



10 March 2006

Mr Russell Chafer  
Committee Secretary  
Joint Committee of Public Accounts and Audit  
Department of the House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Mr Chafer

**Joint Standing Committee on Public Accounts and Audit - Inquiry reviewing "Certain Taxation Matters" within Australia**

I am responding to the invitation of the Joint Standing Committee on Public Accounts and Audit (JCPAA) to interested organisations to make submissions to its inquiry reviewing "Certain Taxation Matters" within Australia.

As you know, the ANAO and the Committee have a very close working relationship in reviewing the performance and financial management of public sector agencies and bodies. We appreciate the opportunity to contribute to the Committee's current inquiry on taxation by drawing on performance and financial statement audit work relevant to the Committee's terms of reference.

The Committee's terms of reference do not align readily with previous ANAO audit coverage. However some ANAO audit work ties in with the Committee's identified areas of interest in certain taxation matters. The attachment lists recent audits identified as most relevant to the Committee's terms of reference, with links to these reports to obtain electronic copies, as required. Also attached are hard copies of the report summaries as relevant, for ease of reference.

The Committee will appreciate, in considering the relevance of the audit reports, that areas of ATO administration and the taxation context may have changed since the audits. Indicative of the important changes in the tax context is the review of income tax self assessment and the Government's responses to the review report, including the passage of legislation in 2005 dealing with penalty rules and interest charges, the period of review of assessments and rulings issues. The recently-announced benchmarking study chaired by Mr Warburton to compare the Australian taxation system with systems in other OECD countries, also underscores the dynamic processes associated with public tax policy.

As noted above, the Committee's terms of reference do not correlate with a particular audit. However some of our audit reports over the last five to six years may assist the Committee's inquiry.

#### *Inquiry Part A*

Regarding Part A of the inquiry relating to the tax assessment acts, with particular reference to compliance and the rulings regime, the ANAO conducted a performance audit of the ATO's administration of taxation rulings. The resulting report, *Audit Report No.3 2001-2002 The Australian Taxation Office's Administration of Taxation Rulings* is relevant to the Committee's interest in the impact of the interaction between self-assessment and complex legislation and rulings.

The JCPAA reviewed the rulings audit report, the results of which are set out in JCPAA Report 390.

The ANAO conducted a follow-up audit of its rulings audit, reported in *Audit Report No.7 2004-2005 Administration of Taxation Rulings Follow-up Audit*. The ANAO found that the ATO had fully implemented all of the previous audit's recommendations.

With regard to the penalties and General Interest Charge (GIC) element of the Committee's inquiry, the ANAO can make some comments that may be of possible contextual interest, based on performance and financial statement audit work.

The ANAO's performance audit report *Audit Report No.31 1999-2000 Administration of Tax Penalties* revealed that the ATO did not have appropriate controls to oversee the accountability, consistency and effectiveness of its penalty administration. The ATO has changed substantially its penalty regime since the time of that audit, with the introduction of the GIC. The ANAO has not conducted audit work on this topic since those administrative changes.

Regarding the GIC, during the audit of the 2003-04 financial statements the ATO advised that one of the income tax business systems was not sophisticated enough to calculate the GIC relating to the annual income tax payments for companies and superannuation funds. Since the ANAO completed that audit it has been revealed that the GIC functionality is not operating in the fringe benefit tax accounting system. In 2004-05 the ATO undertook system changes to rectify the problems. The ATO has commenced posting the GIC to the affected client accounts.

#### *Inquiry Part B*

Regarding Part B of the inquiry concerning the fringe benefit regime and aspects of family tax benefits, the ANAO has not conducted recent audit work on these matters. However, the ANAO is to commence a performance audit of family tax benefit debt management later this month.

We would welcome the opportunity to discuss with the Committee our work relevant to the Committee's taxation inquiry.

