

Joint Committee of Public Accounts and Audit

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

4 March 2011

Topic:	Carbon tax	SUPPLEMENTARY SUBMISSION No. 1.1 Biannual Public Hearing with the Commissioner of Taxation
Hansard Page:	PA 9	
Question:	1	

Mr FRYDENBERG MP—To what extent has the ATO been engaged in looking at the administration costs and other issues that would arise from that?

Mr D'Ascenzo—I am not aware of the extent of our involvement. Perhaps Ms Granger can answer.

Ms Granger—I am not aware either. We may have to take that one on notice.

Answer:

The Department of Climate Change and Energy Efficiency is the lead agency on the proposal to introduce a price on carbon. The ATO was not consulted on the current proposal for a carbon price, as the matter was being handled by another department.

The ATO will have discussions with the Department of Climate Change and Energy Efficiency as appropriate, about the tax implications for the new carbon price proposal.

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Biannual hearing with the Commissioner of Taxation

4 March 2011

Topic: Online sales

Hansard Page: PA 12

Question: 2

CHAIR—Have you got any data that can assist us in proving or disproving the case that there has been a significant rise in online sales in the past 12 months under that \$1,000 threshold?

....

Mr Quigley—We would have to talk to Customs about that, and I cannot guarantee that we will be able to.

Answer:

Neither the ATO nor the Australian Customs and Border Protection Service hold any real-time data that can directly prove or disprove the hypothesis that there has been a significant rise in online sales in the past 12 months under the \$1,000 low value imports threshold.

No real-time data is held which could evidence any change in the number of Australian businesses with online sales capability, or the value and volume of sales made online which involve the importation of goods into Australia.

The Australian Customs and Border Protection Service collect volume data on the number of Self Assessed Clearance declarations (SACs). While there has been an increase in SACs over that period, the information collected does not identify whether imported goods were purchased as a result of online trading.

However, where the low value imports threshold does not apply, the importation of goods into Australia is subject to goods and services tax and Customs duty, whether the goods are purchased over the internet, through mail order or imported directly by a person arriving in Australia. The low value imports threshold does not apply if the goods are alcohol, tobacco, or part of a bulk shipment.

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Topic: GST disputes

Hansard Page: PA 20

Question: 3

Senator KROGER—I would be interested in knowing the number of disputes over the GST assessments, including timelines. (i) How many of those are resolved at the objection stage? (ii) How many go to appeal? (iii) How many of the objections are upheld at appeal, and how many are lost at appeal? In what ways are they upheld? (iv) And how long do the appeals take?

JCPAA further questions:

Senator Kroger further asked for:

- *The general timeframe to be the past 5 years*
- *The maximum and minimum length of time that those disputes have taken*
- *The average length of time it takes for a dispute to be resolved*
- *The average length of time that an appeal takes*

Answer:

ATO timeliness and completion times of objections

The minimum time, in the last five years, to complete a GST objection is one (1) day. The maximum time in the last five years to complete a GST objection is 2,094 days¹. However this maximum was due to a particular issue and agreed with the client.

The average time taken to complete an objection over the last five years is 161 days.

Table 1: Timelines for completion of objections 1 July 2006 to 1 March 2011

Year	0-56 days	57-120 days	Greater than 120 days	Total
2006-07	1,069	635	1,746	3,450
2007-08	627	382	819	1,828
2008-09	471	306	517	1,294
2009-10	262	321	434	1,017
2010-11	228	285	311	824
Total	2,657	1,929	3,827	8,413

The time taken to complete an objection varies considerably and reflects the uniqueness of each case.

Generally reasons for delay in finalising an objection include:

¹ In this instance the taxpayer objection was similar to the facts of another case that proceeded to litigation in the courts. The taxpayer requested that their objection be put on hold until that litigation was finalised in the courts and then determined in line with the court's decision.

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- Allowing additional time to provide further information gives the taxpayer the opportunity to provide the necessary evidence to support the contentions made in their objection and reduce the likelihood of the matter proceeding to litigation
- The finalisation of an objection is often dependant on the taxpayer providing such further information. Timeframes for the provision of the information and the date for the completion of the objection are agreed with the taxpayer.
- Taxpayer can request to hold their objection pending the determination of litigation on the same or a similar issue. In that case the objection remains undetermined until the litigation on the issue is finalised. The objection is then ultimately determined in line with the Court's decision. This may take some time, particularly where a court decision is subsequently appealed by either the taxpayer or the Commissioner. As an example, in Table 1, for the 2010-11 year, of the 596 cases in the categories over 57-120 days and greater than 120 days, 484 cases are currently being held until litigation on a number of issues is finalised.

Table 2: Number of GST objections finalised 1 July 2006 to 1 March 2011 by outcome

YEARS	Affirming the Commissioner's Decision	Percentage affirming the Commissioner's Decision	In favour of the taxpayer - either in whole or in part	Percentage in favour of the taxpayer (in part or in whole)	TOTAL
2006-07*	1,858	54%	1,592	46%	3,450
2007-08	954	52%	874	48%	1,828
2008-09	696	54%	598	46%	1,294
2009-10	592	58%	425	42%	1,017
2010-11 (to 1 March 2011)	475	58%	349	42%	824
TOTAL	4,575	54%	3,838	46%	8,413

* The 2006-07 figures are much greater than in the following years due to the way they were recorded at that time. For 2006-07 figures the method of recording at that time in ATO systems was by risk category rather than by client. For example, if a single objection related to 3 risk areas it was recorded 3 times. All future years have used objection numbers by taxpayer i.e. there would only be one objection recorded even if the objection covered multiple risk areas.

Generally, taxpayers will engage the Commissioner at the objection stage and provide further information to support their claims which leads to their claim either being allowed in full or part. Often this information was not provided by the taxpayer at the audit stage.

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ATO Litigation volumes

Table 3: Number of GST objections and litigation cases finalised 1 July 2006 to 1 March 2011

Years	Objections	Litigation
2006-07	3,450	142
2007-08	1,828	213
2008-09	1,294	160
2009-10	1,017	132
2010-11	824	111
TOTAL	8,413	758

ATO Litigation timeliness

For GST litigation cases finalised in the period from 1 March 2010 to 1 March 2011, the average length of time taken for an appeal to be completed was approximately 16 months.

