

SUBMISSION No. 1
Biannual Public Hearing with
the Commissioner of Taxation



Australian Government
Australian Taxation Office

COMMISSIONER OF TAXATION

Mr Robert Oakeshott MP
Chair
Joint Committee of Public Accounts and Audit
Suite R1.108
Parliament House
CANBERRA ACT 2600

Dear Mr Oakeshott

I was looking forward to meeting with you prior to the public hearing to provide you with some background on our constructive relationship with the JCPAA and to ascertain whether there were particular points of interest for the Committee. However, I understand that a busy schedule may not make that possible.

I am pleased to enclose the ATO's report to the JCPAA for discussion at the public hearing on Friday, 4 March 2011.

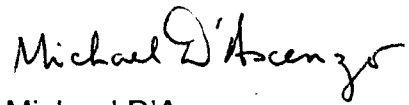
Our report summarises aspects of our performance so far in 2010-11, and some current issues which may be of interest to the Committee.

I have also attached a copy of the Strategic Statement for the 2010-15 years, which articulates our vision for the next five years, as well as a draft of the 2011-12 ATO Corporate Plan. We would welcome the comments of the Committee on these and other matters of administration. In particular, I would appreciate the Committee's guidance on how we could make further progress on the pathway set in our Strategic Statement 2010-15. I say this because the community's views on taxation and superannuation are influenced by their perceptions of the fairness and efficiency of these systems – largely matters outside our control. However, it is axiomatic that effective taxation and superannuation systems underpin the society and standards of living that we enjoy. For our part, the ATO seeks to provide a fair and efficient administration of the highest integrity. At its essence, we see the ATO's role as helping to create an environment that is conducive to high levels of proper participation in Australia's taxation and superannuation systems.

One way we do this is through the probity of our actions and the transparency of our processes. I have always seen our dialogue with the JCPAA as furthering this end.


I look forward to discussing our performance with the Committee and benefiting from the Committee's views and insights.

Yours sincerely,

A handwritten signature in black ink that reads "Michael D'Ascenzo". The signature is written in a cursive style with a large, looped initial "M".

Michael D'Ascenzo
Commissioner of Taxation

24 February 2011



REPORT

JCPAA

4 MARCH 2011

UNCLASSIFIED

FORMAT

AUDIENCE

DATE

CLASSIFICATION



Australian Government

Australian Taxation Office

:

Interim report on ATO performance in 2010–11
Joint Committee of Public Accounts and Audit
(JCPAA) hearing Friday 04 March 2011

UNCLASSIFIED

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LIST OF ATTACHMENTS

- Attachment 1: *2010–11 mid-year Plenary Governance Forum report*
- Attachment 2: *An early draft of our Corporate plan 2011–12*
- Attachment 3: *Our response to community disasters*
- Attachment 4: *Snapshot of ATO service standards performance 2010–11*
- Attachment 5: *Large business and tax compliance*
- Attachment 6: *'Tax Office update' article from National Accountant magazine*

INTRODUCTION

This is our eighth submission to the Joint Committee of Public Accounts and Audit (JCPAA) for its biannual hearings with the Commissioner of Taxation and Registrar of the Australian Business Register.

The submission presents:

- an update on our performance for the financial year so far, noting that our mid-year Plenary Governance report (See Attachment 1) was provided to the Committee in late December 2010;
- areas for improvement, including those identified in our *2009-10 Commissioner of Taxation Annual Report*;
- an overview of other matters pertinent to tax and superannuation administration; and
- an early draft of our *Corporate plan 2011–12* (See Attachment 2), which reflects the diversity and complexity of our role. The plan will be further developed in the context of a 3-year rolling approach. We will continue to refine our plans to deliver better outcomes for government and the community.

OUR PERFORMANCE FOR THE YEAR TO DATE

Our mid-year assessment of performance was submitted to the JCPAA Committee in late December 2010. We assessed that we were on track to deliver all:

- new Budget measures and those carried over from prior years, including the Strategic Compliance Initiative and the Income Tax Investment activities;
- corporate priorities; and
- activities detailed in the *2010–11 Compliance Program*.

In those areas where we found we were falling behind in performance, we have effective strategies in place. Some additional care will be required where there are issues outside our direct control, eg the legislative timetable. In addition, we assessed our risk governance processes as being robust and effective.

Natural disaster assistance was provided to taxpayers and practitioners affected by flood, cyclone and fire, with continuing support to small businesses adversely affected. We also supported our staff who were impacted. The ATO's disaster management plan allows for our response to natural disasters to be tailored to the nature and scale of the disaster and the individual taxpayer's circumstances (See Attachment 3). As floods, cyclones and fires have spread across Australia, we have been progressively adjusting our response.

The ATO mobilised over 200 field staff across flood-affected metropolitan and regional areas in Queensland, with a further 50 field staff working in cyclone-affected areas in Far North Queensland. Field assistance focuses on supporting the community and ensuring that immediate lodgment or debt pressures are relieved. As a general rule, the ATO will continue to defer 'firmer' lodgment, debt and compliance action for affected taxpayers, except in a few cases where the circumstances require action to continue. The ATO is also assisting taxpayers with record reconstruction and has run a number of information seminars for small businesses in affected communities.

Tax Time 2010 was undertaken successfully with our new integrated core processing (ICP) systems.

- In the Tax Time period (July to November 2010), the ATO intercepted about 27,500 suspect returns, containing refund claims totalling approximately \$124 million, a process which added two days to processing time.
- During Tax Time 2010, over 26,000 high risk returns were identified through the new pre-issue detection models. 93% of the returns stopped for further review were confirmed to be over-claimed or fraudulent returns, and resulted in approximately \$75 million in revenue adjustments (from \$119 million in refund claims analysed).

Our work to support taxation and superannuation guarantee compliance includes data matching to identify high risk 'sham contracting' cases. The level playing field strategy will see the completion of approximately 4,300 field audits over 4 years. From 1 July 2009 to 17 February 2011, 1,603 field cases have been completed, raising average adjustments of \$25,403 per case; nearly a third of which is superannuation guarantee.

AREAS FOR IMPROVEMENT

Our governance process identified a number of areas needing improvement, including:

- our performance against published service standards and our ability to meet community expectations;
- the collection of recoverable debt; and
- the speed and effectiveness of our recruitment processes.

Service standards performance

Overall, our service standards performance position has improved following the first quarter of 2010–11. By the end of the financial year we expect to meet our annual benchmarks, except for electronic tax returns for individuals, and the two complaints service standards. These standards are improving on a monthly basis (See Attachment 4).

The current position is a significant improvement on last year when we failed 12 service standards. The improvement is a result of our staff becoming more familiar with our new systems, reduced backlogs (associated with previous natural disasters), improved work processes and a focus on addressing the underlying causes of complaints. However, a focus on assisting those affected by recent natural disasters and an increased proclivity to complain early, has added to workloads.

A review of our service standards is underway to develop and deliver a service standards strategy that is both responsive to organisational and Government strategic directions, and takes into account contemporary community expectations.

Addressing complaints

Complaint receipt levels are falling, but remain high compared to historical levels. Backlogs are gradually being cleared, and we have allocated additional staff to process returns relating to complaints. We have a review of our complaint handling processes underway, with direct involvement by the Commonwealth Ombudsman's office. As requested in the JCPAA's Report 418, Recommendation 1, the ATO will provide the Committee with a report on community satisfaction with the new income tax system.

Meeting community expectations

Meeting the community's contemporary expectations in relation to service delivery is an emerging challenge and is an important driving force in the implementation of our *Strategic Statement*. While the community's view of our performance, measured through various perception surveys, has dipped slightly on last year, it is still strong.

Tax practitioner relationships

We are continuing to strengthen our relationships with tax professionals, some of whom were adversely affected by our Change Program release early in 2010. We are committed to improving our services to tax practitioners, and working with them and their clients to resolve issues.

The ATO's May 2010 professionalism survey (results published July 2010) found tax agents' view of overall professionalism of staff had remained relatively stable (89% in May 2010 versus 90% November 2009). However, our improved performance over the survey period is evidenced by the increased percentage of participants who responded as being 'very satisfied' (up from 35% to 44%), while the percentage of participants who responded as just 'satisfied' decreased from 55% to 45%.

We continue to work with the Tax Practitioners Board. An important milestone was achieved on 22 December 2010, when a Memorandum of Understanding between the chair of Tax Practitioner Board and the Commissioner was formally signed.

Collectable debt

Collectable debt levels remain slightly higher than our target of 5% of total collections, due largely to the lingering impacts of the global financial crisis and the concessions made during natural disasters. Similarly, levels of aged collectable debt remain higher than anticipated.

We continue to treat taxpayers empathetically where they are in genuine hardship, but to take firmer action where they are not engaging with us or where businesses are not viable.

Recruitment

In common with other Australian Public Service agencies, we are experiencing difficulty recruiting sufficient numbers of suitably qualified staff, particularly in the information technology area. To improve the effectiveness of our recruitment processes we have centralised corporate recruitment, implemented e-recruitment, rationalised spending on advertising, and established general labour hire and recruitment assessment services panels to allow us to respond flexibly to critical business requirements.

OTHER MATTERS OF INTEREST

Change Program completed

We consider the implementation of our Change Program an important achievement for the ATO. The history of the Change Program is detailed in our booklet *The Australian Tax Office Change Program* and this booklet is available to the Committee today. This new integrated platform positions the ATO to provide higher levels of service to the community, and provides significant efficiencies for the ATO.

Our new systems are working well and re-engineering of business processes to optimise system capability following implementation of the final phase of the Change Program is well underway.

The Australian National Audit Office (ANAO) previously reviewed aspects of the ATO's Change Program in Reports Numbers 04 to 38 (2009-10). In addition to using two independent assurers (Capgemini & Aquitaine Consulting), the implementation of the new Income Tax system has been independently reviewed by Peter Wright from CPT Global Limited who noted in August 2010, '*...the Tax Office has successfully implemented a complex program of work involving the establishment of ICP to complete the overall Change Program objectives*'. Further, a report into aspects of the Program has been provided to the Government by the Inspector-General of Taxation.

Relationship with large business

Our relationship with large business is built on principles of positive engagement, early evaluation and resolution of issues and ongoing dialogue. These themes underpin the *Large Business and Tax Compliance* booklet which was launched on 15 June 2010 (See Attachment 5). The booklet also highlights the options available to large business to lock in practical certainty and to streamline their dealings with us.

We continue working to provide a wider suite of options to address client tax risks, including:

- moving toward a relationship based on collaboration, trust and openness for those clients willing to engage;
- a greater focus on real time advice and tailored products to better inform clients on specific transactions; and
- an audit and review program focused on higher risk clients.

Superannuation

We continue to action all complaints that employers are not making appropriate superannuation guarantee payments:

- The number of employee complaints compared to the employee population is low (around 0.2%).
- Over the last 5 years we have raised, collected and paid over \$1 billion in superannuation guarantee charge for affected employees.
- The Government has announced the expansion of the director penalty regime to cover unpaid superannuation guarantee charge.
- The ATO agreed with 11 of the 12 recommendations in an Inspector-General of Taxation's report on the administration of the superannuation guarantee, which was tabled on 24 November 2010.
- The report found the system works well, although not as well for the least empowered or those incorrectly classified as independent contractors.
- We are concerned about the constitutional challenge to Australia's superannuation guarantee system in the High Court case of Roy Morgan.

We are progressively issuing assessments for excess contributions for the years for which we have the relevant data. The vast majority of cases (86% for the 2007–08 year) are where only the concessional cap is exceeded, with the result that tax is payable at marginal rates. Only 2% of cases involve the same amount exceeding both caps and therefore facing a 93% tax rate. The Commissioner's discretion to disregard or re-allocate contributions is very limited. About 8% of taxpayers affected ask for discretion to be exercised and it is exercised in about 20% of those cases.

Project Wickenby — Full results are available on www.ato.gov.au

The deterrent effect of Project Wickenby is significant:

- There has been a considerable decline in the level of annual fund flows from Australia to Vanuatu, Liechtenstein and Switzerland, where Project Wickenby has had a strong focus.
- Since Project Wickenby began, the average net tax payable by Wickenby taxpayers and associates has increased by 49% compared with a control group whose average net tax payable increased by 28% over the same period.

Project Wickenby collections from commencement to mid-December 2010 total \$540 million, including \$238 million in cash and \$301.7 million in improved voluntary compliance collections. Twenty six criminal investigations are currently underway, 60 people have been charged, and 16 convicted of serious offences.

On 17 December 2010, the Federal Court held that amended assessments were not invalidated if they relied on information illegally obtained by a third party (*Denlay v FCT [2010] FCA 1434 and [2010] FCA 1435*). An appeal has been lodged by the taxpayer.

Phoenix activity

From the start of 2010–11, legislation came into effect which provides the Commissioner of Taxation with enhanced powers to demand payment of a 'security bond'.

In the 2009–10 Budget, the Government provided the ATO with funding to undertake additional phoenix casework over the next four years.

- During 2009–10, tax and penalties raised from this funding was \$30.9 million – against a commitment to the Government to raise \$5.7 million from phoenix casework.
- As at 31 December 2010, the ATO was monitoring 381 phoenix cases involving \$173.5 million in unpaid liabilities.

Cash economy

To the end of December 2010, our activities in addressing the cash economy have raised total liabilities of around \$225 million. Around 28% is for GST, 41% is for income tax (including pay as you go withholding), 2% for other heads of revenue, and 29% for penalties.

We have benchmarked and published key business ratios for 107 industries, with 15 new cash sales benchmarks launched in November 2010. Media exposure on this issue has been widespread (See Attachment 6).

During the 2010–11 year we will issue 110,000 letters to taxpayers falling outside the benchmarks for their industry or where data indicates unreported income. Results to date from our voluntary compliance initiative are positive as 59% of those contacted responded positively to our letter.

AUSTRALIAN BUSINESS REGISTER (ABR)

Over 300,000 multi-agency security credentials were incorporated into AUSkey (online authentication), which was successfully launched on 17 May 2010. AUSkey supports the Standard Business Reporting (SBR) initiative, which went live on 1 July 2010. SBR has the potential to significantly reduce the burden and cost of business-to-government reporting.

OUR CENTENARY

The ATO centenary was recognised in a variety of events during 2010, culminating in events on 12 November 2010 at ATO sites and functions around Australia. These events all had a focus on engaging the community in the benefits of a world-class tax and superannuation administration, and included commemorative stamp and coin issues and book launches.

Corporate plan 2010–11

GUIDE TO ATTACHMENTS

PGF AGENDA ITEM 3,
PAPER NO. 1

RATING SCALE LEGEND



Work is **not meeting plan**.



Work is not on track but **is expected to meet plan** by the end of the reporting period.









Work is **on track** or just ahead of plan.

NOTES

- 1 The current ratings for each priority are outlined in Attachment A *Corporate plan 2010–11: Performance against the priorities*.
- 2 Where a contributing sub-plan has a different rating for a specific component. The work is the overall rating, this is identified.
- 3 A commentary is provided at Attachment B on all priorities which are tracking 'amber' or which have a specific component with a different rating.
















PROGRAM COMPONENT 1

Our administrative and technical expertise supports government priorities and encourages community participation

-  Assist in the design of new laws by providing advice to Treasury, the Board of Taxation and the government, including where laws may not be operating as intended
-  Implement the government's legislative program on time, including the government's agenda arising from the federal Budget, for example by providing assistance on tax consequences of environmental change and fuel tax issues
-  Compliance Sub-plan rating specifically in relation to the Alternative Fuels project.
-  Improve certainty through strategic litigation and public rulings as per our priorities for major technical issues
-  Provide online library and precedent tools
-  Work on cross-government initiatives, including:
 - Ahead of the Game: Blueprint for the Reform of Australian Government Administration
 - APS Service Delivery Strategy
 - APS ICT Governance
 - Public Sector Management Program
-  Deliver on key commitments under agreements with other agencies, for example exchanging information and data matching with Centrelink to detect welfare and tax fraud
-  Provide administrative support to the Tax Practitioners Board
-  Provide a leading role in the implementation of the Attorney-General's reform of legal professional services, including alternative dispute resolution
-  Provide ATO shopfront services from selected Centrelink sites and other centres
















PROGRAM COMPONENT 2

We support people and make it as easy as possible for them to fulfil their responsibilities at minimum cost

- GUIDANCE**
-  Prepare to handle over 12 million calls accurately in accordance with our service standards
 -  Compliance Sub-plan rating specifically in relation to tax practitioner calls
 -  Provide individual advice and guidance as outlined in the *Compliance program 2010–11*, within expected cycle times and quality standards
- REGISTER**
-  Maintain and update the client register for over 23 million active tax file numbers, ensuring high levels of data integrity while achieving our service standard benchmarks
- LODGE**
-  Manage over 41 million expected lodgments within quality and service standards
 -  Provide practical assistance, through our self-help and service channels, particularly at tax time, to support taxpayers
 -  Co-design the tax agent lodgment program to allow them to better manage their workloads
 -  Further expand e-tax by increasing opportunities for pre-filled returns
- ACCOUNTS**
-  Manage accounts that reflect the financial obligations and entitlements for taxpayers, transfer funds between accounts and make payments to taxpayers
 -  Protect taxpayers by enhancing our fraud-detection processes
- RECEIPTS**
-  Process over 19 million payments from taxpayers within quality and service standards
 -  Maintain our deferrals and payment arrangements where viable businesses face short-term financial difficulties
 -  Reduce the stock of ageing collectable debt by taking firmer action with those not engaged
 -  Maintain ratio of collectable debt to receipts under 5%
 -  Strengthen our approach to the management of superannuation guarantee debt to deliver an improved collection rate and reduce the level of superannuation guarantee debt holdings

PROGRAM COMPONENT 3





We provide support for people willing to participate and protect them by dealing with those not willing to comply

- LARGE BUSINESS**
-  Offer practical certainty through, annual compliance arrangements, advance pricing agreements, more timely rulings and enhanced relationships
 -  Continue dialogue with companies on their risk ratings and corporate governance and more sharply differentiate high and low risk corporates
 -  Undertake audits and risk reviews as outlined in the Compliance program 2010–11
- SMALL TO MEDIUM ENTERPRISES**
-  Provide assistance through tailored online products and tools, co-designed with businesses, including extending the small business chat room
 -  Adopt a mix of strategies to address areas of concern as outlined in the Compliance program 2010–11
- MICRO ENTERPRISES**
-  Provide assistance visits, self-help tools and practical guidance, for example the small business capital gains tax concessions tool
 -  Use enhanced data matching and industry benchmarks to address those who use cash transactions to hide and evade taxation obligations
 -  Deal with businesses not meeting their employer obligations and those who incorrectly report their income, including capital gains and losses, through increased data matching, audits and reviews
- INDIVIDUALS**
-  Provide information and decision-making tools such as the income test calculators
 -  Enhance our support to low-income, migrant and indigenous communities
 -  Engage Australian youth in understanding tax and superannuation
 -  Increase activities in the areas of incorrect claims and omissions in tax returns, including an increasing focus on refund fraud
 -  Increase activities in income reporting by highly paid company executives and directors
 -  Continue to extend coverage of high wealth individuals
- SUPERANNUATION**
-  Pilot a tailored support service for approved auditors of self-managed superannuation funds.

-  Follow up auditor contravention reports and promote auditor competence.
 -  Promote awareness of the contribution caps and follow-up cases where they are exceeded.
 -  Take firm action by disqualifying and prosecuting trustees and promoters who commit serious regulatory breaches, including through illegal early release schemes
 -  Investigate all employee superannuation guarantee complaints and proactively target those industries and employers showing a pattern of non compliance
- GOODS AND SERVICES TAX AND EXCISE**
-  Deliver on commitments to government, including GST commitments to the states and territories as outlined in the GST Administration Performance Agreement
 -  Focus on fraudulent GST refunds, systematic under reporting of GST liabilities (particularly in the property sector), non lodgment of GST returns and non payment of GST debts, as outlined in the *Compliance program 2010–11*
 -  Increase risk and audit activity on excise risk as outlined in the *Compliance program 2010–11*
- ABUSE OF THE TAX AND SUPERANNUATION SYSTEMS**
-  Issue taxpayer alerts to provide early warnings of our concerns.
 -  Identify, deter and prosecute crimes against the tax and superannuation systems, including refund fraud and abusive use of tax secrecy havens
 -  Address the risks associated with high risk advisory firms through potential application of the promoter penalty laws and increase the risk profile of their clients
- INTERNATIONAL**
-  Strengthen our international collaboration with other revenue authorities, including expanding the acquisition and exchange of data
 -  Work closely with our overseas counterparts on compliance risks of mutual concern
- TAX PRACTITIONERS**
-  Provide self-help support services, for example tax practitioner web casts, interactive bulletins and e-magazines; and encourage online dealings
 -  Increase our personalised dialogue with tax practitioners on their performance
 -  Develop strategies to optimise the role of the Tax Practitioners Board, including the referral of tax practitioners

PROGRAM COMPONENT 4 AUSTRALIAN BUSINESS REGISTER

The ABR provides the key to initiatives that streamline online dealings between businesses and all levels of government

-  Support the implementation of the Standard Business Reporting (SBR) initiative by delivering services, including authentication and core services across government
-  Transition SBR into business-as-usual
-  EST Sub-plan rates this priority as "Amber"
-  Position ABR, ABN and AUSKey as whole-of-government tools for business and government

PROGRAM COMPONENT 5 AUSTRALIAN VALUATION OFFICE

We are a trusted valuer for governments; recognised for our public sector knowledge of government assets and robust and independent valuations

-  Provide expert valuation advice and services to government agencies, meeting rates of return in alignment with competitive neutrality requirements
-  Provide quality and value for money service under our long-term contract with Centrelink
-  Undertake a business operation review to leverage optimal client service







ENABLING COMPONENT 1 GOVERNANCE AND STEWARDSHIP

We are open and accountable through our robust governance framework

-  Promote our Strategic statement 2010–15 which focuses on community ownership of Australia's tax and superannuation systems.
-  Exercise strong corporate governance to achieve measurable productivity gains and continuous improvement.
-  Implement our new enterprise risk management framework.
-  Implement agreed outcomes of reviews by Parliament, the ANAO, Ombudsman and the Inspector General of Taxation.
-  Effectively manage high security risks in accordance with our security framework.
-  Improve our forecasting and understanding of our cost drivers to manage within budget.
-  Refresh our strategic forums, programs and approach to align with our strategic direction.
-  Build our technology program of work to align with the ATO's corporate priorities.
-  Develop an ATO resource plan that reflects our budgeting, workforce planning and property strategies.