Should you have any questions on this matter, please contact:

Mike Watson  
Group Executive Director  
Financial Assurance Services Group  
Ph (02) 62037356

Peter White  
Executive Director  
Performance Audit Services Group  
Ph (02) 62037685

Yours sincerely

Steve Chapman  
Acting Auditor-General

## Attachment – Recent ANAO Audits Identified as Most Relevant<sup>1</sup> to the Inquiry’s Terms of Reference

Terms of Reference	ANAO Activity	Documentation
<b>Part A</b>		
<p>The Joint Committee of Public Accounts and Audit resolves to inquire into and report on the administration by the Australian Taxation Office (ATO) of the <i>Income Tax Assessment Act 1936</i> and <i>1997</i> (including the amendments contained in the <i>Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005</i>) with particular reference to compliance and the rulings regime, and shall include the following:</p>		
<ul style="list-style-type: none"> <li>the impact of the interaction between self-assessment and complex legislation and rulings;</li> </ul>	Performance Audit	<p><i>Audit Report No.7 2004-2005 Administration of Taxation Rulings Follow-up Audit</i></p> <p>Link to report and brochure summarising the report:  <a href="#">Administration of Taxation Rulings Follow-up Audit</a></p> <p><b>Summary</b>                      The objective of the follow-up audit was to assess how well the ATO has implemented the recommendations of Audit Report No.3 of 2001-2002, The Australian Taxation Office's Administration of Taxation Rulings. As part of the audit we also considered the ATO's progress in addressing the JCPAA's suggestions resulting from its review of Report No.3 of 2001-2002.</p> <p>Available downloads:  <a href="#">Audit Report 7</a> (Adobe PDF 417Kb)  <a href="#">Audit Brochure 7</a> (Adobe PDF 142Kb)</p>

<sup>1</sup> Note that practices in some areas have changed since the audits were conducted.

		Performance Audit	<p><i>Audit Report No.3 2001–2002 The Australian Taxation Office’s Administration of Taxation Rulings</i></p> <p>Report summary:  <a href="#"><u>The Australian Taxation Office’s Administration of Taxation Rulings</u></a></p> <p><b>Summary</b>  Taxation rulings are a key mechanism used by the Australian Taxation Office (ATO) to disseminate the Commissioner of Taxation’s interpretative advice on Australian taxation law. The objective of the audit was to i) report to Parliament on the operation of the ATO’s administration of taxation rulings (public, private and oral rulings); and ii) where appropriate, make recommendations for improvements, having regard to considerations of: · efficiency and effectiveness of the ATO’s administration of the rulings system, particularly in relation to the achievement of the objectives set by Parliament for the rulings system; · the ATO’s systems’ capacity to deliver consistency and fairness for taxpayers; and · good corporate governance, including the control framework.</p> <p>Available download – the audit report:  <a href="#"><u>audit report 3</u></a> (Adobe PDF 719Kb)</p> <p>Reviewed by the JCPAA. See JCPAA Report 390.</p>
		Performance Audit	<p><i>Audit Report No 19 2002-03 The Australian Taxation Office’s Management of its Relationship with Tax Practitioners.</i></p> <p>Report summary:  <a href="#"><u>The Australian Taxation Office's Management of its Relationship with Tax Practitioners</u></a></p> <p><b>Summary</b>  The audit examined the ATO's management of its relationship with tax practitioners (tax agents and the wider group of professionals working on taxation matters for clients). However, our main focus was the ATO's management of its relationship with tax agents because they are the core element of the tax practitioner grouping and their role is fundamental to the effective operation of the tax system. The objective of the audit was to assess how well the ATO manages its relationship with tax practitioners, focussing on selected ATO relationships with tax practitioners, in</p>