There are various reasons for the length of time litigation cases may take to resolve, including the time taken for matters to be listed by the Tribunal and Courts and for the Tribunal or Court to deliver its decision. The length of time to resolve litigation will depend in part on whether an appeal is lodged by a party seeking review of the decision to a superior court.

Table 4: Summary of outcome of GST litigation cases for the period 1 July 2000* to 1 March 2011 – Analysis of the Outcome

Outcome of GST litigation	NUMBER OF CASES	PERCENTAGE OF TOTAL
Cases determined in favour of the Commissioner	423	42.3%
Cases determined in favour of the Taxpayer	247	24.7%
Cases otherwise determined	330	33.0%
TOTAL	1,000	100.0%

* Due to the constraints of the ATO's reporting systems it has not been possible to provide data for the period 1 July 2006 – 1 March 2011. This data is for the period 1 July 2000 – 1 March 2011.

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Table 5: Analysis of outcome of GST litigation cases for the period 1 July 2000* to 1 March 2011 – Analysis of how the cases were finalised

HOW FINALISED	NUMBER OF CASES	PERCENTAGE OF TOTAL
Court /Tribunal Decision – favourable to the Commissioner	115	11.5%
Court / Tribunal Decision – favourable to the taxpayer	29	2.9%
Court / Tribunal Decision – favourable to the Commissioner in part, favourable to the taxpayer in part	19	1.9%
Cases heard – awaiting decision	2	0.2%
Settled before hearing	259	25.9%
Case withdrawn by taxpayer/major concession by taxpayer	211	21.1%
Case conceded by ATO (whole or part)	218	21.8%
Taxpayer’s case struck out/dismissed	97	9.7%
Other [including Freedom of Information, Australian Business Number, Administrative Decisions (Judicial Review) and “watching brief” matters]	50	5.0%
TOTAL	1,000	100.0%

** Due to the constraints of the ATO’s reporting systems it has not been possible to provide data for the period 1 July 2006 – 1 March 2011. This data is for the period 1 July 2000 – 1 March 2011.*

In certain cases it may be appropriate for the Commissioner to enter into a settlement with a taxpayer under the ATO *Code of Settlement Practice*. Cases may be conceded by the ATO for a variety of reasons including the receipt of additional evidence from the taxpayer during the litigation stage of the dispute.

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Biannual hearing with the Commissioner of Taxation

4 March 2011

Topic: Complaints

Hansard Page: PA 27

Question: 4

Ms BRODTMANN—Thank you. I am mindful of the time too, so I have a number of questions and I will just ask you to provide evidence on them: the number of micro businesses who have made complaints; the number of small businesses who have made complaints—and I know you have a gradient on what is a small business, so if I could just get a breakdown on that...

Answer:

The ability to analyse the market segment of complainants only became possible with the implementation of a new complaint management system as part of the Change Program in August 2009. From August 2009 to March 2010, both the old and new complaint systems were operating in parallel. Accurate market segment information for complaints only became available from April 2010 once all the complaint data was held exclusively in the new system.

During the period 1 April 2010 – 28 February 2011, the ATO received 58,091 complaints. On 16 April 2010, we changed the way that we count the number of complaints from tax practitioners. Previously, a complaint from a tax practitioner about a single issue (eg progress of a return) was counted as a single complaint irrespective of how many clients were included. From 16 April 2010, a complaint that included multiple clients was counted as multiple complaints. This change increased complaint volumes recorded from tax practitioners by approximately 25%. Of the complaints received, approximately 58% were lodged by tax practitioners on behalf of their clients.

Table 1 below shows details of complaint volumes by market segment.

Table 1: Complaint volumes categorised by market segment

Market Segment	Number of taxpayers	Number of complaints	% of total complaints
Individual – non business	12.6 million	31,775	54.7%
Micro businesses	3.1 million	22,917	39.4%
Small – Medium Enterprises	175,000	1,621	2.8%
Not for Profit	600,000	196	0.3%
Large Market	1,300	143	0.2%
Government	17,000	41	0.1%
Total	16,493,300	56,693*	97.5%*

*A small percentage of complainants are people who were not Australian taxpayers, and consequently the ATO was unable to link the complaint to a taxpayer record or market segment.

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Micro businesses are economic groups and single entities with an annual turnover of less than \$2 million. Small to medium enterprises are economic groups and single entities with an annual turnover greater than \$2 million and less than \$250 million.

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4 March 2011

Topic: Project Wickenby

Hansard Page: PA 27

Question: 5

Ms BRODTMANN—...also the investment you have made in project Wickenby—you have highlighted here how much you have got back—at what cost, and that is to include FTE

Answer:

Project Wickenby agencies have expended \$295.56 million since the commencement of Project Wickenby in the 2006-07 financial year, to 30 September 2010. The cost of work undertaken by the Australian Taxation Office (ATO) for this period was \$164.61 million.

Project Wickenby collections to 31 January 2011 total \$547 million and include: \$241 million in cash and \$306 million in improved voluntary compliance collections.

To 31 January 2011, there have been 60 people charged and 12 convicted under Project Wickenby. The sentences have included imprisonment terms of up to six and a half years, with the courts emphasising the serious impact of tax crime on the community.

Since Project Wickenby began, the average net tax payable by Wickenby clients and associates has increased by 49% compared with a control group whose average net tax payable increased by 28% over the same period.

The deterrent effect of Project Wickenby is proving to be significant. As the table below shows, by comparing the base 2007-08 financial year with the 2008-09 and 2009-10 years, AUSTRAC data shows a considerable decline in the level of annual flows from Australia to Vanuatu, Liechtenstein and Switzerland where Project Wickenby has had a strong focus. This compares to a decline of only 5% in other tax secrecy jurisdictions.

	2008-09	2009-10
Vanuatu	-37%	-34%
Liechtenstein	-45%	-40%
Switzerland	-18%	-12%

The number of ATO full time equivalent (FTE) officers deployed in Project Wickenby varies over time. On average for February 2011, the ATO had 213.1 FTE deployed on Project Wickenby. This compares to an average of 237.03 FTE over the life of the project.

