example:

- tax treatment can vary between ATO offices and ATO officers depending on their interpretation of standards¹¹;
- student visas and taxation vary depending on length of course and length of stay¹²;
- short stay students are issued with ‘no work’ visas but are able to upgrade to ‘work limitation’ once they have arrived in Australia¹³; and.
- there is anecdotal evidence that employers of fruit pickers have wrongly advised that the reduced tax rate for fruit pickers applies to ALL fruit pickers, where as it only applies to residents¹⁴.

5.13 Mr Johnston recommended that in order to ensure a fair system, processes should be made stricter and clearer or differential tax treatment of non-residents should be removed. In his *Residency report*, an attachment to his submission, Mr Johnston listed 65 potential changes to fix the problems in relation to residency (some of which are now in place).

10 Mr Johnston, Submission No.20, p.10.

11 Mr Johnston, Submission No.20, pp. 4,7,9&11.

12 Mr Johnston, Submission No.20, p.7.

13 Mr Johnston, Submission No.20, p.9.

14 Mr Johnston, Submission No.20, p.6.

- 5.14 His recommendations for a stricter and clearer system include:
- re-introducing use of the ‘non-resident’ indicator as opposed to self-assessment¹⁵;
 - data matching against DIMA records and Employment Declaration Forms¹⁶;
 - recording of departure date on the ATO system¹⁷; and
 - changes to forms to make requirements clearer¹⁸.
- 5.15 The International Student Advisers Network Australia raised the need for the ATO to ‘print information for students to handout as part of pre-departure and orientation to explain about why TFNs are needed, paying tax in Australia (PAYE), submitting tax returns, etc’¹⁹ and the need for faster processing of tax assessments by the ATO to overcome the current problem where many international students have left Australia before their tax assessments have been processed.

Self assessment

- 5.16 As noted above, the current system of self-assessment of residency status in tax returns opens up the potential for tax evasion.
- 5.17 Mr Deane, a Public Assistance Officer in the ATO, advised the Committee that:

Under present arrangements it is extremely simple for a person holding an appropriate visa to correctly state their status as “non-resident” on their TFN Application and thereby obtain a TFN quite legitimately. They can then change their status to “resident” by simply ticking the appropriate box when they complete their Tax Return. This way such a person need never pay tax at non-resident rates.²⁰

15 Mr Johnston, Submission No.20, p.7.

16 Mr Johnston, Submission No.20, p.7 & Attachment 1&7.

17 Mr Johnston, Submission No.20, Attachment 6.

18 Mr Johnston, Submission No.20, Attachments 1&2.

19 International Student Adviser Network Australia, Submission No.18, p.1.

20 Mr Deane, Submission No.3, p.1.

5.18 The ATO have advised the Committee that they do not consider this issue to be a significant risk. In particular the ATO have noted that:

Prior to bringing residency status into line with the general self assessment regime, follow up of apparent residency status anomalies and related taxpayer objections was a large and unproductive workload. The anomalies and objections were largely caused by system over-rides of returned residency status, reverting taxpayers to the "status" which existed when they first requested their TFN.

... A formal risk assessment was conducted on this work and it was found that the cost and effort of continuing with a non-self assessment policy was not justified.²¹

5.19 The Committee considers that this issue remains a serious problem for the Commonwealth. There is a significant potential risk of revenue leakage and compromising of both the integrity of Commonwealth systems and compliance with Commonwealth law.

5.20 The ATO have advised the Committee that 'risk assessments of residency self-assessment have been conducted twice a year'²², and that this is a standard and ongoing process in the area of self assessment compliance. In undertaking these risk assessments, the ATO must make sure that it makes full use of all available information, including through the input of its front-line staff. In addition, the Committee considers there is a need for the ATO to consider possible systems solutions to this risk.

Recording and matching visa numbers

5.21 DIMA visa data identifies work rights granted to individuals and duration of stay for people entering Australia. Centrelink and the HIC currently use visa data to determine eligibility for income support payments and access to Medicare benefits.

5.22 DIMA visa information is currently available to the ATO, however it is only used on a case by case basis. As noted in Chapter 4, this information could be used to automate TFN registration for people entering Australia, along the lines of the HIC use of visa data to streamline issuing of Medicare cards. While the ATO and DIMA have developed a proposal to do this, a claimed lack of resources in both organisations has meant that the proposal has not been implemented²³.

21 ATO, Submission No.23, pp.4-5.

22 ATO, Submission No.23, pp.4-5.

23 Transcript, p.119 & ATO, Submission No.17, p.23.

- 5.23 In addition to use as part of the TFN registration process, visa data could also provide an effective method of identifying illegal workers. With a systematic exchange of visa issue data from DIMA, the ATO could match the information with its individual income records and identify those individuals that have exhausted their work rights, or have not been granted permission to work in Australia (providing these people are not working for cash in hand).
- 5.24 A key determinant of the success of such an approach would be the quality of the match that can be achieved between ATO and DIMA records. Using the visa number as the key for matching is likely to produce a high quality match, as opposed to matching against name and address.
- 5.25 In this regard, it is of concern that the ATO currently is not recording all visa numbers. The ATO's approach to recording visa numbers appears fairly random. While the TFN application form does include space for recording a visa number, this number is not always recorded, and even when it is, it is not always entered into the ATO's database. This is also a concern for the success of data matching ATO records against DIMA movement records, as outlined in Chapter 3.
- 5.26 Failure by the ATO to make systemic use of visa data adds to the range of DIMA/ATO interface problems. As already noted, the need for improvements to TFN processes for people entering Australia and tax treatment of non-residents is a well-known problem that has been the subject of both ANAO and parliamentary inquiries. The Committee is not confident that DIMA and the ATO will act on these issues.

Recommendation 14

- 5.27 **That the Australian Taxation Office introduce systematic data matching against Department of Immigration and Multicultural Affairs visa data in order to identify illegal workers. As part of this process, the Australian Taxation Office has to improve its data quality and data recording processes.**

Harvest labour

- 5.28 Harvest labour is a particularly problematic area for ensuring correct tax treatment of temporary entrants. The itinerant nature of this work, the large number of workers, including large numbers of working holiday makers, and the short time periods of work in each location, mean that it is difficult to establish work rights, ensure correct taxation and to track down individuals who are defrauding the system. (See also paragraphs 5.62 to 5.67 on *Harvesting Australia: Report of the National Harvest Trail Working Group*).
- 5.29 A concessional tax rate of 15 per cent applies to Australian residents working in the harvest industry. In contrast, non-residents are taxed at 29 per cent for this work. As noted by Mr Thompson MP, a member of the Government's Harvest Trail Working Group, this provides an incentive for working holiday makers to misrepresent their circumstances²⁴.
- 5.30 As detailed below, DIMA have established a process to address the issue of establishing work rights for visitors and temporary resident.
- 5.31 Mr Thompson proposed reducing the tax rate for working holiday makers to 15 per cent for harvest work. The equivalent amount of superannuation required under the Superannuation Guarantee for these workers would be paid as a tax to the government. In addition, an upfront charge could be applied to working holiday visa applications.²⁵
- 5.32 Mr Thompson's proposal would be revenue neutral; would remove the tax differential between Australian residents and working holiday makers, hence removing the incentives for fraud and would improve the image and integrity of the tax system.
- 5.33 The Committee considers that there is an urgent need for reform in this area. DIMA and the ATO must work together to find solutions that improve tax collection while not overly burdening employers in this industry. On these criteria, the Committee considers that Mr Thompson's proposal has significant merit.

24 Mr Thompson MP, Submission No.27, p.3.

25 Mr Thompson MP, Submission No.27, pp.3-4.

Recommendation 15

- 5.34 **That the Department of Immigration and Multicultural Affairs and the Australian Taxation Office investigate options for addressing taxation and work rights issues in relation to harvest labour, including in relation to known areas of fraud and without overly burdening employers in this industry.**

Fraud

- 5.35 The Committee has received information about TFN fraud committed by non-residents or through the use of TFNs issued to non-residents. This information has largely been anecdotal, but has included comments based on field work by the ATO and DIMA. (See also paragraphs 5.64 and 5.65).
- 5.36 DIMA have advised the Committee that:
- Through our field operation we come across lists of tax file numbers that are displayed in youth hostels. We come across people that are working by having quoted the tax file numbers of friends, people that have left, people that no longer have a need, or even having doubly mentioned the tax file number of another person.²⁶
- 5.37 Importantly, there is no mechanism for DIMA to systematically collect this information. DIMA does pass on any information regarding TFNs that it collects during its field work, and does conduct a number of joint operations with the ATO. However, DIMA legislation does not allow specific questioning of illegal workers in relation to TFNs.
- 5.38 Ms Mackenzie, an officer with the ATO, advised of:
- ... some recent work I have been doing in which temporary residents and foreign students are paid to allow their TFN's to be used to set up "shell" companies which are used for money laundering operations. In many cases, it appears that the individuals who supply their TFN's leave the country shortly after supplying their TFN's, but the shell companies continue to trade for some time after they have left²⁷.

26 Transcript, p.120.

27 Ms Mackenzie, Submission No.1, p.1.

- 5.39 In response to these claims, the ATO have advised that
- The ATO is acting upon a practice that has emerged where certain members of the community, with the intent of circumventing ATO reporting systems and income tax obligations, seek to purchase the Tax File Number and identity details of another person;
 - The practice appears confined to fewer than 500 individuals and to certain industries. Strong attention is being placed on persons believed to be promoting the practice; and
 - In a minority of cases, the person from whom the TFN is purchased intends to leave Australia and has little continued need for that TFN. The ATO's compliance programs would be assisted in this area by improved systematic access to the records of individuals permanently leaving the country.²⁸
- 5.40 The ATO needs to identify the extent of TFN fraud committed by non-residents and through the use of TFNs issued to non-residents and to take steps to address known means of fraud. Fraudulent use of TFNs issued to individuals who have left Australia is a particular concern given that these are considered to form a large proportion of the 3.2 million excess TFNs identified by the ANAO.
- 5.41 A number of suggestions have been made to the Committee as potential means for addressing this fraud.
- 5.42 *Movement data:* As noted by the ATO, access to movement data would assist in identifying TFNs that should no longer be in use²⁹. These numbers could then be archived, and any fraudulent activity against the TFNs could be followed up. While this would assist in reducing fraud, it is likely that it would not be timely enough to prevent fraud. For example, in the case of harvest labour, individuals are likely to have moved on prior to the ATO picking up that they have used an expired TFN.
- 5.43 *Recording of departure date:* As noted by Mr Johnston³⁰, the ATO could record the departure date of temporary entrants at the time of issuing a TFN. This would mean adopting a similar process to the HIC, which end-date Medicare cards issued to temporary entrants based on their departure date. It would provide a similar outcome to the use of movement data by allowing identification of TFNs that have been issued to individuals who have left the country. However, it would not allow the certainty of departure as provided by movement records, as there would be the possibility of individuals having left the country prior to the end date of

28 ATO, Submission No.23, p.3.

29 ATO, Submission No.30, p.6.

30 Mr Johnston, Submission No.20.

their visa, or alternatively of having been granted an extension to their original visa.

5.44 *TFN-based identifier*: Mr Johnston also suggested TFNs issued to temporary entrants and non-residents could include an indicator of this status and/or their departure³¹. The Committee notes that such a move would add embedded meaning to the TFN, which may mean that this is not a preferred solution.

5.45 Ms Mackenzie has stated that:

I believe it would be beneficial to introduce a numbering system which would identify that a TFN had been given to a person temporarily – perhaps even incorporate 3 digits within the number to indicate the end date of validity, so that it would be obvious to ATO officers dealing with that TFN that the person to whom it originally related was a temporary resident of some kind.³²

5.46 A similar approach was proposed by Mr Cooper from the Taxation Institute of Australia. Mr Cooper proposed that:

If a TFN, to relate to a permanent resident, had to have two extra digits or something like that at the front, then you would overcome the problem because the TFN would still be used as an identifier for the tax office, but ... could not be used by a worker to have reduced rates of tax deducted; it could not be used by a non-resident to avoid with-holding tax on bank accounts; could not be used by a non-resident to avoid withholding tax on unfranked dividends and so on.³³

31 Mr Johnston, Submission No.20, Attachment 1, p.18.

32 Ms Mackenzie, Submission No.1, p.2.

33 Transcript, p.71.

Recommendation 16

5.47 That the Australian Taxation Office:

- identify the extent of tax fraud being committed by non-residents;
- review potential vulnerabilities with the current tax treatment of non-residents;
- propose ways to address this issue, particularly focussing on options within existing laws; and
- seek to implement these proposals as soon as practicable.

