

29 October 1999

Mr D Hawker MP
Chairman
House of Representatives Standing Committee
on Economics, Finance and Public Administration
Parliament House
CANBERRA ACT 2600

Dear Mr Hawker,

INQUIRY INTO TAX FILE NUMBERS

1. I refer to your letter dated 29 September 1999, concerning the Australian National Audit Office's (ANAO). Report (*Management of Tax File Numbers*) of its inquiry into the Australian Taxation Office's (ATO) administration of the Tax File Number (TFN) system and your invitation to make a submission in respect of the Report and the TFN system by 22 October 1999. The Taxation Institute of Australia (the TIA) welcomes this opportunity to make comments on this Report and aspects of the TFN system. We thank the Committee for permitting us to file our submission late. However, despite this extension, the TIA is not in a position given the need to devote its resources to the current tax reform debate, to make a detailed submission on all aspects of the report. Therefore, set out below are:
 - A statement on the TIA's background; and
 - The TIA's position on major points of comment and concern identified in the Report and the TFN system.

TIA's BACKGROUND

2. The TIA is an opinion leader on taxation matters and is the only professional body in Australia, which has taxation as its sole focus. It was formed in 1943 as an organisation "*To advance the public knowledge and understanding of the laws relating to taxation*" and has a wide charter which emphasises our impartial role for informed tax comment within the community at large, as well as a specific advocacy and education role for our members.
3. In the past our views have been specifically sought by the Parliament, the Australian Taxation Office, Treasury, and other Government Departments and Agencies when considering new legislation which impacts on the tax regime or the administration of existing tax laws.

4. The TIA is a national body of over 10,000 members, constituted by professionals and practitioners with an interest in taxation in all its various forms. Members are drawn from tax agents, lawyers, accountants, members of the judiciary, and from within the ranks of the Public Service of Commonwealth, States and Territories.

TIA'S POSITION ON THE REPORT AND THE TFN SYSTEM

5. In general, although the Australian National Audit Office's report *Management of Tax File Numbers* does expose a number of problems with the TFN system, it fails to fully investigate many other issues associated with the ATO's management of the TFN system. Further, the ANAO recommendations for expansion of the system are at best ambit claims, which are the product of poor research arising from a failure to respect history and a failure to properly evaluate the success of certain current TFN sign up schemes. The recommendations are not balanced and display a bias to Governmental efficiency over the rights to privacy and freedom of choice.
6. Although the new Australian Business Number (ABN) system was not part of its audit, the ANAO at paragraph 1.30 of the Report blandly states that the ATO will adopt the best practice in respect of ABNs as it has adopted in respect of TFNs. The Report then commences to question ATO practice in respect of the TFN system. Given the concerns expressed on the ATO's management of the TFN system it is surprising that the ANAO did not take the time to warn Government about the potential for problems with the ABN system. Instead, the report merely recognises the development of the ABN and does not evaluate the ATO's proposed method for handling the ABN system, its interrelationship with TFN and issues such as duplication.

Recommendation 1 – Expanding the school registration program

7. Recommendation 1, particular (c) illustrates the failure of the report to truly recognise the tensions between the public's right to privacy and the Government's need for an efficient revenue system. Although ANAO states it was mindful of this tension when conducting the audit (paragraph 15) this appears to be lip service given inferences that the ANAO supported the registration of children at birth (paragraph 2.45).
8. Recommendation 1(c) has similar overtones and arises from discussion in paragraph 2.24. In that paragraph the ANAO suggests that the current negotiation process which takes account of the privacy concerns of principals and school communities is too time consuming and inefficient. Therefore, ANAO suggests that it is simpler to just ignore them all and negotiate inter-governmental agreements to run rough-shod over these concerns and get "systemic access". Given this lack of balance the recommendation is seriously flawed.