The ATO does not have FTE figures for other Project Wickenby agencies.

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Topic: Cash economy

Hansard Page: PA 27

Question: 6

Ms BRODTMANN—...also the cost on the work you are doing on the cash economy, again to include FTE.

Answer:

The ATO has a range of general strategies that address the cash economy as part of our broad program of work, from call centres and help and assist activities to communications with employers around their obligations.

In addition to these broad strategies, we also have specific resources addressing the risk of non-reporting of cash, which is traditionally called our 'cash economy program'.

The cost of the work that the ATO is doing that is specifically allocated to the cash economy program is projected to amount to \$34.16 million for the 2010-11 financial year. This includes resources applied to both risk identification and compliance management in the ATO's specific cash economy program which looks to enhance a level playing field for small businesses in Australia. These figures do not include the more general strategies from our broader program of work noted above.

The total full-time equivalent (FTE) employees engaged in addressing the cash economy in this program for 2010-11, is projected to be 368.

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Topic: Use of tax agents

Hansard Page: PA 27

Question: 7

Ms BRODTMANN—The number of people who use a tax agent to do their tax return is still at about 70 per cent. That is, I think, one of the highest rates in the world, if not the highest. What are you doing to reduce that rate? I know that people want to comply and they use a tax agent to do the right thing, but it is still high and it is costly. So what are you doing to try and help out with that?

Answer:

It is up to individuals to make the choice as to how they prepare and lodge their returns; the ATO has no preference.

However, the ATO provides a number of free products and services to assist and support taxpayers to 'self prepare' their income tax returns. These include providing services such as *e-tax* for online lodgments, which includes an option to pre-fill taxpayer information directly into the return labels, and telephone and paper lodgment options. The ATO also offers a tax help program to assist low-income individuals with simple tax affairs to lodge their income tax returns. The emphasis with this program is to educate taxpayers and encourage self preparation in the future. The ATO also provides a range of publications and information on its website including over 30 decision support tools and calculators to assist taxpayers in preparing their tax returns. These programs and services are tailored to suit the taxpayer's circumstances as much as possible.

Table 1 below shows the breakdown of income tax return lodgment methods for individuals.

Table 1: Income tax return lodgment methods for individuals

Financial Year	As a proportion of all lodgments (%)			
	Self Help			Agent prepared
	e-tax	Paper	Phone	
2003-04	7.60	15.01	1.08	74.65
2004-05	9.56	14.64	0.85	74.01
2005-06	11.86	12.92	1.07	73.37
2006-07	14.57	12.00	1.49	71.94
2007-08	15.56	10.19	1.29	72.96
2008-09	18.30	8.84	1.04	71.82
2009-10*	20.04	8.21	1.08	70.67

*It is expected that approximately 2.5 million 2009-10 tax returns will be lodged via *e-tax* by May 2011.

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Table 2 below provides statistics on the use of pre-filling by both *e-tax* users and tax agents over the last three financial years. In addition to increasing numbers of taxpayers and their tax agents choosing to use the pre-filling service, the range of information available has increased substantially over recent years. Information available for pre-filling includes employment, interest and government payment income as well as medical expense information from Medicare and a range of prior year information held by the ATO.

Table 2: Pre-filling use by e-tax users and tax agents

	2007-08	2008-09	2009-10
<i>e-tax</i>	1,162,339	1,607,435	2,166,461
Tax agent Portal	2,867,224	6,164,159	7,392,297
Total for period	4,029,563	7,771,594	9,558,758

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Topic: ATO missives

Hansard Page: PA 27

Question: 8

Ms BRODTMANN— Secondly, I used to have my own business, and I used to have to stand on my head to actually understand what was going on with the missives I got from the Tax Office—what I was being advised to do and asked to do. I am still getting that sort of material, particularly on the superannuation stuff relating to payments I am meant to make for 2007-08 returns. You have a lot of communicators in your agency, why are you not using them to design the missives you are sending out to the individual and business person?

Answer:

In relation to superannuation, the ATO issues letters directly to employers, particularly when advised by employees that the employer has not made the correct contributions. The ATO has a responsibility to ensure employers are made aware of their obligations to make Super Guarantee contributions on behalf of their employees.

The ATO welcomes all specific feedback on correspondence and is focussed on continually improving letters using a consistent style based on plain English principles. Through consultative forums the ATO receives comments and suggestions from external stakeholders, both taxpayers and tax agents.

Each year the ATO issues approximately 70 million pieces of correspondence most consisting of generic letters. In the last calendar year, ATO staff, including staff with communication expertise, reviewed 450 generic letters to ensure that they are easy for people to read and understand.

In 2008 as part of a letter improvement project, the ATO contracted external consultants to assist in identifying key correspondence for review. More than 100 letters were reviewed at that time (including some superannuation letters) and the consultants also provided training and tools to assist staff in better communication principles.

In our ongoing efforts to make it easier for taxpayers to comply, we are currently piloting a project to make improvements to our debt correspondence. In the Debt letters project, the ATO has enlisted the help of in-house behavioural psychologists. They are using a variety of well established and researched models to ensure our messages are clear and are in plain English. They have also ensured that our letters are constructed to provide clarity around the debt process and our expectations of our clients. Behavioural science input has been successful in enhancing correspondence clarity in overseas revenue agencies including the United Kingdom. The Debt letters project is currently at the pilot stage, with plans to test a revised letter in the ATO's Simulation Centre (our design and

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usability centre) with a cross section of taxpayers prior to a planned rollout over the next few months. The pilot will then be evaluated before further rollouts and extension to other correspondence.

More generally, the ATO continually seeks to set standards and improve the letter writing skills of our people. We have extensive materials on our intranet that help our people write in terms that are easily understood by others. These materials are complemented by training programs aimed at improving letter writing skills.

As an example of the materials available to our people, enclosed as Attachment A is the booklet *People writing to people*.

People writing to people



“Good writing makes our taxation and superannuation systems more accessible for more people.”

In our environment dominated by laws, rulings and responsibilities, it's sometimes easy to forget about the most important thing of all.

People.

The small business owner, working yet another late night in order to lodge their BAS on time. The recently-bereaved widow struggling to understand her pension entitlements. The teenage apprentice who's too busy enjoying life to worry about “tax stuff”.