Work rights of non-residents

5.48 The use of TFNs as a means of establishing work rights for non-residents is an issue of particular concern.

5.49 As noted by the Taxation Institute of Australia:

...[an] area of concern is the issue of TFNs to non-resident holiday makers in Australia ... [and] the loss to revenue due to the fact that tax file numbers are commonly viewed by employers as an indication of residency and right to work. In multicultural Australia, questions about work permits, etc are generally not made, employers instead rely on the TFN to withhold tax at the lower resident rates³⁴.

5.50 The current system of establishing work rights for individuals is extremely difficult. For example, DIMA's employer information kit, *Employing Overseas Workers – Doing the Right Thing*, took 33 pages to explain procedures to employers.

5.51 In relation to checking visas in overseas passports, the ATO advised the Committee that:

What would be really helpful is to have something stamped on it which was really obvious such as 'no work rights'. That does not happen at the moment. They have got this numeric system which is a bit complicated for people to try to work through.³⁵

34 TIA, Submission No.14, p.4.

35 Transcript, p.16.

- 5.52 The Committee notes that two recent reports, *Review of Illegal Workers in Australia: Improving immigration compliance in the workplace*³⁶ and *Harvesting Australia: Report of the National Harvest Trail Working Group*³⁷, have both identified the same issues around the fraudulent use of TFNs and illegal work by non-residents. These reports are expanded on below in paragraphs 5.53 to 5.60 and 5.62 to 5.67 respectively.

Review of Illegal Workers in Australia: Improving immigration compliance in the workplace

- 5.53 Of particular relevance when considering establishing work rights and ensuring correct taxation of temporary entrants to Australia is the recent report *Review of Illegal Workers in Australia: Improving immigration compliance in the workplace*³⁸. This report was prepared for DIMA by an external reference group and was presented to the Minister for Immigration and Multicultural Affairs in November 1999.
- 5.54 The report is openly critical of DIMA's procedures in many areas regarding the treatment of illegal entrants and visa issuing processes. The report's recommendations fall into the broad categories of education, procedure and enforcement and deterrents. The recommendations, if implemented, would introduce significant changes to DIMA's procedures and treatment of visitors³⁹ and some will require legislative amendment before they can be put into practice⁴⁰.
- 5.55 DIMA have advised the Committee that this review and its recommendations are its principle vehicle for addressing the issue of illegal workers. DIMA are currently undertaking a consultation process with industry in relation to the report, with the intention of implementing a number of the report recommendations during this calendar year⁴¹.
- 5.56 A number of the recommendations in the report are of particular relevance to the difficulties facing the ATO that have been outlined in this chapter. This is particularly the case with those recommendations aimed

36 Department of Immigration and Multicultural Affairs. 1999. *Review of Illegal Workers in Australia: Improving immigration compliance in the workplace*. Canberra, Department of Immigration and Multicultural Affairs, 142p.

37 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, xvi 118p.

38 Department of Immigration and Multicultural Affairs. 1999. *Review of Illegal Workers in Australia: Improving immigration compliance in the workplace*. Canberra, Department of Immigration and Multicultural Affairs, 142p.

39 Transcript, p.121.

40 Transcript, p.126.

41 Transcript, pp.121&126.

at making identification of visa work rights easier and more recognisable for employers, and those which aim to identify breaches of those rights in a more consistent and timely manner. The report also identifies a need for closer cooperation between agencies, including the ATO and DIMA.

- 5.57 While the Committee has not considered individual recommendations of the *Review of Illegal Workers in Australia* in detail, it strongly supports the direction of the recommendations and the need for reform in this area.
- 5.58 The Committee considers that there is a need for the ATO to be actively involved on this issue. While the ATO has advised that it has had discussions with DIMA regarding the review, and provided a discussion paper to the reference group, the Committee considers there is considerably greater scope for the ATO to be involved in this process.
- 5.59 In particular, DIMA's report considers this issue from the direction of DIMA initiated reforms, and does not include consideration of possible TFN reforms. For example, there are a number of TFN solutions that could provide a means for employers to identify work rights, including those outlined in the report *Harvesting Australia: Report of the National Harvest Trail Working Group*⁴² (see paragraphs 5.62 to 5.67) . This could include a TFN that included an indication of no work rights. Alternatively, it may be possible to develop some means of on-line verification of TFNs that would confirm that a TFN was valid and that the individual had work rights (the Harvest Trail Working Group's report includes a recommendation for on-line verification of TFNs⁴³).
- 5.60 The ATO needs to consider TFN system reforms that could be introduced to support DIMA reform proposals, or provide a more efficient and simpler solution to these issues.

Recommendation 17

- 5.61 **That the Australian Taxation Office more actively work with the Department of Immigration and Multicultural Affairs to implement reforms in the area of work rights for non-residents, including full consideration of possible Australian Taxation Office delivered solutions.**

42 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, xvi 118p.

43 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, Recommendation 7.34, p.xii)

Harvesting Australia: Report of the National Harvest Trail Working Group

- 5.62 The issue of establishing work rights and ensuring correct taxation of temporary entrants to Australia in relation to the harvest industry is dealt with in significant detail in the report *Harvesting Australia: Report of the National Harvest Trail Working Group*⁴⁴. The National Harvest Trail Working Group, comprising 'Members of Parliament and Representatives from the horticultural industry including growers'⁴⁵, was established by the Minister for Employment Services in May 1999. The Working Group's report was publicly released by the Minister in August 2000.
- 5.63 The report 'examines ways to increase the take up of work in harvest areas'⁴⁶. It includes a range of recommendations aimed at developing and promoting a national harvest trail in Australia.
- 5.64 In line with this Committee's findings, the report highlights the significant extent of fraudulent use of TFNs in the harvest industry:

The use of false tax file numbers was reported to be common among harvest workers. One contractor said that up to 90% of the tax file numbers he submitted were returned by the ATO as not valid. ATO advice is that of the 51,000 declarations in the industry code that includes fruit picking that they have received since 1 July 1998, nearly 7% contained an invalid tax file number quotation while around another 4% did not quote a tax file number at all.⁴⁷

44 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, xvi 118p.

45 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, p.1.

46 The Hon Tony Abbott MP, Minister for Employment Services. 11 August 2000. *Media Release*. 'Harvesting Australia – Jobs on the Harvest Trail'.

47 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, p.30.

5.65 The working group considered that this high level of TFN fraud was reflective of a high level of tax evasion, social security fraud and illegal work in the industry. As stated in the report:

Casual harvest labourers give false names and tax file numbers because they believe it reduces their tax liability, because they are also on social security allowances or because they are working in Australia illegally.⁴⁸

5.66 Of particular relevance to this inquiry are the working group's recommendations on taxation, non-resident labour and the need for closer cooperation between agencies in addressing illegal practices in the industry (particularly illegal workers).

5.67 While the Committee has not examined the working group's recommendations in detail, it supports the directions of the report and the need for action in this area. In particular, the Committee notes the recommendations in Chapters 7⁴⁹ and 10⁵⁰, aimed at reducing TFN fraud and illegal work without being overly burdensome on employers, which it considers fit well with the findings and recommendations of this report.

48 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, p.30.

49 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, pp.32-33.

50 National Harvest Trail Working Group. 2000. *Harvesting Australia: Report of the National Harvest Trail Working Group*. Canberra, Department of Employment, Workplace Relations and Small Business, p.44.

Identity fraud and Proof of Identity processes

6.1 As part of their audit, the ANAO:

... reviewed various aspects of PoI [Proof of Identity] administration, including:

- risk management;
- PoI fraud;
- quantitative analysis;
- the ATO Internal Audit report on PoI;
- OECD member state management of PoI; and
- ATO management of PoI.¹

6.2 During the course of the Committee's inquiry, this issue proved to be of particular community concern. The Committee heard from financial institutions, government agencies including law enforcement agencies, and individuals about the problems of identity fraud and theft in relation to the use of tax file numbers and more broadly.

6.3 In considering Proof of Identity (PoI) issues, the Committee has focussed on those issues that flow from a consideration of PoI in the context of TFNs. While this has resulted in consideration of a broad range of issues, the Committee has not undertaken a comprehensive appraisal of the issue of identity fraud as it confronts the Australian community.

6.4 The Committee is aware that there are a number of processes currently underway that are looking at the issue of identity fraud – both within the Commonwealth and at a broader level. This includes strategic consideration of the issue of identity fraud by the Office of Strategic Crime

1 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

Assessments², a PoI working group chaired by AUSTRAC³, consideration by the Australian Registrars Conference of strategies to reduce the fraudulent use of birth certificates⁴, and initiatives of the Heads of Fraud Conference⁵ and work by the Australian Bureau of Criminal Intelligence to develop a national fraud analytical capacity that will include information on identity fraud⁶. The Committee's comments on the issue of identity fraud are designed to contribute to this current debate and development of solutions.

Extent of the problem

- 6.5 In their report, the ANAO noted the ease with which false identity documents can be obtained, and the difficulties this poses for government departments in terms of their PoI processes.
- 6.6 It is clear from the Committee's enquiries, that identity fraud is a significant issue for the Australian community. As stated by the ABA:
- Identity fraud is not only an issue for industry and government, but also for the whole community that is affected by the impact of criminal activity.⁷
- 6.7 As noted by Federal Agent Gordon Williamson from the Australian Federal Police (AFP), the concerns about false identity:
- ... essentially revolve around the ease of availability of some documents which can then be used to prove identity and the ease with which technology permits the falsification of documents.⁸
- 6.8 With improvements in technology and their increased availability through reduction in cost, this issue is a growing concern. The move to greater use of electronic commerce is likely to further increase the level of identity fraud and the difficulty of uncovering perpetrators – a point highlighted

2 Transcript, p.200.

3 Transcript, p.88

4 Transcript, p.83

5 Transcript, p.164.

6 Transcript, p.166.

7 ABA, Submission No.10, p.1.

8 Transcript, p.164.

by Dr Smith from the Australian Institute of Criminology (AIC)⁹ and Federal Agent Williamson¹⁰.

6.9 Indications of the extent of this problem include:

- ‘the estimate would be that approximately 25 per cent of reported frauds to the AFP involve the assumption of false identities’¹¹;
- Federal Agent Williamson observed that ‘when I was a fraud investigator, most fraud offenders had multiple identities available to them, whether they were used or otherwise’¹²;
- that ‘identity kits’ consisting of a set of fabricated documents for a false identity are ‘increasing in availability, particularly due to the ability of modern technology to generate forged documents of very high quality’¹³;
- ‘that identity documents of various types are available for the payment of money – either forged documents or genuine documents which have been stolen and otherwise dealt with’, including via the Internet¹⁴;
- **that in a pilot conducted by Westpac and the NSW Registry of Births, Deaths and Marriages of a Certificate Validation Service, that in ‘the particular instances where a birth certificate was tabled to the bank as part of the identification documentation, some 13 per cent were found to be false’¹⁵;**
- Centrelink detected ‘about \$12 million worth of fraud from identity’ in 1999¹⁶; and
- the National Crime Authority’s (NCA) concern about the ease ‘with which false identities may be established and used to facilitate organised criminal activity’¹⁷.