ENABLING COMPONENT 2 PEOPLE AND PLACE

We enhance the capability of our people to meet our corporate outcomes now and into the future

-  Progress implementation of the ATO People strategy 2009–2012.
-  Continue to improve our peoples' engagement and productivity, taking into account our employee engagement survey by:
 - improving employee engagement among specific groups of employees and priority locations
 - strengthening the role of leaders and managers in managing change
 - improving our approaches to career development and training
-  Implement our corporate learning and development plan activities.
-  Establish an innovation centre of expertise to support an innovative culture.
-  Use the ATO centenary as part of our engagement initiatives.
-  Build on site leadership through increased SES involvement.











ENABLING COMPONENT 3 INFORMATION TECHNOLOGY AND BUSINESS DESIGN

Our processes, infrastructure and technology meet the changing needs of the community

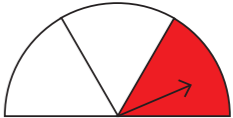

-  Deliver tax time for 2010 and prepare for tax time 2011.
-  Refresh our online strategy and improve our web presence.
-  Improve advice and guidance work practices and processes, particularly those associated with private rulings.
-  Deliver on the ATO's roles in whole-of-government initiatives.
-  Improve our processes by:
 - strengthening the integrity of our data by increasing the use of automated system checks
 - refining notices of assessment and statements of account, including consideration of online options.
-  Implement new arrangements for managed network services, end user computing, enterprise service management centre and centralised computing (2010–12).
-  Continue to seek opportunities to adopt new technologies, including web 2.0 technologies.
-  Promote safeguards against technology-enabled threats, in particular identity theft.
-  Open new facilities for Geelong (April 2011), Melbourne CBD (April 2012), Adelaide (October 2012), Albury (October 2012) and Penrith (2012-13) to better support our business needs.
-  Enhance performance and productivity by reengineering enterprise wide work practices and processes delivering greater efficiency and improved client services.

PROGRAM COMPONENT 1

Our administrative and technical expertise supports government priorities and encourages community participation

	Assist in the design of new laws by providing advice to Treasury, the Board of Taxation and the government, including where laws may not be operating as intended
	Implement the government's legislative program on time, including the government's agenda arising from the federal Budget, for example by providing assistance on tax consequences of environmental change and fuel tax issues
	Compliance Sub-plan rating specifically in relation to the Alternative Fuels project.
	Improve certainty through strategic litigation and public rulings as per our priorities for major technical issues
	Provide online library and precedent tools
	Work on cross-government initiatives, including: <ul style="list-style-type: none"> ■ Ahead of the Game: Blueprint for the Reform of Australian Government Administration ■ APS Service Delivery Strategy ■ APS ICT Governance ■ Public Sector Management Program
	Deliver on key commitments under agreements with other agencies, for example exchanging information and data matching with Centrelink to detect welfare and tax fraud
	Provide administrative support to the Tax Practitioners Board
	Provide a leading role in the implementation of the Attorney-General's reform of legal professional services, including alternative dispute resolution
	Provide ATO shopfront services from selected Centrelink sites and other centres

COMMENTARY ON PERFORMANCE EXCEPTIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
PROGRAM COMPONENT 1				
(Compliance sub-plan aspects only) Implement the Government's legislative program on time, including the Government's agenda arising from the Federal Budget, for example by providing assistance on tax consequences of environmental change and fuel tax issues. <i>(Note: this response is duplicated in Deliverables 1.1 – Policy advice and revenue forecasting, and 3.1 – Marketing and communications)</i>	Alternative Fuels project delays in the release of the Government's discussion paper and policy development.	Implementation on 1 July 2011. Significant risks to client readiness due to late finalisation of policy and passage of the legislation.	Mitigation strategy is being finalised for presentation to Policy Implementation Forum (PIF) on 1 December 2010. Media release and discussion paper for industry consideration published. Initial limited consultation between Treasury and industry has occurred. Approval to ready taxpayers based on information in the Bills introduced in March 2011.	 Current status – RED Outlook – RED
Deliver on key commitments under agreements with other agencies, for example exchanging information and data matching with Centrelink to detect welfare and tax fraud. <i>(Note: this response is duplicated in Deliverable 1.6 – Cross-agency support)</i>	CSA (Child Support Agency) telephony work is behind schedule with our YTD Active Compliance plan. This is mainly due to the transfer of work across sites early in the financial year.	No impact on achieving commitments in the MOU.	Adjustments to our priorities as well as additional staff will see us on track over the next few months.	 Current status – AMBER Outlook – GREEN

PROGRAM COMPONENT 2

We support people and make it as easy as possible for them to fulfil their responsibilities at minimum cost

GUIDANCE



Prepare to handle over 12 million calls accurately in accordance with our service standards



Compliance Sub-plan rating specifically in relation to tax practitioner calls



Provide individual advice and guidance as outlined in the *Compliance program 2010–11*, within expected cycle times and quality standards

REGISTER



Maintain and update the client register for over 23 million active tax file numbers, ensuring high levels of data integrity while achieving our service standard benchmarks

LODGE



Manage over 41 million expected lodgments within quality and service standards



Provide practical assistance, through our self-help and service channels, particularly at tax time, to support taxpayers



Co-design the tax agent lodgment program to allow them to better manage their workloads



Further expand e-tax by increasing opportunities for pre-filled returns

COMMENTARY ON PERFORMANCE EXCEPTIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
PROGRAM COMPONENT 2				
GUIDANCE: ATO OVERALL Prepare to handle over 12 million calls accurately in accordance with our service standards		Note: Of the general and tax practitioner calls received and answered YTD October through the ATO, 96% is actioned through Operations and 4% through Compliance.		 Current overall status GREEN.
GUIDANCE (Compliance Sub-plan aspects only) <i>(Note: this response is duplicated in Deliverables 2.3 – Client Contact)</i>	Compliance Sub-plan service standards have not been met for tax practitioner calls. This is due to: ■ Ongoing Change Program deployment issues ■ Ongoing problems with the Tax Agent Portal.	As a result of the high volumes of complaints, we have received far greater volumes of calls from Tax Practitioners. Practitioners have also been impacted by instability with the Tax Agent Portal, resulting in a need to contact the ATO to resolve their issue.	Additional staff have been recruited or transferred; this will take place between November 2010 and January 2011. Relationship Managers are emphasising the importance and opportunity of self-service to practitioners. While it is expected that service standards will be met, the following factors will play a major role: ■ Volume of registered BAS agent calls ■ Portal outages ■ Complaints volumes ■ Successful transition of contact centre sites to managed network services (MNS).	 Current status – AMBER Outlook – GREEN
LODGE Manage over 41 million expected lodgments within quality and services standards (Operations sub-plan aspects only)	ICP system issues have impacted the processing of income tax returns – Electronic: Individuals	Taxpayers have not been receiving their refunds within expected timeframes. This results in increased calls, hardship claims, complaints, and flow on impacts to other service standards.	Operations over-engineered for Tax Time 2010 to minimise impacts on the community, including engaging additional resources, implementing system fixes, increased work arounds, and keeping the community informed about processing delays.	 Operations Sub-plan Whilst this lodgment service standard will not recover at year end due to the volume of cases processed out of standard in the first few months of financial year, focus is on ensuring that we meet or exceed this standard for remainder of the financial year.
Compliance Sub-plan aspects only	There have been no improvements in Activity Statement lodgment rates for 2010-11.	No discernible impact on the community. From the ATO's perspective, there is no immediate impact as the Active Compliance plans have been met.	Differentiated strategies have been developed for addressing the AS lodgment decline with a focus on those taxpayers who have never lodged since registration or have stopped lodging and not resumed. Strategies will be tested using a sampling approach, commencing in December-January 2011 before full implementation. It is envisaged that improving registration integrity is likely to positively influence the overall lodgment trends by removing those who do not have a requirement to lodge activity statements.	 Compliance Sub-plan Current status – AMBER Outlook – GREEN

PROGRAM COMPONENT 2

We support people and make it as easy as possible for them to fulfil their responsibilities at minimum cost

ACCOUNTS



Manage accounts that reflect the financial obligations and entitlements for taxpayers, transfer funds between accounts and make payments to taxpayers



Protect taxpayers by enhancing our fraud-detection processes

RECEIPTS



Process over 19 million payments from taxpayers within quality and service standards



Maintain our deferrals and payment arrangements where viable businesses face short-term financial difficulties



Reduce the stock of ageing collectable debt by taking firmer action with those not engaged



Maintain ratio of collectable debt to receipts under 5%



Strengthen our approach to the management of superannuation guarantee debt to deliver an improved collection rate and reduce the level of superannuation guarantee debt holdings

COMMENTARY ON PERFORMANCE EXCEPTIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
PROGRAM COMPONENT 2				
ACCOUNTS Manage accounts that reflect the financial obligations and entitlements for taxpayers, transfer funds between accounts and make payments to taxpayers	Currently four accounts service standards are not being met predominantly due to system issues.	The community are not receiving all of their entitlements within service standards. This has resulted in increased complaints leading to increased ATO work loads, manual workarounds and interest payments.	All accounts service standards expect to be recovered as a result of working with EST Sub-plan to correct system issues and by implementing manual workarounds for processing and reporting.	 Current status – AMBER Outlook – AMBER
RECEIPTS Reduce the stock of ageing collectable debt by taking firmer action with those not engaged	Aged collectable debt levels remain high in part due to our deferrals and payment arrangements where viable businesses face short-term financial difficulties	Provide assistance to taxpayers experiencing genuine hardship. Application of Debt Right Now! (DRN!) and viability assessment may lead to firmer action for those not remaining engaged.	Debt Right Now! and business viability tools used to target and better treat taxpayers according to their circumstances. Transparency of collection actions through issues of Firmer Action – Fact Sheet. Availability of credit card options	 Current status – AMBER Outlook – AMBER
Maintain ratio of collectable debt to receipts under 5%	Collectable debt levels remain higher than 5% of ATO net revenue as a result of global financial crisis (GFC) impacts. Levels were also impacted by R3 implementation issues.	Business is still reflecting cash flow difficulties, particularly Micro and SME segments. Higher levels of Superannuation Guarantee debt impact community confidence levels regarding the ATO's ability to protect retirement income.	Increased focus on Superannuation Guarantee Contribution aged debt utilising write offs. As above re DRN! and viability assessment.	 Current status – AMBER Outlook – Amber

PROGRAM COMPONENT 3

We provide support for people willing to participate and protect them by dealing with those not willing to comply

LARGE BUSINESS



Offer practical certainty through, annual compliance arrangements, advance pricing agreements, more timely rulings and enhanced relationships



Continue dialogue with companies on their risk ratings and corporate governance and more sharply differentiate high and low risk corporates



Undertake audits and risk reviews as outlined in the Compliance program 2010–11

SMALL TO MEDIUM ENTERPRISES



Provide assistance through tailored online products and tools, co-designed with businesses, including extending the small business chat room



Adopt a mix of strategies to address areas of concern as outlined in the Compliance program 2010–11

MICRO ENTERPRISES



Provide assistance visits, self-help tools and practical guidance, for example the small business capital gains tax concessions tool



Use enhanced data matching and industry benchmarks to address those who use cash transactions to hide and evade taxation obligations



Deal with businesses not meeting their employer obligations and those who incorrectly report their income, including capital gains and losses, through increased data matching, audits and reviews

NO PERFORMANCE EXCEPTIONS






PROGRAM COMPONENT 3

We provide support for people willing to participate and protect them by dealing with those not willing to comply

INDIVIDUALS

-  Provide information and decision-making tools such as the income test calculators
-  Enhance our support to low-income, migrant and indigenous communities
-  Engage Australian youth in understanding tax and superannuation
-  Increase activities in the areas of incorrect claims and omissions in tax returns, including an increasing focus on refund fraud
-  Increase activities in income reporting by highly paid company executives and directors
-  Continue to extend coverage of high wealth individuals

SUPERANNUATION

-  Pilot a tailored support service for approved auditors of self-managed superannuation funds.
-  Follow up auditor contravention reports and promote auditor competence.
-  Promote awareness of the contribution caps and follow-up cases where they are exceeded.
-  Take firm action by disqualifying and prosecuting trustees and promoters who commit serious regulatory breaches, including through illegal early release schemes
-  Investigate all employee superannuation guarantee complaints and proactively target those industries and employers showing a pattern of non compliance




COMMENTARY ON PERFORMANCE EXCEPTIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
PROGRAM COMPONENT 3				
INDIVIDUALS Increase activities in the areas of incorrect claims and omissions in tax returns, including an increasing focus on refund fraud	There has been an increase in refunds stopped by the expert business rules. This year's program has introduced new processes, new risk tests, and expansion of the expert business rules to all lodgment channels.	Refunds identified as high risk will only issue once the ATO is satisfied that the claims made can be supported. As a result, some returns stopped by the models will not issue within charter standards.	We have implemented a letter strategy to inform taxpayers that their return has been stopped and what they can expect to occur during the processing of the return. This has significantly reduced the volume of complaints and progress of refund enquiries compared to the same time last year. We have recruited additional staff during the peak lodgment period to enable more timely reviews to occur.	 Current status – AMBER Outlook – GREEN
SUPERANNUATION Promote awareness of the contribution caps and follow-up cases where they are exceeded	System stability issues are impacting on our ability to deal with breaches of the contributions caps in a timely manner.	<ul style="list-style-type: none"> ■ Issue assessments in a timely manner ■ Inability to process excess contributions tax (ECT) amendments and impose release authority penalties on funds. ■ Delays to advising taxpayers that they have excess contributions have materially impeded the deterrent effect that assessments may have had on contribution making behaviour. The number of assessments issued is currently 40%+ behind plan at this stage. 	Where possible workarounds have been developed to cater for system design inadequacies. We continue to revise our advice and active compliance resource planning in line with developing/changing expectations about the number of pre-assessment letters and assessments expected to issue.	 Current status – AMBER Outlook – GREEN




PROGRAM COMPONENT 3

We provide support for people willing to participate and protect them by dealing with those not willing to comply



GOODS AND SERVICES TAX AND EXCISE

-  Deliver on commitments to government, including GST commitments to the states and territories as outlined in the GST Administration Performance Agreement
-  Focus on fraudulent GST refunds, systematic under reporting of GST liabilities (particularly in the property sector), non lodgment of GST returns and non payment of GST debts, as outlined in the *Compliance program 2010–11*
-  Increase risk and audit activity on excise risk as outlined in the *Compliance program 2010–11*




ABUSE OF THE TAX AND SUPERANNUATION SYSTEMS

-  Issue taxpayer alerts to provide early warnings of our concerns.
-  Identify, deter and prosecute crimes against the tax and superannuation systems, including refund fraud and abusive use of tax secrecy havens
-  Address the risks associated with high risk advisory firms through potential application of the promoter penalty laws and increase the risk profile of their clients

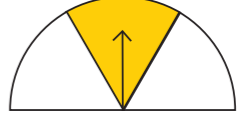
INTERNATIONAL

-  Strengthen our international collaboration with other revenue authorities, including expanding the acquisition and exchange of data
-  Work closely with our overseas counterparts on compliance risks of mutual concern

TAX PRACTITIONERS

-  Provide self-help support services, for example tax practitioner web casts, interactive bulletins and e-magazines; and encourage online dealings
-  Increase our personalised dialogue with tax practitioners on their performance
-  Develop strategies to optimise the role of the Tax Practitioners Board, including the referral of tax practitioners

COMMENTARY ON PERFORMANCE EXCEPTIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
PROGRAM COMPONENT 3				
ABUSE OF THE TAX AND SUPERANNUATION SYSTEMS	Although a number of alerts have been prepared we are still behind plan, with only three Taxpayer Alerts having been issued during the reporting period.	One article by a tax practitioner referred to the ATO “going quiet” on alerts.	We continue to engage business line stakeholders post-issue of alerts to ensure necessary ATO advice products are issued and that agreed compliance activities occur. We are also exploring the use of an early warning listing of potential aggressive tax planning arrangements for the ATO website.	 Current status – AMBER Outlook – GREEN
	Address the risks associated with high risk advisory firms through potential application of the promoter penalty laws and increase the risk profile of their clients <i>(Note: this response is duplicated in Deliverables 3.1 – Marketing and Communications)</i>	We have identified a range of contestable arrangements and advisors that have the potential for application of the promoter penalty laws (PPL). These include: sale and leaseback arrangements; retirement villages; debt deduction generators; and synthetic asset tracking notes. However, we do not have the capacity and technical capability to progress these issues at this point in time. The release of the tax advisors ‘good governance guide’ is behind plan. This is the key strategy for communicating with tax practitioners and advisors.	The tax advisors ‘good governance guide’ is the key strategy for communicating with tax practitioners and advisors. We are looking to address this gap by recruiting appropriately skilled staff and exploring workforce shift and other opportunities within compliance business lines to treat these risks. We have developed a blueprint for change that would facilitate the ATO being able to ensure that advisors with a history of association with highly contestable arrangements are a factor in the overall risk assessment of taxpayers. The ‘good governance’ guide is now to be released early in 2011. A version has been prepared for consultation with key internal and external stakeholders including the NTLG Promoter Penalty sub-committee and the Tax Practitioners Board.	 Current status – AMBER Outlook – GREEN

PROGRAM COMPONENT 4 AUSTRALIAN BUSINESS REGISTER

The ABR provides the key to initiatives that streamline online dealings between businesses and all levels of government



Support the implementation of the Standard Business Reporting (SBR) initiative by delivering services, including authentication and core services across government



Transition SBR into business-as-usual



EST Sub-plan rates this priority as “Amber”



Position ABR, ABN and AUSkey as whole-of-government tools for business and government

PROGRAM COMPONENT 5 AUSTRALIAN VALUATION OFFICE

We are a trusted valuer for governments; recognised for our public sector knowledge of government assets and robust and independent valuations



Provide expert valuation advice and services to government agencies, meeting rates of return in alignment with competitive neutrality requirements



Provide quality and value for money service under our long-term contract with Centrelink



Undertake a business operation review to leverage optimal client service

COMMENTARY ON PERFORMANCE EXCEPTIONS

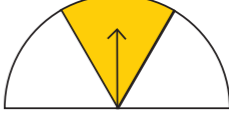
TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
PROGRAM COMPONENT 4				
Transition SBR into business-as-usual (EST sub-plan aspects only)	Work to transition AUSkey capability to the ABR business line has slowed as the transition will now be to the BRR/SBR team and not the ABR team	The BRR/SBR team needs to increase resources before transition can occur	In the interim, Business Solutions continues to manage communication, issues and complaints	 Current status – AMBER Outlook – GREEN

ENABLING COMPONENT 1 GOVERNANCE AND STEWARDSHIP

We are open and accountable through our robust governance framework

-  Promote our Strategic statement 2010–15 which focuses on community ownership of Australia's tax and superannuation systems.
-  Exercise strong corporate governance to achieve measurable productivity gains and continuous improvement.
-  Implement our new enterprise risk management framework.
-  Implement agreed outcomes of reviews by Parliament, the ANAO, Ombudsman and the Inspector General of Taxation.
-  Effectively manage high security risks in accordance with our security framework.
-  Improve our forecasting and understanding of our cost drivers to manage within budget.
-  Refresh our strategic forums, programs and approach to align with our strategic direction.
-  Build our technology program of work to align with the ATO's corporate priorities.
-  Develop an ATO resource plan that reflects our budgeting, workforce planning and property strategies.

COMMENTARY ON PERFORMANCE EXCEPTIONIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
ENABLING COMPONENT 1				
Build our technology program of work to align with the ATO's corporate priorities	Forward program of work not yet finalised	No material impact	Endorsement by ATO Exec expected in December 2010	 Current status – AMBER Outlook – GREEN

ENABLING COMPONENT 2 PEOPLE AND PLACE

We enhance the capability of our people to meet our corporate outcomes now and into the future



Progress implementation of the ATO People strategy 2009–2012.



Continue to improve our peoples' engagement and productivity, taking into account our employee engagement survey by:

- improving employee engagement among specific groups of employees and priority locations
- strengthening the role of leaders and managers in managing change
- improving our approaches to career development and training



Implement our corporate learning and development plan activities.



Establish an innovation centre of expertise to support an innovative culture.



Use the ATO centenary as part of our engagement initiatives.



Build on site leadership through increased SES involvement.

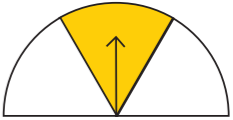
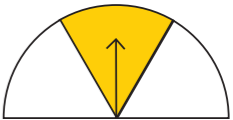
NO PERFORMANCE EXCEPTIONS

ENABLING COMPONENT 3 INFORMATION TECHNOLOGY AND BUSINESS DESIGN

Our processes, infrastructure and technology meet the changing needs of the community

-  Deliver tax time for 2010 and prepare for tax time 2011.
-  Refresh our online strategy and improve our web presence.
-  Improve advice and guidance work practices and processes, particularly those associated with private rulings.
-  Deliver on the ATO's roles in whole-of-government initiatives.
-  Improve our processes by:
 - strengthening the integrity of our data by increasing the use of automated system checks
 - refining notices of assessment and statements of account, including consideration of online options.
-  Implement new arrangements for managed network services, end user computing, enterprise service management centre and centralised computing (2010–12).
-  Continue to seek opportunities to adopt new technologies, including web 2.0 technologies.
-  Promote safeguards against technology-enabled threats, in particular identity theft.
-  Open new facilities for Geelong (April 2011), Melbourne CBD (April 2012), Adelaide (October 2012), Albury (October 2012) and Penrith (2012-13) to better support our business needs.
-  Enhance performance and productivity by reengineering enterprise wide work practices and processes delivering greater efficiency and improved client services.