9. Further, in advocating school registrations the Report does not recognise the duplication risks that can and do occur when people join the workforce at a later date. The example below is an illustration of this problem. Thus, to recommend an expansion of the scheme without a detailed independent evaluation of the scheme is at best flawed logic.
10. The TIA would not support this recommendation without full community consultation and an independent report on the success and risk of the scheme.

Recommendation 4 – Legislative changes

11. The TIA would support legislative changes aimed at removing the anomalies in the TFN law. In particular we would support amendment to the law to ensure that where employers or investment bodies merge, that the combining of employee records and financial account details will not lead to technical breaches of sections 8WA and 8WB of the *Taxation Administration Act 1953* (footnote 30 of the Report).
12. In respect of the suggestions to seek amendments to the law to further expand the system (paragraph 3.30) the TIA would need further details before commenting. Given that the purpose of the TFN system (as detailed in the *Explanatory Memorandum to the Tax Laws Amendment (Tax File Numbers) Bill 1988*) was “to improve the efficiency and effectiveness of the Australian Taxation Office’s income matching system” and the related Australia card debate, any changes would have to be consistent with that policy. The suggestion that a TFN should be required to open a safety deposit box is inconsistent with this policy. The inference is that those who open safety deposit boxes (mostly to safe guard valuables) are some how tax avoiders and should be tracked. Such an extension would be difficult to justify.

Failure to fully investigate

13. It is clear that the ANAO did not fully investigate the short comings of the TFN system. Otherwise the following example of ATO inefficiency would have been revealed. The example is drawn from correspondence between the ATO and the agent of the taxpayer. In order to protect the privacy of the individual we have called him the “Phantom”.

The Phantom was issued a TFN number prior to commencing tertiary study. Having forgotten that he was issued with a TFN, he requested a TFN in January 1998. Apparently the “. . . TFN registration operative failed to utilise the registration system’s matching capacity and a second TFN was issued in error” (extract from undated ATO letter received on 28 August 1998).

The agent wrote to the ATO to advise them of this error on 30 March 1998. In absence to a response the agent sent a follow up letter on 7 May 1998. Finally, after numerous telephone calls, an undated letter was received from the ATO on 28 August confirming that after 6 months the duplicate TFN had been cancelled.

Despite the letter, the Phantom subsequently received two HECS liability notices dated 1st June 1999, one for each tax file number. The tax agent again wrote to the taxation office on 9 August 1999. In its letter of 2 September the ATO advised that although the duplicate tax file number was deleted the HECs records were not updated to reflect this change.

14. Such an example indicates a substantial degree of inefficiency. It took 17 months to cancel one duplicate TFN. Given that the ANAO estimates there are 185,000 duplicate TFNs, a 17 months per duplication resolution process would be horrendous. Further, it appears that the process for removal of duplicate TFNs does not tie in other systems such as HECs. Given that ABN management is to be added there can only be further concerns about the efficiency and integrity of the related system
15. A more important concern is the unrecoverable costs of such inefficiency. In most cases it is the tax agent who bears the cost of the letters and telephone calls. These costs appear not to be factored in by ANAO in its Report.
16. The second area of concern is the issue of TFNs to non-resident holiday makers in Australia. The Report at paragraphs 4.28 and 4.29 touches on the effect of this process in respect of archaic TFNs. It ignores the loss to revenue due to the fact that tax file numbers are commonly viewed by employers as an indication of residency and the right to work. In multicultural Australia, questions about work permits etc are generally not made, employers instead rely on the TFN to withhold tax at the lower resident rates. Again, as the Report does not highlight such problems, its value and the integrity of its recommendations are put in doubt.

CONCLUSION

17. In conclusion, the TIA has doubts about the efficiency of the operation of the TFN system and concerns about the depth of the research behind the ANAO report. The Institute would be delighted to amplify any aspects of our submission where the Committee needs further information, and would be able to discuss the issues raised in this submission with the Inquiry if this would be of assistance.

Yours faithfully,

Ray Conwell
Senior Vice President