

Joint Committee of Public Accounts and Audit
Annual Hearing with the Commissioner of Taxation
Friday, 14 September 2012

Opening Statement
Mr Ian McPhee PSM, Auditor-General

Chair, Committee members, thank you for the invitation to appear at this hearing. I would like to comment briefly on the Australian National Audit Office's (the ANAO's) role as the auditor of the Australian Taxation Office (ATO), the relationship between the ANAO and the ATO, and make some observations regarding matters and trends emerging from our audits.

The Committee's report on the September 2011 hearing with the Commissioner of Taxation (Report 426), made a recommendation with regard to possibilities for more strategic planning and improved information sharing between the three external scrutiny agencies of the ATO. We have worked with the Ombudsman and the Inspector-General of Taxation in developing a joint response. This exercise confirmed an effective level of cooperation between our agencies, and pointed to key distinctions between our various roles. The joint response commits our agencies to a three-way meeting which will be undertaken as part of our planning processes. This meeting will also promote, where possible in the context of our various legislative frameworks, information sharing arrangements and consideration of the impact of our review activity on the ATO's resources.

The particular kind of perspective the ANAO contributes to external scrutiny of the ATO is well known to this Committee. The ANAO provides an independent audit opinion on the fair presentation of the ATO's annual financial statements; and also aims to help improve the efficiency and effectiveness of the ATO's administration by undertaking independent performance audits for the information of Parliament and the Executive.

At the Committee's last hearing with the Commissioner of Taxation I commented that our audits present a view of the ATO as an agency with sound governance structures, and this observation remains valid. The ATO's approach to revenue administration is recognisably consistent with sound international practice and is sometimes referred to as a model for other revenue collection agencies by the Organisation for Economic Co-operation and

Development. Equally the challenges for the ATO remain. The ATO administers complex legislation and must do so in a way that collects the revenue due whilst ensuring that taxpayers' rights are respected and upheld. The high level governance, risk management and compliance frameworks the ATO has in place provide a solid foundation for achieving this balance. Necessarily, close attention needs to be paid to making these broad directions operational and to monitoring and evaluating performance. In this latter regard the ATO is consistently supportive of our audit activity, and responds positively to our findings and recommendations. It actively monitors the implementation of our recommendations through its audit committee.

I expect to sign the audit opinion on the ATO's financial statements for 2011-12 next week. To date the audit has progressed well. The ATO has designed and implemented governance arrangements, a financial reporting regime and an internal control system to provide reasonable assurance about the achievement of ATO's business objectives. These arrangements are designed to support the achievement of ATO's financial reporting requirements, the effectiveness and efficiency of its operations and compliance with applicable legislative requirements. The ATO has made a concerted effort to address significant, moderate and legislative compliance audit findings previously reported to Parliament. From June 2004 to June 2012, the number of significant and moderate risk findings has steadily declined to the point where there is only one outstanding legislative matter. This matter relates to processing errors outside the assessment process that result in payments being made to taxpayers without any legislative basis. While not impacting on the fair presentation of financial information, these payments represent a breach of section 83 of The Constitution which requires that no money shall be drawn from the Treasury of the Commonwealth except under an appropriation made by law. A legislative solution has been developed (via the *Financial Framework Legislative Amendment Act No. 2 2012*) to avoid this matter creating a breach of section 83 of the Constitution in 2012-13.

Since the last hearing with the Commissioner, we have completed five performance audits relating to the ATO's administration of taxation and superannuation systems, including on aspects of debt management, compliance activity and support for self-managed superannuation funds. Our audit of the administration of Project Wickenby in particular, and of the Small Business Superannuation Clearing House to a lesser extent, also considered the

ATO's role in working with other agencies. Our performance audits highlighted areas of emphasis where further improvements could be made by the ATO through:

- enhancing automated compliance risk assessment techniques and the consistency of administrative decisions in relation to cases referred for compliance action;
- harnessing the advantages of the ATO's investment in information and communication technology, particularly its case management system and management information reporting;
- assessing the extent to which interpretative assistance (rulings and determinations) meets the demands of the self managed superannuation fund (SMSF) market, and assisting SMSF trustees to fully understand that SMSF interpretative assistance is not legally or administratively binding on the Commissioner;
- specifying more clearly how the use of external debt collection agencies is integrated with the ATO's broader approach to debt management.

Performance audits currently underway and planned will focus on examining aspects of the ATO's core processes (which include registration, lodgement, assessment and collection activities) that relate to public confidence in the integrity of the ATO's administration of the tax system, the collection of revenue in the current fiscal environment and equitable treatment of taxpayers. We are also continuing our focus on the ATO's improvement initiatives and, in particular, the Change Program. Our current audits include the ATO's administration of taxpayer debt relief arrangements; the Personal Services Income regime; the integrity and reporting of data for specific types of tax; and the management of the ATO's property portfolio. We are also examining the administration of the new *Tax Agents Services Act 2009* by the Tax Practitioners Board, a significant development in the arrangements for registering tax agents and managing their compliance. A cross-agency follow-on audit will examine the implementation of our recommendations from the 2007-08 Audit Report No.32, *Preparation of the Tax Expenditures Statement*, and improvements to the completeness and reliability of tax expenditure estimates.

Thank you.