COMMENTARY ON PERFORMANCE EXCEPTIONS

TOPIC / ITEM	ISSUE AND CAUSE	IMPACT ON THE: COMMUNITY &/OR ATO	MITIGATION IN PLACE	OUTLOOK
ENABLING COMPONENT 3				
Implement new arrangements for managed network services, end user computing, enterprise service management centre and centralised computing (2010-12)	The overall Program status is currently Amber due to the issues surrounding the managed network services (MNS) Transition Contact Centre rollout. All other components of the Transition have been delivered.	Three risks may impact the effective implementation of the new infrastructure contracts: <ol style="list-style-type: none"> 1 The financial value of the contract increases beyond the budget estimate 2 The Service Providers do not co-operate in the multi-service provider environment 3 Transition / disengagement is delayed. 	However, there are currently no material issues with managing our infrastructure services arrangements.	 Current status – AMBER Outlook – GREEN
	MNS Transition Contact Centre implementation. The Optus MNS contract transition to the new Contact Centre solution has been delayed until mid February 2011. User Acceptance Testing has revealed some defects that require remediation.	Nil – services continue to be provided by incumbent	ATO has adjusted commercial arrangements with the existing incumbents to continue to provide services.	The current target for the first pilot is 21 November 2010 with implementation scheduled to be complete by mid February 2011.
Continue to seek opportunities to adopt new technologies, including web 2.0 technologies	The current approach is not effectively coordinated	No impact	Specific ownership to be identified/ allocated	 Current status – AMBER Outlook – GREEN



Draft ATO corporate plan 2011–12

MESSAGE TO THE COMMUNITY

[UNDER DEVELOPMENT]

This year's corporate plan sets out our key priorities for the year. These help us to deliver to the community our strong and reliable tax and superannuation systems.

I strongly believe that taxes are the price we pay for a civilised society and a high standard of living. Continuing to pay your right amount of tax and manage your super obligations legally and ethically, as a good citizen in the Australian community, enables you to enjoy the benefits of government services.

We use our expertise to encourage and support participation in these systems and we operate with the highest integrity in protecting the community by dealing with those who do not meet their obligations.

Our approach to working with the community is to encourage, support, protect, enhance and champion efficient, effective and ethical tax and superannuation systems. This year we will continue to support those who are recovering from a number of natural disasters. Wherever there are opportunities to assist the community, we will act quickly and efficiently.

To maintain trust in and strengthen Australia's community assets of the tax and superannuation systems, we listen and strive to meet your expectations by improving our services. Our people, infrastructure and technology are essential in providing our services and we continue to work in a way that is open, accountable and within budget.

Other key responsibilities the ATO administers:**Australian Business Register**

- Provide authoritative information and reduce the cost of compliance through the delivery of online services to support business and government interactions, including streamlining registration, authentication and reporting.
 - Manage the Australian Business Register, and the Australian Business Number (ABN) as the key identifier for business
 - Work with government to implement Standard Business Reporting
 - Manage the AUSKey system; a single electronic credential for business dealing with government.
 - Ensure the integrity of ABN

Australian Valuation Office

- Provide expert valuation advice and services to government agencies, including under our long-term memorandum of understanding with Centrelink and meeting rates of return, in alignment with competitive neutrality requirements.
- Implement a program of refreshing our business applications to enhance our services to government clients.

OUR ROLE

- Australian Government's principal revenue collection agency
- large payer of Australian Government funds
- administrator of major aspects of Australia's superannuation system
- custodian of the Australian Business Register
- business operations of the Australian Valuation Office

Our expertise supports government priorities and encourages community participation

- Champion the care and maintenance of the laws governing Australia's tax and superannuation systems by:
 - providing high quality input to the design of new laws
 - monitoring and advising on the performance of the corporate tax system with the business and professional communities, and championing opportunities for improvement where laws may not be operating as intended (through engagement with the Treasury, Board of Taxation and Government)
 - implementing the government's extensive legislation program, including the Cooper review, the Minerals Resource Rent Tax and 2011 Budget matters
 - providing assistance on the tax consequences of fuel tax issues
- Engage with taxpayers and their representatives to identify and resolve priority issues of uncertainty and contention in the law through:
 - public rulings and strategic litigation on major law issues
 - facilitating speedy resolution of disputes, including the use of alternative dispute resolution strategies
 - providing individual advice and guidance within timeframes and quality standards
- Contribute to whole-of-government initiatives
- Implement strategies to improve youth engagement with the tax and superannuation systems across all levels of the education system
- Implement a mix of strategies to deal with trustees of self managed superannuation funds where we are concerned with compliance
- Evaluate implications from the review of the Tax Agent Services Act 2009

We support people willing to participate and make it as easy as possible for them to fulfil their responsibilities at minimum cost

- Seek opportunities to better support and influence taxpayers, whilst increasing our understanding of taxpayer expectations and emerging trends
- Meet or exceed our agreed service standards
- Ensure our business processes, education and compliance strategies support differentiated approaches and allow flexibility to cater for external conditions (eg, natural disasters, short term financial difficulties)
- Build on our strong relations with taxpayers and tax practitioners by providing greater differentiated services to more directly influence their compliance behaviours
- Initiate the ATO Enterprise Systems Roadmap to deliver and support electronic service delivery, our dealings with people and continued efficiencies in our administration 2011-15
- Develop initiatives to transition the community to electronic and online interactions with reductions in telephony and paper processing
- Promote the development and implementation of an integrated strategy to support the full integration of all preferred channels including emerging channels into the ATO service model
- Maintain our deferrals and payment arrangements where viable businesses face short term financial difficulties
- Reduce the stock of ageing collectable debt by taking firmer action with those not engaged or not viable and ensure the ratio of collectable debt to receipts remains under 5%
- Provide assistance through tailored online products, co-designed with business such as the small business chat room
- Implement a professional to professional support service to approved auditors of self managed superannuation funds

We are open and accountable through our robust governance framework

- Drive alignment with our strategic statement aspirations by:
 - using our *Strategic statement 2010-15* to frame and focus our design forums and strategic planning processes
 - drawing the line of sight between our *Strategic statement 2010-15* and plans so that staff are provided with clear direction and purpose
 - integrating our business, workforce and accommodation planning, budget allocation, risk management, capital management and the IT Forward Plan
- Maintain a strong system of accountability and transparency by:
 - publicly accounting our performance through the *Annual Report*, Senate Estimates and JCPAA hearings
 - driving connections to enterprise-wide reporting and championing the efficient, effective and ethical management of our affairs and balancing our budget
 - implementing the agreed outcomes of reviews by the Parliament, ANAO, Commonwealth Ombudsman, Inspector General of Taxation, Internal Audit and internal reviews
 - publishing what we do and the outcomes achieved in our key corporate documents including the *Compliance program*, taxation statistics and service standards
 - keeping a focus on integrity to minimise corruption

We enhance the capability of our people to meet our corporate outcomes now and into the future

- Sustain our culture of engagement, productivity and integrity by:
 - implementing the new Enterprise Agreement
 - promoting continuous improvement and innovation through the innovation centre of expertise
 - targeting improvement strategies for Engagement Survey hot spots (eg, specific sites and time in role)
 - supporting site leadership to facilitate community spirit, social cohesion, performance management, talent development and business outcomes, championed by our SES
- Recruit people reflective of the community with the talent and potential to meet our business needs, including:
 - targeted programs from APS Level 1, including targeting graduates, school leavers and indigenous recruits
 - using a range of flexible employment arrangements to manage workload peaks
- Grow our expertise through enterprise-wide learning and development by:
 - continuing to implement the learning management system, finalising job profiling and delivering the ATO Career Management program and a range of development and advancement programs eg, graduates and EAAP officers
 - enhancing the leadership capability of our frontline managers
- Provide a safe and professional work environment by:
 - opening a new facility in Melbourne CBD (April 2012)
 - focusing on prevention, early intervention and encouraging personal responsibility for health and safety

OUR VALUES

- Being fair and professional
- Applying the rule of law
- Supporting people who want to do the right thing and being fair, but firm, with those who don't
- Being consultative, collaborative and willing to co-design
- Being open and accountable
- Being responsive to challenges and opportunities

We protect people by dealing with those not willing to comply

- Address areas of concern as outlined in the *Compliance program 2011-12*
- Continue to target recipients of funds through the government's economic stimulus plan who avoid or deliberately evade their tax & superannuation obligations
- Collaborate with the community to improve the ATO's monitoring of the tax system and champion opportunities for improvement in compliance systems and service delivery
- Focus on the competence of approved auditors through education and targeted audit and review programs
- Work with the community (both taxpayers and intermediaries) to help them recognise, reject and report tax avoidance arrangements and tax schemes
- Further develop differentiated approaches to improve compliance and engagement
- Continue dialogue with large companies on their risk ratings & governance of tax risks
- Work with high risk law and accounting firms and key financial institutions to address tax risks
- Implement a mix of strategies to deal with issues relating to the taxation of trusts
- Take firm action against trustees and promoters committing serious breaches, including through illegal early release schemes
- Identify, deter and apply sanctions under the promoter penalty laws to those entities who engage in purposeful and deliberate promotion of tax avoidance schemes
- Investigate all employee superannuation guarantee complaints and proactively target those industries and employers showing a pattern of non-compliance
- Use enhanced data matching and industry benchmarks to address those who use cash transactions to avoid their obligations, with a focus on small business operators who fail to report some or all cash transactions
- Deliver on commitments to government, including GST commitments to the states and territories, as outlined in the GST Administration Performance Agreement
- Focus on fraudulent GST refunds, under-reporting of GST liabilities, non-lodgement of GST returns and non-payment of GST debts as outlined in the *Compliance program 2011-12*
- Work to ensure a level playing field for contractors and individual taxpayers
- Strengthen our focus on the most serious crimes against the tax and superannuation systems, including abusive use of secrecy havens, and prosecute where appropriate
- Strengthen involvement in multi-agency task forces that target the tax implications of organised crime
- Continue to deal with abusive use of secrecy havens including Project Wickenby
- Strengthen our collaboration with other revenue authorities, JITSIC and the OECD, with a focus on transparency of financial transactions and joint compliance actions
- Offer practical certainty through annual compliance arrangements, advance pricing agreements, more timely rulings & enhanced relationships
- Develop strategies to optimise the role of the Tax Practitioners Board, including the referral of tax practitioners
- Support a national non-profit regulator to improve sector accountability and transparency

Our processes, infrastructure and technology meet the changing needs of the community

- Build and maintain the administrative and compliance platforms that support revenue benefits and retirement income systems for government and the community, in particular deliver Tax Time 2011 and prepare for Tax Time 2012
- Progressively build a renewed ATO online, including www.ato.gov.au, an individual portal and improved tax agent portal
- Provide greater differentiation of services to taxpayers by:
 - leveraging and adapting the use of our integrated systems and processes
 - enhancing our systems, processes and tools to enable our people to transition with the community to electronic and online interaction including improved access to information and our online library services
 - strengthening our analytical and risk management capabilities
- Promote safeguards against technology-enabled threats, in particular identity theft
- Ensure the integrity of the Tax File Number
- Develop our people analytics to inform the people strategy and enterprise reporting eg, e-PDA, procurement and people case management.
- Implement environmentally friendly strategies

Our response to community disasters



Objective

To provide a coordinated response to people affected by natural disasters across Australia. Our aim is to assure people, businesses and tax agents affected by these events;

- that we will put arrangements in place to relax their tax obligations, and
- we will provide tailored assistance when they are ready to address tax issues

We will use the experiences from these situations to enhance our future response capability

Stakeholders

- Affected people, businesses
- Affected agents and intermediaries
- Employees
- Suppliers to businesses
- Local community groups and local government authorities
- State and Australian Government agencies
- Institute of Chartered Accountants, National Institute of Accountants, CPA and other professional organisations
- Council of Small Business Associations of Australia, chambers of commerce and Business Enterprise Centres Australia

<p>Identifying affected persons</p> <p>We identify a list of affected area postcodes from a variety of sources including emergency services information and conversations with councils and tax agents in affected areas.</p>	<p>Whole-of-government links</p> <p>We work closely with other Australian Government and State government agencies, including Centrelink and Department of Families, Housing, Community Services and Indigenous Affairs.</p>	<p>Links with other key groups</p> <p>We work on small business assistance with industry groups and Business Enterprise Centres.</p>
<p>Website and call centre assistance</p> <p>Common questions and answers are scripted into website and call centre content.</p>	<p>Tax agents</p> <p>Our relationship managers contact tax agents in affected areas to determine the impact of the disaster on their businesses and clients.</p>	<p>Correspondence, lodgement & payment</p> <p>We may cease correspondence with affected areas and provide more time for people and businesses to meet obligations without penalty.</p>
<p>Reconstructing records</p> <p>We offer a practical approach to assist with reconstructing records, including the use of reasonable estimates for those who have lost records.</p>	<p>Business exits</p> <p>Where businesses are not continuing, we will assist them to finalise their tax affairs.</p>	<p>Hardship and Refunds</p> <p>We consider requests for hardship assistance and may fast track refunds upon request.</p>
<p>Staff communication and support</p> <p>We give paid leave to staff working voluntarily for state emergency services, and provide specific training to staff going into the field to assist those affected.</p>	<p>Issues in the medium to longer term</p> <p>We are monitoring risks relating to fraudulent activity, and continue to work with stakeholders such as Business Enterprise Centres for business planning.</p>	<p>Refining our responses for future</p> <p>We seek feedback about our response from stakeholders and update our response plan for future disasters.</p>

ATTACHMENT 4: SNAPSHOT OF ATO SERVICE STANDARDS PERFORMANCE 2010-11

Service Standard	Historical Performance*				Current Year Performance										
	07-08	08-09	09-10		First Half Performance 2010-11										
	Rating	Rating	Rating	YTD	Benchmark	JUL	AUG	SEP	OCT	NOV	DEC	JAN	JAN	Rating	Outlook
					MTH	MTH	MTH	MTH	MTH	MTH	MTH	MTH	YTD	YTD	EOFY
Registrations – Commissioner of Taxation	●	●	●	92.3	93% in 28 days	95.2	92.6	97.4	98.3	98.7	97.9	86.7	95.6	●	Meet
Registrations – Australian Business Register	●	●	●	91.3	93% in 28 days	98.6	98.6	98.2	96.2	94.4	92.7	64.3	93.2	●	Meet
Electronic tax returns - Individuals	●	●	●	85.8	94% in 14 days	55.0	90.9	93.8	95.7	95.2	67.5	**	81.7**	●	Not meet
Paper tax returns - Individuals	●	●	●	93.4	80% in 42 days	93.7	95.2	95.8	97.4	93.8	***	***	95.5***	●	Meet
Electronic tax returns - taxable non-individuals	●	●	●	78.3	92% in 14 days	93.8	96.1	90.4	92.0	91.5	84.3	**	90.9**	●	Meet
Paper tax returns - taxable non-individuals	●	●	●	81.8	80% in 56 days	93.7	95.2	95.8	97.4	84.5	***	***	87.7***	●	Meet
Electronic credit activity statements	●	●	●	98.2	92% in 14 days	98.6	98.8	96.8	98.3	98.7	96.9	97.4	98.1	●	Meet
Paper credit activity statements	●	●	●	97.5	85% in 14 days	98.5	98.1	94.7	98.7	98.2	94.1	97.4	97.7	●	Meet
Electronic debit activity statements	●	●	●	99.6	95% in 14 days	99.9	99.9	99.2	99.9	99.9	99.8	99.4	99.8	●	Meet
Paper debit activity statements	●	●	●	98.9	90% in 42 days	98.5	99.8	98.1	99.3	99.8	98.6	96.5	99.3	●	Meet
Refund of overpaid tax	●	●	●	82.5	90% in 28 days	69.2	89.5	89.8	92.8	92.4	92.9	81.7	85.8	●	Meet
SHA special account payment requests	●	●	●	72.1	80% in 21 days	77.3	54.5	74.5	60.2	38.5	93.2	91.0	79.4	●	Meet
Excise fuel scheme claims	●	●	●	93.7	92% in 14 days	90.9	79.8	88.9	95.0	94.6	96.7	96.3	91.5	●	Meet
Automated email response	●	●	●	95.9	90% in 3 days	100.0	100.0	89.6	88.8	97.1	99.9	99.4	96.7	●	Meet
Inbound correspondence	●	●	●	83.9	85% in 28 days	84.8	88.7	92.0	92.6	93.2	94.3	91.0	90.6	●	Meet
Private written advice	●	●	●	69.3	80% in 28 days	84.7	83.4	88.5	88.5	86.7	87.4	79.4	85.7	●	Meet
Telephone general enquiries	●	●	●	81.3	80% in 5 mins	82.8	84.4	85.8	85.8	84.0	79.9	80.0	83.7	●	Meet
Tax practitioners' premium service telephone enquiries	●	●	●	90.9	90% in 2 mins	90.9	89.1	90.0	89.5	91.8	91.9	91.1	90.5	●	Meet
Visit general enquiry service	●	●	●	92.5	90% in 10 mins	89.8	90.4	94.1	94.4	92.1	92.2	91.9	92.0	●	Meet
Electronic amendments	Income tax data	●	●	95.1	90% in 28 days	86.2	91.3	95.9	96.8	97.9	90.3	***	93.4***	●	Meet
	Activity statements					99.5	99.7	99.5	99.6	99.8	99.6	99.0	99.6		
Paper amendments	Income tax data	●	●	85.2	75% in 56 days	67.9	93.4	90.0	94.2	90.0	***	***	85.9***	●	Meet
	Activity statements					87.5	96.4	96.8	93.4	97.2	93.9	94.1	94.8		
Review of private written advice	●	●	●	71.4	85% in 28 days	55.6	61.5	92.3	87.9	100.0	88.9	81.8	83.4	●	Meet
Review other than to private written advice	●	●	●	59.0	70% in 56 days	70.0	73.6	78.2	84.4	80.4	83.0	74.8	77.9	●	Meet
Audits and reviews finalised advice	●	●	●	99.2	99% in 7 days	99.5	99.6	98.9	99.0	99.5	99.7	99.4	99.3	●	Meet
Clerical and administrative errors	●	●	●	Met*****	70% in 21 days	****	****	****	****	****	****	****	****	****	Meet
Complaints - initial contact	●	●	●	66.6	85% in 3 days	54.0	63.1	63.1	56.2	77.7	74.9	76.7	64.7	●	Not meet
Complaints – resolution	●	●	●	74.7	85% in 21 days	72.0	77.5	67.4	70.2	74.4	82.2	72.0	73.4	●	Not meet

* Historical performance is a visual representation of year-to-date performance as reported in the 2009-10 Commissioner of Taxation Annual report. There have been changes to service standards (differentiation) and benchmarks (increases/decreases) from year to year that are not shown in this table.

** New reporting methodologies require 14 days to pass post end of the calendar month to measure accurately. (December 2010 results reported)

*** New reporting methodologies require 42 days to pass post end of the calendar month to measure accurately. (November 2010 results reported)

**** Currently unable to report. However, the income tax data component is currently included within the 'amendment – income tax data' standards.

*****We have been unable to report on this service standard since January 2010. There is no evidence to suggest that performance fell below benchmark for the remainder of the 2009-10 financial year.

Table key

- Met or exceeded benchmark
- Marginally failed benchmark < 2%
- Failed benchmark > 2%



Australian Government
Australian Taxation Office

Large business and tax compliance



MORE INFORMATION

For copies of this document phone **1300 720 092** or visit **www.ato.gov.au**

This publication is current from June 2010. For the most up to date version visit **www.ato.gov.au/largebusinesscompliance**

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Foreword



It is fitting that in the ATO's centenary year we are releasing a new version of this booklet, co-designed with large business. The booklet reaffirms our commitment to large business to encourage, support and protect willing participation in Australia's tax and superannuation systems. It also reflects the critical role large business plays in the success of these systems.

For some time now we have been suggesting to large business, and in their requests for no surprises and lower compliance costs they have been suggesting to us, there may be better ways of managing tax risk in the dynamic and complex commercial world in which we operate.

We have responded by looking for innovative ways of providing practical certainty and of reducing compliance costs through early engagement. We have done this because these opportunities, many of which are built on an enhanced relationship with large business, are consistent with good corporate governance. As well as mitigating financial and reputational risks for large business they also help to make Australia a great place to do business.

An enhanced relationship is more firmly secured in an environment characterised by high levels of mutual transparency; and even if at times the law appears indeterminate and we hold different views, it is in everyone's interest to have matters clarified up front or resolved as quickly as possible.

Building an environment of mutual trust is not easy given the persistence of more simplistic paradigms, and involves a degree of cultural change by all parties. Significant progress has been made, with company boards in Australia exhibiting a keen interest in tax risk management. For our part, we are promoting both within and outside the ATO the booklet's underpinning themes of ongoing dialogue, early escalation and positive engagement.

The statements of mutual expectations in this booklet reflect an approach which promotes frank and open dialogue, with early evaluation and resolution of issues and concerns. It also highlights the options available to large business to lock in practical certainty and to streamline its dealings with us.

I believe that an enhanced relationship between large business and the ATO can deliver benefits to business and to Australia.

A handwritten signature in black ink that reads "Michael D'Ascenzo". The signature is written in a cursive, slightly slanted style.

Michael D'Ascenzo
Commissioner of Taxation

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01

The large business market

How large business is important and why compliance matters.

Large business is important to the Australian economy and to our whole tax system. Our aim is to work with you to improve how the tax system works for your business. Developing a better understanding of each other is an essential first step. This chapter outlines the roles we see for your key management positions, your Board, ourselves and that of our scrutineers.

Large business play a crucial role in the revenue system, paying and withholding taxes and contributing to and managing superannuation on their employees' behalf. You also act as intermediaries in transactions between us and other taxpayers, providing financial facilities used by others.