This is the Australian taxpayer: millions of different lives, circumstances and experiences.

Chances are, only a small percentage of them will have more than a basic grasp of taxation matters, let alone the myriad of chapters and verses of the revenue laws. And almost without exception, they have less time on their hands than their parents did.

All of which makes the task of writing to people more difficult – especially if we want our writing to be understood and acted upon.

Good writing is better public service

To succeed, we need to use language that taxpayers can understand, and explain our actions in ways that encourage compliance instead of confusion.

Good writing makes our taxation and superannuation systems more accessible for more people, a principle that's at the very heart of our taxpayers' charter.

In this short writing guide, you'll find dozens of simple ways to make your writing easier for taxpayers to read and understand.

Which, after all, is the whole point of writing in the first place.

Michael D'Ascenzo





“I’m not a tax file number,
I’m a human being.”

When it drops through a taxpayer's mailbox, a letter from the ATO has the power to please or disappoint, clarify or confuse, comfort or irritate.

We send out a staggering 65 million letters each year. Which means the quality of our writing isn't just a matter of professional pride – it's a question of national wellbeing.

If we get it wrong, we lower the quality of people's lives. If we get it right, we make an important contribution to society.

Try using word POWER

To help you write in a way that real people can read and understand, we've created POWER. It's a simple, step-by-step approach to writing that lets you construct clearer and more helpful communications.

More than just a process, POWER empowers you to write in the ATO voice, drawing on your life and experiences to create letters that are more enjoyable to write and certainly less unpleasant to read.

Picture who you're writing to

Organise your thoughts

Write it like you'd say it

Edit it

Read it

Picture your reader

There's a very simple way to make people read and respond to your writing. Just have a real person in mind when you write.

Not just anybody

Think of somebody you know who typifies the kind of taxpayers you're writing to. Try to choose someone who represents the mid-range of your audience. For instance, if you're writing to a broad group of taxpayers, pick a middle-aged man or woman of average income. Or, if you're writing exclusively to small business owners, think of someone you know who fits the bill.

If possible, make it someone you know well: a friend or family member. Keeping this person in mind will help you use the kinds of words and phrases you'd use if you were talking to them.

Picture them reading what you've written

Try to imagine the circumstance in which the reader is reading your letter. Is it first thing in the morning? Are they having breakfast? Have they woken up properly yet? This isn't a whimsical scenario. It's typical of how our letters are read. So when you write, spare a thought for the reader. **Don't jump straight into the technical details. Tell them first what the letter is all about.**

Put it in a heading at the top of the page. Make the language simple and easy to understand. Don't try to cram too much information into the first sentence. Ease them into the letter.

Be understanding

It's also useful to try and imagine how they'll react to your letter. Remember, your message has the power to make or break their day, so try to be sensitive in the way you deliver it.

If you're writing to decline a deduction or a request, for instance, approach your letter with sensitivity. Make sure you explain the reasons behind the decision clearly and helpfully.

Above all, don't forget to keep that picture of the reader in your head. You'll be amazed at how much easier it is to find the right words when you're relating to someone.



Imagine your reader
before starting to write

Organise your thoughts

If our letters are clear, logically structured and to the point, then our readers will be in no doubt as to what we want them to know or do.

Before you start writing, make a list of what you need to say and in what order to say it. Start by telling the reader why you're writing to them – this is your key point. Follow it with any supporting information, but only if it gives the reader a better understanding of your message or if you think they're more likely to respond to your request.

Quoting complex tax law might be appropriate when explaining a ruling to a tax professional, but chances are it will only confuse your average taxpayer. Unless you're legally obliged to quote legislation, leave it out or include it in separate explanatory notes.

The ATO receives hundreds of thousands of unnecessary calls each year from taxpayers who have misunderstood the intent of our letters. So make it very clear at the start of the letter what you want the reader to do. If you're writing about an overdue tax payment, simply tell the reader what they have to pay and by when.

If there are consequences for your reader not doing what you ask, make sure they're fully aware.

Or, if you're simply writing to acknowledge receipt of an application, make sure you state clearly at the beginning of the letter that it's only for their information and there's nothing they need to do.

Good news or bad – say it up front

If you have good news to tell – that someone has less to pay, for example, then make it the first thing you say.

If you have less positive news, don't try to hide it in the fourth paragraph. Get to the point quickly and then follow it up with your supporting reasons.

Don't miss an opportunity

Once you have finished the outline of your letter, look at it again with a more opportunistic eye.