			<p>particular its regulatory relationship with tax agents, its service support relationship with tax agents and its relationship with tax agents and members of the wider tax practitioner group in the professional bodies as key stakeholders in tax administration.</p> <p>Available download – the audit report:  <a href="#">Audit Report 19</a> (Adobe PDF 1,504Kb)</p> <p>Reviewed by the JCPAA. See JCPAA Report 396.</p>
	<ul style="list-style-type: none"> <li>the application of common standards of practice by the ATO across Australia;</li> </ul>	Performance Audit	<p><i>Audit Report No 19 2002-03 The Australian Taxation Office's Management of its Relationship with Tax Practitioners</i></p> <p>Report link and summary:  <a href="#">The Australian Taxation Office's Management of its Relationship with Tax Practitioners</a></p> <p><b>Summary</b>  The audit examined the ATO's management of its relationship with tax practitioners (tax agents and the wider group of professionals working on taxation matters for clients). However, our main focus was the ATO's management of its relationship with tax agents because they are the core element of the tax practitioner grouping and their role is fundamental to the effective operation of the tax system. The objective of the audit was to assess how well the ATO manages its relationship with tax practitioners, focussing on selected ATO relationships with tax practitioners, in particular its regulatory relationship with tax agents, its service support relationship with tax agents and its relationship with tax agents and members of the wider tax practitioner group in the professional bodies as key stakeholders in tax administration.</p> <p>Available download – the audit report:  <a href="#">Audit Report 19</a> (Adobe PDF 1,504Kb)</p> <p>Reviewed by the JCPAA. See JCPAA Report 396.</p> <p>The ANAO commenced a follow-up audit of <i>Report No 19 2002-03 The Australian Taxation Office's Management of its Relationship with Tax Practitioners</i> in February 2006.</p>

	Performance Audit	<p><i>Audit Report No.19 2004-2005 Taxpayers' Charter</i></p> <p>Report links and summary:  <a href="#">Taxpayers' Charter</a></p> <p><b>Summary</b>  The objective of the Australian National Audit Office (ANAO) was to examine how the ATO manages its responsibilities under the Taxpayers' Charter as an important element of its performance. This involved an examination of the ATO's: systems and processes used to develop, maintain and update the Charter; strategic commitment to implementing the principles of the Charter; integration of Charter principles with its business processes; and monitoring and reporting of its performance against commitments in the Charter.</p> <p>Available downloads audit report and brochure summarising report:  <a href="#">Audit Report 19</a> (Adobe PDF 1,069Kb)  <a href="#">Audit Brochure 19</a> (Adobe PDF 134Kb)</p>
	Performance Audit	<p>The ANAO undertook an audit of the administration of tax penalties, reported in <i>Audit Report No.31 1999-2000 Administration of Tax Penalties</i>. However the ANAO's audit occurred prior to the introduction of GIC and the ATO's new penalty regime.</p> <p>Report link and summary:  <a href="#">Administration of Tax Penalties</a></p> <p><b>Summary</b>  The Australian Taxation Office (ATO) is the Commonwealth's principal revenue collection agency. In 1998-99, the ATO accounted for total tax revenue of \$135.3 billion. The objective of this audit was to review the ATO's administration of penalties, with particular emphasis on its corporate governance framework and issues relating to consistency, effectiveness and accountability of penalty administration. In particular, the audit examined the administration of two penalty types, Late Lodgement and Tax Shortfall, as case studies.</p> <p>Available download – audit report:  <a href="#">rpt31-00</a> (Adobe PDF 176Kb)</p>

		Performance Audit	<p><i>Audit Report No.23 1999-2000 Management of Tax Debt Collection.</i>  Report link and summary:  <a href="#">Management of Tax Debt Collection</a></p> <p><b>Summary</b>  The objectives of this audit were to improve: the accountability of the Australian Taxation Office to Parliament and the Government by the provision of advice that follows up on the ATO's implementation of the previous ANAO Report; and on the recommendations of the then Joint Committee of Public Accounts arising from its consideration of that Report and the efficiency, effectiveness and equity of debt collection by the ATO.</p> <p>Available download – audit report:  <a href="#">rpt23-00</a> (Adobe PDF 417Kb)</p> <p>The ANAO intends to commence an audit of ATO debt collection practices in May 2006.</p>
	<ul style="list-style-type: none"> <li>the level and application of penalties, and the application and rate of the General Interest Charge and Shortfall Interest Charge; and</li> </ul>	Assurance Audit	<p><i>Audit of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2005</i></p> <p>See: Calculation and posting of the General Interest Charge to client accounts.</p> <p>Report link and summary:  <a href="#">Audit of Financial Statements of Australian Government Entities for the Period Ended 30 June 2005</a></p> <p><b>Summary</b>  The focus of this report is on the year end results of the financial statement audits of all general purpose reporting entities for the 2004–05 financial year. Financial management issues (where relevant) arising out of the audits and their relationship to internal control structures are also included in this report.</p> <p>Available downloads- report and brochure:  <a href="#">Audit Report 21</a> (Adobe PDF 1,384Kb)  <a href="#">Audit Brochure 21</a> (Adobe PDF 121Kb)</p>