To support your important role in the tax system we are continually working with large business to ensure our services are focussed on making it easier to comply with tax laws, supporting voluntary compliance, helping to reduce compliance costs and making sure that the right amount of tax is paid in Australia.

WORKING TOGETHER

We are committed to building relationships with you through consultation and developing mutual expectations.

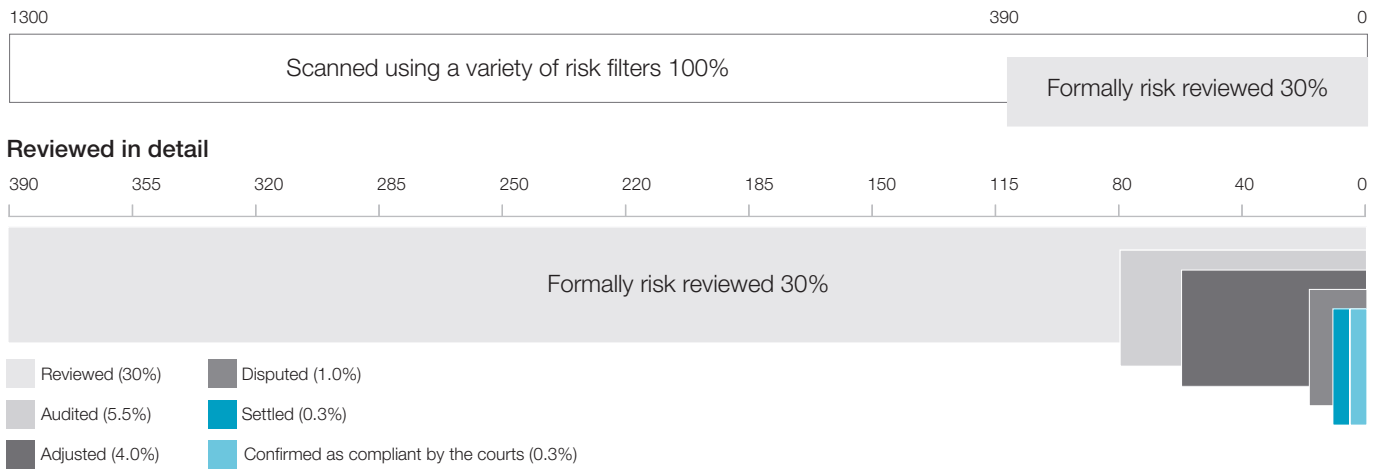
'Having a good relationship with large business allows us to engage with you in constructive dialogue, gaining a more in-depth understanding of your business.'

Dinner address by Michael D'Ascenzo, Commissioner of Taxation, to the G100, Sydney, 9 December 2009

The importance of large business and its overall contribution to the tax system brings enormous obligation. Broader community and government expectations require a high level of ongoing consultation, collaboration, co-design and a commitment to the effective and efficient operation of the whole tax system.

LARGE MARKET PROFILE

FIGURE 1.1: Supporting voluntary compliance in the large business market



There are over 1,300 economic groups and entities in the large market, encompassing over 32,000¹ businesses. Approximately two-thirds of these businesses are public companies. About 1,100 of these groups have an annual turnover greater than \$250 million, the remainder are businesses that due to their unique characteristics are managed within the large market.

In the 2008–09 income year, large business represented:

- 63% (\$37.8 billion) of income tax collections² from companies
- 53% (\$20.2 billion) of total net GST
- 99% (\$24.1 billion) of excise revenue
- 100% (\$2.2 billion) of petroleum resource rent tax
- 46% (\$1.6 billion) of fringe benefits tax
- 63% (\$5.8 billion) of superannuation funds income tax
- approximately 34% of PAYG withholding for all employers
- 80 large superannuation funds that report a total of 19,000,000 member accounts³
- high levels of international dealings with approximately 60% lodging a schedule 25A detailing transactions with offshore affiliates.⁴

From an industry perspective there are around 150 groups⁵ in the energy and resources sector, including businesses in natural resources, petroleum, utilities and services to this sector. There are around 310 groups in the financial sector,⁶ which include banking, financial services and insurance. In the technological sector there are 90⁷ groups and in the

larger industrial sectors, there are 320 manufacturers⁸ and 140 retail and wholesale businesses.⁹

- For income tax, (figure 1.1) **100%** of large corporate groups are scanned using a variety of risk filters to detect matters of concern that may indicate potential non compliant stances. (For example abnormally low tax payments compared to industry peers or high risk transactions or arrangements where you have not already engaged with us.)
- About **30%** of the large population are formally risk reviewed each year. These are focussed on those considered to present higher relative risk, taking into account likelihood of non compliance and the potential consequences.
- About **18%** of those reviewed turn into audits.
- About **70%** of those audited lead to adjustments.
- About **30%** or so of those adjusted are disputed.
- About **30%** of those disputed will be settled, under strict guidelines, and this usually results in a payment of around 50/50
- Of the relatively few that continue through to the Court system, between **30%** to **50%** will be found to have been ultimately compliant by the Courts. The ATO view is confirmed in 50–70% of cases taken to the Court providing certainty to the market.

The majority of large business are broadly compliant, however we still have concerns regarding opportunistic tax planning. A relatively small group of large businesses appear to have consistent compliance issues and we will have an intense focus on these businesses.

1 The types of entities include mainly companies, but also include partnerships, trusts and superannuation funds.

2 Income tax collections are PAYG (instalments) and assessment collections.

3 Some individuals will have more than one member account.

4 Based on ATO data.

5 Rounded to the nearest 10 and excludes NTERs.

6 Including single entities below \$250m.

7 Rounded to the nearest 10.

8 Includes agriculture and food, though many businesses are vertically integrated, so they may include wholesaling and retailing functions as well.

9 Property, construction, services and transport are excluded as they are the smaller industries.

Our relationship is ongoing and we need to work together effectively to make the administration of the tax laws work well. We work together by:

- engaging in open and frank dialogue on tax issues
- having a common understanding of your business context to facilitate the identification and evaluation of tax risks
- ensuring documentation is readily accessible, whether stored as a physical document or electronically
- discussing the basis of any claim you make for legal professional privilege or confidentiality
- escalating concerns.

Our aim is to assist you and encourage you to have adequate tax governance and tax risk management controls in place for transactions in Australia and internationally.

We expect to see you:

- pay the right amount of tax in the correct jurisdiction
- lodge and pay on time
- provide your staff with adequate training and resourcing
- regularly report to your Board.

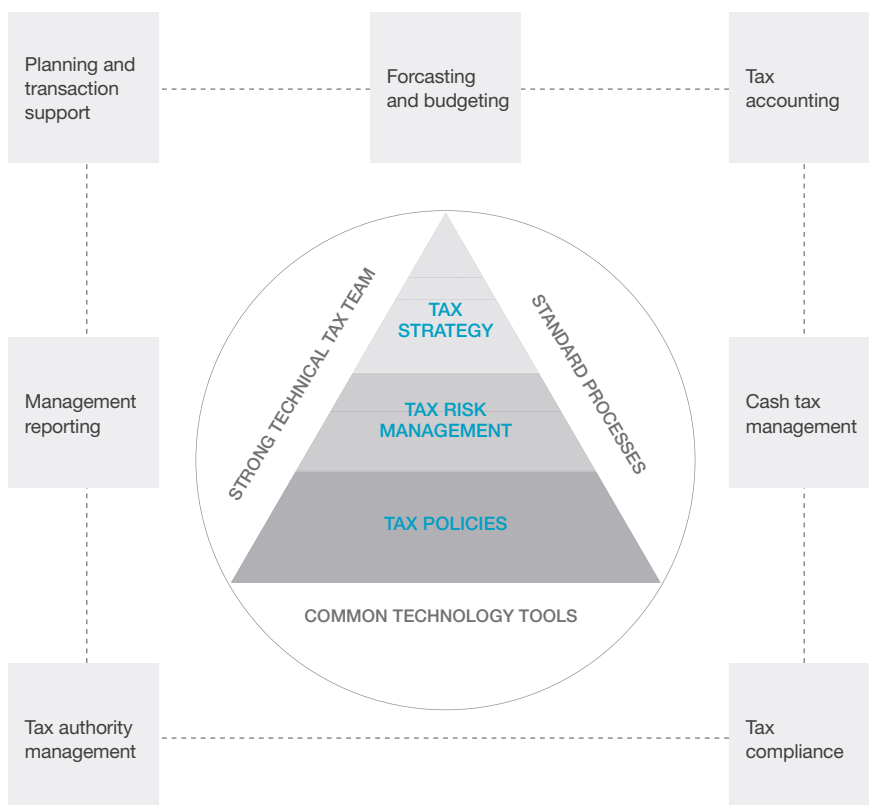
KEY ROLES IN TAX MANAGEMENT

There are many roles within a large business that are pivotal in managing tax responsibilities, including the public officer, tax manager, chief financial officer and the Board. Depending on the structure of your business, your tax function will be managed in a number of different ways.

People with these responsibilities set their compliance, operational and financial approaches to tax. As demonstrated in figure 1.2, an awareness of new and emerging risks and the implications for businesses will improve the management of tax implications of major transactions as they occur.

We encourage those responsible for tax functions to ensure that sound organisational governance is in place to manage tax risks. We also encourage you to develop and maintain an open and cooperative relationship with us.

FIGURE 1.2: Tax Operating Model



THE ROLE OF THE BOARD

Board members play a crucial role in ensuring that strong corporate governance structures are established and maintained. We encourage Board members to check that your business has a sound framework in place to manage tax risks and comply with tax obligations. This would include:

- an understanding of your risk rating
- a well resourced in-house tax governance capability to mitigate tax risk and a capacity to regularly audit tax governance systems
- appropriate review and sign-off procedures for material transactions and reporting requirements which ensure that significant tax risks are elevated to the Board
- systems to identify, assess, monitor and approve material tax issues.

➤ For more information on how we manage risk, see 'How we manage tax risk' on page 22.

THE ROLE OF THE ATO

The ATO is responsible for the care of Australia's tax and superannuation systems and the Australian business register.

In undertaking these responsibilities the ATO seeks to achieve confidence in the administration of these systems.

As part of our approach to encourage willing participation in these systems, we seek to create an environment that is conducive to high levels of voluntary compliance.

You can expect us to:

- help you understand your rights and obligations
- make it as easy as possible for you to comply
- offer help in a variety of ways, including online services, publications and by phone
- deal with risks as they emerge or magnify
- administer the tax law at the minimum cost to you and other stakeholders.

THE ROLE OF EXTERNAL SCRUTINEERS

We are open and accountable in our administration of the tax system and are subject to review by external scrutineers including:

- Parliamentary committees
- the Inspector General of Taxation
- the Commonwealth Ombudsman
- the Australian National Audit Office.

We work closely with Treasury who play a key role in developing new tax policy and legislation. We may refer matters to the Treasury where the tax law is not consistent with policy, or produces unintended consequences or significant compliance costs.

Where appropriate we will collate and forward the concerns of large business to Treasury; however we are not generally in a position to disclose these referrals to you because it is government policy that all interactions between the ATO and government are confidential.

In addition, the Board of Taxation:

- advises the Treasurer on improving the general integrity and functioning of the taxation system
- commissions research and other studies on tax matters approved or referred to it by the Treasurer.

We encourage you to contribute to submissions by our external reviewers as you consider appropriate.

02

Our approach

How we approach compliance and how large business can expect to interact with us according to the Taxpayers' Charter.

Our tax system is based on self assessment and voluntary compliance. We aim to have an open and cooperative relationship to support and facilitate you meeting your tax obligations.

Our approach to working with large business is guided by the principles reflected in the compliance model and the Taxpayers' Charter. We differentiate our approach and level of engagement with you according to our assessment of your risk rating, as outlined in 'How we manage tax risk' (see page 22).

Our approach involves consulting, collaborating and co-designing with you to support voluntary compliance, manage tax risk and minimise compliance costs. We do this based on our understanding of tax law, the global tax environment, causes of non-compliance, your business environment and from a whole of tax system perspective.

We work closely with large business, reflecting your importance in the effective operation of the tax system, and provide certainty of tax outcomes for large complex transactions as they occur. We aim to help you self regulate by promoting open dialogue, strong corporate governance and a focus on how you can identify and manage tax risks.

We work with you by:

- providing information to help identify and manage tax obligations
- developing administrative processes for new law measures
- addressing your concerns about administrative matters or bringing them to the attention of the Treasury
- providing forums, such as the Large Business Advisory Group (LBAG) and the National Tax Liaison Group (NTLG) to raise issues and explore the administration and operation of the tax system.

To support an environment of self assessment we provide a range of products, advice and assurance services. This helps to reduce your compliance costs.

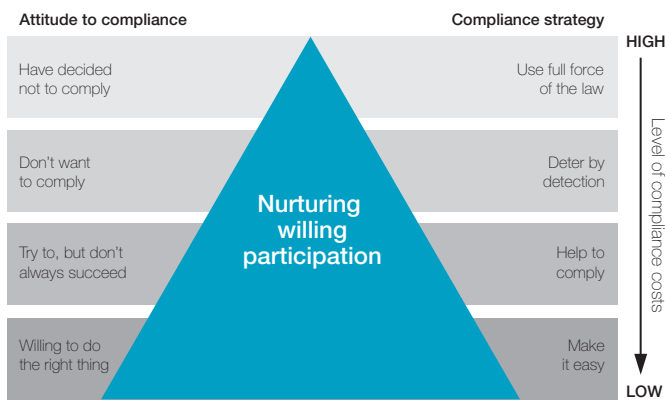
We also work with foreign tax administrations and with our Joint International Tax Shelter Information Centre (JITSIC) partners on international tax risks as they emerge, to support effective risk management around the world.

OUR COMPLIANCE MODEL

Our broad approach to compliance is captured in our compliance model. This model provides the framework we use to assess you and develop an appropriate response according to the nature and level of risk we identify, the causes of non-compliance and your level of cooperation with us.

▶ For more information, visit www.ato.gov.au/compliancemodel

FIGURE 2.1: Compliance Model



THE TAXPAYERS' CHARTER

The Taxpayers' Charter guides our interactions with all taxpayers.

What you can expect from us in accordance with the Taxpayers' Charter

We will communicate in a professional and timely manner and aspire to:

- treat you fairly and reasonably
- treat you as being honest unless you act otherwise
- offer you professional service and assistance
- accept you can be represented by a person of your choice and get advice
- respect your privacy
- keep the information we hold about you confidential
- give you access to information we hold about you
- help you to get things right
- explain the decisions we make about you
- respect your right to a review
- respect your right to make a complaint
- make it easier for you to comply
- be accountable.

What we expect from you in accordance with the Taxpayers' Charter

In turn we expect you will communicate with us in a timely and open fashion and:

- be cooperative
- keep the required records
- take reasonable care
- lodge by the due date
- pay by the due date.

➤ For more information about the Taxpayers' Charter visit www.ato.gov.au/taxpayerscharter

Building on the Taxpayers' Charter in the spirit of cooperation with large business, you can expect our officers will:

- act in a professional, courteous and respectful manner and demonstrate integrity, fairness and impartiality in the conduct of their duties
- maintain open and frank dialogue, including informing you regularly of the progress of any compliance activity
- aim to make information requests clear and unambiguous
- complete a case in the shortest time practicable, with minimum inconvenience and disruption
- advise you of delays or where timelines were extended and the reasons why
- notify you where an error is detected that has resulted in you paying more than the correct amount of tax
- recognise your right to have advisors present during discussions and meetings and allow you to confer with them as necessary
- recognise your right to claim legal professional privilege, accountants concessions and confidentiality where appropriate.

OUR COMPLIANCE PROGRAM

Our annual Compliance program describes how we encourage high levels of compliance with Australia's tax and superannuation laws and details areas of risk to compliance. It is our way of being transparent with the community about what risks we are seeing and what we will focus our resources for the coming year. The Compliance program outlines some specific issues that will receive our increased focus. With this program we aim to encourage voluntary compliance, identify areas of the law that need clarification or are high risk and address failure to meet tax obligations.

This booklet complements our Compliance program by providing more detailed information to you about how we work with large business.

➤ For more information, visit www.ato.gov.au/complianceprogram

THE RISK DIFFERENTIATION FRAMEWORK

In considering which large businesses may need to be reviewed and the frequency and intensity of the review, we assess the relative likelihood of you not meeting your tax obligations and the consequences of potential non-compliance. All large businesses are assessed into one of four broad risk categories each of which, from our perspective, has a suggested compliance approach for us to take.

➤ For more information, see 'How we manage tax risk' on page 22.

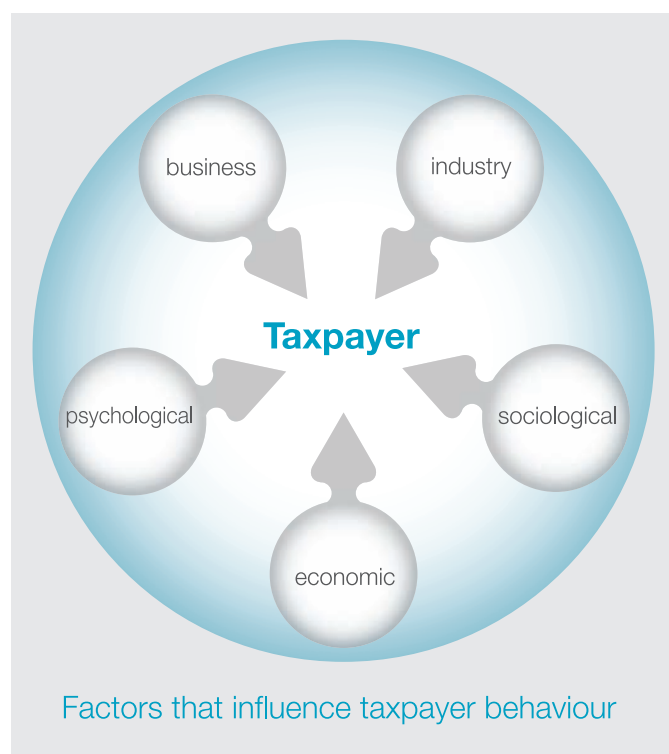
HOW WE SEEK TO UNDERSTAND YOUR BUSINESS

We recognise that to establish a foundation for achieving cooperative compliance in the large market, we need a well-developed and thorough understanding of the world in which you operate and the realities of the commercial environment.

We recognise that large business operates in a dynamic social, political and economic environment. Understanding these factors, as well as the policy, legislative and administrative processes of the law, enables us to make more informed judgments on large business behaviour and its possible impact on compliance.

We use the 'BISEP' model (figure 2.2) to help us consider business behaviour. These broad areas reflect the fact that your compliance decisions are affected by a wide set of related factors.

FIGURE 2.2: BISEP model



Additionally in our risk profiling, which we undertake twice a year, we consider a number of other factors including; your effective tax rates, your major transactions and other interactions with us derived from a range of public and tax return data. We also undertake research to better understand issues possibly impacting on your compliance.

➤ For more information on the BISEP model, see Appendix 1.

For more information on our risk profiling process, see 'How we manage tax risk' on page 22.

Your checklist for what will attract our attention:

- financial or tax performance that varies substantially from industry patterns
- significant variations in the amounts or patterns of tax payments compared to past performance, relevant economic indicators and industry trends
- unexplained variation between economic performance, productivity and tax performance
- unexplained losses, low effective tax rates, and cases where a business or entity consistently pays relatively little or no tax
- a history of aggressive tax planning by the corporation, group, board members, key executives or advisors
- where we perceive weaknesses in the compliance structures, processes and approaches
- tax outcomes that are inconsistent with the policy intent of the tax law
- promotion of tax exploitation schemes
- implementation of a transaction in a way that is materially different to that described in a product ruling relevant to the transaction
- businesses experiencing rapid growth, restructure, mergers or de-mergers, deploying new accounting software or undergoing changes of accounting staff.

WHAT TO DO IF YOU ARE NOT SATISFIED

If you are concerned about how a compliance activity is proceeding, we encourage you to discuss the issues with your nominated ATO case officer.

If discussion with the case officer does not resolve the issue, we encourage you to refer the issue to the senior officer whose name you will have been given at the start of the compliance activity. The senior officer will review the issue, including the relevance and scope of any information requests, and will discuss it with you and your case officer.

The senior officer will work with you and your case officer on a process for addressing legitimate concerns.

Good tax corporate governance

The importance of sound tax risk management processes for large businesses' corporate governance.

Managing your tax risk well is core to good corporate governance, particularly if you are operating in international markets. We work with you to build an environment that fosters good corporate governance and supports your tax risk management. This chapter sets out what we expect to see at a strategic and operational level, and gives an overview of what we do to assist your tax risk management.

We are committed to engaging with you, as well as the agencies that develop corporate governance codes, to assist you to incorporate tax compliance into your risk management processes both strategically and operationally. We are committed to developing a better relationship with you in the interests of an efficient, internationally competitive tax system. In Australia, corporate reporting and disclosure laws make it important for Boards to be appropriately informed about material tax risks.

By being transparent, accountable and engaging constructively with us, you demonstrate good corporate citizenship and lower your tax risk profile, with the benefits to reputation that follow. Our experience with corporate governance and relationship based products – such as our Annual Compliance Arrangements – show that better relationships with large business leads to fewer audit interventions and improved certainty for both of us.

At an international level, strong working relationships are increasingly being seen as key to promoting better governance practices that are of mutual benefit to both the authority and large business. At the OECD, Australia is leading a working group focussing on continued dialogue and the objective of recognising tax risk management as a key principle for corporate governance.

Because of the additional tax compliance implications of international transactions and arrangements, businesses operating in Australia with international dealings must be aware of and meet Australian corporate governance requirements, especially in relation to record keeping obligations.

➤ More information on international risk is available in our Compliance program. Visit www.ato.gov.au/complianceprogram

WHAT WE EXPECT TO SEE

We expect to see appropriate corporate governance arrangements regarding your tax responsibilities.