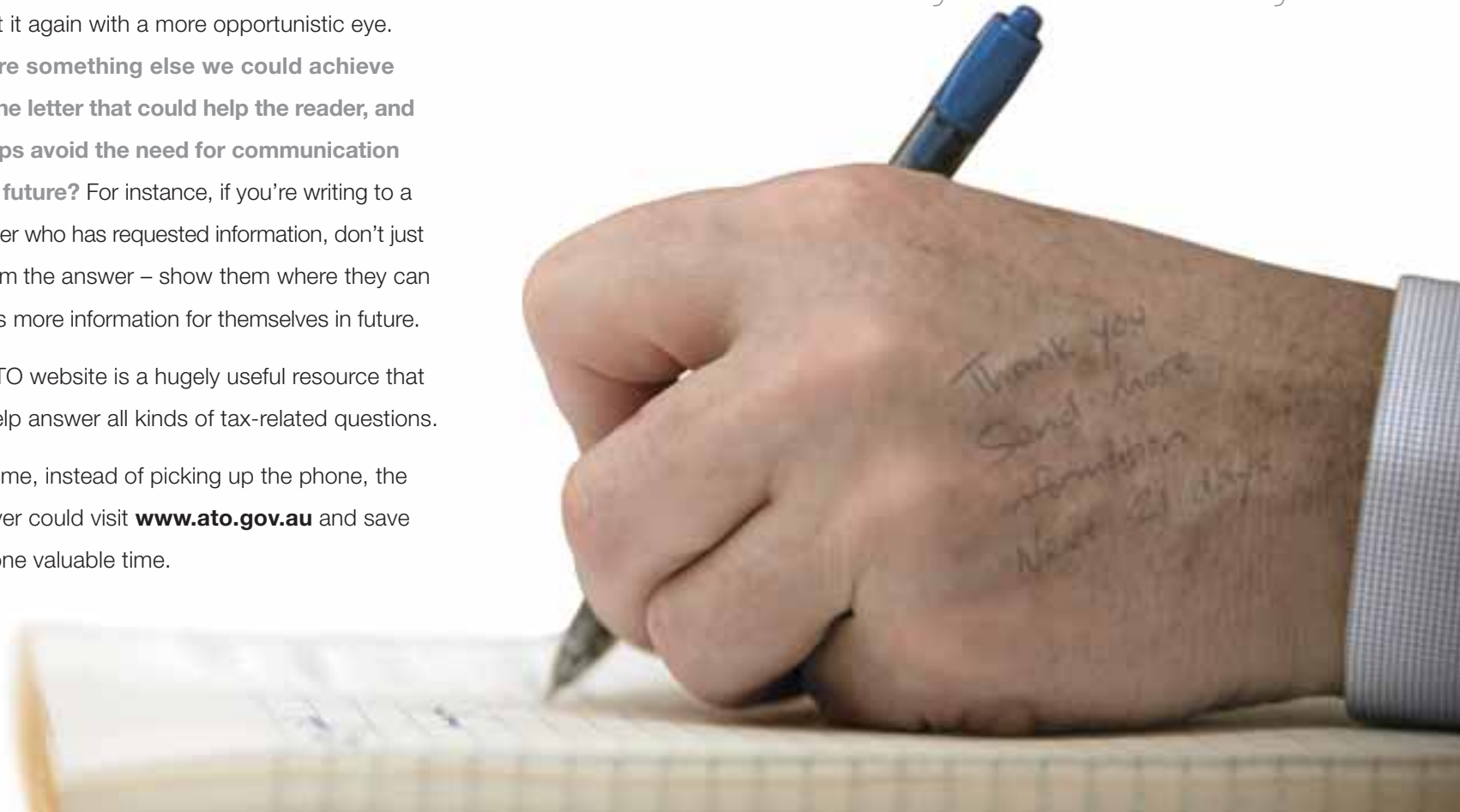
Is there something else we could achieve with the letter that could help the reader, and perhaps avoid the need for communication

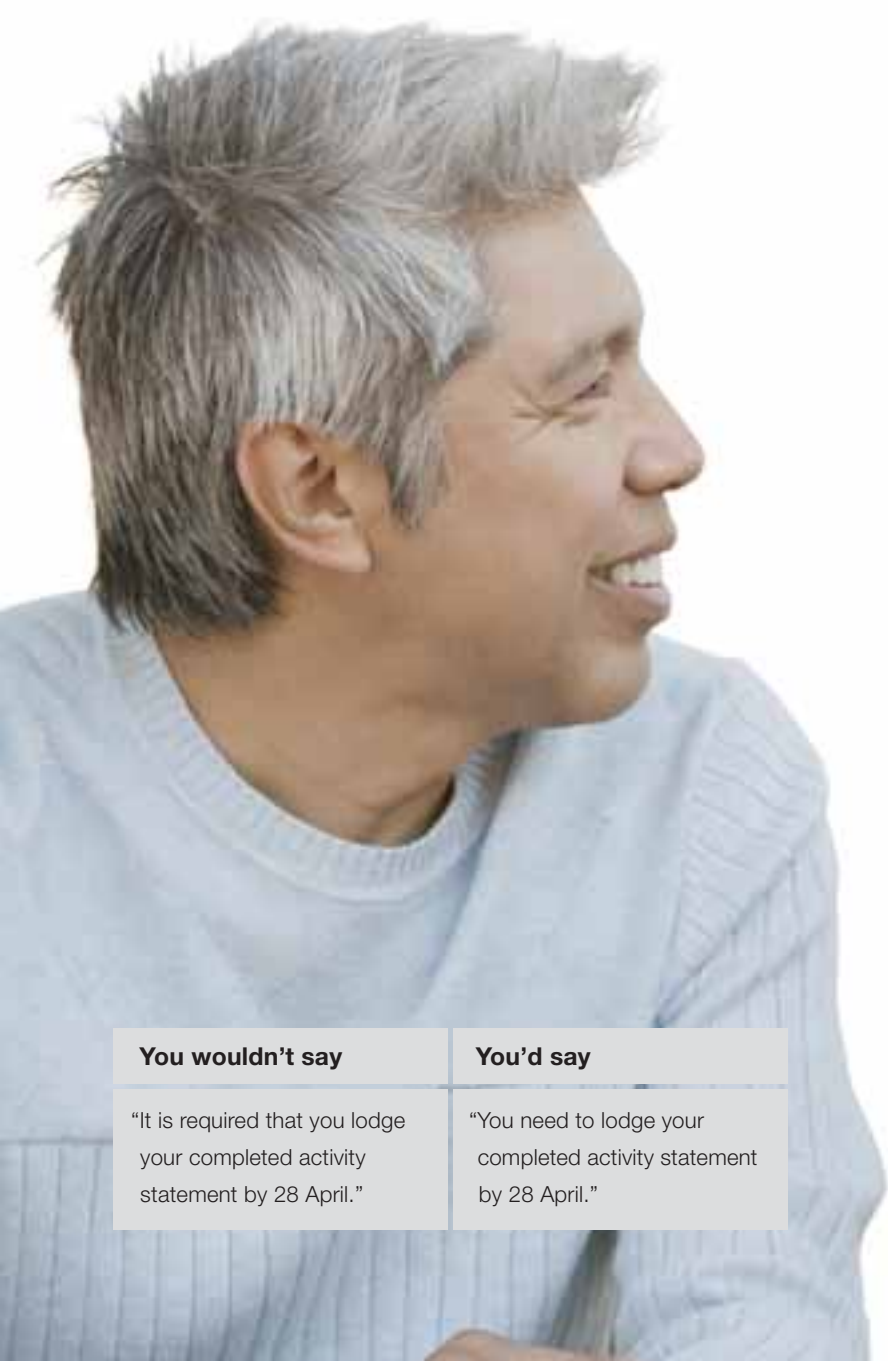
in the future? For instance, if you're writing to a taxpayer who has requested information, don't just tell them the answer – show them where they can access more information for themselves in future.