9 Dr Smith, Submission No.6, p.2.

10 Transcript, pp.164 & 169.

11 Transcript, p.164.

12 Transcript, p.172.

13 Transcript, p.165.

14 Transcript, p.165.

15 Transcript, p.101.

16 Transcript, p.109.

17 NCA, Submission No.31, p.1.

Quantifying identity fraud

- 6.10 As stated by Dr Smith from the AIC, ‘the figures do not exist’ when it comes to considering the significance and cost of identity related fraud for the Australian government and the community. The lack of national statistics on identity fraud was confirmed by the ANAO in their report¹⁸, by the NCA¹⁹ and the AFP²⁰.
- 6.11 In their report, the ANAO state that:
- One commercial estimation is that PoI fraud costs 0.1 per cent of overall transactions. However one American agency has seen a growth in PoI fraud in dollar terms from \$442 million (USA) in 1995 to \$745 million (USA) in 1997.²¹
- 6.12 The ABA was able to advise that anecdotal evidence gathered during the proceedings of their fraud working group suggests that identity fraud is increasing²². Similarly, Dr Smith advised the Committee that ‘major fraud groups around the country have indicated that almost all serious fraud in Australia involves the use of false identity documents in some form or another.’²³
- 6.13 The Committee is concerned at the lack of figures available on the extent and cost of identity fraud. Quantifying the economic impact of identity fraud would be a powerful step towards ensuring support for reform across all levels of government, business and the community.
- 6.14 As noted by the ANAO, ‘the measurement of the incidence and cost of PoI fraud is a difficult area of public administration’²⁴. At the most basic level, there is a difficulty in defining ‘identity fraud’. For example, as noted by Dr Smith, when considering state police fraud statistics, each jurisdiction has multiple and different offences relating to fraud which means that it is difficult and time intensive to get consistent information²⁵.
- 6.15 There are also commercial sensitivities about releasing identity fraud data, based on the perception that this can be damaging for business and consumer confidence.

18 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

19 NCA, Submission No.31, p.1.

20 Transcript, p.163.

21 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

22 Transcript, p.103.

23 Transcript, p.34.

24 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

25 Transcript, p.38.

- 6.16 Despite these difficulties, the Committee considers that there is value in pursuing this issue.
- 6.17 The Committee does not consider that it is in a position to offer a firm suggestion on how this work should proceed, however it does wish to offer the following comments. Regarding the timeframe for recording, while ongoing recording on an annual basis would be the ideal, a useful first step may be doing a point in time estimate of identity fraud. Using an independent body, such as the Australian Bureau of Statistics (ABS) or a contracted consultant, and filtering data through industry associations may help in protecting the identity of individual businesses. In addition, while the Committee considers that the Commonwealth government should drive this proposal, there is scope for shared funding across levels of government and industry.
- 6.18 The ATO have suggested to the Committee that ‘a joint independent research project may be a way forward’, being a project conducted jointly between an Australian bank and the ATO²⁶.
- 6.19 Dr Smith advised the Committee of a study that the AIC is to undertake which he considers may be a good pilot study for recording identity fraud. The six month study involves:
- ‘a stocktake of serious fraud investigations around the country, looking at each state and territory. One issue is to see whether identity fraud is a part and to what extent it has occurred in cases which have been dealt with over the past two years.’²⁷

Recommendation 18

- 6.20 **That the Commonwealth Government work with other levels of government and industry to develop national statistics on the extent and cost of identity fraud in Australia.**

26 ATO, Submission No.30, p.3.

27 Transcript, p.37.

Administrative responses

ATO internal processes

The ANAO found that the ATO could better manage the risks associated with the verification of an applicant's claims as to their identity. The ATO might not have sufficient expertise in the verification of the large variety of Proof of Identity (PoI) documents that it may need to examine in connection with TFN applications²⁸.

- 6.21 In addition to this criticism of the ATO's PoI procedures, the ANAO also found:
- instances where PoI fraud had continued undetected for some time;
 - that 'the ATO does not systematically examine the practices and procedures that permitted the occurrence of PoI fraud in the first case'²⁹; and
 - that 'no use is made by the ATO of quantitative analysis of PoI information'³⁰.
- 6.22 PoI fraud does occur through misrepresentations to the ATO and through the misuse of falsely obtained TFNs. The Committee heard from a number of witnesses about cases of PoI fraud that involved the misuse of TFNs.
- 6.23 The NCA provided the Committee with information about a:
- ... joint NCA/ATO investigation, conducted under the Swordfish National Task Force, [where] false identification has been used by overseas born criminals to establish false bank accounts and companies, enabling large-scale tax evasion and the offshore remittance of substantial proceeds of crime.³¹

28 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.17.

29 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.47.

30 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.52.

31 NCA, Submission No.31, pp.2-3.

- 6.24 While the AFP advised that they deal with a very small number of TFN frauds, they did comment that :
- ... Examples where they have been relevant have included people applying for benefits through Centrelink using as part of their identification false tax file numbers, and some employment fraud whereby people seek to have the amount of tax deducted from their pay reduced through the use of a false tax file number.³²
- 6.25 Mr Baker provided the Committee with a case study where the offender used ATO Group Certificates from fictitious employers, and went on to advise the Committee that:
- Although taxation documents do not have photographs of the holders of the items, it is a particularly powerful piece of identification for offenders. This is because it is believed that the Australian Taxation Office does not issue TFNs easily and mere possession of a TFN is a strong document of identification.³³
- 6.26 The ANAO recommended a series of steps that the ATO could take to improve its internal PoI processes³⁴. The Committee is impressed by the ATO's enthusiasm for searching for broad solutions to the PoI problem. However, despite this, the ATO does not appear to have matched this enthusiasm with a commensurate commitment to understanding how this issue is impacting on the ATO or with satisfactory implementation action on internal reform.
- 6.27 Essentially, the ATO faces two types of PoI fraud: that which relates to people born in Australian, and that which relates to people born outside Australia. The ATO must develop short and long term strategies that deal with these potential areas for fraud. As noted by the ANAO, a significant step towards reducing identity fraud in both of these areas would be through improving TFN registration processes – through the SEP with regard to people born in Australia and through establishment of comprehensive arrangements with DIMA in the case of those people born outside of Australia. Based on evidence before the Committee, the ATO is failing to respond in a strategically adequate way to both of these areas of identity fraud risk.
- 6.28 The Committee also considers that the ATO has not adequately evaluated the extent and cost of identity fraud being perpetrated against the organisation, nor the risks and impact of such fraud. Anecdotal comments from ATO officers varied widely as to the level of false identification they

32 Transcript, p.163.

33 Mr Baker, Submission No.26, p.2.

34 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.47.

had uncovered. The Committee has also yet to see a full analysis of the duplicate and excess TFNs identified by the ANAO, despite the fact that this is clearly a potential risk area for identity fraud and was brought to the ATO's attention over a year ago.

- 6.29 One possible means of gaining a better insight into the extent of this problem for the ATO may be to trial the NSW Registry of Births, Deaths and Marriages' Certificate Validation Service to determine the level of fraudulent NSW birth certificates being presented as identification to the ATO. While NSW is the first to run this trial, other States are expected to adopt this service in the future³⁵.
- 6.30 While the Committee is aware that the ATO's 'Internal Assurance Branch undertook an audit of Proof of Identity of ATO Clients during 1998'³⁶, it has not seen any evidence of an improvement to internal processes nor were any proposals resulting from this audit mentioned in the ANAO's report. Similarly, while the ATO has conducted internal workshops on the standard of PoI documentation to 'feed into a Commonwealth Agency workshop'³⁷, it does not appear that these, or similar workshops have been used to improve internal processes. The Committee considers that the ATO should give greater priority to improving their internal processes through adopting the ANAO's recommendations and through improving its registration processes, as outlined in Chapter 4, in order to respond to this very basic, very real PoI challenge.

Recommendation 19

- 6.31 **That the Australian Taxation Office improve its internal processes for establishing identity and preventing identity fraud. This should include investigation of the extent of the problem within the Australian Taxation Office, including a trial of the New South Wales Registry of Births, Deaths and Marriages' Certificate Validation Service.**

35 Transcript, p.87.

36 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.48.

37 ATO, Submission No.37, p.3.

Commonwealth processes

- 6.32 The need to correctly establish the identity of individuals is one that exists across Commonwealth service provision. Similarly, the difficulties in PoI processes and identity fraud also extend across Commonwealth agencies. Added to this is the interdependence of agencies' identity processes, with agencies being highly reliant on the integrity of each other's documents for establishing individuals' identities.
- 6.33 The ANAO recommended that the ATO work with other agencies to address the issue PoI processes and identity fraud³⁸.
- 6.34 The ATO has been highly proactive in generating discussion on PoI issues across government. This has included a series of forums on PoI in each state, with representatives invited from all levels of government, as well as a series of meetings with other Commonwealth agencies. The Committee commends the ATO on these activities, and considers that they have had a significant impact on raising the profile of this issue amongst Commonwealth agencies and more broadly.
- 6.35 The ATO, in conjunction with Centrelink and the HIC have developed a hierarchy of solutions for the PoI issue across Commonwealth agencies³⁹. A process of cross-agency efforts to improve PoI processes was also supported by the Department of Family and Community Services (FaCS)⁴⁰, the CSA⁴¹, the Department of Veterans' Affairs (DVA)⁴², the Department of Health and Aged Care (DHAC)⁴³ and AUSTRAC⁴⁴ in their comments to the Committee.
- 6.36 A number of these solutions are in line with ANAO recommendations. In considering the options in the hierarchy, the Committee agrees with DHAC's assessment that there is a 'need to maintain community confidence, including privacy concerns'⁴⁵.

38 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 2.

39 ATO, Submission No.17, p.13.

40 FaCS, Submission No.21, p.1.

41 CSA, Submission No.24, p.2.

42 DVA, Submission No.22, pp.1-2.

43 DHAC, Submission No.36, Att A, p.3.

44 Transcript, p.97.

45 DHAC, Submission No.36, Att A, p.2.

6.37 DHAC's assessment of this hierarchy is that:

... latter steps in the proposed hierarchy ... present higher risks in terms of public acceptance and the costs of implementation.

Earlier steps in the hierarchy ... will be easier for agencies to agree to and implement in the short term. Issues of cost and public acceptance are also likely to be more manageable.⁴⁶

6.38 While the Committee agrees that a full assessment is needed before a decision is able to be made on options such as a Client Service Number (CSN) and a Commonwealth Identity Data Agency, it does consider that there is value in the process of considering options for addressing identity fraud.

6.39 In particular, the Committee strongly supports moves to improve data quality, to strengthen data matching and to reach some level of consistency in PoI processes across Commonwealth agencies. This should include consideration of which documents will be accepted as PoI, and commitment by agencies whose documents are being used as identity documents to ensure the integrity of those documents.

6.40 While the Committee acknowledges that the ATO is a key player in this area, it does not consider that it is the agency that should be leading PoI reform across the Commonwealth. Leading a Commonwealth response to PoI fraud is not core business for the ATO, and is also not an area of its expertise. The Committee considers that an agency in the Attorney-General's portfolio should be tasked with this responsibility and notes the ABA's comments that it considers that AUSTRAC should be the leading agency⁴⁷. The Committee considers that there is a strong case for tasking the Attorney-General's Department with responsibility for leading PoI reform across the Commonwealth, given their responsibility for Commonwealth fraud control policy⁴⁸, their strategic work in relation to identity fraud⁴⁹, and their existing links and forums for dealing with both law enforcement agencies and administrative agencies such as the ATO and Centrelink.

46 DHAC, Submission No.36, Att A, p.2.

47 Transcript, p.99.

48 Transcript, p.199.

49 Transcript, p.200.

Recommendation 20

- 6.41 **That the Commonwealth Government instigate a formal process for assessing Proof of Identity risks and reform across the Commonwealth, drawing on relevant policy and administrative departments and agencies.**

A broader response

- 6.42 The issue of identity fraud is not just a problem for government administration. It is a much more pervasive problem effecting many businesses and the wider community.
- 6.43 As part of their client surveys, the accounting firm KPMG has 'identified that the use of fabricated documents and so-called false identities is an ongoing problem and concern for large businesses throughout Australia'⁵⁰.

In February 1999, KPMG carried out a survey of over 1,800 of Australia's largest businesses. Of the 367 replies received, some 7,280 incidents of fraud were reported in the two years preceding the survey with fifty-seven per cent of respondents reporting at least one incident during that period. 9.6 per cent of incidents committed by managers involved the use of false documentation. Of the incidents committed by persons outside organisations, 11.9 per cent involved the use of false documentation while 13.7 per cent related to forgery of cheques.⁵¹

- 6.44 While individual agencies can take steps to improve their internal processes, as highlighted by the ANAO in the case of the ATO, there is a need for a wider solution across the public and private sectors.
- 6.45 This is particularly the case due to the interdependence between these sectors for identification documents. As noted by Mr Woods from the ABA:

Our research on the types of documents that are produced by customers or potential customers of financial institutions suggest that at least 75 per cent or more of those cases involve government authority issued documents.⁵²

50 Transcript, p.32.

51 Exhibit 1. Smith, R.G. 'Identity Related Economic Crime: Risks and Countermeasures'. *Trends and Issues in Crime and Criminal Justice*. No.129. Canberra, Australian Institute of Criminology, pp.2-3 - based on KPMG 1999, *1999 Fraud Survey*, KPMG, Sydney.