We expect to see that key people within your business ensure these governance arrangements are being met by having appropriate oversight, sound systems, clear accountabilities, strong controls, ethical behaviours and highly skilled people supported by robust processes and procedures. Your business should have the capacity to identify, assess and mitigate tax risks.

A robust approach to tax risk management will function on two levels: how you manage your tax risk on a strategic level, and what controls you have in place to meet your operational obligations.

Strategic level

Managing tax risk can be considered in terms of what relationship you want to have with us. Your approach to tax risk will determine the nature of your interactions with us: whether we proceed via the use of risk reviews and audits, or whether we work with you on a prospective, cooperative basis to identify tax risks and agree on mitigation strategies.

We encourage robust Board and corporate decision-making processes for major transactions and corporate strategies that incorporate appropriate coverage of tax matters.

Board members play a crucial role in establishing and maintaining strong corporate governance structures. They should consider tax issues associated with major transactions, arrangements and strategies and understand the effects on their business.

The Board should determine what aspects of tax risk are within its control and what level of risk is acceptable while pursuing the objectives of having:

- controlled and transparent management of tax activities on a day-to-day basis
- decision making that is able to be understood by non-tax personnel
- an enhanced ability to anticipate issues (such as changes in law and relevant court decisions)

The types of key governance questions to be addressed at the strategic level include:

- do you know how we categorise your business under our Risk Differentiation Framework? What are the consequences of your risk rating?
- is your business effectively utilising the services and compliance products we offer to reduce your tax risk and compliance costs?
- do you have processes to present the approach to tax risk for review by the Board?
- do you know your advisor's risk stance and does their approach to risk align with that of your business?

- does your business have any major disagreements with us? If so, are you satisfied with the way they are being managed? Have any potential additional tax liabilities been adequately provided for?
- are the amounts of tax you are paying in line with your business results?
- do you have transactions or arrangements that could be viewed as not making commercial sense or be perceived as seeking a tax benefit?
- is there anything to indicate that your business results and tax payments are lower than would be suggested by economic conditions?
- if your business is consistently reporting losses, are these real economic losses and can they be satisfactorily explained in terms of overall performance?

➤ For more information, see chapter 7 'How we manage tax risk' or visit www.ato.gov.au/rdf

Operational level

Effective accounting and control mechanisms help you to meet your day to day compliance and reporting obligations reducing your on-going compliance costs.

We encourage robust tax management systems and controls that operate transparently.

The types of key governance questions to consider at the operational level include:

- are the roles and responsibilities associated with overall tax compliance clearly defined?
- does your tax function have adequate resources to manage tax risks effectively and provide reasonable assistance when dealing with us?
- can you ensure that tax information used for your internal accounting or provided to us is accurate and reliable?
- are you confident that your records and control systems enable you to meet your tax obligations properly?
- is your business ensuring that its processes and procedures adapt to reflect changes to or court interpretations of the tax and superannuation laws?
- do you have the necessary processes in place to assess and where relevant escalate matters to the appropriate level?
- are there material differences between your accounting profit and taxable income and, if so, are you comfortable with the reasons for those differences?
- how do you ensure that your information systems provide ready access to important information and that there are no gaps in corporate memory?
- how do you ensure that reporting deadlines are met?

RECORD KEEPING

Record keeping is part of robust corporate governance. Tax law requires that records are kept to support your liabilities and claims. These records can include documents evidencing an intention, election, choice, estimate, determination or calculation. For these purposes 'documents' include both paper and electronic communications including emails.

For multinational companies or those operating cross-jurisdictionally, you are obliged to follow the requirements set out by Australian tax law.

- For more information, visit www.ato.gov.au/recordkeeping

HOW WE SUPPORT TAX RISK MANAGEMENT

We provide a number of services to help you to accurately assess and manage tax risks including:

- Annual Compliance Arrangements (ACAs), which help you achieve practical certainty and reduce compliance costs
- Advance Pricing Arrangements (APAs), which like ACAs provide practical certainty and reduced compliance costs for international dealings
- the annual Compliance program, which outlines the tax risks attracting our attention
- our rulings program, where you can seek our view on a transaction, issue or product.

- For more information on ACAs and APAs, see chapter 6 'Cooperative compliance'.

- For more information on our rulings program, see chapter 8 'Active compliance approaches'.

- More information on guidelines regarding corporate governance can be found on the Organisation for Economic Co-operation and Development (OECD) website www.oecd.org

04

Working together with large business

Services we provide and how we work together.

We are committed to the continuous improvement of our services and relationships with you. At the foundation of this we provide a number of ways for you to get information, conduct transactions and communicate with us. This chapter outlines the range of information, transaction and communication services we offer large business.

At a strategic level we facilitate:

- the Large Business Advisory Group
- the National Tax Liaison Group
- industry specific forums and liaison with industry associations.

At an operational level we provide:

- general services, available to all taxpayers providing information on our website and through our Compliance program
- client services, giving information directly to you through our phone service, email subscriptions and the Business Portal
- specialised services, tailored to the circumstances of key clients in large business.

WHERE WE WORK TOGETHER ON THE SYSTEM

We regularly consult with large business key industry bodies and professional associations to improve our understanding of specific business environments and your perspectives on key tax issues.

These forums focus on partnering and co-designing compliance practices and approaches. This enables us to help you comply with a changing legislative environment and guides our approaches to reduce compliance costs and improve the administration of the tax system.

Large Business Advisory Group (LBAG)

LBAG is our peak body for consultation with the large business sector on a strategic level. Representatives from large business meet with us four times a year to discuss issues on the management and administration of the tax system from a whole of system perspective.

- For more information including access to minutes, visit www.ato.gov.au/lbag

National Tax Liaison Group (NTLG)

This forum deals with broad issues of procedure and policy in tax administration, looking at particular issues at a more detailed, operational level through sub-committees. Membership is made up of senior ATO officers, professional associations and a representative from the Treasury. The group's role is to identify and prioritise significant issues, including referring matters to Treasury where necessary.

- For more information including access to minutes, visit www.ato.gov.au/ntlgl

A listing of our industry specific forums and our liaison arrangements with industry associations can be found at Appendix 2.

HOW WE COMMUNICATE WITH YOU

We want to provide you with the best possible client services and relationship management. To do this we work closely with you, your tax advisors and industry groups to improve tax administration.

When we need to talk to you we will generally contact your public officer, although there will be times when we need to discuss matters with other senior staff within your business.

Our information services aim to give you timely information and advice to help you understand your rights, entitlements and obligations and give you greater clarity on the application of the tax law and on our strategies and approaches.

We keep you informed through the services listed below.

GENERAL SERVICES

Businesses homepage

On the Businesses homepage you will find a range of up to date information on new law, announced changes to the law and administrative changes. You can also access our legal database.

➤ For more information, visit
www.ato.gov.au/businesses

International tax essentials for business

This homepage offers detailed information on international tax issues affecting large business. You will find details of new measures impacting your business such as the review of international tax arrangements, tax treaties and tax treatment of foreign income.

➤ For more information, visit
www.ato.gov.au/businesses/international

Our Compliance program

Our Compliance program outlines how we encourage high levels of compliance with Australia's tax and superannuation laws and details our areas of particular focus across all taxpayer markets.

➤ To access the Compliance program, visit
www.ato.gov.au/complianceprogram

CLIENT SERVICES

To build and maintain strong relationships with large businesses we offer a range of services to help you understand and manage your tax rights and obligations.

The large business phone service

You can use this service for quick and easy access to staff experienced in dealing with large business registration, lodgment and account inquiries. This covers both income tax and GST.

■ Ph: **1300 137 286**

*International callers can contact us by phoning **+61 2 6216 1111** between the hours of 8.00am to 5.00pm (Australian Eastern Standard Time or daylight-saving time) and ask for your call to be transferred to the appropriate area within the ATO. Alternatively, you can fax us on **+61 2 6216 2830**. Other telephone contact numbers may not work from some countries.*

➤ For more information, visit
www.ato.gov.au/largebusinessphoneservice

Large Business Bulletin

The Bulletin is a subscription based quarterly online publication aimed at large business and contains up to date information on income tax, GST, excise and superannuation matters with links to recent rulings, speeches and media releases.

➤ To view or subscribe to the Bulletin, visit
www.ato.gov.au/largebusinessbulletin

Large Business Alert Service

The Large Business Alert is a subscription-based email channel for communicating directly with you when urgent issues arise.

➤ To subscribe to the alert, email
LargeBusinessAlert@ato.gov.au

The Business Portal

The portal is a secure website for managing your business tax affairs, protected by the 'AUSkey' pass system. You can use this to:

- prepare, lodge and revise activity statements
- view and arrange transfers to or refunds from income tax, excise, fringe benefits and some superannuation accounts
- communicate with us using a variety of forms or via the portal mail function
- update contact and some registration details (for example financial institution details, business and postal addresses and ATO contact details)
- lodge objections and apply for private binding rulings

➤ For more information on our online services, visit www.ato.gov.au/onlineservices

Compliance teams

Our compliance teams have responsibilities that include monitoring and reviewing economic and tax performance, lodgments, media alerts and significant events. During compliance activities – such as risk reviews or audits – we will give you contact information for your compliance team.

SPECIALISED SERVICES

We recognise the importance of the largest businesses in Australia. Given the size and nature of your business we have a range of specialised services tailored to the particular circumstances of key clients. Listed below are some examples of these services.

Key client arrangements

We offer the key client manager (KCM) program to the largest businesses to help provide a more streamlined service, and create a two-way communication channel. For these businesses your KCM is your primary point of contact with us.

Client relationship managers

We also offer client relationship managers to large businesses which have a significant GST or excise turnover. GST and excise relationship managers assist taxpayers with matters relating to those taxes. For GST, all large business taxpayers are allocated a client relationship manager to assist with your business needs.

Relationship management meetings

We have a program of regular visits with our largest businesses. Senior tax officers will meet with you to discuss significant events that may have tax implications, revenue performance, risk, technical and service issues and the progress and conduct of any compliance activity.

Lead relationship managers

The new lead relationship manager service, which aims to facilitate voluntary compliance, improve client service and reduce client compliance costs has been offered to a small number of Australia's largest businesses willing to work collaboratively with us. Senior officers in the large business and ATO will work together in a cooperative and purposeful manner to enable businesses to manage their taxation, employer and superannuation obligations. We are expanding this service in a graduated approach.

Your feedback

There may be times when not everything goes to plan in our work. If you have concerns about the conduct or progress of any compliance activity, including the provision of advice, we encourage you to discuss these with your case officer in the first instance. We also encourage you to escalate the matter if you think it appropriate. You can also raise concerns and issues through either your key client manager or through our relationship management meetings.

➤ We encourage your feedback at any stage throughout our interactions. Talking to us early will help resolve issues and where issues need to be escalated, you will have access to our decision makers.

Feedback questionnaires

We send out a short questionnaire following the issuing of written advice and after every risk review or audit then analyse the responses to help us improve our processes.

Professionalism survey

Every year we survey all large businesses on the professionalism of our staff. With your help we can measure our performance against international benchmarks and focus on areas needing improvement.

- To view the results of the survey, visit www.ato.gov.au/professionalismsurvey

ATO Complaints

If you are dissatisfied with how we have treated you and have not had your concerns addressed, the dedicated complaints phone number is **1800 199 010**. Alternatively, Tax Practitioners can call **13 72 86, fast key code 3, 2**.

- For more information on how to make a complaint visit www.ato.gov.au/taxpayerscharter and select 'Respecting your right to make a complaint'.

05

Obtaining certainty

Our legal obligations in applying the law advice services that we provide and how to use them effectively.

We offer a range of advice services to help reduce uncertainty and clarify ambiguity about how the tax law works. This chapter outlines our advice services explaining what you can expect from us, what we expect from you and how to use our services effectively.

WHERE WE THINK THE LAW IS CLEAR

We have a duty to apply the law. Where the law gives rise to unintended consequences, anomalies, or significant compliance costs inconsistent with the policy intent, we have a responsibility to advise the government – usually through the Treasury. We do this regardless of whether the existing law favours taxpayers or the revenue, giving the government the opportunity to consider legislative change.

WHERE WE THINK THE LAW IS OPEN TO INTERPRETATION

If the words in the Act are open to being interpreted in different ways, our approach is to adopt the interpretation that best promotes the policy intent.

If more than one of the available interpretations achieves the policy intent, we will generally favour the interpretation that reduces your compliance costs.

NEW LEGISLATION

We try to ensure that new laws are implemented efficiently and effectively through strong partnerships and in consultation with professional, representative and industry bodies as well as with the Treasury – who develop the new tax policy and legislation that we administer.

With new legislation, we work with all stakeholders to develop administrative systems and information products to ensure the delivery of legislative intent and to minimise compliance costs.

HOW WE PROVIDE ADVICE

To give you certainty we offer a number of ways for you to seek advice on an issue.

We encourage you to come to us early so that we can help you to meet your commercial timeframes, as shown in figure 5.1. Early discussions help clarify technical issues, identify the most appropriate advice product, clarify information requirements, case plan and manage expectations.

➤ For more information on who to contact, see 'Client services' on page 12.

INTERPRETATIVE ASSISTANCE

Providing written advice on how the tax laws apply is a feature of our self assessment system and is central to our role. A ruling is the Commissioner’s opinion on the tax interpretation of the law and is binding on the Commissioner but not on the taxpayer. For class, product and private rulings, you will need to provide a full and true disclosure of all the material facts to allow us to form a view. If all material facts are not disclosed the ruling cannot be relied upon.

We may engage in risk compliance activities to ensure the advice sought is implemented in materially the same manner as described in the request.

➤ For more information on the advice process, see Appendix 3.

For more information on the advice and information services we provide, visit www.ato.gov.au/taxpayerscharter and select ‘Getting advice from the ATO’.

Types of information we provide

We provide two categories of information:

- published information about how the law generally applies
- information for you.

Published information

We provide general information and public rulings.

General Information

Our general information, such as our electronic and paper publications, provide information about how the tax law works. As this information is general guidance, it is unlikely to cover all possibilities. If general information does not fully cover your circumstances, or you are unsure how the law applies to you, another form of advice should be sought.

Public rulings

Public rulings provide the ATO’s interpretation of the tax law on priority issues that need clarification. They can help you to understand the law better and, from our perspective, they play an important role in improving voluntary compliance in a self assessment environment. In terms of your business, they give you more certainty in making decisions. Rulings can only interpret existing law and are not designed to fill gaps or amend deficiencies in legislation.

We identify the types of matters suitable to be covered in our public rulings in consultation with your representative bodies.

There are also two specialised types of public ruling:

- class rulings
- product rulings

Class rulings

Class rulings enable the ATO to provide legally binding advice in response to a request from a client seeking advice about the application of a tax law to a specific class of persons in relation to a particular arrangement. The purpose of a class ruling is to provide certainty about the way the law applies to the arrangement and remove the need for each individual affected to seek a private ruling.

Product rulings

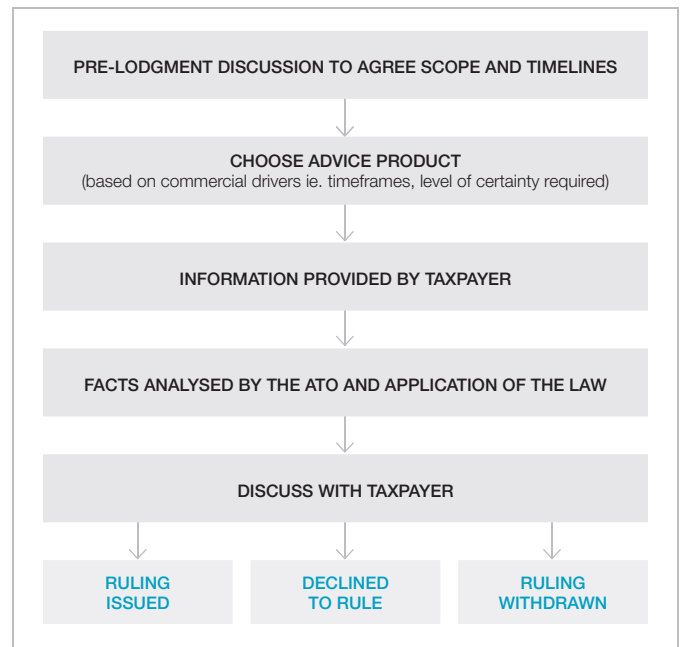
Product rulings enable the ATO to rule publicly on the availability of claimed tax benefits from ‘products’. A ‘product’ refers to an arrangement in which a number of taxpayers individually enter into essentially the same transactions with a common entity or group of entities.

Product rulings give certainty about the tax consequences of entering into a particular arrangement — provided the arrangement is carried out in accordance with details in the product ruling. We expect the highest levels of disclosure in rulings applications.

We do not sanction or guarantee products as investments. The ATO gives no assurance that products are commercially viable, that charges are reasonable, appropriate or represent industry norms, or that projected returns will be achieved or are reasonably based.

You and your financial advisors must form your own view about the commercial and financial viability of the product.

FIGURE 5.1: Ongoing dialogue between the ATO and the taxpayer



Information for you

You can ask us to provide advice specifically for you. Different types of advice are available.

Private rulings

Private rulings allow you to self assess where the law or factual circumstances make you unsure of the correct tax treatment of a transaction.

To reduce uncertainty you can apply for a private ruling – you can ask to be ‘assessed’ in relation to an existing or proposed transaction, including in relation to the application of a general anti-avoidance provision.

We will work with draft material for prospective transactions however the draft documentation must be materially similar to the end product. We may also ask for more information and can make assumptions based on our understanding of the information you have provided.

We must determine your tax position by the proper application of the tax law to the facts of your case.

You may not need to seek a private ruling if there is an existing public ruling and there are no material differences between it and your particular circumstances.

Private rulings can be useful in obtaining ATO views on uncertain legal positions. Under the Taxation Administration Act, you can object to a private ruling decision. If you object, we may ask you for further submissions to support your argument.

Priority ruling process

We recognise that significant transactions can sometimes arise quickly and you may need an urgent ruling from us. Certain private and class rulings may qualify for inclusion in our priority rulings process. We can use this process to manage tax risks associated with time sensitive, prospective, significant transactions that:

- are of major commercial significance and requiring consideration at Board level
- have a tax outcome that is a critical element of the transaction
- have complex law and/or facts that need to be analysed

and where the entity:

- notifies the ATO as soon as practicable after the transaction is first seriously contemplated
- agrees to provide an application incorporating a full brief with:
 - all relevant information
 - all issues identified
 - position for and against
 - timeframes identified.

➤ For more information, visit www.ato.gov.au/publicrulingprocess
Please refer to *PS LA 2009/2 – The priority ruling process* for details of this process.

General anti-avoidance rule

You may consider requesting a private ruling on the application of one of the general anti-avoidance rules to a specified scheme and any particular tax and/or GST benefit in connection with or from that scheme. General anti-avoidance rules that may apply include Part IVA in the ITAA 1936 and section 165 of the GST Act.

Private rulings relating to the application of a general anti-avoidance rule will require a thorough examination of the facts and purpose of each step in the overall scheme and this may delay the issuing of the ruling or result in a qualified ruling.

To minimise delays, you may wish to consider asking us to consider the application of a general anti-avoidance rule in relation to specific issues or concerns (that is specific tax and/or indirect tax benefits) rather than asking the Commissioner to consider if a general anti-avoidance rule will apply to the scheme in general.

Resolving disputes in relation to the general anti-avoidance rules

The General Anti-Avoidance Rules Panel helps the ATO to administer the general anti-avoidance rules.

The panel is comprised of a range of business professionals and senior ATO officers.

➤ For further information see page 31.

Administratively binding advice

Administratively binding advice is written advice that we give you in limited circumstances – usually when the law does not allow us to give you a private ruling.

For example advice about:

- the tax consequences to a company planning an existing takeover bid of another company (without the consent of the target company)
- a scheme proposed by a company that is not yet incorporated
- a scheme where private or public infrastructure matters are raised and there are no entities yet in existence that can request a private ruling.

➤ For further information see *PS LA 2002/13 Authorisation of written binding advice*.

Mutual expectations

You can expect us to:

- progress matters within the agreed timeframes
- maintain open dialogue and keep you informed of the progress of rulings, including where complex cases may take more than 28 days
- make information requests clear and unambiguous
- contact you in order to understand the facts and discuss any concerns we might have
- provide you with a central point of contact and access to the relevant decision makers.

❗ A full and true disclosure of the material facts will allow us to form a view. If all relevant material facts are not disclosed the ruling cannot be relied upon.

To help us provide advice in timeframes that meet your business needs it is best to:

Talk to us early

Talk to us about transactions as early as possible to help us meet your deadlines. Even if there is not enough information available to start formal discussions, early notification helps us to plan ahead so we can have the right people available once you are ready to proceed. It also gives us the opportunity to understand the commercial context you are working in.

Have information ready (pre-ruling)

Be ready to explain the transaction and the technical issues that concern you at a pre-lodgment discussion. We will help you work out what should be included in your application, including information we will need and issues you should address.

Work within timeframes

Send us your comprehensive application and the information we require by the agreed times. We understand that tax is not your only concern when a major transaction is being developed and it is a busy time for you.

We expect you to:

- contact us as early as possible so that we can give you the best opportunity to meet your timeframes
- understand that complex cases may take more than 28 days
- maintain open dialogue on the issues and facts
- supply information within agreed timeframes
- provide us with a central point of contact.

We will tell you of any concerns we have as early as possible. If we become aware that our interpretations of the law diverge, we will inform you, while we are still working through the issues. It is only the final ruling that can be relied upon.

We encourage you to discuss the issue at hand with us and we will include our decision makers in these talks.

Indicative advice

As part of our ongoing relationship, or in the course of preparing a private, class or product ruling, you may ask us to indicate our likely view of the law in relation to a situation.

We provide indicative advice only where certain exceptional criteria are met and you acknowledge that the advice is not binding on the Commissioner and should not be relied on as representing the ATO's view of the law on the matter.