The ATO website is a hugely useful resource that can help answer all kinds of tax-related questions.

Next time, instead of picking up the phone, the taxpayer could visit **www.ato.gov.au** and save everyone valuable time.

Stop and think
“What do I really want to say?”





Write it like you'd say it

Writing is simply a substitute for the spoken word. When you're writing to taxpayers or tax professionals, don't feel you have to adopt a loftier tone than you'd use if you were talking to someone face-to-face.

Tell it how it is

Good writing speaks to the reader from the page. So write it like you'd say it. Use words and phrases that you know you'd use if you were speaking to a colleague or acquaintance. Then look at what you've written and if it sounds like something you'd never say, find a more natural way of saying it. If you said "It is required that you lodge your completed activity statement by 28 April" to someone in person, they'd probably think you were a bit strange. You'd have a far better chance of getting through to them if you said "You need to lodge your completed activity statement by 28 April". This is what's commonly known as the passive versus active voice, but really it's simply a matter of writing it like you'd say it.

Keep it fresh

Letter writing – especially in the field of taxation – is awash with overused and outdated language conventions. And the most outdated ones can usually be found in the opening sentence. If you start your letters like this,

You wouldn't say

"It is required that you lodge your completed activity statement by 28 April."

You'd say

"You need to lodge your completed activity statement by 28 April."



One voice, many tones

In your dealings with taxpayers, you have to address many different situations and circumstances. Some are easy; others not so. It's all about managing participation, and finding the right tone for each situation.

For guidance, we can refer to our four brand qualities: firm enforcer of the law; trusted authority; fair administrator; and professional adviser and educator. By referring to these qualities and applying the appropriate one for each situation, you can ensure that your letters strike the right note.

Who will you be today? Firm enforcer or trusted authority?

On the centre pages you'll find four examples of how our brand qualities can change the tone of your letters, depending on the situation and the circumstances of the taxpayer in question. Writing a final demand to a non-compliant debtor? Try being a firm enforcer.

Or perhaps you're informing a pensioner that their entitlements have increased. The trusted authority might be more appropriate.



How we apply our voice

Dear Mr Smith

We were concerned to see that you haven't lodged a superannuation guarantee statement or met your superannuation guarantee or choice of superannuation fund obligations.

A superannuation guarantee charge of \$1500 was due on 15 November 2007.

Because this matter affects the entitlements of your employees, we treat any wrongdoing – intentional or not – very seriously.

FIRM ENFORCER OF THE LAW

Determined, Active, Considered, Persistent

In this capacity, the ATO has the resources and the determination to deal with people who are intent on avoiding their responsibilities.

TRUSTED AUTHORITY

Experienced, Efficient, Progressive, Accountable

Your opportunity to demonstrate that the ATO can be trusted to apply tax laws in ways that are simple to understand and easy to comply with.

The member either transferred their contributions to another provider or received a superannuation payout.

Once a transfer has occurred, it's the responsibility of the new contributions holder to make surcharge payments.

This means the crediting of any amounts we owe must also be made to where the contributions are now held.

As a result, we've cancelled the \$150 we previously credited you.

ce in different situations

It's for the good of your future

If we don't hear from you, the money will be deposited into a superannuation holding account, where it will earn a nominal rate of interest – and only on the first \$1,200 you have in the account.

We suggest your money might be better off in a professionally managed superannuation fund. Just let us know where yours is and we'll send the money to them in future.

FAIR ADMINISTRATOR

Impartial, Intelligent, Flexible

In this role, we take into account the circumstances of taxpayers when applying the law, and in doing so treat people in fair and impartial ways.

PROFESSIONAL ADVISER AND EDUCATOR

Accessible, Supportive, Clear and direct, Up-to-date and relevant

A supportive role, where you provide the right information for taxpayers to meet their obligations and receive their entitlements.

We have a range of information and support services that can help you carry out your role properly. Later in this letter you'll find some guidance and useful links, but first we'd like to confirm a few important details.

The following people listed are responsible for managing your self-managed super fund (SMSF):

John Smith
Mary Brown

Choosing your tone

The tone of your letter must suit the purpose it's trying to achieve. You wouldn't want to come across as threatening to someone who has neglected to lodge their activity statement, for the first time, by the due date. You'll want to reserve your more direct language for taxpayers who repeatedly miss deadlines and appear to be deliberately avoiding their tax obligations.

Information letters should be friendly and helpful, not bureaucratic or patronising. They should leave the taxpayer in no doubt about what we're telling them or asking them to do.

Letters that are trying to persuade reluctant or uninformed taxpayers to comply can use stronger messages, but shouldn't be officious or alienating.

Letters to taxpayers who repeatedly don't comply can include messages that are stronger and more forceful. Although they may contain threats of legal action, the tone should still not come across as overly aggressive.



Outdated voice	Real voice
Further to our correspondence of the above date...	We're following up on the letter we sent you last month...
With reference to our recent telephone conversation...	Thanks for taking the time to talk to us last week...

then the rest of the letter will inevitably follow the same dusty old language. Try starting the letter in the way you'd raise the subject if the person were with you. If you write to people using the voice of a real person, your messages are more likely to be read, understood and acted on.

You're the
voice of the ATO



Edit for your readers

Good writers all have the same thing in common. They are good editors. Editing is one of the best ways to ensure your correspondence is read and understood. By keeping your letters short you'll be communicating more efficiently.

Be tough on yourself

To be a good editor you need to be merciless with your own writing. When you've finished writing your letter, try cutting it by at least one third. At first you'll think it's impossible, but the more you try it the easier it gets. There's always one word that can do the job of four, always a sentence that can be halved, always a paragraph that can be reduced to a bullet point. When you're done, re-read and check that all the essential information is still there.

This is the essence of good writing. Words are there simply to do a job. And the fewer you use, the better. Remember, our audience is made up of people with short attention spans and busy lives. Do them a favour.