52 Transcript, p.99.

- 6.46 Similarly, Commonwealth agencies are heavily dependent on State and private sector issued documents for PoI. For example, the ATO provided 'statistical data on current usage of identity documents for new registrants'.⁵³ This data showed that the ATO uses bank account statements for 11 per cent of registrants and an Australian or overseas birth certificate in 20 per cent of cases; similarly for NSW Centrelink registrations, 16 per cent involved a credit card as PoI, 15 per cent a driver's licence and 8 per cent a birth certificate.
- 6.47 The need for a broader approach to combat identity fraud was supported by the NCA, which submitted that:
- ... the development of integrated national and international strategies to improve the detection, investigation and prevention of identity fraud must be pursued as a high priority.⁵⁴
- 6.48 The ABA has drawn attention to two areas of identity verification where it considers there is a need for reform. These are the issuing of identity documents and the verification of documents with issuers. They have called on the government to develop both national standards for the production and issue of identity documents, and a national secure electronic gateway for the verification of documents.
- 6.49 These steps, it is claimed, would build on existing and community accepted identification processes. In the Committee's discussions with financial institutions, this process was also strongly supported by Mr Chapman from Westpac⁵⁵ and Mr Holgate from Colonial State Bank⁵⁶.
- 6.50 The negotiation of national standards for identity documents across the Commonwealth and State governments could improve PoI processes by simplifying the range of documents that counter staff must identify. The Committee considers that there would be value in cross government discussions on this issue.
- 6.51 The Committee also considers that the ABA's proposal for a national electronic gateway for document verification has strong merit.

53 ATO, Submission No.17, p.17.

54 NCA, Submission No.31, p.3.

55 Transcript, p.105.

56 Transcript, p.106.

- 6.52 The criteria that the ABA suggest for evaluating document verification proposals is that it 'should be done at a reasonable cost and provide a timely response'⁵⁷. They have suggested operation of a gateway as follows:
- ... Authorised users would enter the identification document details into the gateway which, would then be directed to the relevant document issuers. The issuers could respond on an exception basis. That is, if the details do not correspond then the issuer could confirm that the document with the details provided, was not issued by that authority. ...⁵⁸
- 6.53 The ABA have advised that this proposal has strong support amongst its members. 'The survey response ranked the introduction of a national electronic gateway verification process for government issued documents as the most important component in reducing identity fraud'⁵⁹.
- 6.54 While this proposal does not address the issue of identity theft, the effectiveness of on-line verification of documents in uncovering identity fraud was demonstrated through the pilot by Westpac and the NSW Registry of Births, Deaths and Marriages of their Certificate Validation Service. As mentioned earlier, this pilot found 13 per cent of birth certificates presented as proof of identity were in fact fraudulent.
- 6.55 The Committee notes Mr Woods comments that 'the banking industry would expect to pay for the services provided'⁶⁰. Similarly, Mr Lovney from Credit Union Services Corporation (Australia) Ltd (CUSCAL) considered that:
- ... if we could derive benefits in terms of fraud reduction, then I think we would certainly make a decision to participate and wear the cost of that if it were able to demonstrate significant benefits for us⁶¹.

57 ABA, Submission No.10, p.2.

58 ABA, Submission No.10, p.2.

59 ABA, Submission No.10, p.3.

60 Transcript, p.103.

61 Transcript, p.103.

- 6.56 The Committee also notes that electronic verification is part of the hierarchy of PoI solutions developed by the ATO, Centrelink and the HIC⁶². When questioned on this proposal, the DHAC also considered that:

The proposal put forward by the Australian Bankers' Association has much merit and warrants further exploration. ... The Department would support further examination of on-line verification, in conjunction with other elements of this [ATO] hierarchy being put in place.⁶³

Recommendation 21

- 6.57 **That the Commonwealth Government formalise a process for working with other levels of government and industry to develop options for reducing and preventing identity fraud. This should include investigation and development of a national electronic gateway for document verification.**

Other PoI techniques

- 6.58 In addition to the steps outlined above, there are a range of more advanced methods of establishing identity that agencies could consider.
- 6.59 Dr Smith and Mr Baker both advocated consideration of a biometric system of identification for use in the TFN system. As stated by Mr Baker:
- The various biometric systems of identification available would more significantly assure an individual's identity and assist in minimising the incidence of identity fraud and theft, including the issue of TFNs to false applicants.⁶⁴
- 6.60 The ANAO also identified practices used overseas to improve PoI including 'mandating the registration of clients for tax and social security purpose at birth'⁶⁵ and use of a single 'agency charged with managing the common identifier'⁶⁶.
- 6.61 The Committee did not consider these proposals in enough detail to reach a conclusion on their effectiveness. However, the Committee does note

62 ATO, Submission No.17, p.13.

63 DHAC, Submission No.36, Att A, pp.3-4.

64 Mr Baker, Submission No.26, p.4.

65 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.48.

66 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.49.

that these approaches are likely to involve significant privacy concerns and are also likely to be high cost. These approaches warrant continued monitoring, however are unlikely to be suitable for use in Commonwealth agencies in the short term.

Legislative responses

6.62 Many of the issues brought to the attention of the Committee require an administrative solution, as outlined above. There have also been suggestions that there is scope for a legislative response to addressing the issue of identity fraud.

Recognising identity fraud as a crime

- 6.63 The Committee has been advised that there is no national legislation currently in operation that can be used to prosecute for identity fraud. Offenders are therefore prosecuted for the outcomes of their false identity – for example social security fraud using a false identity is prosecuted under the *Social Security Act 1991*.
- 6.64 Anecdotal information has been received by the Committee that identity fraud investigations are being hampered by current legislative arrangements, particularly due to the fact that agencies must individually conduct their investigations. For example, the Committee has been informally advised of cases where evidence of identity fraud was not seized by an agency as it did not specifically relate to fraud against that agency, and where an agency expected to uncover evidence of identity fraud against other agencies, but was not able to bring these agencies into the investigation until such evidence was uncovered.
- 6.65 Concern has also been raised that cases of fraud may not be proceeding to prosecution for a number of reasons. One of the problems seems to be that, currently, each case must be considered individually. One of the factors in deciding if the case should be taken on by the Director of Public Prosecutions is the level of criminality, or the impact that it has on Australian society. There may, therefore, be cases where the overall level of fraud perpetrated, by an individual, reaches this level but where none of the individual instances against a single agency reach the required level for action to be taken.
- 6.66 It has been suggested that making identity fraud an offence in its own right could overcome a number of these investigation and prosecution problems. In particular, the ATO has suggested that ‘a review into the effectiveness of existing offence provisions and of agency prosecution

policies'⁶⁷ should be undertaken in order to look into the current 'wide variation in offence provisions and associated penalties with respect to identity fraud in the Commonwealth sphere'⁶⁸.

6.67 Of relevance in this regard is the fact that the USA has recently enacted the *Identity Theft and Assumption Deterrence Act of 1998*, which focuses specifically on identity fraud, in recognition of the growth of such offences at different levels of government.

6.68 As noted by Mr Baker:

This Act makes the theft of personal information with the intent to commit an unlawful act a federal crime in the United States of America, with penalties up to fifteen years imprisonment and a maximum fine of \$250,000. This Act treats the issue of identity theft and fraud more significantly than current Australian state legislation.⁶⁹

6.69 It should be noted that Federal Agent Williamson from the AFP did not agree with this view, stating that:

Identity fraud in its own right is a nebulous thing. We ought to be looking at the ultimate crime that is committed, not necessarily the methodology of committing it. That is, if you have defrauded the Commonwealth of a particular sum of money, what ought to be of issue to us is that you have defrauded the Commonwealth of the money, not so much whether you did it by identity fraud, by sticking your hand through a window or by whatever method.⁷⁰

6.70 The Committee Chairman wrote to the Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs on 18 April 2000 noting that this may be an issue of relevance to their inquiry into the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*.

67 ATO, Submission No.30, p.5.

68 ATO, Submission No.30, p.5.

69 Mr Baker, Submission No.26, p.3.

70 Transcript, p.170.

- 6.71 In response to this letter, the issue was raised in a public hearing with the Attorney-General's Department held by the Legal and Constitutional Affairs Committee. In their report, the Legal and Constitutional Affairs Committee note that:

The Attorney-General's Department argued that the Bill [the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*] will resolve the dilemma with agency specific identity fraud offences and provides a variety of general application offences that can deal sufficiently with identity fraud. By replacing a number of similar agency specific offences with general application offences the Bill eliminates a number of inconsistent penalties, providing consistent penalties for such criminal conduct across government agencies.

Provisions in the Bill that provide coverage against identity fraud include obtaining by deception and general dishonesty offences, the false information offences, and the forgery and false documents offences. In light of this information provided by the Attorney-General's Department, the Committee considers that the offences in the Bill will deal adequately with criminal conduct related to identity fraud.⁷¹

- 6.72 The Committee agrees with the Legal and Constitutional Affairs Committee's assessment and supports the move to centralise and standardise the treatment of identity fraud. Following passage of the Bill, it will be important that departments take appropriate steps to ensure that changes are properly reflected in their processes. In addition, the Committee considers that the pace of change in the nature of fraud and the technologies used to perpetrate fraud in this area mean that its legislative treatment warrants ongoing coordinated monitoring.

71 House of Representatives Standing Committee on Legal and Constitutional Affairs. 2000. *Advisory Report on the Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*. Canberra, CanPrint Communications Pty Limited, p.15.

Extending Tax File Number quotation

- 7.1 In their report, the ANAO suggested a number of ways in which TFN quotation could be extended. These options are investigated in this chapter.
- 7.2 In evaluating any decision to extend the TFN system, a range of issues need to be considered, including possible increases in compliance and the collection of tax revenue, the cost of implementation, reporting costs, fairness and privacy.
- 7.3 The significance of privacy issues are reflected in the claim by the Australian Privacy Foundation that ‘this is as much, if not more a general civil liberties issue as it is about privacy’¹.
- 7.4 The Committee also notes that the TIA was strongly opposed to any extension of the TFN system while the current failings of the system continued. Mr Cooper, the President of the TIA, told the Committee that:
- ... the report recommendations for expansion of the system are not necessarily justified on the basis of the potential revenue to be raised, so long as there continue to be significant concerns regarding the integrity of the TFN system.²

1 Australian Privacy Foundation, Submission No.16, p.2.

2 Transcript, p.65.

Unique numeric identifiers in the public and private sector

- 7.5 Unique numeric indicators attached to financial transactions, and the computer based data matching and analysis associated with them, can generate substantial benefits in both the public and private sectors. Commonwealth experience of the TFN during the past decade demonstrates this. The benefits arise from the detection and elimination of fraud and waste, improved validity of transactions³, the improved integrity of systems and higher grades of client service.
- 7.6 Major institutions in the private sector almost universally use unique numeric identifiers. In contrast, the use of such numbers in the public sector is significantly more restricted. For example, there are large classes of relevant transactions currently outside of the TFN system. This is in part due to the more rigorous privacy controls for use of information in the public sector. It may also be a product of history, with legislative change not having kept pace with the change in transactions and services that could be covered by such a number.
- 7.7 The implication of this for the Commonwealth is that it is not achieving the full advantages of unique numeric identifiers, and in particular of the TFN. Extending the use of the TFN has the potential to make a significant contribution to the Commonwealth's budget through:
- the collection of additional revenue due to the Commonwealth under existing law. By identifying revenue in relation to these transactions to which TFN quotation arrangements do not, but could, apply; and
 - the more exact targeting of financial benefits and improved administrative efficiency of Commonwealth administration.
- 7.8 The remainder of this chapter outlines ways in which TFN quotation could be extended.