➤ For more information on the ATO's position, see *PS LA 2008/3 Provision of advice and guidance by the Tax Office*.

A note about guidance and our publications

Guidance may be given in writing or orally, including by way of an ATO publication.

Guidance is provided to help taxpayers understand their obligations and entitlements under the laws administered by the Commissioner. Guidance is not binding on the Commissioner.

06

Cooperative compliance

Taxpayer initiated processes, products and services that the ATO provides.

An environment of self-assessment and cooperative compliance is the cornerstone on which our tax system is built. Supporting your voluntary compliance is our preferred way to work with you. If something is not right or your understanding of a situation has changed, we offer a number of processes that you can initiate to sort it out and fulfil your tax obligations. By using these processes you can achieve greater certainty for your business and help minimise your compliance costs. This chapter outlines the products and services available to you and how you can use them.

We accept that errors can and do happen and that changing circumstances, reflection or review may mean that you adjust your view on how a particular transaction should be treated. If this happens, you should let us know of any changes in your position or any error by making a voluntary disclosure. Making a voluntary disclosure where you identify issues helps keep the tax system fair and efficient. If we contact you about your return or activity statement, it usually means that we have already found something that does not fit with the information we have available.

If you are genuinely trying to report correctly or are genuinely trying to correct an error, you may receive a reduction in the penalty treatment and in some cases, interest charge remissions.

VOLUNTARY DISCLOSURES

You should contact us about any changes in your position or any errors in your tax affairs as soon as you find them. If the transaction has already occurred or your tax return has already been processed, you should make a voluntary disclosure.

Making a voluntary disclosure is where you:

- advise us of an error or omission in a statement that leads to you having to pay more tax (shortfall amount) for that accounting period
- provide information in an approved form sufficient for us to identify the shortfall amount.

A voluntary disclosure can be triggered by:

- you: through internal audit processes, internal business reviews, advisors, new acquisitions, or information in the media
- us: through questionnaires, risk reviews, rulings, or issues identified in the Compliance program.

Voluntary disclosures may be given in writing, electronically, by phone or via other methods available in specified circumstances. To assist us to determine the shortfall amount you should include relevant facts and sufficient information to enable us to work out the correct amount of tax to be paid.

If you make a voluntary disclosure before we notify you of the commencement of a review or an audit, you will generally not have to pay any shortfall penalty for making a false or misleading statement. In certain circumstances, if you make a voluntary disclosure after you have been advised of a review or an audit, you may still be entitled to a reduction in penalty. If a voluntary disclosure is made after notification of an audit or a review, the voluntary disclosure itself is not a ground for remission.

As it is a transaction tax, voluntary disclosures for GST are generally more frequent than for income tax and are often made before we begin any compliance activity.

- ❗ If you do not have sufficient information to meet the requirements of a voluntary disclosure, we can help you. Please contact the large business phone service on **1300 137 286**.

- Our policy on the treatment of voluntary disclosures is set out in *Miscellaneous Taxation Ruling MT 2008/3 Shortfall penalties: voluntary disclosures*.
Our policy relating to the administration and remission of shortfall and general interest charges are set out in *PS LA 2006/2 Administration of shortfall penalty for false and misleading statement* and *PS LA 2006/8 Remission of shortfall interest charge and general interest charge for shortfall periods*.

SELF-AMENDMENTS

If you need to correct something on your tax return, even if it has not yet been processed, you can request an amendment.

- For more information on what you need to provide for a self-amendment, visit www.ato.gov.au/selfamendment

ANNUAL COMPLIANCE ARRANGEMENTS

Annual Compliance Arrangements (ACAs) are the centrepiece of our efforts to build enhanced positive relationships and compliance outcomes with large business. ACAs are available for income tax, GST, excise and fringe benefits tax or any combination of these taxes.

An ACA improves practical certainty for you by considering tax risks in real time and complements other products and services such as our rulings program. It offers a 'no surprises' approach which benefits both of us.

By committing to work in a frank and transparent environment with an assurance based approach we can tailor your compliance relationship and experience, rather than working through traditional compliance approaches such as audits and risk reviews.

ACAs ensure that all interaction with us is coordinated, prioritised and managed across the ATO. Subject to true and full disclosures, and a commitment to adhering to the corporate governance principles (outlined in chapter 3), ACAs provide practical certainty in relation to your tax return, shortly after lodgment. This certainty is subject to issues that may require further investigation.

A compliance plan will be developed outlining agreed processes and timelines to resolve any unaddressed issues.

Benefits of entering into an ACA include:

- speedier resolution of technical issues (in real time)
- administrative solutions to resolve compliance irritants
- centralised points of contact and ongoing dialogue on technical matters
- closure of prior periods, including legacy issues
- concessional treatments of penalties and interest
- a plan outlining agreed processes and timelines.

- For more information on ACAs, visit www.ato.gov.au/aca

ADVANCE PRICING ARRANGEMENTS

Advance Pricing Arrangements (APAs) provide you with the opportunity to reach an agreement with us on the future application of the arm's length principle to your dealings with international related parties. APAs may be unilateral which involves your business in Australia and us, or bilateral or multilateral which involves an agreement between two or more tax administrations and their respective taxpayers.

The arrangement generally covers a period of three to five years and may be reviewed if the trading circumstances materially change. APAs are also subject to an annual reporting requirement.

APAs can provide certainty with the benefit of:

- ensuring the fair application of the arm's length principle to related party international dealings
- eliminating or reducing the risk of double taxation on related party international dealings (particularly in bilateral and multilateral APAs)
- eliminating the risk of a transfer pricing audit on the related party international dealings covered by the APA.

Before committing to an APA, we need to consider whether the cost and effort of obtaining an APA is proportionate to the benefits obtained. An APA application needs to contain a properly developed and documented solution.

Our role involves critical analysis rather than undertaking original work to establish the arm's length outcome. Our pre-lodgment process provides an opportunity for issues to be identified up front with the aim of facilitating successful applications.

➤ For more information on APAs, visit www.ato.gov.au/apa

MUTUAL AGREEMENT PROCEDURE

At times, international transactions can lead to exposure to double taxation. For example, a transfer pricing adjustment in one country arising from an audit can result in the same income being taxable in two jurisdictions.

If you believe you have been or will be subject to double taxation you can apply for relief to the tax administration of your jurisdiction. If your application is accepted we will discuss your case with the other tax administration and try to resolve it in accordance with the relevant double tax agreement. This process is known as a mutual agreement procedure (MAP).

The ATO and the other tax administration will endeavour to resolve any double tax issues and inform you of the agreed outcomes.

A MAP is part of the dispute resolution process and is in addition to your objection and appeal rights.

➤ For more information visit www.ato.gov.au/map

TAX ISSUES ENTRY SYSTEM

Through the Tax Issues Entry System (TIES) you have an opportunity to raise issues relating to the care and maintenance of the Australian tax and superannuation systems. We jointly manage TIES with Treasury.

Care and maintenance issues are about making sure the existing law operates in the way it was intended, by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes. Care and maintenance issues could involve minor policy changes, though they typically would not have a significant revenue impact.

Through TIES we try to find the best solution to issues, whether that can be done by way of a change to our existing administrative practices or by raising with the government the possibility of changing the law. Law changes will be subject to the government's other legislative priorities.

➤ For information about TIES, how to submit an issue for consideration and a list of issues currently being managed, visit www.ties.gov.au

How we manage tax risk

How you choose to manage tax risk, including your compliance approach and your dealings with us, will determine how we engage with you.

This chapter explains how we identify and assess compliance risks, how we categorise businesses using our Risk Differentiation Framework and how your risk rating affects our relationship with you.

Our compliance strategies provide support for those willing to participate who may need assistance, and deals firmly with those not willing to comply.

IDENTIFYING COMPLIANCE RISKS

The value, volume and complexity of transactions undertaken by large business have inherent risks for tax compliance.

We apply a level of risk analysis to all large businesses.

Our overall approach is to closely examine significant transactions and business results that show inconsistencies between tax and the economic outcomes.

Specific compliance risks that we are focussing on include:

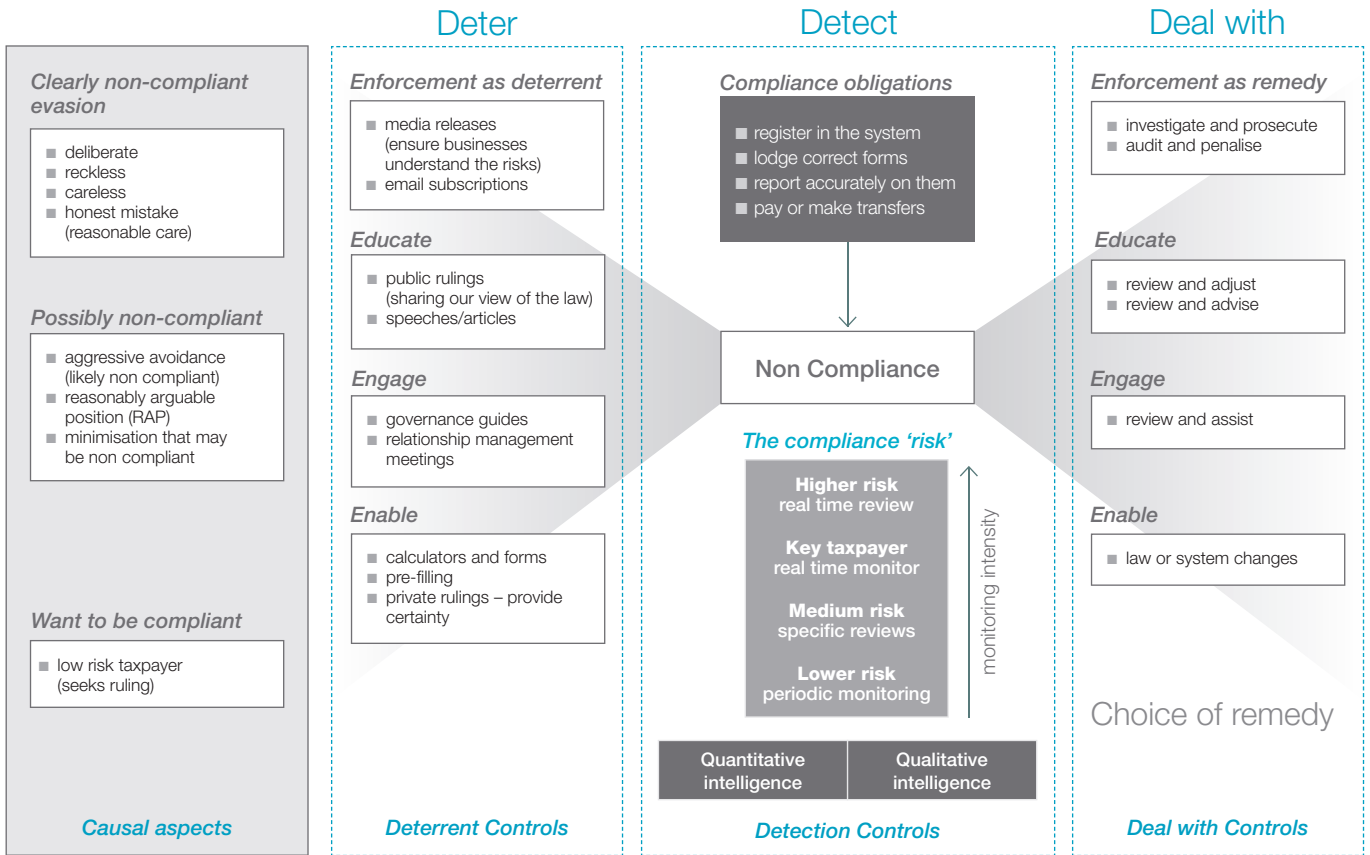
- profit shifting through transfer pricing, thin capitalisation and debt generation
- material transactions such as mergers, acquisitions and business restructures that allow for opportunistic tax planning.

➤ For information about issues we are currently focusing on, visit www.ato.gov.au/complianceprogram

Your checklist of what may constitute a risk:

- related party cross-border and tax haven dealings where a tax deduction is made in Australia with no corresponding amount of assessable income
- complex structures and intra-group transactions associated with generating tax benefits unrelated to the economic substance of your commercial activity
- tax benefits from financial and other arrangements that are disproportionately high compared to the limited financial exposure, or where there is a divergence between the real and claimed economic substance of your business activity
- using arrangements or products (such as tax rulings) to transfer or create tax benefits in circumstances not contemplated by the law
- characterisation of transactions, for tax purposes, that is at odds with their economic substance
- distortions and inconsistencies in market valuations
- promotion of tax exploitation schemes
- implementation of a transaction in a materially different way to that described in a product ruling relevant to the transaction.

FIGURE 7.1: End to end risk management



THE RISK DIFFERENTIATION FRAMEWORK

We use the Risk Differentiation Framework (RDF) approach to help us to assess your tax risk and determine the intensity of our response in a coherent, consistent and considered way (figure 7.1). It complements the compliance model (figure 2.1, page 6) which suggests an appropriate choice of remedy.

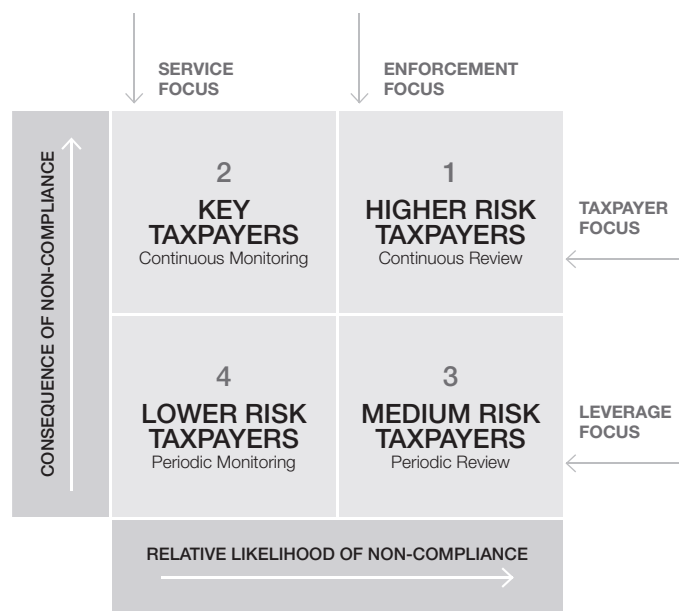
The RDF is based on the premise that our risk management stance will differ based on our perception of your estimated:

- likelihood of non-compliance (that is, having a tax outcome that we don't agree with), and
- the consequences (dollars, relativities, reputation, precedent) of that non-compliance.

Using the framework we place you into one of four broad risk categories (higher risk, medium risk, key taxpayer and lower risk) for each tax type (Income tax, GST, excise).

Our risk rating does not in any way influence the outcome of a possible risk review, but it does influence the likelihood of a review and the formality and intensity of it.

FIGURE 7.2: Risk Differentiation Framework



HOW WE RISK ASSESS LARGE BUSINESS

Using a range of risk filters, listed below, we profile your business twice a year against your previous results and data from other businesses (both domestic and international) to place you into one of the four risk categories.

We look at:

- your past compliance behaviour
- your tax risk management governance
- your business performance over time compared to your tax outcomes and that of your peers
- issues identified by our specialist areas and intelligence gathering, particularly in regard to significant transactions that allow for opportunistic tax planning, such as a material merger, acquisition or disposal
- intelligence from our industry segments on industry performance and its relationship to tax risks including patterns and trends in tax performance
- intelligence from overseas tax administrations and from the Joint International Tax Shelter Information Centre (JITSIC)
- intelligence from other government agencies such as the Australian Securities and Investments Commission (ASIC) and publicly available information
- risks arising out of the implementation of new tax law
- your level of international dealings and the tax outcomes derived from such dealings over time and compared to the functions performed, assets used and risks accepted.

We also undertake special research programs to improve our understanding of issues impacting on your compliance and better identify high risk cases.

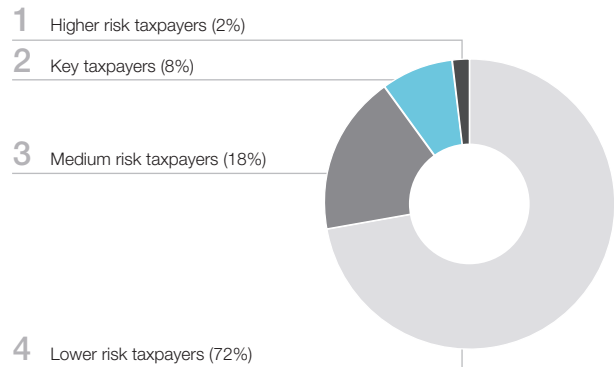
HOW THE FRAMEWORK IS APPLIED

We use the framework to make our decisions about who we will risk review and why. In doing this we understand that relevant facts and circumstances will need to be taken into account.

If we have a concern about your risk rating, we will discuss it with you. As your rating is reviewed twice a year, you may shift across risk categories over time as the information we have to form a view of your relative risk changes.

FIGURE 7.3: RDF taxpayer distribution

Indicative percentages of taxpayers expected for the four broad risk categories:



Four broad groupings are identified in the framework:

Quadrant 1 Higher risk taxpayers

For our higher risk taxpayers the framework suggests real time/continuous risk review stance to enable us to identify and assess risks as they arise.

There will always be a small number of taxpayers who we see as having a higher relative risk because of, for example, their relative size, the nature of the transactions they undertake, their apparent effective tax rate, or their compliance history.

As the Commissioner noted:

‘Certainty for these taxpayers is not in relation to their tax position but rather a certainty that they will be reviewed by us. Such an experience will be fair and professional but may also be quite formal and intense.’

Speech by Michael D’Ascenzo, Commissioner of Taxation to the 22nd Australasian Tax Teachers Association Conference 2010, University of New South Wales, Friday 22 January 2010

We will assign sufficient resources to enable us to identify and understand any significant transactions that have the potential for tax planning, so that we can quickly form a view on their appropriate tax treatment.

While we take all relevant facts and circumstances of a case into account, for higher risk taxpayers we are more likely to use our formal powers of information gathering.

Quadrant 2 Key taxpayers

For our key taxpayers the framework suggests a continuous monitoring stance.

Most of Australia's largest businesses fall into this category and they have significant influence on the tax system.

If you are a key taxpayer, what you do matters a great deal to the overall health of the tax system. Hence we have a particularly keen interest in your risk management and governance frameworks to mitigate tax compliance risks.

As a key taxpayer you are more likely to have approached us for a ruling in regard to a controversial or contentious tax matter and we aim to service your requests promptly to provide certainty.

We are less likely to use our formal powers of access and questioning and our choice of remedy for non-compliance is more likely to involve alternative dispute resolution approaches where this is appropriate.

ACAs provide key taxpayers with real time practical certainty and reduced compliance costs.

Quadrant 3 Medium risk taxpayers

For our medium risk taxpayers the framework suggests a more periodic review stance.

From time to time we may involve you in specific risk reviews, where we follow up matters of concern relating to specific issues. These are generally issues identified in our Compliance program.

These reviews are likely to be part of a compliance project involving other businesses with similar issues. This approach allows us to more consistently address the issue across the market and reduce compliance costs for you.

Quadrant 4 Lower risk taxpayers

The majority of large businesses have a lower risk rating.

For our lower risk taxpayers the framework suggests a periodic monitoring stance. This can involve activities such as targeted information about specific issues we have identified in the market, visits to you and our normal internal risk review process of monitoring your tax activities. If we consider you to be in this risk category, you are unlikely to be contacted for additional information and are less likely to have significant matters of concern requiring follow-up.

- If we have a concern about your risk rating, we will contact you to discuss it. For more information on the risk rating of your business, visit www.ato.gov.au/rdf or contact LB&IKCMMailbox@ato.gov.au

OUR OBLIGATIONS

Increasingly, we are engaging with you on a prospective, cooperative basis to identify tax risk and agree on mitigation strategies.

This means you have greater certainty and can help minimise your compliance costs. The framework we use is dynamic and as we obtain more information about your risk position our view of your relative risk may change. Communicating our view is an important part of our compliance relationship with you.

Our view of your relative risk is informed by our understanding of other large businesses, so you may have a different perception of your tax risk. The reality is that there will always be some large businesses that have a higher relative risk compared to other large businesses and these will face more intense scrutiny by us for that reason.

We have a duty to ensure that we have sound reasons for taking a view. To achieve this, we have developed a corporate approach to ensure our interpretative and analytical skills are fully applied to these decisions on large business risk rating, including the use of external experts in some cases.

This approach is complemented by open discussions about your risk rating, and informal and formal processes of dispute resolution.

Our approach is closely aligned with the OECD Forum of Tax Administration guidance papers on tax risk management.

- For more information on OECD publications, visit www.oecd.org

Active compliance approaches

Our typical processes for conducting risk reviews and audits and what you can expect.

In an environment of self-assessment our primary focus is on supporting you to voluntarily comply with your Australian tax obligations. However, where we identify potential risk to revenue our responses include a mix of service, help and active compliance processes that we tailor according to your risk rating.

Australian law requires that the correct amount of tax is paid in all tax jurisdictions involved in transactions completed in Australia. To ensure this occurs we have developed a broad range of services and active compliance products. For active compliance we are mainly referring to risk reviews and audits.

This chapter outlines our typical processes for risk reviews and audits together with the principles we adopt for gathering information. It sets out the points of our interaction with you and what you can expect.

Active compliance work commences when risks are identified. We need to determine the specific nature and degree of the risk that is the focus of any review work that we do. This defines the depth and breadth of our enquiries. The risks could be specific, based on our previous dealings or information shared by other jurisdictions. This influences our overall understanding of the taxpayer risk.

All of our active compliance enquiries are necessarily intensive, however we try to minimise the inconvenience and disruption our work causes you.

We promote a level playing field for you by deterring, detecting and dealing with non-compliance. For example, if non-compliance is the result of uncertainty, we will seek to reduce that uncertainty by explaining our view of the law. If non-compliance arises from administrative issues we will work with you to make compliance easier.

