



**Submission by the  
Commonwealth Ombudsman**

**JOINT COMMITTEE OF PUBLIC  
ACCOUNTS AND AUDIT**

**ANNUAL HEARING WITH THE COMMISSIONER OF  
TAXATION**

Submission by the Commonwealth Ombudsman, Colin Neave

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## INTRODUCTION

The Commonwealth Ombudsman is also the Taxation Ombudsman and, in that role, focuses on investigating complaints from taxpayers and tax professionals about the administrative actions of the Australian Taxation Office (ATO).

The Commonwealth Ombudsman safeguards the community in its dealings with Australian Government agencies by:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action
- developing policies and principles for accountability, and
- reviewing statutory compliance by law enforcement agencies with record keeping requirements applying to telephone interception, electronic surveillance and like powers.

The Ombudsman may also investigate matters of his own motion and draws on complaints to identify potentially systemic problems in government administration.

In the area of taxation, the Ombudsman works cooperatively with the Inspector-General of Taxation and the Auditor-General to avoid duplication of oversight activity and ensure the most efficient use of resources.

## RESPONSE TO TERMS OF REFERENCE

### Complaints about the ATO

From 1 July 2012 to 31 May 2013 the Ombudsman received a total of 1702 complaints about the ATO, which represents a decrease of over 33% on complaints received for the same period last financial year. While the number of complaints received has reduced across the board, the decrease in complaints about the ATO is larger than for other comparable agencies.

### Complaint themes

The most common ATO complaints received related to:

- delay in income tax refunds
- administrative overpayments
- debt collection
- superannuation.

#### *Income tax returns*

The annual lodgement of income tax returns and the impact of the ATO's income tax return integrity (ITRI) checking activity remain significant factors in complaints about the ATO.

The effect of ITRI first came to our attention in 2011 following an influx in complaints concerning delay. In response to investigations and meetings with our office, the ATO undertook to improve its service delivery by, among other things, improving its communication with taxpayers and tax agents.

We are pleased to note that the ATO took into account the feedback provided by this office and has improved its communication with taxpayers.

While final figures are not yet available, the number of complaints investigated by the Ombudsman this year concerning income tax refund delay has reduced from the previous year.

### ***Administrative overpayment***

During the year we investigated a number of complaints about overpayments made by the ATO as a consequence of an error caused by a system change. While the system error has since been fixed, we continue to work with the ATO to reduce the impact on taxpayers through early detection, better communication and identifying available measures to mitigate any financial detriment.

### ***Debt collection***

Debt collection remains a persistent cause of complaints to the Ombudsman. A common theme identified by our office involved complainants who said that they only became aware of the debt after being contacted by a debt collection agency or after their bank account was garnisheed. The debt usually related to pay-as-you-go (PAYG) instalment accounts rather than an income tax debt. We established that the problem typically related to multiple accounts maintained by the ATO for the taxpayer, for example, in relation to PAYG, income tax, GST or superannuation. Taxpayers, however, are frequently unaware of the separate accounts or the need to update contact information relating to each of those accounts.

The ATO agreed to ensure that call centre staff inform callers wanting to change their address of the need to update their contact details in respect of other accounts, if they have them. The ATO also agreed to expand the information on its website concerning change of address, to provide a more practical guide.

### ***Superannuation***

Complaints about unpaid superannuation contributions are typically made by employees who are unhappy with the ATO's response to their enquiry. Concerns often focus on delay, lack of information or uncertainty about the ATO's progress towards collecting unpaid superannuation.

Investigation conducted by the Ombudsman revealed that the ATO treats enquiries about unpaid superannuation seriously but privacy and taxpayer confidentiality provisions restrict it from providing information concerning the tax affairs of another party (the employer) to anyone other than that person or an authorised representative.

Overall we found that the ATO follows due process in dealing with superannuation enquiries and has recently reviewed its advice letters to improve their clarity.

## **Other matters**

### ***Communication***

We continue to provide feedback to the ATO in relation to its letters and other communication with taxpayers.

The ATO undertook a special project to identify and review the top ten letters that generate contact with its call centres or complaints. The ATO continues to consult the Ombudsman on the progress of the project which is well advanced and covers a cross section of topics.

During the year we raised with the ATO the issue of providing prompt advice to taxpayers of system errors or outages, particularly those which the ATO considers may lead to processing backlogs or unavoidable delays. For example, a problem with the tax file number (TFN) registration system led to a backlog in registrations work resulting in applicants experiencing a delay in receiving their TFN.

The Ombudsman received a small but not insignificant number of complaints regarding this delay. We suggested to the ATO that providing early advice of the delay on its website would likely reduce the need for applicants to contact its call centres and may prevent subsequent complaints.

We note that the ATO has successfully applied the early advice principle particularly in the Income Tax Return Integrity (ITRI) program, where communication has improved overall.

### ***E-Tax lodgement using non windows based operating systems***

Complainants have approached the Ombudsman over several years about the lack of availability of the ATO's e-tax system to those who use Apple Mac or Linux operating system.

The ATO advised our office that it intended to make e-tax available to the other platforms users but that a major systems upgrade was underway and further work will be undertaken following the upgrade. It advised that it had included the operating system upgrade as part of its five-year forward work plan.

The ATO also advised that information on its website explains that taxpayers could purchase emulation software (making Apple Mac and Linux operating systems e-tax lodgement capable). The cost of the purchase is tax deductible but the taxpayer could only claim that portion of the cost that was related to preparing and lodging the return or managing tax affairs.

We suggested to the ATO that whilst the possibility of tax deductibility is an advantage, the apportionment, if the purchased program is used for purposes other than using e-tax, makes this option unnecessarily onerous. The options available to those affected are to use the services of a Tax Agent, lodge a paper return or outlay money to purchase software. We noted that the lack of availability of e-tax did not make it easier for these taxpayers to comply with their lodgement obligations.

The ATO undertook to give due consideration to the matter and advised that e-tax is expected to be available for Apple Mac users from July 2013.