3 Improving the validity of transactions means that only those that are entitled to receive the benefits or entitlements receive them and that any change in the circumstances of persons in receipt of benefits or entitlements that render them ineligible are readily known to authorities. In relation to revenue systems, improving the validity of transactions means that all those persons obliged by law to pay the Commonwealth do so and that the revenue due is collected in a timely and cost-effective manner.

Other financial transactions

7.9 The ANAO recommended that:

...the ATO examine the risk to the integrity of tax administration and to the collection of revenue arising from transactions ... being outside the TFN withholding arrangements.⁴

7.10 In making this recommendation, the ANAO listed a range of transactions that are currently not covered by TFN quotation arrangements and that it considered were worth examining⁵. The Committee has examined the areas of AUSTRAC reported transactions and real estate transactions in detail, as outlined below.

7.11 The Committee notes the concerns with regard to extending the TFN system that have been brought to its attention. In particular the Committee notes TIA president, Mr Cooper's concerns about privacy, and his view that 'it is when TFNs have to be provided to other parties that the concern arises'⁶. In addition, Mr Woods from the ABA stressed the need for cost-effectiveness noting that he was 'not so sure that after the costs involved of getting all that information it is going to be outweighed by any benefits'⁷.

7.12 As noted above, increasing the efficiency of the TFN system and reducing taxation fraud needs to be weighed up against privacy concerns and community attitudes. This is particularly important in considering extending the TFN system. The Committee considers that there is broad community support for reducing tax fraud and ensuring an efficient and fair tax system, however the benefits need to be clearly demonstrated and should not be at the expense of individual privacy or the imposition of complex reporting arrangements. To this end, proper evaluation of options by the ATO and Parliament is crucial.

7.13 Discussion of possible extensions to the TFN system have been ongoing, with recommendations raised internally in the ATO, and through external reports. As noted by the ANAO, this has included internal discussion papers⁸, a 1997 ATO workshop on TFN issues⁹, a 1991 report by the House

4 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 4, p.23.

5 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, para 3.30, p.65.

6 Transcript, p.76.

7 Transcript, p.103.

8 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.64.

9 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, pp.64-65.

of Representatives Standing Committee on Finance and Public Administration¹⁰ and a 1998 report by the Cash Economy Taskforce¹¹.

- 7.14 Despite significant discussion, this issue has not been properly evaluated by the ATO and hence has not progressed. The ANAO consider that the appropriate response to these recommendations would have been the development of 'an estimate of the additional revenue collectable, and of the administrative efficiencies achievable'¹².
- 7.15 **The result of ATO inaction has been poor quality policy advice to the government. Despite ATO claims to 'never rule out taking a case to government to extend the regime'¹³, they have failed to investigate and advise on this issue in a timely manner. Similarly, the ANAO considered that 'the ATO could have been more proactive in advising government about problems with the TFN system and options to address these'¹⁴.**

AUSTRAC transactions

- 7.16 The Australian Transaction Reports and Analysis Centre was established in 1988 as 'one of Australia's primary anti-money laundering and anti-tax evasion agencies'¹⁵.
- 7.17 Through the collection, analysis and dissemination of Financial Transactions Reports (FTR) information, AUSTRAC has made a significant contribution to the enforcement of taxation laws.

The ATO has advised that during the year ended 30 June 1999 the use of FTR information was directly responsible for over \$46 million in assessments issued by the Australian Taxation Office (ATO). In addition, substantial indirect contributions were made towards the ATO collecting revenue in a wide range of its business areas¹⁶.

- 7.18 However, the ANAO have identified that it is possible to improve on these results by extending TFN quotation to AUSTRAC transactions. The

10 House of Representatives Standing Committee on Finance and Public Administration. 1991. *Follow the Yellow Brick Road The Final Report on an Efficiency Audit of the Australian Taxation Office: International Profit Shifting*. Canberra, Australian Government Publishing Service, xxi 72p.

11 Exhibit 3. Australian Taxation Office. 1998. *Improving Tax Compliance in the Cash Economy*. Canberra, Australian Taxation Office, iv 68p.

12 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.65.

13 Transcript, p.5.

14 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.14.

15 AUSTRAC, Submission No.9, p.1.

16 AUSTRAC, Submission No.9, p.2.

ANAO have noted that the scope of AUSTRAC reported transactions, namely 'that 200 000 AUSTRAC transactions were reported in 1995 with a total value of \$4 billion'¹⁷, means that there may be significant revenue gains from this proposal.

- 7.19 This issue was also raised in a report to government by the Cash Economy Task Force. This Task Force, drawn from government departments, academia, business and community groups, was set up to examine the cash economy and additional compliance measures that could be taken by the ATO. In its second report to the Commissioner of Taxation, the Task Force noted that 'to maximise the effectiveness of financial transaction reporting there is merit in considering upgrading the current reporting requirements under the FTR Act'¹⁸. The Task Force recommended that:

... careful consideration should be given to extending financial reporting requirements under the FTR Act [to] ... require cash dealers to report TFN details in conjunction with reports where the TFN is held (for example, banks) by the cash dealer.¹⁹

- 7.20 Despite being a member of the Task Force that made this recommendation, and despite recognising that 'the present name and address matching of FTR information with taxation information has certain limitations'²⁰, AUSTRAC has made little progress on evaluating this proposal.
- 7.21 The Committee notes the concerns raised by AUSTRAC, namely the possible costs to cash dealers and AUSTRAC of collecting and including TFNs in reports, particularly due to system reengineering requirements, and privacy concerns in the community about this extension of TFN quotation²¹.
- 7.22 These concerns were echoed in other evidence to the Committee. Mr Woods from the ABA noted concern about the cost and customer service impacts of this proposal for financial institutions, including significant systems implications²², and considered that the real problem was with ATO internal matching, rather than with the level of information available to the ATO²³. Mr Chapman from Westpac raised the issue that

17 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.68.

18 Exhibit 3. Australian Taxation Office. 1998. *Improving Tax Compliance in the Cash Economy*. Canberra, Australian Taxation Office, p.47.

19 Exhibit 3. Australian Taxation Office. 1998. *Improving Tax Compliance in the Cash Economy*. Canberra, Australian Taxation Office, p.48.

20 AUSTRAC, Submission No.9, p.6.

21 AUSTRAC, Submission No.9, p.4.

22 Transcript, pp.99-100.

23 Transcript, p.103.

banks do not obtain TFNs for transactions carried out for non-customers and the systems complexity of attaching TFNs in those cases where a TFN is held by the bank²⁴.

- 7.23 AUSTRAC has outlined a consultation process that it considers is important for the development of this option. The need for consultation was raised by the Cash Economy Task Force in their report in early 1998 and yet, over two years later, no progress appears to have been made.
- 7.24 The Committee agrees that consultation with industry groups is an important component of assessing the impacts, costs and benefits of this proposal, and ensuring that any proposal that is taken forward builds on existing systems and processes in a practical way.
- 7.25 AUSTRAC and the ATO should commence negotiations with relevant industry groups on ways in which this proposal could be taken forward. This could start with discussion around those transactions which the ATO considers are 'capable of attaching a TFN' – namely Significant Cash Transaction Reports, International Funds Transfer Reports and Suspect Transaction Reports²⁵.
- 7.26 There is also a need for analysis of the magnitude of revenue potentially at risk under current arrangements and 'the percentage or quantum of AUSTRAC reports that, potentially, would carry a TFN if the proposal is successful'²⁶.

Recommendation 22

- 7.27 **That the Australian Transaction Reports and Analysis Centre and the Australian Taxation Office:**
- **analyse the revenue at risk from Australian Transaction Reports and Analysis Centre transactions being outside Tax File Number quotation arrangements;**
 - **consider the proportion of Australian Transaction Reports and Analysis Centre transactions to which a Tax File Number may be able to be attached; and**
 - **undertake a consultation process with industry to develop a detailed option for attaching Tax File Numbers to Australian Transaction Reports and Analysis Centre reported transactions.**

24 Transcript, pp.105-106.

25 ATO, Submission No.30, p.9.

26 ATO, Submission No.30, p.9.

Real estate transactions

- 7.28 The purchase, sale and renting of real estate were listed by the ANAO as financial transactions that posed a potential risk to revenue collection due to being outside TFN withholding arrangements and that should be investigated.
- 7.29 In their report, the ANAO make reference to research conducted by the ATO in 1994 'on the collection of tax of non-resident property owners in the Australian residential real estate market'²⁷. As noted by the ANAO, this study was conducted in response to a report by the House of Representatives Standing Committee on Finance and Public Administration²⁸ and ATO concerns about non-compliance in this area.
- The research indicated high non compliance rates, around 65 per cent for non return of rental income and 80 per cent for non return of capital gains tax. The research indicated \$250 million of income and capital gains not being returned annually.²⁹
- 7.30 The Committee commends the ATO's efforts in providing an updated estimate of exposure from real estate transactions. The ATO have advised the Committee that:
- Since the 6 December hearing, the ATO has worked productively with the ANAO to clarify the revenue estimate associated with extending the TFN system to real estate and rental transactions. ... An order of magnitude estimate of the revenue at risk for all property transactions currently outside of the TFN quotation arrangements is agreed to be \$280 million to \$350 million.³⁰
- 7.31 The ANAO have advised the Committee that this estimate could be further refined through a sensitivity analysis of reported gross rents and sales against actuals. This would mean comparing gross rent and Capital Gains Tax (CGT) reported on tax returns with an estimate, based on ABS and real estate industry data, of gross rental income received from all landlords and turnover from sales for CGT purposes. This approach could be augmented by the use of more exact data on actual rents and sales available from State government authorities and real estate agents, however this would be more time intensive.

27 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.67.

28 House of Representatives Standing Committee on Finance and Public Administration. 1991. *Follow the Yellow Brick Road The Final Report on an Efficiency Audit of the Australian Taxation Office: International Profit Shifting*. Canberra, Australian Government Publishing Service, xxi 72p.

29 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.67.

30 ATO, Submission No.30, pp.9-10.

7.32 In relation to options for extending the TFN system, Mr Woods from the ABA stated that:

Our view is that we would have thought that the real property transaction is the one to obviously target. ... real property has not been touched at all by the ATO. I do not believe there is any overview or filtering of property data at all.³¹

7.33 In his comments on this proposal, Mr Crompton, Federal Privacy Commissioner considered there were two questions that needed to be considered. Firstly, 'to what extent the system would actually be improved and be leak proofed'³² or whether people would actually just change their behaviour and find other means of avoiding tax. Secondly was the question of whether the community thought that increases in revenue collection were worth the trade off of the ATO knowing 'a great deal about many Australians and a great deal of information about transactions that would never have any tax implications'³³.

7.34 Of significance in considering extending TFN quotation to real estate transactions is the current process of business tax reform. The ATO noted that:

The evaluation will also need to take account of the Business Tax Reform, (Ralph Review) recommendation for a broader non-resident withholding tax. This recommendation seeks to address low non-resident compliance and applies to Australian source payments to non-residents without a permanent presence in Australia. It includes non-residents deriving rental income from Australian properties.

In terms of this Ralph Review recommendation, the Government has indicated in principle support but final decisions have not been taken.³⁴

7.35 The Committee considers that the considerable revenue risk, being \$280 million to \$350 million, resulting from real estate transactions being outside TFN withholding arrangements means that this proposal warrants close consideration. The level of revenue risk remaining in this area after business tax reform will be a crucial input to reaching a final decision on the appropriate balance between privacy concerns, compliance costs and efficient public administration.

31 Transcript, p.99.

32 Transcript, p.46.

33 Transcript, p.46.

34 ATO, Submission No.30, p.10.

Recommendation 23

- 7.36 **That, after the proposed business tax reforms have been introduced, the Australian Taxation Office investigate the remaining risk to revenue from real estate transactions being outside Tax File Number withholding arrangements and take appropriate steps to address this risk.**

Business with government

- 7.37 In their report, the ANAO has noted that:

There are other areas of Commonwealth administration with functions similar to those in which the TFN is now used. These include:

- the collection of revenue by Commonwealth agencies other than the ATO;
- the payment of grants, subsidies and other payments (including those of indigenous affairs and employment assistance) by Commonwealth agencies; and
- the payment of income support assistance by Commonwealth agencies other than Centrelink and the DVA.³⁵

- 7.38 In 1997-98, these functions accounted for the collection of \$25 billion in revenue and payments of \$1.3 billion³⁶. Since this time, the excise revenue collection function has been transferred to the ATO, resulting in a reduced but still significant level of revenue collection by agencies other than the ATO. While the ANAO have not estimated revenue gains from including these transactions in the TFN system, they do note that 'it is reasonable to expect that there could be financial gains from widening the scope of the TFN system'³⁷.