FIGURE 8.1: Risk analysis and case selection



Appendices 4 (Risk review processes) and 6 (Audit processes) show our generic processes for carrying out more detailed risk reviews and audits of large businesses. Although figure 8.1 reflects the usual progress of these processes, we may not necessarily follow every step depending on the circumstances. For example, you may make a voluntary disclosure during a risk review which resolves the issue.

We review all large business at a high level using our risk filtering processes. This may result in us sending out letters or questionnaires to refine our view of the risk. The majority of large business are considered lower risk.

We select some businesses for further risk review. Most risk reviews will confirm that you have complied and no further action will be taken.

We will escalate some cases to audit to confirm whether non-compliance has occurred. In practice most audits lead to an adjustment.

In conducting a risk review (or audit) we have a strong focus on:

- planning to agree on time frames and the scope of active compliance activities
- open dialogue with you, including initial discussions with you on the matter that has attracted our attention
- gaining an understanding of your business context and environment by using the BISEP model (see Appendix 1)
- gathering relevant information and evidence to get the full facts quickly
- making the right tax decisions according to the law.

Risk reviews can be specific or comprehensive and tend to have a wide context in order to establish if there are any material concerns for the ATO. Their aim is to assess risks and their severity. However they are not an in-depth examination as this is the domain of an audit. The audit involves a deeper verification of the facts and a determination of the ATO's view in relation to those facts.

In some instances, the nature of transactions and our knowledge of the compliance risks mean that the case proceeds directly to audit from the risk analysis process. These may include circumstances where we consider your business or particular arrangement is higher risk, the case involves carrying forward a previous audit, is time sensitive or we perceive a collection risk.

RISK REVIEWS

Risk reviews form a major part of our compliance work. We use these reviews to assess whether there may be tax risks arising from your self assessment. They help us to determine whether there are any compliance issues requiring a more in-depth investigation and response.

In a risk review we place a strong focus on gaining an understanding of your business context and environment by using the BISEP model (see Appendix 1).

The risk review process provides both of us with an opportunity to resolve concerns about compliance issues. In most cases this can prevent the need for an audit.

The type of review will depend on the initial risk identified and your risk rating. In some instances our review process will be conducted without the need to contact you for additional information. Your risk rating will determine whether we need to focus on one or more specific risks or review your entire business operations and whether we need to develop an in-depth understanding or conduct a high level analysis.

The information we need will vary depending on the stage of the process we are in. For example, a risk review may cover a wide context of materials, such as trial balance and key papers, where an audit may need a deeper level of information, such as contracts. Generally, we will ask for information from you first and then from third parties such as your intermediaries only if we need to.

- ▶ For more information on the risk review process, see Appendix 4.

Risk review outcomes

At the end of any risk review we will discuss the outcomes with you, advising if we are satisfied with your compliance or consider further action is warranted.

Where the risks are found to be significant, it is highly likely we would follow up with audit action. Where the risks are not deemed to be significant, we would usually not proceed further unless there were other concerns raised.

Where it is likely we will commence an audit, we will keep you informed about our plans. Depending on the nature of the risks, the discussions may also cover possible mitigation strategies which you might choose to apply to reduce the likelihood of an audit, or to mitigate any potentially adverse effects.

At the end of the risk review process we will write to you outlining the final outcome.

AUDITS

Audits are more comprehensive than a risk review and involve intensive case examination where material underpayment of income tax, GST or excise is a risk. Audits provide a means for us to:

- verify whether the proper tax has been paid in cases where we identified risk – including gathering evidence or proof as required
- understand the causes of any non-compliance and address them for the past and the future
- identify areas where the law may need clarification or where audit processes can be improved.

For income tax purposes, an audit typically arises following a risk review and will test the review's conclusions. Where we identify additional risks during the audit, we may broaden the audit's scope.

An audit involves agreeing on a plan, collecting detailed information and undertaking analysis. During this phase auditors will have more contact with you and may spend an additional amount of time at your premises, examining documents and processes and discussing issues with your key personnel. After the audit, we will provide you with our view.

- For more information on the audit process, see Appendix 6.

Timeframes for audit

We would expect a large business audit to be concluded within two years. Full cooperation is assumed and implied in meeting this timeframe. It also requires the case manager purposefully manage the case. In appropriate circumstances, this may mean that we use our formal powers. However we do not prefer this approach.

MUTUAL EXPECTATIONS DURING COMPLIANCE ACTIVITIES

Both parties will:

- have ongoing, open and frank discussions and agree on a project plan upfront
- participate in upfront process meetings to identify any issues that could delay or disrupt the process and agree on contingencies
- agree on realistic timeframes
- provide relevant information regarding processes as well as facts and evidence in a timely manner
- clarify issues as they arise so that they can be resolved efficiently
- provide prompt and ongoing access to key personnel and escalation points
- recognise that sometimes we may have to agree to disagree
- agree upfront on how to handle relevant documents covered by Legal Professional Privilege or Accountants Concession

UNDERSTANDING YOUR BUSINESS

In conducting risk reviews and audits we need to understand your business context and environment. Where appropriate we will engage experts on particular industries or specific issues (such as financial analysts and market valuers).

In developing this understanding we use the BISEP model (Appendix 1).

This model covers a wide range of relevant topics and ensures that we both have a common view of your business.

These are drawn from the audit accounting standard (ASA 315) *Identifying and Assessing the Risks of Material Misstatement through understanding the Entity and its Environment*.

GATHERING INFORMATION

Though we can use both formal and informal powers we prefer to work informally and build good relationships to minimise cost and disruption to both parties. Our approaches will be guided by your risk rating, as described in 'How we manage tax risk' (page 22). There will be times when we'll disagree and it's important that we work together to provide an outcome.

We prefer to use formal powers only where necessary. For example, for higher risk groups our need to understand the business is paramount; or when it's requested by you, or where other attempts to obtain the required information have failed.

We often need to gather substantial amounts of information and evidence when examining complex compliance matters. We realise that it is important that you have a clear understanding of our request and how we think the information relates to the matter under review.

! If we can get the full facts quickly, along with the relevant supporting evidence, this enables us to come to our position and provide you with certainty as soon as we can. To resolve issues we need to be in the same factual position as your decision makers.

Timely information is essential for us to efficiently resolve compliance activities. In our experience, delay in this phase is one of the main causes for lengthy cycle times in compliance activities.

Information includes documents evidencing an intention, election, choice, estimate, determination or calculation. Documents can include paper and electronic communications including emails.

Efficient information gathering relies on:

- effective planning
- full cooperation
- early and ongoing dialogue
- timely escalation where issues arise.

Ongoing and open discussion about information requirements helps us to:

- understand your business and the environment that you operate in
- keep the information gathering process 'informal' and avoid unnecessary escalation
- enhance the information flow and actively manage information requests
- build and enhance our cooperative relationship

Informal approaches

We prefer, and generally adopt an informal approach to gathering information. Generally, our informal approach can lead to a resolution of matters, even in cases where there is a potential risk of litigation.

This approach is premised on:

- providing complete, timely and relevant information critical to good decision-making
- constructive dialogue and keeping the information gathering process on track
- a desire to achieve an outcome acceptable to both of us.

When issues arise we expect that the compliance team will make every reasonable effort to resolve them and, if necessary, the matter will be referred to more senior officers.

Mutual expectations during informal approaches

Informal approaches presume full cooperation.

You can expect that we will:

- engage you in constructive dialogue so that our information requests are clear and unambiguous
- plan our information gathering around the risk hypothesis and clearly stated evidentiary needs – the plan will include agreed milestones and timeframes
- have face-to-face discussions with you to develop the key information gathering questions where appropriate
- actively manage information requests with timely escalation, if needed, when delays or unforeseen events arise
- adopt a transparent process prior to using formal powers and subject to operational needs.

We expect that you will:

- engage in constructive dialogue with us
- meet agreed timeframes
- provide full, complete and timely information
- work with us to ensure that the compliance activity proceeds in an efficient and timely way.

In some cases relationships can be tested. The change from a cooperative to a less cooperative relationship is often difficult to pinpoint because it generally results from several incidents or actions rather than a clearly identified single point. We expect that differences will occur; however persistence, openness and a willingness to understand the other view or position will help in resolving any issues.

If there are any issues that need to be escalated, you will have access to our decision makers.

Formal approaches

Generally, when we decide that using formal powers is necessary, we will advise you that we intend to use them and the reasons for doing so.

We will use formal information gathering powers when the informal process is no longer productive or where your circumstances, history or behaviour indicate that a formal approach is warranted.

There are some situations where we may adopt a formal approach in the first instance. This includes where:

- you are a higher risk taxpayer
- you have a history of being uncooperative
- there are privacy, contractual, or confidentiality obligations (for example former employees or third parties)
- you request a formal approach in relation to third party information requests. In these cases, we will work with you to ensure that the information is sought efficiently while being mindful of the obligations of all parties.

In other cases it may be necessary during the course of an audit or a review to move from an informal to a formal approach. This can occur where:

- full cooperation is lacking
- there are ongoing or persistent delays in providing information
- it is necessary to obtain an exact picture of an arrangement or transaction.

Examples of when we would use formal powers include where:

- the information provided informally only partially answers our requests
- access to senior personnel involved in the issues is restricted, for example, in cases where intention is an issue
- representatives request that everything be put in writing and take a legalistic approach to responding
- documents, people and other evidence are purposely placed outside our jurisdiction
- claims of Legal Professional Privilege or the Accountants Concession are made without providing sufficient information to enable us to properly assess the veracity of their claims.

Mutual expectations during formal approaches

You can expect that we will:

- treat you fairly and, as far as possible, in a non-intrusive way
- give you reasonable notice of our intention to use our formal powers
- clearly identify the object(s) of the examination
- keep information requests relevant and focussed
- explain why we are requesting the information
- keep records of your personal information safe and secure
- respect your right to Legal Professional Privilege or the Accountants Concession. This will not adversely impact our view of your cooperation.

We expect that you will:

- Provide a full response in a timely manner to all enquiries
- be prepared for any formal interview

- ▶ For more information, refer to the following ATO Publications on www.ato.gov.au:

- See the *Access and Information Gathering Manual* for detailed guidelines on LPP and the Accountants Concession
- *The Taxpayers' charter – Fair use of our access and information gathering powers* (NAT 2559)
- Practice Statement *PS LA 2004/14 Access to corporate board documents on tax compliance risk*.

DETERMINING OUR POSITION

To help determine our position, we sometimes engage external experts such as industry specialists, valuers, economists and legal counsel. Some matters must be referred to a panel before a decision is made. For example, if we consider that general anti-avoidance provisions – such as Part IVA – apply, we will refer the case to our General Anti-Avoidance Rules (GAAR) Panel for advice. When our view is being finalised through the GAAR Panel, you have the right to attend and present your case. Where there are any concerns about the accuracy of our position, it will be escalated to our Tax Counsel Network or a Centre of Expertise to review or arrive at a view on the matter.

After our consideration we will usually provide you with a position paper setting out our view on the issues including the details of who to contact to discuss the matter. You will have the opportunity to respond and we will consider your response and advise you of our decision.

CASE LEADERSHIP PROCESS

Some complex and sensitive issues for large business have led us to establish special arrangements relating to selected major cases. These arrangements include appointing specialist case leaders to help identify and resolve issues. In some circumstances it relates to our higher risk or complex cases.

GENERAL ANTI-AVOIDANCE RULES PANEL

The General Anti-Avoidance Rules (GAAR) Panel helps to administer Part IVA and other general anti-avoidance provisions. It ensures that decisions about applying these provisions are objectively based and well-considered.

The panel's role is advisory but our decision-maker must take the panel's advice into account.

Matters are generally referred to the panel after we have issued a position paper and considered your response.

To help the panel provide us with advice, you will usually be invited to address the panel meeting. Before attending a panel meeting, you will be asked to provide a written submission to the panel.

- More information on GAAR can be found in *PS LA 2005/24 Application of General Anti-Avoidance Rules*

ASSESSMENT AND AMENDMENT PERIODS

Assessments

The standard period in which the Commissioner can amend an assessment is four years for large business taxpayers. We will work with you to establish timeframes to minimise disruption.

Income tax

Different rules relating to the amendment period can apply to some cases where transfer pricing, research and development and capital gains tax is involved. Effective lines of communication and the level of cooperation we receive from you will influence the audit's progress.

Generally, you will be given every reasonable opportunity to present your case before an amended assessment issues. We are conscious of possible financial and reputation risks associated with a debt adjustment and we take due care to ensure that they are based on reasonable grounds.

GST

Where an adjustment needs to be made to your activity statement (whether to increase or decrease your liability) we will normally do this by issuing an assessment.

Generally, our processes require that the details and reasons for any assessment be advised to you before any such assessment is issued. We will give you the opportunity to raise any concerns before the assessment issues. Care is taken to ensure that any amendments are based on reasonable grounds.

Excise

Where fraud or evasion is suspected the Commissioner would seek to extend the enquiries and possible adjustments beyond the four year period. Should we choose to extend the period of enquiry or adjustment, you will be contacted and given an opportunity to discuss the arrangements.

You will be given every reasonable opportunity to raise your concerns before a demand for payment issues. However, if you choose not to take this opportunity, a demand can still be issued.

PENALTIES AND INTEREST

Administrative penalties

The law imposes penalties based on levels of culpability. The facts and circumstances of a case ultimately dictate which category of penalty applies, if any.

The risk of a penalty applying can be mitigated through an unprompted voluntary disclosure, an early disclosure (such as seeking a private binding ruling) or disclosure of the position taken during the risk review stage of any compliance activity (or afterwards).

Where we have concluded that penalties should apply we will tell you our reasons and give you an opportunity to present your views with any mitigating factors. If following this we still consider that penalties apply, we will give you a written statement of the reasons for the decision not to remit all or part of the penalty, including findings on material questions of fact. This will refer to the evidence on which our findings were based.

In many instances large business have a reasonably arguable position (RAP) in relation to contentious income tax issues. We will give you the opportunity to discuss the merits of your case before any decision is made. The risk of a penalty applying in these and other circumstances can be mitigated through an unprompted voluntary disclosure, early disclosure (such as seeking a private binding ruling) or disclosure of the position taken during the risk review stage of any compliance activity (or afterwards).

- Our position on RAPs is explained in *MT 2008/2 Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable*.

We are currently reviewing our application of remissions and penalties and will advise you of any changes.

Promoter Penalties

The vast majority of large business taxpayers and tax professionals act ethically and professionally and significantly contribute to maintaining the integrity of the tax system. The promoter penalty legislation (PPL) is aimed at dealing with those who market unsustainable arrangements to the detriment of both taxpayers and ethical advisors.

- ❗ Penalties can apply directly to individuals as well as large businesses.

The provisions are intended to apply in two circumstances:

- when a promoter engages in conduct that results in them or another entity being a promoter of a tax exploitation scheme
- when an individual or entity implements a scheme promoted on the basis of conformity with a product ruling in a way that is materially different to that described in the product ruling.

The legislation is aimed at schemes that would attract significant penalties if used by taxpayers. Important aspects of the administration of the measure have been co-designed with the National Tax Liaison Group (NTLG) sub-committee.

- Two law administration practice statements have been published for the administration of the promoter penalty laws:
 - *PS LA 2008/7 – Application of the promoter penalty laws (Division 290 of Schedule 1 to the Taxation Administration Act 1953) to promotion of tax exploitation schemes)*
 - *PS LA 2008/8 – Application of the promoter penalty laws (Division 290 of Schedule 1 to the Taxation Administration Act 1953) to schemes involving product rulings.*

Interest charges

The tax laws impose interest charges from the date a tax liability originally should have been paid.

The tax laws impose interest charges:

- to ensure that taxpayers who have underpaid their tax during this period do not receive an advantage over those who have paid their tax
- to compensate the government for the impact of not having the funds.

Because interest charges are cumulative and compounding, they can often exceed the outstanding amount of tax. The law also provides the Commissioner with the discretionary power to remit interest charges in certain circumstances.

If interest applies we will give you a written statement about the reasons for the decision not to remit all or part of it. This statement will refer to evidence on which our findings were based.

- For more information, visit:
 - www.ato.gov.au/businesses/interestcharges
 - *PS LA 2008/13: ATO Receivables Policy*
 - *PS LA 2006/8: Remission of shortfall interest charge and general interest charge for shortfall periods*
 - *PS LA 2006/2: Administration of shortfall penalty for false or misleading statement.*

09

Resolving disputes

How we seek to understand your business and how we work with large business to resolve disputes.

Tax law administration and large business are both complex environments and as we apply tax law to complex facts, some dispute is inevitable. We want to resolve disputes directly with you as early and cooperatively as possible. This chapter outlines the range of options we use to resolve disputes, from working closely with you to resolve issues together to the options available when early resolution is not achieved.

We believe in consultation, collaboration and co-design when we administer the tax system. Ongoing dialogue is essential to understanding the context behind transactions and events.

We prefer to resolve disputes early, as close to the original decisions as possible, or before they crystallise into more formal disputes – for example, our approach to large audits, starting with providing position papers to the taxpayer.

COLLECTING TAX WHEN THERE IS A DISPUTE

The law requires that tax liabilities are paid by the due date. If there is a dispute with us regarding your obligations, we will continue to seek payment. However, we may enter into a payment arrangement with you, whereby we will not take further action to collect the debt until a particular date or until the dispute reaches a particular stage. Entering into an arrangement with us will prevent further penalties for late payment being imposed, and general interest charge (GIC) accruing until the dispute is resolved.

▶ For more information on the *ATO Receivables Policy*, visit ato.gov.au/receivablespolicy

Where tax is owed by non-residents, we may issue a notice requiring a person who has money belonging to the non-resident to pay any tax due by that non-resident.

ALTERNATIVE DISPUTE RESOLUTION

Although we always attempt to resolve disputes directly with you and your representatives in the first instance, where a direct negotiation has not resolved the issue we will consider whether an alternative dispute resolution (ADR) process may assist. An ADR can provide a cost effective, informal, consensual and speedier means of resolving disputes and litigation. It can be useful to clarify and limit the scope of a dispute, limit issues and streamline procedures. Different ADR processes may be suitable in different situations. The cost of an ADR process will usually be shared equally between the ATO and the taxpayer.

Alternative Dispute Resolution processes can occur:

- at any stage including mediation and early neutral evaluation
- at the Administrative Appeals Tribunal including conferencing, mediation, conciliation, neutral evaluation and case appraisal
- through a MAP process (in international disputes at pre-litigation stage)

Where a dispute is in litigation, we will continually review whether an ADR process may assist in resolving some or all of the issues in dispute.

The timing of ADR can be crucial to maximise the opportunity to resolve the issue however there is no universally optimal time. Assessing when ADR may assist in resolving a dispute requires good judgment and sound understanding of all the circumstances in the case including the likelihood of achieving a result at that stage of the dispute.

ADR may not be appropriate where, for example:

- it would be in the public interest to have judicial clarification of the issues in dispute and the dispute is a suitable vehicle to test the issues
- resolution can only be achieved by departure from an established 'ATO view' on a technical issue
- the dispute is of a kind where the state of the relationship between the parties is such that any proposed ADR is unlikely to be successful.

➤ *PS LA 2007/23 Alternative Dispute Resolution in Tax Office disputes and litigation* sets out the policies and guidelines for attempting to resolve disputes by means of Alternative Dispute Resolution.

More information can be found in *PS LA 2007/12: Conduct of Tax Office Litigation in Courts and Tribunals*.

OBJECTIONS

You have the right to object to a range of decisions, including those relating to assessments, penalties and private rulings. When we receive a written objection a review officer, independent of the original decision maker, is appointed. The process typically involves:

- gathering all relevant information relating to the original decision (for example audit files)
- examining the grounds for objection and considering the scope of the review
- researching the issues, consulting with technical experts and any other party as necessary, noting any new information and coming to a decision
- advising you in writing about the decision reached and outlining any further rights of review or appeal.

The review officer will contact you within 14 days to acknowledge receipt of your objection and advise if we need further information.

The Taxpayers' Charter sets service standards for objections. However, if the case is particularly complex, we may negotiate a longer period with you.

You can help the process by providing all relevant documentation with your objection and responding in a timely manner if we ask for any additional information.

The Federal Court has processes designed to promote fair and efficient proceedings in the management of tax cases. We align our processes with the Federal Court, including a focus on early identification and management of disputes that cannot be resolved at the objection stage or through ADR.

❗ A Practice Note was issued by the Chief Justice in relation to the conduct of tax proceedings in the Federal Court of Australia.

For more information, visit www.fedcourt.gov.au

SETTLEMENTS

The *Code of Settlement Practice* provides guidance about settling tax disputes. The Commissioner may settle disputes where it is considered to be consistent with good management of the tax system.

The code outlines those circumstances under which it is generally appropriate, or inappropriate, to settle.

While the Commissioner has a responsibility to collect the tax properly payable, there is also an obligation to balance this responsibility with the need for sensible administration. The Commissioner may apply the 'good management rule' and settle the tax liability having regard to relevant factors.

Although the power to settle tax liabilities according to the code has been delegated to a strictly limited range of senior officers, any offer made to settle a dispute should be directed through the case officer. In significant cases, internal advice is sought from senior technical experts and external legal providers. In addition, external legal providers may give advice to the settlement decision maker.

Settlement of a tax dispute will not prevent or prohibit any later prosecution in respect of the same issue.

- For more information on the *Code of Settlement Practice*, including circumstances where settlements would generally be inappropriate, visit www.ato.gov.au/settlements

LITIGATION

If you are dissatisfied with an objection decision, you generally have the right to either have the decision reviewed by the Administrative Appeals Tribunal (AAT) or appeal the decision to the Federal Court. Details of the review and appeal procedures are provided with the formal notice of Decision on Objection.

Your application must be lodged directly with either the AAT or Federal Court.

We will conduct and manage litigation in accordance with our obligations under the law, consistent with the Model Litigant Obligation, an appendix to the Legal Services Directions 2005 issued by the Attorney-General. The Legal Services Directions provide the rules under which Australian Government agencies are required to conduct litigation and outsource legal services. The obligation also binds barristers and solicitors who represent the ATO in litigation.