In brief

- If, on average, your sentences are longer than 32 words, people will have difficulty concentrating on what you're saying.
- Eight-word sentences are the easiest to read.
- However, sentences of around 15 words are a perfectly good average.
- Don't be tempted to think that using long words will impress people. Use short, simple words that communicate your message quickly. If you can replace a long word with a short one, do so. Don't use "subsequently" when you can use "after". Or "utilise" when "use" will do. Check the *Style Guide* for more examples.

A close-up photograph of a woman with short, dark, wavy hair. She is looking slightly to the right of the camera with a thoughtful or weary expression. Her right hand is resting against her chin and cheek. She is wearing a dark-colored watch with a metal link band on her right wrist. She is also wearing a pearl earring. The background is plain white.

Reading tax legislation
isn't most people's idea
of fun. So keep it short.



Read it. Then get someone

Read it

The whole point of writing is that it should be read. So once you've written, edited and checked your letter, let someone else read it.

Not just anyone

Remember the bit about picturing your reader? Try to pick someone similar to read your letter. Tell them who you're writing to and get them to imagine themselves in the same position. Then, and only then, can they form an objective opinion about what you've written.

Don't be too precious about your writing. If someone has a genuine concern with something you've written, try another way of expressing it.

There's always another way of writing something, and the best response to literary criticism is to write something better.

For further reading and reference please visit 'Correspondence Capability' on our intranet. It provides useful links and tools, such as:

- *Guidelines for letter authors – the corporate style*
- *Style guide*
- *'The Clear Writing Resource Centre'*

Good writing and good luck.

else to read it.

Remember

You're the voice of the ATO.

Don't be afraid to write it like you'd say it.

Match your tone to the situation.

Picture. **O**rganise. **W**rite. **E**dit. **R**ead.



Australian Government
Australian Taxation Office

Joint Committee of Public Accounts and Audit

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Australian Taxation Office

Biannual hearing with the Commissioner of Taxation

4 March 2011

Topic: Recruitment

Hansard Page: PA 27

Question: 9

Ms BRODTMANN— Finally: about the culture, and the review announced last year by Senator Nick Sherry when he was Assistant Treasurer. One of the anecdotal issues about the tax office that people tell me— being the member for Canberra—is that you do not have much movement in your senior management. It all tends to be home grown, so I wonder if I could get some idea about EL2s and who is coming in from other departments, and also, particularly, from business, to give that business perspective? I would also like to know about SES band 1s and senior management— how many people are from business backgrounds and other government departments, and how many are home grown from within the tax office?

Answer:

That ATO currently has approximately 250 SES and 1,722 EL2s. Whilst average attrition rates between 2003 and 2010 have been 6.8% for SES and 5.5% for EL2s, there is significant movement and mobility, with many senior people regularly moving jobs. We see this movement as helping to provide a ‘whole of system’ perspective and appreciation of the complexity of a successful tax administration. It is also a deliberate development strategy for our leaders.

The ATO expects its SES and EL2s to have both leadership capabilities and professional expertise. The professional expertise required of different roles will often dictate where the most likely candidates and potential talent pools will be found. For example, with a large tax technical law capability in the ATO, and expectations of deep expertise, it is expected that the ATO itself would be one of the most likely sources of successful candidates. This is likely to be different for another role, say in our client service area, or even in information technology.

Patterns of sources of recruitment into senior levels in the ATO can vary depending on government requirements and ATO business intent. For example, recruitment of people into the ATO during tax reform (just over 10 years ago) saw business skills as specific requirements. During the mid 2000s, there was a focus on attracting people from specialist industries and business to strengthen our business processes and client service delivery.

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Another aspect of the ATO workforce and its leadership is the national management approach across 28 major and 32 smaller sites. Over 85 % of the ATO workforce, including many senior leaders, are located outside of Canberra, bolstering identity and cohesion for the organisation's culture and for the ATO's presence in different communities. Demographically, we reflect the diversity of the community in general.

For these reasons, the ATO also taps into recruitment markets across the nation rather than just in Canberra. We do not have the same proportionate level of staff movements across the Australian Public Service as other agencies and departments that are predominantly located in Canberra.

For most of our senior roles, positions are advertised nationally, using a mix of press and government gazette and where appropriate, international search companies for significant senior roles. We also target less traditional press or publications for our advertising, including online recruitment sites, and now, Twitter. To also help attract good fields of both internal and external candidates, we use executive search and/or recruitment agencies. Overseas recruitment, especially from the United Kingdom and Ireland, has also been used for specialist senior roles.

The following sets of data show actual recruitment numbers as requested by the Member for Canberra.

Table 1: Outcomes from EL2 and SES recruitment processes distinguishing between the immediate prior employment source of the recruits for the period 2005-11¹.

Recruitment Group ²	Other APS department		Business ³		'Home grown'		Unknown		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
EL2	94	10%	Unknown ⁴	N/a	117	13%	706	77%	917	89%
SES Band 1	18	20%	38	43%	32	36%	0	0%	88	8%
SES Band 2	2	7%	7	25%	19	68%	0	0%	28	3%
Total	114	11%	>45	>4%	168	16%	706	68%	1,033	100%

¹ Due to system infrastructure the ATO is unable to provide comparable data for the years prior to 2005.

² This data indicates the outcome of recruitment processes, not the individual headcount of employees. In effect, some employees could be counted more than once and be from different sources. For example, an EL2 may be recruited from business, but later promoted from within the ATO to a SES Band 1. In this case, the movement would be counted twice – once as from business as EL2, and once to SES Band 1 as 'home grown'.

³ Includes state public service.

⁴ The ATO does not routinely record the source of its employees as there is no mandatory requirement to do so and the majority of employee movements do not have a reason code against them. Recruitment from other government agencies is recorded in order to carry over entitlements such as long service leave. During this period 171 EL2s were assigned an 'external' employment code. It can be assumed that some of these employees have come from business.

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Whilst Table 1 provides a transactional view of movements at senior levels over a certain period, analysis of the profile of the current 256 SES officers shows that 33% of SES Band 2s and 17% of SES Band 1s are from outside the ATO.

Table 2: Profile of the immediate prior employment source for individual SES officers as at 30 March 2011.