- 7.39 Such an extension of the TFN system would be similar to the situation in the United States, where all federal agencies are required to obtain Taxpayer Identification Numbers from the taxpayer in all cases in which the taxpayer makes payments or may obtain some benefit (broadly defined) as a result of doing business with the Government. 'Doing

35 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.91.

36 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.91 – based on 1997-98 figures quoted in the '1998-99 Estimates reported in Budget Paper No.4 of the Budget'.

37 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.91.

business with the Government' is broadly defined in US legislation to include virtually all dealings with the US Federal Government that involve obtaining a benefit, making a payment of any kind, or being part of an arrangement by means of which the US Government underwrites a risk or incurs a contingent liability.

- 7.40 The equivalent definition applied to the Commonwealth Government would mean mandatory use of the TFN whenever an individual or entity applies to enter into a transaction with the Commonwealth in any one of the following five categories. Note that, as outlined in paragraphs 7.47 to 7.49, it should not be taken that the Committee necessarily endorses all of these.
- 7.41 ***Financial benefits from the Commonwealth.*** This category includes all financial benefits provided by the Commonwealth to others for which the quotation of the TFN is not yet required. Examples include: the payment of grants, rebates, subsidies, bounties, and the like. A significant group within this category are those that are taxable, that is, tax legislation requires that the financial benefits received from the Commonwealth are assessable income and should be included in tax returns. This group of benefits is referred to as Assessable Government Payments (AGP).
- 7.42 ***Purchase of services by the Commonwealth.*** This category includes all instances where the Commonwealth purchases services directly or through third parties. Examples include: the engagement of contractors or service providers, including those that provide services on behalf of the Commonwealth. All income received from the Commonwealth arising from transactions in this category would be taxable and should be included in tax returns.
- 7.43 ***Payments to the Commonwealth.*** This category includes the making of payments of various types (other than taxes administered by the ATO) to the Commonwealth. Examples include: payments to the Commonwealth by way of levies, charges, royalties, fees, fines, or penalties and taxes not collected by the ATO.
- 7.44 ***Entitlements and other rights granted by the Commonwealth.*** This category includes all instances in which the Commonwealth assigns entitlements, rights and the like, sometimes for a commercial fee. Examples include: the issuing of visas, passports, licences, permits and other legislated rights. Apart from the intrinsic value of the rights, the Commonwealth raises revenue from their sale.
- 7.45 ***Commonwealth contingent liabilities.*** This category includes all those instances in which the Commonwealth enters into a transaction with another party according to which the Commonwealth incurs a contingent liability as a result of, for example, of issuing a loan, underwriting a risk, acquiring a

financial obligation or contingent liability provided for under legislation, deeds, contracts, or correspondence. Examples include: loans, trade insurance, and the provision of Commonwealth guarantees, indemnities and the like.

- 7.46 Under current arrangements, Commonwealth administrative systems are not sufficiently robust to provide the assurance that the Commonwealth receives the tax due to it on all of the taxable payments and like benefits it makes. Extending TFN quotation to all transactions by means of which the Commonwealth disburses taxable income and like benefits would provide that assurance (subject to the points raised in paragraph 7.47). It would also remove the serious inequity of the current arrangements whereby some recipients of Commonwealth taxable benefits are required to quote TFNs as a condition of receiving such benefits whereas others are not.
- 7.47 The question of extending TFN quotation arrangements to some or all of the above categories would hinge largely on the extent to which there was scope to improve the efficiency and cost effectiveness of administrative systems, improve levels of compliance and accrue additional financial benefits for the Commonwealth. It would also depend on the extent to which the mandatory use of the ABN by those entities that are required to have one secured the desired improvements. As entities with ABNs would be involved in each of the above categories, a key issue to address is the extent for additional improvements beyond those secured by the ABN that could be secured by the TFN.
- 7.48 There are significant concerns with extending TFN quotation to all areas of business with government. Implementing such a system is likely to impose a large administrative burden, particularly for Commonwealth agencies. There would also be significant privacy concerns in such a dramatic increase in TFN coverage.
- 7.49 Extending TFN quotation to some of these areas would also result in very limited financial benefits. This is particularly the case in the areas of certain entitlements and other rights granted by the Commonwealth and Commonwealth contingent liabilities.
- 7.50 While the Committee notes that it may be useful for the Treasury to more closely examine all five of the categories of 'business with government' listed above, it considers that the strongest case for extending TFN quotation is in the area of financial benefits provided by the Commonwealth, and in particular for Assessable Government Payments. This category of transactions appears to be the highest risk and offers the greatest potential improved integrity of Commonwealth systems, improved compliance with Commonwealth law and increased for

financial benefits to the Commonwealth. In addition, there is already general community acceptance that it is reasonable for the attachment of conditions to payments from the government. For example, TFN quotation is already a condition for income support payments and the Higher Education Contribution Scheme.

Recommendation 24

- 7.51 That the Treasury investigate extending Tax File Number quotation and withholding arrangements to include business with the Commonwealth Government, particularly in the case of Assessable Government Payments.**

Mandatory TFN quotation

- 7.52 Currently legislation provides that quotation of the TFN is optional for taxpayers in respect of a wide range of financial transactions. In these circumstances, Australia is unique amongst OECD jurisdictions with TFN type identifiers.
- 7.53 However, since 1990, legislation governing the use of the TFN for the receipt of most Commonwealth income support payments has required that people claiming, or in receipt of, this assistance have to provide a TFN as a condition of receiving such payments. Similarly TFN quotation is a condition of the Higher Education Contribution Scheme. Withholding tax arrangements act as a sanction against non-quotation in relation to a very wide range of specific financial transactions, resulting in 'the imposition of the maximum marginal taxation rate of 48.5 per cent'³⁸.
- 7.54 The ANAO have noted that:
- There are a number of consequences arising from non quotation of TFNs including:
- higher compliance costs for clients and the community;
 - incomplete revenue collection;
 - increased outlays on income support and similar programs; and
 - increased administrative costs for the Government.³⁹

38 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.94.

39 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.93.

- 7.55 In considering the possibility of mandatory TFN quotation, the Committee notes that there is already some concern that the penalties and benefits attached to TFN quotation (or non-quotation) mean that TFN quotation is effectively mandatory in a number of situations. M/- Clarke considers that this is a 'denial of ... "Privacy Rights"'.⁴⁰
- 7.56 Mr Crompton, the Federal Privacy Commissioner has advised the Committee that he considers that:
- ... one of the most fundamental principles behind the tax file number system in Australia is the voluntary quotation principle. Introduction of mandatory quotation would represent a fundamental change in the underlying policy.⁴¹
- 7.57 Added to this is the need to consider the currently high levels of voluntary compliance with TFN quotation arrangements, a point emphasised by the Australian Privacy Foundation⁴². The ANAO have stated that:
- ... amongst clients generally, there is a high degree of adherence with the TFN quotation arrangements. In most instances the incidences of voluntary compliance is greater than 90 per cent.⁴³
- 7.58 While the Committee considers that this issue warrants ongoing monitoring, it does not consider that there is currently a strong case for moving to a system of mandatory TFN quotation.**

Client Service Number

- 7.59 The ANAO have noted in their report that:
- It could now be an opportune time for the ATO in conjunction with other agencies to research and report upon to the Government and the Parliament a range of possibilities for the management of a cost-effective, client centred identification agency which would have due regard to privacy considerations.⁴⁴
- 7.60 The effect of implementing this type of proposal would be to introduce a client service number (which could be the TFN) for use across Commonwealth agencies and to give responsibility for issuing of this number to a single agency. This, in many ways, would reflect the current

40 M/- Clarke, Submission No.11, p.2.

41 Federal Privacy Commissioner, Submission No.19, p.9.

42 Australian Privacy Foundation, Submission No.16, pp.2-4.

43 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.92.

44 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.50.

situation in most OECD nations, which use a CSN managed by a non revenue agency⁴⁵. The Committee notes that development of a CSN and establishment of a Commonwealth Identity Data Agency are both elements of the ATO's PoI hierarchy of solutions⁴⁶.

7.61 Introduction of a CSN would have clear benefits for public administration in terms of improving efficiency, increasing compliance and reducing fraud, simplifying PoI processes and improving client service. These benefits were acknowledged by a number of Commonwealth departments, including the ATO, FaCS, the CSA, Centrelink and the DHAC.

7.62 The ANAO considered in some detail the Dutch use of a CSN, which was seen to be representative of the use of CSNs in European nations. The ANAO have reported that:

The Dutch experience is that the use of a CSN, known as a SOFI (social and finance number), does present substantial benefits to both individuals and the community. Individuals benefit through the efficiency of being able to quote one number to government for a range of services. Communities benefit by Government being able to test the compliance of people with the law⁴⁷.

7.63 The ANAO has also noted the parallels between an ABN and a CSN, in terms of simplifying access to government services⁴⁸.

7.64 In considering a proposal to introduce a CSN, there would be a number of crucial decision points, including:

- the level of privacy controls in the system;
- whether the private sector would be able to use the CSN (as in the case of North America);
- which agency would manage the CSN;
- the point in time at which a CSN would be issued to an individual (a number of OECD countries issue the CSN at birth);
- the extent to which information would be shared between agencies (for example this could be restricted to identity data only); and
- whether the system was optional or mandatory.

45 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, pp.49-50.

46 ATO, Submission No.17, p.13.

47 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.50.

48 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.51.

- 7.65 There are also a number of significant concerns about the introduction of a CSN, as noted by Commonwealth agencies. In particular, these concerns relate to the issues of privacy and cost.
- 7.66 In relation to privacy, the comments by Mr Crompton, Federal Privacy Commissioner are significant.
- I do not believe that its issuing at birth and its use for all interactions with government would be acceptable to the people of Australia, if you go by the measure of the Australia Card debate 10 years ago and the speed with which the issue flared up two weeks ago (in response to the Axiom database).⁴⁹
- 7.67 There is also likely to be a significant cost in implementing a CSN. Depending on the model adopted, this could involve significant change and the need for large systems investments across the Commonwealth. In addition, there is a possibility that agencies could decide to operate dual systems if they felt the need to retain their own identification system in order to ensure confidentiality. This issue was raised in relation to the operation of Centrelink⁵⁰ and the HIC⁵¹. This would reduce the administrative efficiencies gained from introducing a single CSN.
- 7.68 While the Committee acknowledges the benefits possible through the use of a CSN, it considers that significant work would be required on developing and evaluating a proposal for a CSN before any decision could be made in this regard.

49 Transcript, p.48.

50 FaCS, Submission No.21, p.4.

51 DHAC, Submission No.36, Att A, p.1.

Implications for the Australian Business Number

8.1 The Australian Business Number has primarily been introduced to simplify businesses' dealings with government. As advised by the Treasury:

The ABN was introduced to reduce the number of separate registrations enterprises have with government and the number of interactions needed to make alterations to registration details.¹

8.2 In addition, the ABN is expected to provide a mechanism for improving compliance with tax obligations and reducing the cash economy².

8.3 'The Commissioner of Taxation has estimated that \$3.5 billion over three years in additional income tax revenue will be generated as a result of these collective impacts'³ – being the impacts of the whole tax reform package, including the introduction of the ABN.

8.4 While the Committee did not specifically investigate the Australian Business Number, a number of the findings in relation to the TFN system have potentially significant implications for the ABN. The Committee considers that these implications warrant closer consideration in order to ensure the effective implementation of the ABN.

1 Treasury, Submission No.35, p.3.

2 ATO, Submission No.30, p.8 and the Honourable Peter Costello M.P., Treasurer of the Commonwealth of Australia. 1998. *Tax reform: not a new tax, a new tax system - The Howard Government's Plan for a New Tax System*. Canberra, AGPS, p.150.

3 The Honourable Peter Costello M.P., Treasurer of the Commonwealth of Australia. 1998. *Tax reform: not a new tax, a new tax system - The Howard Government's Plan for a New Tax System*. Canberra, AGPS, p.150.