- The directions and related guidelines can be viewed on the Attorney-General's Department website www.ag.gov.au
- More information can be found in *PS LA 2009/9 Conduct of Tax Office litigation*.

PROSECUTIONS

For routine cases – such as failure to lodge a return or failure to register – the decision whether or not to prosecute rests with us. The Commonwealth Director of Public Prosecutions decides in other cases.

Where circumstances warrant, the law provides for prosecutions in relation to a range of offences against the tax laws. These include:

- making a false or misleading statement (which can include withholding information material to a tax matter)
- keeping incorrect or false records
- refusing or failing to furnish a return or information or to produce records or documents
- refusing or failing to attend before a tax officer or answer questions as and when required
- hindering or obstructing a tax officer who is exercising the access powers
- promoter penalties
- administrative sanctions.

- ⓘ In prosecutions, sanctions may apply to individuals not the business.

- For more information on prosecution guidelines visit www.cdpp.gov.au for the Prosecution Policy of the Commonwealth.

10

Appendices

APPENDIX 1 The BISEP model

Factor	Examples
Business	<ul style="list-style-type: none">■ The extent and nature of the group's business activities and transactions■ Location and size of industry■ Business plans and strategies■ Entity and group structure■ Capital structure, financial performance and ratios■ Effectiveness of controls within business systems and processes
Industry	<ul style="list-style-type: none">■ Conditions affecting the industry – region, size and participants■ Industry associations■ Industry profit margins and cost structures■ Nature of the competition■ Industry skill levels■ Impact of technological and business change■ Financial performance■ Industry norms and regulatory environment
Sociological	<ul style="list-style-type: none">■ Knowledge and norms of the professional/business group, for example, standard of record keeping and lodgment timeliness■ Culture of the organisation and management■ Business, professional networks and reputation■ Approach to community and corporate citizenship■ How the group deals with finances and paying tax■ Linkages to control points, decision makers and advisors
Economical	<ul style="list-style-type: none">■ Domestic, international environment and trade conditions■ Key overseas developments■ Government policies – interest rates, inflation, tax system and economic reforms
Psychological	<ul style="list-style-type: none">■ Management objectives and philosophy■ Views and reactions of management to wider community■ Approach to managing risk and drivers of the risk strategies■ Attitude to and relationship with the ATO

For large business we also consider the following factors:

Systems of compliance	<ul style="list-style-type: none">■ Decision making systems, processes and organisational structure■ Quality assurances standards and records■ The support and authority the corporate taxpayer's compliance team receives from management■ The degree of ease in accessing information■ Nature and purpose of transactions, that is value, type, conduct, methods, timing, costs and benefits■ Compliance history■ Tax analysis of issues and expected range of tax results
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APPENDIX 2 Industry specific forums

The ATO facilitates several forums dedicated to specific industries. Large businesses make up a substantial portion of the membership for the:

- Film Industry Partnership
- Telecommunications Industry Liaison Group
- Alcohol Corporate Consultative Forum
- Fuel Schemes Advisory Forum
- Tobacco Industry Forum
- Petroleum Corporate Consultative Forum
- Property and Development Working Group.

The ATO also has standing liaison arrangements with the following industry associations:

- Australian Bankers Association (ABA)
- Investment and Financial Services Association (IFSA)
- Australian Financial Markets Association (AFMA)
- Minerals Council of Australia (MCA).

In some instances, such as our liaison with the ABA, we have formalised the process, including through scheduled meetings. In other instances, such as the liaison with the IFSA, there is an ongoing dialogue, with meetings scheduled as required.

APPENDIX 3 Rulings process

LODGMET

LEGAL ANALYSIS

WHAT THE ATO WILL DO

During the rulings process we will maintain an open and frank dialogue with you.

Hold pre-lodgment discussions

Pre-lodgment discussions are a process intended to assist you in meeting your commercial timeframes.

In these discussions we can clarify technical issues, discuss specific transactions, information requirements, case planning and managing expectations.

We encourage you to have pre-lodgment discussions with us by contacting the large business phone service on **1300 137 286** or **LBIAdvice@ato.gov.au**

A case officer will organise a pre-lodgment meeting where required and ensure that the right people from the ATO attend. Prior to the pre-lodgment meeting, the case officer will ask you to provide an overview of the proposed transaction (including any high-level tax analysis) in order to get maximum benefit from the process.

Receive ruling applications

To apply for a ruling you should attach an application form which you can download from our website: **www.ato.gov.au**

In the application you will need to provide a full and true disclosure of the material facts such as the results of your own research and analysis.

You also need to include copies of all relevant and supporting documents including draft documents and financial statements.

To lodge a ruling application, send it to:

**Australian Taxation Office
LB&I Provision of Advice
PO Box Office Box 377
Albury, NSW 2640**

You may also want to fax the ruling application through to us on **1300 661 106**.

Understand the facts of the transaction

Our case officer will work with draft material for prospective transactions, however, the draft documentation must be materially similar to the end transaction. The case officer may also request further information and can make assumptions.

Research technical issues

In applying the tax law to the particular facts stated in your ruling application, we will have regard to the words of the Act and the history and objects of the relevant provisions as well as our own assumptions. This is referred to as the 'purposive' approach to interpreting legislation. Where the law is clear we will apply it, even if it produces inconvenient outcomes for the revenue or for taxpayers.

Where the words in the Act are ambiguous or open to be interpreted in a number of ways, our approach is to adopt the interpretation that best promotes the policy intent.

Escalations

If an ATO view needs to be created our case officer will escalate the issue to our Law and Practice area. The case officer along with Law and Practice members will review and analyse information, and may consult with relevant technical experts to formulate our position.

Where an issue is escalated you will have the opportunity to discuss the matter with the officer concerned and have access to the decision maker.

WHAT WE EXPECT FROM YOU

Contact us as early as possible about the transaction you are planning as this helps us to provide you with timely advice.

Be realistic in your timeframe expectations and understand that complex cases may take more than 28 days.

Provide us with access to a central point of contact in your organisation in relation to the ruling application.

Provide us with reasonable access to the facilities and resources we need.

Engage in open and frank dialogue on the issues and facts to do with the application.

DETERMINE OUR POSITION



COMMUNICATE AND CLOSE


Private rulings

The case officer will not generally provide pre-ruling opinions, draft private rulings or any other written expressions or written endorsements of informal assistance.

However, the case officer will maintain ongoing communication with you and provide feedback where we may rule unfavourably. If you disagree, the case officer may ask for further submissions from you to support your argument.

Class rulings

We will issue a draft ruling to seek consent to name parties to the transaction. That way, if you are unhappy with a draft class ruling you may wish to withdraw the ruling application.

Communicate the outcome in writing

Once we are satisfied that we understand the facts and your reasoning, we will issue the ruling. The finalised ruling is binding on the Commissioner, but not the taxpayer.

Take all reasonable steps to send us the information we need in a timely fashion.
Provide a full analysis of the transaction including a tax technical analysis.

Provide us with timely advice on any developments that will impact, or potentially impact, on the ruling application.
Provide a full description of the transaction, including explaining the wider context of the transaction.

APPENDIX 4 Risk review process

PLAN CASE AND UNDERSTAND BUSINESS

WHAT THE ATO WILL DO

During the risk review process we will maintain an open and frank dialogue with you.

Develop the risk hypothesis

We develop a risk hypothesis for all cases selected for risk review. The hypothesis is formulated through our risk management processes, with input from the case officer and, where appropriate, relevant experts.

Plan the case

Case officers will:

- check whether you are involved in any other interactions with us and coordinate these where possible
- collate the information we have on your business
- develop a plan for the review for discussion with you
- make sure the appropriate resources are available to carry out the plan
- call to advise you of the risk review, request necessary information and discuss possible interview dates
- confirm in writing any initial information requests.

Gather information and build understanding of your business

Case officers, their senior officer(s), and, where necessary, technical, topic or industry experts will review the available information to:

- identify any additional information we need
- develop an understanding of your business activities – this may involve discussions with key people within your business
- plan for an internal briefing or workshop.

If we can get the full facts quickly, along with the relevant supporting evidence, this enables us to come to our position and provide you with certainty as soon as we can.

IDENTIFY AND REVIEW RISKS

Hold an internal briefing or workshop

The case officer will organise an internal workshop which may include technical, topic and industry experts to refine the risk hypothesis by:

- analysing available information
- analysing the industry and business environment in which you operate
- comparing your economic and tax performance
- analysing the impact of events.

Send an interview confirmation letter

The case officer will write to you confirming any interview date and advising of any information we need before or at the interview.

Prepare for interviews

The case officer will prepare an interview questionnaire with assistance from senior officers, outlining key issues and identifying the information we need to determine our position.

Hold interviews

Interviews assist us in developing our understanding of your business. When we hold an interview we will:

- arrange for the appropriate tax officers to be there to address issues you may raise
- ask whether you have identified any potential risks
- provide you with an opportunity to explain how you may have mitigated any potential risks
- explain our initial view on any risks
- give you the contact details of a senior officer in case you wish to raise any concerns during the review.

WHAT WE EXPECT FROM YOU

Help us meet the planned timeframes for the review by:

- setting interview dates with us
- preparing for interviews
- providing information in the agreed timeframe.
- contact your case officer with any questions

Provide information in a timely way and ensure appropriate staff are available for the interview.

Advise us of any potential risks you have identified and how you may have mitigated them.

Provide us with timely information and access to relevant documents and staff.

ASSESS RISKS

Refine the risk hypothesis

We will assess the risks we have identified and recommend whether there is any need for further compliance action.

Where there are risks that are likely to need further action, the case officer may hold additional internal workshops with technical, topic and industry experts to analyse any new information and refine the risk hypothesis.

We may contact you if we need any further information.

Develop recommendations

The case officer makes recommendations on the risk rating and possible future action including whether we should proceed to an audit.

The senior officer considers the recommendations. If the recommendation is to proceed to audit the case then goes to a risk committee which includes other senior tax officers, for consideration.

Issue a draft finalisation letter

If we have identified risks that require further compliance action the case officer will send you a draft finalisation letter advising you of the outcomes of our work. If there is no need for further action we will send you a finalisation letter.

We may also offer you an interview to discuss the implications of our findings and our possible next steps.

Where risks are assessed or an interview occurs, provide your input in relation to our findings.



CLOSE/ESCALATE TO AUDIT

Hold a final interview

If you choose to have a final interview the case officer will organise this with you and arrange for relevant ATO staff to attend.

The case officer, senior officer(s) and, where appropriate, technical specialists will attend the interview to discuss the implications of our findings with you.

This discussion will cover our possible next steps and how we will keep you informed of our plans. We will also discuss possible mitigation strategies you might choose to implement such as making a voluntary disclosure.

Send finalisation letter

After the interview the case officer will write to you outlining the final outcomes from the review.

Issue feedback questionnaire

Once the case has been finalised we will send you a questionnaire seeking your feedback on the conduct of the review and any suggestions for improvements to our processes.

Internal review

In some cases we will undertake an internal debriefing once the review is finalised to identify learnings and improvements.

Ongoing dialogue

Where we have advised you that your case is likely to proceed to audit we will contact you regularly to inform you of developments.

Ensure the necessary staff are available to attend the final interview.

Consider the risks identified and implement mitigation strategies where possible.

Provide us with feedback on the conduct of the review, including any suggestions for improvement.

APPENDIX 5 Review types

We conduct several types of risk reviews to achieve voluntary compliance and some of the main review types are listed below.

We assess risk based on the consequence and likelihood of it occurring. The views of experienced ATO staff and insights from senior officers will also factor into your review.

Our risk differentiation approach may mean higher risk groups have a greater level of scrutiny and analysis. This may include requests for extra information or interviews.

While in these review processes you can make a voluntary disclosure and be eligible for a reduction in penalty rates.

➤ For more information on voluntary disclosures, see page 9.

PRE-LODGMET REAL-TIME MONITORING

Compliance assurance review

The compliance assurance review is a real-time review that occurs over approximately one year, dealing with issues as they arise. It provides us with a high-level understanding of your business operations, your key transactions and identifies your compliance level and risk profile.

It is designed to avoid disruptions to your business and reduces the need to proceed to audit where there are no changes indicating any material risk.

A compliance assurance review typically involves:

- collecting and analysing information as it becomes available
- monitoring revenue
- discussing any risks we identify
- discussing recommendations for future compliance activity.

POST LODGMET

If we have concerns raised from your lodgment we may proceed with:

- a client risk review (looking at the whole business), and/or
- a specific review (examining an issue we have identified).

Client risk review

This is a comprehensive review product we use to develop an in-depth understanding about your business operations.

A client risk review typically involves:

- collecting and analysing information to help us understand your business
- identifying potential material tax risks
- reviewing identified risks by asking you to explain the circumstances and provide information about any mitigation strategies implemented
- assessing and evaluating identified risks
- making recommendations for future compliance activity.

The aim of a client risk review is to:

- assess identified potential tax risks (current and emerging)
- get a better understanding of your business by integrating business and tax analyses
- build a year-by-year picture of your business
- build and maintain an ongoing dialogue.

Specific review

In this type of review we examine one or more specific risks that we have identified – as with the client risk review process. A specific review typically involves:

- collecting and analysing information to help us understand your business in relation to the potential risks we have identified
- asking you to explain the circumstances and provide information about any mitigation strategies that have been implemented
- assessing and evaluating the identified risks.

A specific review aims to:

- minimise impact on you by concentrating only on a risk that has already been identified
- assess identified potential tax risks (current and emerging)
- gain a better understanding of your business through the integration of business and tax analysis
- build and maintain an ongoing dialogue.

APPENDIX 6 Audit process

PLAN THE AUDIT

WHAT THE ATO WILL DO

During the audit process we will maintain an open and frank dialogue with you.

Prepare the case

Our audit case officer will:

- update the information we have on your business
- review the outcomes from recent risk reviews to ensure the identified risks remain relevant
- check whether you are involved in any other interactions with us and coordinate where possible.

Prepare the audit plan

The case officer will prepare an audit plan with the help of senior officers and other relevant compliance and technical staff. This may involve a planning workshop.

Planning for an audit includes ensuring the appropriate resources are available for its implementation.

We will regularly review and update the audit plan throughout the audit and we will inform you of progress. We will also explore with you ways we might be able to speed up completion.

Notify taxpayer of audit

As we prepare our audit case and the plan, the case officer will generally call to tell you of our intention to audit and organise times for interview(s). We will give you the names of the officers involved in the audit and the process and contact arrangements for managing the audit. We will then write to you to confirm these details and outline any initial information we need.

Hold a preliminary audit interview

At the interview we will:

- provide you with a copy of the audit plan for discussion
- discuss the audit scope, the periods under audit and the expected completion date
- discuss the information gathering processes
- discuss any ATO guidelines relevant to the issues and years to be audited, including procedures in relation to voluntary disclosures
- outline facilities and assistance we may need
- give you the contact details of a senior officer in case you wish to raise any concerns during the audit, and access to decision makers.

GATHER INFORMATION

Gather information

We will seek information from you using a range of methods including questionnaires and interviews with your key staff. This is a key phase where working closely together can help in managing the audit timeframe.

We will work with you to establish our information needs, develop good communication process, and discuss our reasons for needing information.

We will generally request information on an informal basis, however, in some circumstances it may be necessary for us to use our formal access powers. In this case we would normally advise you beforehand and outline the process. An example of this situation may be where information you provide will need to be formally confirmed because we require evidence.

We will try to coordinate our demands to accommodate your business cycle and any important demands on your key people.

Review information and refine audit scope

At this point the case officer will examine the information we have collected and identify the key issues, refine our risk hypothesis and develop our position.

The case officer will make any necessary adjustments to the scope of the audit and advise you of any changes.

If needed, we will hold internal workshops with technical specialists or industry and topic experts to develop our technical position and identify any additional information requirements.

WHAT WE EXPECT FROM YOU

Work with us to set a time for the preliminary interview and ensure your key staff are available for the interview.

Provide any requested information before or at the interview.

Discuss the proposed plan with us to reach agreement on timeframes and milestones.

Provide the information we need in a timely way.

When an interview is necessary, work with us in setting interview times and make sure your key staff are available.

Provide us with reasonable access to the facilities and resources we need.

DETERMINE OUR POSITION

Research technical issues

The case officer and compliance team will review and analyse the information, consult with relevant technical experts and refine our position.

We will follow relevant practice statements and, where applicable, refer matters to ATO panels such as the General Anti-Avoidance Rules Panel.

Communicate our position in writing

The case officer will write to you outlining our position and invite you to respond.

Consider your response

We will consider your response to our position and any additional information you provide.

We may also meet with you to further discuss our position and the additional information. We may involve our technical specialists, industry or topic experts in these meetings.

Advise you of our final position

We will normally respond in writing to any questions you have raised and advise you of our final position.

Where we intend to issue amended assessments we will let you know beforehand.

Consider any submissions you make about penalties or interest charges

If you make submissions for reduction or remission of penalties or interest charges the case officer and their senior officer(s) will consider them.

Where you choose to respond to our position, to do it in a timely way and ensure that any information you provide is relevant.

Where you choose to have a face-to-face discussion with us about our position, to ensure your key staff are available.

COMMUNICATE AND CLOSE

Communicate audit outcomes in writing

The case officer will send you a letter outlining the audit outcome, the final ATO position and any proposed adjustments including penalties and administrative charges.

If you make an offer to settle, the case officer and their senior officer will consider and discuss it with you, applying the *Code of Settlement Practice*.

If you disagree with our position the case officer will advise you of your dispute rights and possible next steps.

We may also make suggestions on how your tax risk management process could be improved to minimise the risk of any further non-compliance and seek your commitment to any improvements.

Offer final interview

Our case officer will offer you a final interview to discuss any penalties or administrative charges and to explain our next steps. In some cases, senior officers and technical specialists may come to the final interview.

Finalise the audit

The case officer will get approval from their senior officer(s) to finalise the audit. We will send you a finalisation letter within seven days of that approval.

Issue feedback questionnaire

Once the case has been finalised we will send you a questionnaire seeking your feedback on the conduct of the audit and any suggestions for improvement.

Where you choose to have an interview, to make sure your key staff are available.

Where you intend to make submissions about the remission of penalties or interest charges, to do it in a timely way.

Provide feedback on the conduct of the audit, including any suggestions for improvement.

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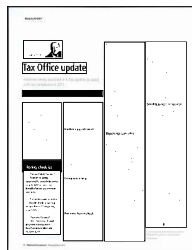
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Michael D'Ascenzo

Tax Office update

Initiatives newly launched or in the pipeline to assist with tax compliance in 2011.

As we gear up for what will no doubt be another busy year, I would like to thank those of you who have been patient and supportive of the ATO over the past year. As you all know, last year – in our centenary year – we undertook the biggest IT upgrade in our history, modernising our systems so that they can provide a better service to taxpayers and their agents. They provide us with greater flexibility in implementing new government measures where they fit within the pattern of our systems.

Our new systems are running well. We are re-engineering our business processes to improve our productivity and to provide better outcomes for the community.

Further upgrade work

This year we are undertaking another upgrade. This time we are improving the Australian Business Register to allow it to offer business registration services on behalf of other government agencies. When the upgrade is complete there will also be a streamlined process for tax professionals to make it easier to access and update your clients' records.

Compliance help

The start of a new year is always a good time to resolve to help your business clients to get into some healthy tax habits in 2011 and I would like to take the opportunity to remind you of some of our recent initiatives to help businesses comply.

Business health check

Errors in GST reporting can cost a business time and money. Small or simple errors on transactions can add up over time, particularly if it means not getting all the GST credits that you're entitled to. Last year we identified

\$21 million in unreported GST liabilities after contacting around 500 small businesses at risk of incorrectly reporting the GST. Businesses going through a change, such as rapid growth, restructure or staff turnover, are most at risk of making mistakes.

We have developed a 'business systems health checklist' to help small businesses avoid making costly mistakes. The checklist prompts business owners to check that their systems are classifying and recording information correctly. Doing a business systems health check can streamline business reporting and reduce the possibility of errors.

The health check is available from ato.gov.au by searching for 'business health check' or by calling 13 28 66.

Reporting cash sales

As part of our increased focus on the cash economy, late last year we released a new category of small business benchmarks that look at cash sales within a business.

The new benchmarks are part of a suite of benchmarks we use to identify and deter activities in the cash economy. They are also a good way for businesses to compare their performance against other businesses in their industry and check they are meeting their obligations, including assessing whether they are likely to be selected for a review or audit.

Using these benchmarks, we can determine the average proportion of cash sales a business should be making and which businesses are not reporting as much cash income as others in the same industry. Businesses whose performance falls significantly outside one or more of these benchmarks are more likely to be selected for a review or audit.

This year we are contacting around 100,000 businesses that operate in cash industries, so it's a good opportunity to encourage your small business clients to check that their record keeping and reporting is on track and to fix any errors.

The benchmarks have initially been developed for 15 industries and are based on data matching undertaken with banks to identify credit and debit card sales, as well as information provided by small businesses to the ATO on activity statements.

Small business assistance

We have extended the small business assistance measures until 30 June 2011. These measures provide a 12-month general interest charge (GIC)-free payment arrangement for viable micro businesses who are struggling to meet their obligations in the short term as well as the option to defer activity statement payment due dates.

We recognise the pressures on small business and don't want the GIC to be the difference between a sound business surviving or going bust. However, where businesses prove to be non-viable, we have a responsibility to other businesses to maintain a fair and level playing field. In ensuring that we are fair and reasonable in our decision-making we maintain independent quality assurance processes.

The independent feedback we have received (based on an analysis of a random sample of actual cases) is that we take a fair and cautious approach when deciding to take further action in seeking to recover debts due and payable. ▀

Reality checklist

The Australian Business Register is being upgraded to provide business registration services on behalf of other government agencies.

Businesses can use a new health checklist to help ensure their GST reporting is accurate.

Measures to assist small business through payment arrangements have been extended until 30 June 2011.