		Assurance Audit	<p><i>Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2004</i></p> <p>See: General Interest Charge</p> <p>Report link and summary:  <a href="#">Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2004</a></p> <p><b>Summary</b>  This report provides a summary of the final audit results of the audits of the financial statements of all Australian government reporting entities, including the Consolidated Financial Statements for the Australian Government.</p> <p>Available downloads – report and brochure:  <a href="#">Audit 21 Text</a> (Adobe PDF 1,234Kb)  <a href="#">Audit Brochure 21</a> (Adobe PDF 77Kb)</p>
		Performance Audit	<p>The ANAO undertook an audit of the administration of tax penalties, reported in <i>Audit Report No.31 1999-2000 Administration of Tax Penalties</i>. However the ANAO’s audit occurred prior to the introduction of GIC and the ATO’s new penalty regime.</p> <p>Report link and summary  <a href="#">Administration of Tax Penalties</a></p> <p><b>Summary</b>  The Australian Taxation Office (ATO) is the Commonwealth’s principal revenue collection agency. In 1998-99, the ATO accounted for total tax revenue of \$135.3 billion. The objective of this audit was to review the ATO’s administration of penalties, with particular emphasis on its corporate governance framework and issues relating to consistency, effectiveness and accountability of penalty administration. In particular, the audit examined the administration of two penalty types, Late Lodgement and Tax Shortfall, as case studies.</p> <p>Available download – audit report:  <a href="#">rpt31-00</a> (Adobe PDF 176Kb)</p>

	<ul style="list-style-type: none"> <li>the operation and administration of the Pay As You Go system.</li> </ul>	Performance Audit	<p>The ANAO has not undertaken a specific audit of the PAYG system. <i>Audit Report No.33 2003–2004 The Australian Taxation Office’s Collection and Management of Activity Statement Information</i> examined the PAYG Instalment IT system, one of the systems involved in processing activity statements.</p> <p>Report links and summary:</p> <p><a href="#">The Australian Taxation Office's Collection and Management of Activity Statement Information</a></p> <p><b>Summary</b> The audit reviewed the ATO's collection and management of activity statement information. The audit paid particular regard to: the environment into which activity statements were introduced; taxpayer concerns with activity statement administration; the mechanisms the ATO uses to capture and process activity statements; the change processes the ATO uses to change and test activity statement IT systems; and the management methodology used to report on, and assess the performance of, activity statement related systems and processes.</p> <p>Available downloads – report, brochure and recommendations:  <a href="#">Audit Report 33</a> (Adobe PDF 1,470Kb)  <a href="#">Performance Audit Brochure</a> (Adobe PDF 44Kb)  <a href="#">Recommendations and Agency Summary Comments</a> (Adobe PDF 22Kb)</p>
<b>Part B</b>			
	The Committee shall examine the application of the fringe benefit tax regime, including any ‘double taxation’ consequences arising from the intersection of fringe benefits tax and family tax benefits.	Performance Audit	<p>The ANAO undertook an audit of FBT, reported in <i>Audit Report No.34 1998-1999 Fringe Benefits Tax</i>. The audit occurred prior to substantial changes in the FBT regime.</p> <p>Report link and summary:  <a href="#">Fringe Benefits Tax</a></p> <p><b>Summary</b> The objective of the audit was to ascertain and report to Parliament on the Australian</p>

			<p>Taxation Office's administration of the Fringe Benefits Tax and to identify opportunities for improvement. The ANAO identified five key issues relevant to the effective administration of FBT: knowledge of the taxpayer base; education of taxpayers; client service - advice handling; other enforcement activities - audits and reviews; and the systems required to support the administration of FBT, including staff skills and training information systems.</p> <p>Available download – audit report:  <a href="#">rpt34-99</a> (Adobe PDF 438Kb)</p> <p>The audit report was reviewed by the JCPAA. See JCPAA Report 373.</p>
		Performance Audit	<p>The ANAO will commence a performance audit of family tax benefit debt management in March 2006.</p>