ABN Registration

8.5 Ensuring correct registration of genuine businesses is an important basis for ensuring that the new ABN system has high integrity. To this end the ATO has implemented a number of quality assurance measures for ABN registration, including having:

‘taken special steps to validate the authenticity of each business from the outset including through a complete cleanse of the database of business records such that only ‘active’ businesses were included in the ABN initial database for registration purposes. In this way the existence of a genuine enterprise has been confirmed and will continue to be monitored via the ongoing transactions with the ATO’⁴.

8.6 There is a concern that these efforts may be undermined by the reliance on the TFN system as part of the ABN registration process. The ATO have advised the Committee that ‘quotation of an individual TFN is ... required for those wishing to register an ABN’⁵.

8.7 Through failing to properly address the large numbers of duplicate and excess TFNs and the poor quality of TFN data, the ATO have created a situation where it may be possible for individuals to take advantage of the weaknesses in the TFN system in order to falsely obtain an ABN.

8.8 In this regard, newspaper comments on the ABN registration process are also of concern. In particular, the press has reported that:

The Tax Office has been issuing Australian Business Numbers (ABNs) without properly checking applicants’ details and in some cases issuing two numbers to the one person in its haste to meet the GST start date, tax experts have warned.⁶

8.9 In addition to using false information to obtain an ABN, the press has also raised the possibility that individuals can use the ABN algorithm to fraudulently obtain an ABN⁷.

8.10 The ABN algorithm has been published by the ATO on their website⁸. In comments reported in the press, the ATO have claimed that the ABN

4 ATO, Submission No.30, p.8.

5 ATO, Submission No.30, p.8.

6 Toni O’Loughlin, ‘ABN errors claimed as GST nears’, *Sydney Morning Herald*, 8 May 2000.

7 Stewart Carter, ‘Tax office allays fears of ABN rot’, *The Age*, Tuesday 23 May 2000.

8 Australian Taxation Office. 1999. ‘The format of the Australian Business Number (ABN)’. *TAXfacts*. Nat 2956. 4p.

algorithm has been released to enable development of software so that businesses can check that they have been quoted a legitimate ABN⁹.

- 8.11 The concern is that people will be able to use the ABN algorithm to generate ABNs that will not be detected by the software as fraudulent. This will 'enable companies operating in the black economy to continue to do so and to continue to evade tax'¹⁰.

Data and systems quality

- 8.12 High quality data and systems will be important in ensuring the integrity of the new tax system and delivery of the full benefits of tax reform. Limitations in ABN data and systems quality may impact on expected revenue gains.

- 8.13 There are two key concerns in relation to data and systems quality:

- that the link between the TFN system and the ABN system will mean that the known TFN data and systems problems are transferred to the new ABN system; and
- that ATO management will repeat the pattern of crisis management for the ABN system that it has adopted with the TFN system, rather than taking a long term view in its decision making.

- 8.14 Treasury has advised the Committee that:

... we expect that the experience gained administering the TFN will assist in ensuring that circumstances that have resulted in these kind of difficulties [with the TFN system] are avoided¹¹.

- 8.15 The ATO expects that the mandatory use of the ABN will improve compliance and yield additional revenue as a result. This will be a component of the \$3.5 billion additional income tax revenue that the Commissioner of Taxation estimated would be collected over the next three years as a result of the introduction of the new tax system¹². As has been demonstrated with the TFN, the size of this component will depend on the quality of ABN/TFN systems and data.

9 Stewart Carter, 'Tax office allays fears of ABN rot', *The Age*, Tuesday 23 May 2000.

10 Stewart Carter, 'Tax office allays fears of ABN rot', *The Age*, Tuesday 23 May 2000.

11 Treasury, Submission No.35, p.3.

12 The Honourable Peter Costello M.P., Treasurer of the Commonwealth of Australia. 1998. *Tax reform: not a new tax, a new tax system - The Howard Government's Plan for a New Tax System*. Canberra, AGPS, p.150.

- 8.16 The Committee feels that the ATO must demonstrate that the quality of the systems and data associated with the ABN is higher than those associated with the TFN. However, as the TFN is the critical matching key for ABNs, the quality of TFN systems and data currently places a limit on what might be achieved from the ABN.
- 8.17 In order to achieve the full benefits of the new tax system, modifications to relevant Commonwealth systems and data may also be required. As noted in paragraphs 3.76 to 3.78, modifications may be needed to ensure that ABN information is recorded in a way that facilitates the requisite ABN/TFN data matching.
- 8.18 The established shortcomings in the quality of the ATO's data and systems and the long history of the ATO's weaknesses in this area are a cause for concern in the ATO's administration of the ABN. In order to ensure that the full benefits of the new tax system are achieved, the ATO must make sure that systems and data are improved along the lines that the Committee recommends and that necessary enhancements are made to relevant APS systems and data to retain ABN relevant information.

Privacy

- 8.19 Mr Crompton, the Federal Privacy Commissioner has advised the Committee that:

The ABN will be a publicly accessible number and will not have any of the privacy protections that are attached to tax file numbers. There is no intention for the ABN to be used by individuals to identify themselves, although administrative arrangements will have to be carefully devised to meet this objective in the case of sole traders or professional practitioners that operate businesses¹³.

8.20 Privacy issues associated with the ABN were also raised during the House of Representatives Standing Committee on Legal and Constitutional Affairs' recent inquiry into the *Privacy Amendment (Private Sector) Bill 2000*. In their advisory report of June 2000, the Legal and Constitutional Affairs Committee note:

The significance of privacy issues in the community was highlighted during the course of the inquiry by reports that the Australian Taxation Office intended to make personal information from the Australian Business Register available for sale to the public. The information included the names and addresses of individuals who, for example, owned a rental property and were therefore required to obtain an Australian Business Number (ABN).

The Committee invited officers of the Australian Taxation Office to give evidence to the inquiry on 8 June 2000. The Committee notes that following its involvement and discussions between the Australian Taxation Office and the Privacy Commissioner, the original proposals have been altered. On 20 June 2000, the Assistant Treasurer, the Hon Rod Kemp MP, issued a press release stating that in response to concerns raised over public access to the Australian Business Register, the information to be made available on the register was to be limited. Under the new arrangements, only information necessary for the functioning of the new tax system will be publicly available. Postal and email addresses will remain part of the Register, but will not be able to be accessed by the public. In addition it is proposed that individuals be able to request in certain circumstances that their information be removed from the Register as is permitted in relation to electoral roll information.¹⁴

8.21 The Committee considers that there is a need to continue to monitor the privacy implications of the ABN. In particular, there is a need to ensure that the new ABN arrangements protect personal information and to consider whether there is a need for a complaints mechanism for cases where it is considered that there has been a breach of privacy.

14 House of Representatives Standing Committee on Legal and Constitutional Affairs. 2000. *Advisory Report on the Privacy Amendment (Private Sector) Bill 2000*. Canberra, CanPrint Communications Pty Limited, p.4.

8.22 The need for a complaints mechanism was supported by Mr Langford-Brown, from the Institute of Chartered Accountants, during the Committee's roundtable discussions. Mr Langford-Brown stated that:

I think as we have more or less collectively said, we anticipate the potential for greater problems with the ABN and if we are looking for a solution, a possible part of that solution would obviously be – whether it is the Privacy Commissioner or some other appropriate party – there needs to be the capacity for that to have some rigorous support¹⁵.

Recommendation 25

8.23 **That the Auditor-General conduct a performance audit of the Australian Taxation Office's administration of the Australian Business Number system, and that this audit include, but not be limited to, the examination of the following issues:**

- **registration and issue of Australian Business Numbers;**
- **data quality/integrity;**
- **data matching; and**
- **privacy implications.**

Conclusions

Context

- 9.1 The ATO is currently managing major changes to the Australian tax system, including the introduction of a goods and services tax and business tax reform. Its ability to deliver on these reforms and to continue to effectively manage the tax revenue system depends on the ongoing quality of its underlying systems and data.
- 9.2 In identifying the ATO's 'Principles for Success', Mr Michael Carmody, the Commissioner of Taxation has acknowledged 'how important the basics are to our continued success' and the need to ensure 'that our systems provide us with the platform that enables us to continue to deliver for the community'¹.
- 9.3 The TFN system is central to this platform and ensuring effective tax administration. As part of their audit, 'the ANAO has confirmed that the ATO's TFN system has improved the ATO's revenue collection capacity and administrative efficiency'².

1 Australian Taxation Office. 1999. *Supporting the Community – 1999-2002 Plan*. P.1. http://www.ato.gov.au/printcontent.asp?doc=/content/Corporate/ato_plan.htm Accessed on 25 May 2000.

2 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.95.

Findings

- 9.4 The Committee has examined a system of administration, the TFN system, and found that administration wanting. The impact of the administrative shortcomings is serious because the TFN system is central to the administration of taxation, income support, superannuation and employment generally.
- 9.5 Whilst there have been successes, there are too many serious and continuing problems, some of which go back many years. The problems relate fundamentally to the quality of ATO's systems and information and to a continuing absence of a strategic focus by senior management.
- 9.6 That there are so many surplus TFNs still on issue together with the problems of duplicates and identity fraud point to the need to address the problems identified as a matter of priority.
- 9.7 There are continuing problems of fraud that do not seem to get sufficient attention. There are serious administrative weaknesses associated with the registration and issue of TFNs that continue.
- 9.8 There continues to be serious gaps in the coverage of the TFN system, particularly in relation to real estate transactions and the income-relevant transactions of non-residents. The quality of the information provided to the ATO by financial institutions, as the law requires, continues to be in need of improvement. There are continuing unresolved and serious problems with other agencies (such as DIMA in respect of visas, temporary residents, non-residents, illegals; and AUSTRAC in respect of the attachment of TFNs to the transactions reported by cash dealers). The ATO continues to underutilise valuable information and continues to be unable to match key data sets.
- 9.9 The Committee finds, as well, that although the TFN system is a whole-of-government facility the administration of it is almost entirely subject to ATO internal priorities and that the many problems associated with it invariably are seen, by the ATO to be of low priority.
- 9.10 The impact of these weaknesses has a serious impact because the revenue foregone by the Commonwealth as a result is significant. The impact is serious because the weaknesses undermine the integrity of the taxation system in the eyes of citizens. The impact is serious because the Commonwealth is unable to achieve the true benefits of legislation. The Commonwealth is unable to achieve the gains to efficiency, economy and effectiveness that the legislated TFN system permits.
- 9.11 The recommendations of this report and the ANAO's report go to the issue of ensuring ongoing quality and coverage of the TFN system. This

offers the opportunity for the ATO to improve its performance, to increase revenue collection and to ensure a strong base for its future operations.

9.12 In positioning itself for ongoing success, the ATO must ensure that it has smart systems that use high quality data drawn from across all relevant databases. It must become an organisation that proactively seeks out systems improvements and that is aware of emerging technologies and their implications and potential application to the TFN system.

9.13 ATO management of the TFN system must also continue to include consideration of the issues of staff management and privacy.

Staff management

9.14 Effective staff management will influence organisational culture, including the ability of an organisation to put policy into practice. It will also determine the extent to which an organisation is able to learn from the experience of its staff.

9.15 For an organisation such as the ATO, people are one of its key resources. Comments from the ANAO and ATO staff suggest that there may be a discord between management and operational staff. This discord appears to flow two ways, with limits to the opportunities for staff to input into the formulation of departmental procedures and difficulties in translating management strategies into comprehensive operational implementation.

Privacy

9.16 Ensuring appropriate privacy protections for individuals has been central to the development of the TFN system. Legislation stipulates certain limitations over the use and distribution of the TFN and the information attached to it. The Federal Privacy Commissioner confirmed the effectiveness of these protections, stating that the level of complaints his office receives would indicate that, in terms of both public and private sector use of the TFN, that 'the system is operating pretty well from a privacy perspective'³.

9.17 The Committee found that the privacy arrangements have worked well and that the personal privacy of Australians is protected from government interference. The Committee considers that there is merit in extending the TFN system along the lines recommended by the Auditor-General, provided that there is commensurate extension of the privacy arrangements to ensure continued protection of personal privacy and provided, too, that the desired improvements to the integrity of Commonwealth law and administration, and increased financial benefits to the Commonwealth, can be achieved.