Recruitment Group	Other APS department		Business ³		'Home grown'		Total	
	No.	%	No.	%	No.	%	No.	%
SES Band 1⁵	9	4%	28	13%	185	83%	222	87%
SES Band 2⁵	6	18%	5	15%	23	67%	34	13%
Total Nos.	15	6%	33	13%	208	81%	256	100%

It is important in considering the level of recruitment from other organisations that not only are both specialist and large-scale leadership and management expertise needed to lead effectively in the ATO, for those with skills there are also significant pay disparities with private sector equivalent skills and expertise which can make it very difficult to recruit at senior levels.

Selection panels are encouraged to apply a differentiated process so that external applicants are not disadvantaged through lack of specific ATO knowledge. Generally, failure of applicants for senior positions who come from a purely business background is due to limited breadth of specialist expertise, and/or experience in leading large-scale operations, eg, a recent SES Band 2 position required high level tax technical expertise and ability to manage 700 staff across Australia.

The ATO has a number of approaches, other than recruitment, for bringing in external perspectives to the administration of the tax and superannuation systems, including:

- Over 50 consultative forums with around 1,000 members that facilitate consultation with taxpayers, business and professional communities to promote improvements;
- Membership of internal committees such as the Audit Committee which has three external members with very senior business and public sector backgrounds and the ATO People Committee which has several members and advisers from a wide range of external organisations;
- Market research and user testing where focus groups representing various market and industry segments provide input to our products and services;
- The use of tax law expert panels that include private sector experts for considering public rulings, application of anti avoidance rules, etc;

⁵ This data was extracted manually, made possible because of the small numbers.

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- Appointment of independents for roles such as Integrity Advisor and Chief Internal Auditor; and
- Our scrutineers also bring external perspective via the representations made to them, particularly the Inspector-General of Taxation, the Commonwealth Ombudsman and Australian National Audit Office.

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Topic: ATO performance pay

Hansard Page: written

Question: 10

Please provide information about the ATO's performance pay process.

- (i) Which levels receive performance pay in the ATO?
- (ii) Most agencies have grades of performance pay. How many grades does the ATO have and what are the pay rates for each grade?
- (iii) How many SES 1 and above received performance pay in the last two years? (Either on a FY or calendar year basis depending on the ATO's system)
- (iv) How many SES 1 and above received the bottom, middle and top grades of performance pay - and what is the percentage of each grade in the level cohort?
- (v) What criteria/KPIs does the ATO use for each grade of performance pay?
- (vi) Who assesses the performance/grade for each SES 1 and above?

Answer:

(i) Senior Executive Services (SES) Band 1, SES Band 2 officers and Second Commissioners are eligible for performance pay. Executive Level 2 officers acting at SES Band 1 level for more than 12 weeks are eligible (and are included in the figures below).

(ii) The ATO has five grades of performance pay. Performance pay is calculated at 5%, 7.5%¹, 10%, 12.5%¹ or 15% of base salary. The first 5% of performance pay forms part of the total salary a senior executive is entitled to should they perform their job effectively.

The amount of performance pay received is determined by a combination of two ratings as outlined in the table below. A description of the ratings is also provided.

Rating for 'What' Outcomes achieved as documented in Performance Development Agreement	Rating for 'How' Demonstrated leadership behaviours and modelling of ATO values	Performance Pay paid as % of base salary
5	5	15%
5	4	12.5%
4	5	12.5%
4	4	10%
5	3	10%
3	5	10%
4	3	7.5%
3	4	7.5%
3	3	5%
2 or 1	Any rating	0%
Any rating	2 or 1	0%

¹ The 7.5% and 12.5% points were introduced in 2009-10.

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Description of ratings

Rating 5 – Exceptional: a rare level of performance which is considered to be well beyond expectations, breaking new ground, producing outcomes of considerable value to the ATO.

Rating 4 – Superior: Achievement has been consistently high on the range of indicators, behaviours, competencies and any leadership role throughout the appraisal period, well beyond fully effective level.

Rating 3 – Fully Effective: achieved standard detailed in performance agreement for both business outputs and behaviours. In addition, has demonstrated the full range of expected competencies and leadership behaviours.

Rating 2 – Borderline: Performance against objectives and outcomes are below standard; may also indicate the employee has recently commenced in the role and requires more experience to consolidate performance.

Rating 1 – Unsatisfactory: Continued failure to achieve expected standard. A formal process to address the standard of performance is in place.

(iii)

- 279 SES 1 and above received performance pay in the 2008-09 financial year.
- 287 SES 1 and above received performance pay in the 2009-10 financial year.

(iv) The number and percentage of SES who received performance pay (PP) at the bottom, mid point and top range is detailed in the tables below for years 2008-09 and 2009-10.

2008-09 ²	Zero PP		Bottom 5% PP		Mid 10% PP		Top 15% PP		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
SES Band 2 and Second Commissioners	0	0	5	14%	29	80%	2	6%	36	100
SES Band 1	7	2.9%	106	43.6%	126	51.9%	4	1.6%	243	100
Total numbers	7		111		155		6		279	

2009-10	Zero PP		Bottom 5% PP		7.5% ¹ PP		Mid 10% PP		12.5% ¹		Top 10% PP		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
SES Band 2 and Second Commissioners	0		12	29.3	9	22	19	46.3	1	2.	0		41	100
SES Band 1	1	0.4	130	52.9	50	20.3	61	24.8	3	1.2	1	0.4	246	100
Total numbers	1		142		59		80		4		1		287	

² These figures vary from those reported in the 2009-10 Commissioner of Taxation Annual Report. Incorrect source data was used resulting in incorrect totals and breakdown of numbers receiving different levels of performance pay. The figures in the table above are correct. Any necessary corrections will be published in the next Annual Report.

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(v) There are two major inputs to determining the grade of performance pay:

- outcomes of the ATO's performance as discussed at a Plenary Governance Forum conducted in July each year by the Commissioners and SES Band 2 officers
- behavioural descriptors for different levels of individual performance.

Standard setting conversations are held by the Commissioners to pull these two criteria together for guidance to managers conducting annual performance appraisals, and to ensure consistency across the ATO.

(vi) The manager of the SES officer undertakes an initial evaluation for performance pay. A quality assurance process is conducted by the ATO Remuneration Committee before final approval by the Commissioner.