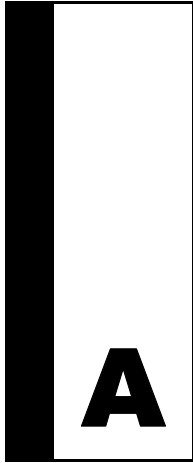
3 Transcript, p.44.

Need for action

- 9.18 Ignoring underlying TFN system problems will lead to a continued weakening of this system and a loss of community and government confidence in the ability of this system to deliver.
- 9.19 The ATO must give a higher priority to TFN resourcing and policy development, including ensuring sufficient staff and systems resources, to reflect its importance to the ATO and more broadly for Commonwealth Government administration. For the ATO, this will guarantee high levels of compliance; increased revenue; reductions in the cash economy; a higher integrity tax system and a lower cost tax administration system. It will also ensure the ongoing contribution of the TFN system to effective public administration.

Recommendation 26

- 9.20 **That the Auditor-General conduct a follow-up performance audit of the Australian Taxation Office's management of the Tax File Number system, and that this audit include, but not be limited to, progress by the Australian Taxation Office against recommendations for improving the Tax File Number system made by the Australian National Audit Office and this Committee.**



Appendix A – List of Submissions

Submission No.	Individual/Organisation
1	Ms Leanne Mackenzie
2	Mr Warren Muirhead
3	Mr Nick Deane
4	Mr Andrew Adams
5	M/- V Kandiah
6	Australian Institute of Criminology
7	<i>CONFIDENTIAL</i>
8	Mr Peter O'Connell
9	Australian Transaction Reports and Analysis Centre
10	Australian Bankers' Association
11	M/- F Clarke
12	<i>CONFIDENTIAL</i>
13	Timbury Ridhalgh Pty Limited
14	Taxation Institute of Australia
15	NSW Registry of Birth, Deaths and Marriages
16	Australian Privacy Foundation
17	Australian Taxation Office
18	International Student Advisers Network Australia
19	Office of the Federal Privacy Commissioner, Human Rights and Equal Opportunity Commission

- 20 Mr Ian Johnston
- 21 Department of Family and Community Services
- 22 Department of Veterans' Affairs
- 23 Australian Taxation Office (Supplementary
Submission)
- 24 Child Support Agency
- 25 *CONFIDENTIAL*
- 26 Mr Paul Baker
- 27 Mr Cameron Thompson
- 28 Mr C R Hingee
- 29 Department of Education, Training and Youth Affairs
- 30 Australian Taxation Office (Supplementary
Submission)
- 31 National Crime Authority
- 32 *CONFIDENTIAL*
- 33 *CONFIDENTIAL*
- 34 *CONFIDENTIAL*
- 35 Treasury
- 36 Department of Health and Aged Care
- 37 Australian Taxation Office (Supplementary
Submission)
- 38 National Crime Authority (Supplementary
Submission)
- 39 Australian Electoral Commission

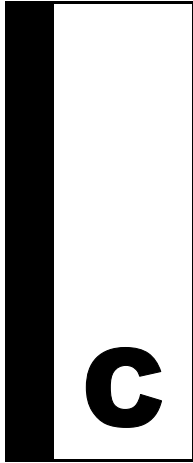


Appendix B – List of Exhibits

Exhibit No.	Description
1	Smith, R.G. 'Identity Related Economic Crime: Risks and Countermeasures'. <i>Trends and Issues in Crime and Criminal Justice</i> . No.129. Canberra, Australian Institute of Criminology, 13p. Provided by Mr Russell Smith, Senior Research Analyst, Australian Institute of Criminology.
2	<i>CONFIDENTIAL</i>
3	Australian Taxation Office. 1998. <i>Improving Tax Compliance in the Cash Economy</i> . Canberra, Australian Taxation Office, iv 68p. Provided by the ATO.
4	Australian Taxation Office. 1997. <i>The Taxpayers Charter: your rights, your obligations, how to be heard</i> . Canberra, Australian Taxation Office, 24p. Provided by the ATO.
5	Australian Taxation Office. nd. <i>Summary of Taxpayers' Charter</i> . Unpublished, 4p. Provided by the ATO.
6	Australian Taxation Office. 1997. <i>The Taxpayers' Charter: Explanatory booklet</i> . Booklets 1-15. Provided by the ATO.
7	Australian Taxation Office. 1999. <i>Commissioner of Taxation Annual Report 1998-99</i> . Canberra, Australian Taxation Office xix 210p. Attention to page 84, appendix 1. Provided by the ATO.
8	Australian Taxation Office. 1999. <i>Tax Pack 99</i> . Canberra, Australian Taxation Office, 140p. Provided by the ATO.
9	Privacy Commissioner. nd. <i>Privacy Act 1988: Information Privacy Principals</i> . Sydney, Privacy Commissioner, 2p. Provided by the Office of the Federal Privacy Commissioner.

- 10 Roy Morgan Research Centre. 1999. *"Big Brother"; Bothers Most Australians*. Finding No. 3221. <http://www.roymorgan.com/poll/1999/3221/> Accessed on 20 Oct. 1999. Provided by the Office of the Federal Privacy Commissioner.
- 11 'The end of privacy'. *The Economist*. nd. No publication details provided. Provided by the Office of the Federal Privacy Commissioner.
- 12 Sydney 2000 and the Paralympic Games Sydney 2000. nd. *Accrediting your Employees to the Games*. Leaflet, 1p. Provided by Westpac Banking Corporation.
- 13 AUSTRAC. 1993. *Account Opening Verification of Signatory: 100 Point Check*. Form 201, 2p. Provided by Westpac Banking Corporation.
- 14 CONFIDENTIAL
- 15 CONFIDENTIAL
- 16 CONFIDENTIAL
- 17 *The Fraud Control Policy of the Commonwealth: Consultation Draft No. 1*. 21 June 1999. Attorney-General's Department, Canberra. Provided by the Attorney-General's Department.
- 18 CONFIDENTIAL
- 19 CONFIDENTIAL
- 20 CONFIDENTIAL
- 21 CONFIDENTIAL
- 22 CONFIDENTIAL
- 23 CONFIDENTIAL
- 24 Australian Taxation Office. nd. *Current Information Matching Environment and Information Matching in the Tax Reform Environment*. Unpublished, 2p. Provided by the ATO.
- 25 Australian Taxation Office. 1999. *Tax and the Internet: Second Report of the Australian Taxation Office Electronic Commerce Project Team on the opportunities of electronic commerce for tax administration*. Canberra, Australian Government Publishing Service, 210p. Provided by the ATO.

- 26 Australian Taxation Office. 1997. *Tax and the Internet: Discussion report of the Australian Taxation Office Electronic Commerce Project Team on the challenges of electronic commerce for tax administration*. Volume 1. Canberra, Australian Government Publishing Service, 144p. Provided by the ATO.
- Australian Taxation Office. 1997. *Tax and the Internet: Volume 2: Consultants' reports to accompany the discussion report of the Australian Taxation Office Electronic Commerce Project Team on the challenges of electronic commerce for tax administration*. Canberra, Australian Government Publishing Service, various pagings. Provided by the ATO.



Appendix C – List of Hearings and Witnesses

Monday, 6 December 1999 – Canberra

Australian Tax Office

Dr Bob Webb, Deputy Commissioner, Individuals Non-Business

Mr Steve Chapman, Deputy Commissioner, Small Business

Ms Gaida Blenkinsop, Acting Assistant Commissioner, Correct Lodgement, Individuals Non-Business

Mr Tony Goddard, Acting Assistant Commissioner, Interpretation and Compliance, Individuals Non-Business

Mr Murray Crowe, Acting Assistant Commissioner, Small Business Reform, Small Business

Ms Jean Hill, Business Unit Director, Account Management, Investment Royalties and Withholding

Australian Institute of Criminology

Dr Russell Smith, Senior Research Analyst

Thursday, 9 December 1999 – Canberra

Office of the Federal Privacy Commissioner

Mr Malcolm Crompton, Federal Privacy Commissioner

Mr Andrew Amble, Senior Policy Adviser

Thursday, 10 February 2000 – Sydney**Private individual**

Mr Ian Johnston

Tax Practitioners – Round Table Discussion

Mr Gordon Cooper, President, Taxation Institute of Australia

Mr Michael Dirkis, Tax Director, Taxation Institute of Australia

Mr Neil Earle, Earle and Co. Pty Ltd (Chartered Accountants); Member, Taxation Institute of Australia

Mr Michael Walpole, Senior Lecturer, Australian Taxation Studies Program, University of New South Wales; Member, Taxation Institute of Australia

Mr Ian Langford-Brown, Director of Taxation, Institute of Chartered Accountants in Australia

Mr Brian Sheppard, Taxation Manager, Institute of Chartered Accountants in Australia

Mr Garry Addison, Senior Taxation Consultant, Australian Society of Certified Practising Accountants

New South Wales Registry of Births, Deaths and Marriages

Mr Trevor Stacey, Registrar

Mr Graham Austin, Manager, Special Projects

Australian Transaction Reports and Analysis Centre

Ms Elizabeth Montano, Director

Mr Paul Ryan, Senior Manager, Money Laundering Prevention Section

Financial Institutions

Mr Ian Woods, Associate Director, Australian Bankers' Association

Mr Aub Chapman, Chief Manager, Operational Control, Westpac Banking Corporation

Mr Brian Holgate, Senior Manager, Compliance, All Finanz Services, Colonial

Mr Adrian Loveney, Senior Adviser, Policy and Public Affairs, Credit Union Services Corporation (Australia) Limited

Mr Alex Sala, Chief Executive Officer, Endeavour Credit Union

Monday, 6 March 2000 – Canberra**Centrelink**

Mr Graham Bashford, Acting Deputy Chief Executive Officer

Mrs Carolyn Hogg, General Manager, Gateway

Mr Brian Pacey, National Manager, Detection and Review Team

Mr Geoffrey Main, Business Manager, Identity Fraud Section, Detection and Review Team

Mr Stephen Nelson, Business Manager, Gateway Projects Group

Mr Douglas Miller, Manager, Data Matching, Detection and Review Team

Department of Immigration and Multicultural Affairs

Mr Peter Vardos, Assistant Secretary, Compliance Strategy and Detention Branch

Ms Janine Murfet, Director, Compliance Strategy Section, Compliance Strategy and Detention Branch

Mr Claudio Campaniello, Assistant Director, Compliance Strategy Section, Compliance Strategy and Detention Branch

Thursday, 9 March 2000 – Canberra**Health Insurance Commission**

Dr Brian Richards, General Manager, Information Management Division

Mrs Leonie Baldock, Manager, Information Policy and Access Branch, Information Management Division

Mr Graham Grayson, Manager, Health Programs Branch

Mr Geoff Probyn, Manager, Investigations Coordination Section, Compliance Branch, Professional Review Division

Mr John Trabinger, Manager, Health Informatics, Information Management Division

Monday, 3 April 2000 – Canberra**Attorney-General's Department (Briefing)**

Mr Ian Carnell, First Assistant Secretary, Law Enforcement Coordination Division

Mr Alan Snashall, Senior Adviser, Fraud and Firearms Control

Ms Boronia Halstead, Deputy Director, Analysis, Office of Strategic Crime Assessments

Department of Finance and Administration

Mr Chris Hayward, Director, Agency Advice Unit, Budget Group

Mr Chris Murphy, Senior Adviser, Budget Group

Treasury

Mr Ron Foster, Manager, Financial Services and Payment Design Unit

Child Support Agency

Ms Sheila Bird, Assistant General Manager

Wednesday, 5 April 2000 – Canberra**Australian Federal Police**

Federal Agent Gordon Williamson, Director, Intelligence and Operations Support

Wednesday, 12 April 2000 – Canberra**Australian Taxation Office**

Dr Bob Webb, First Assistant Commissioner, Reform Program

Ms Gaida Blenkinsop, Acting Assistant Commissioner, Individual Client Register

Mr Gregory Dark, Assistant Commissioner, Australian Business Number

Mr Tony Goddard, Assistant Commissioner, Individuals Compliance

Mr Neil Mann, Assistant Commissioner, Compliance Assurance

Ms Jean Hill, National Director, Account Management Business Unit, Investment Royalties Withholding

Mr Randal Anderson, Director, Compliance Systems