

Australian Taxation Office

State and Territory Government Revenue and
Land Titles Offices
Data Matching Program Protocol

6 May 2005

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1. Overview

The Federal Privacy Commissioner's Guidelines on data matching in Commonwealth Administration specify that a program protocol be prepared by agencies running significant data matching programs. The Australian Taxation Office (Tax Office) complies with the Federal Privacy Commissioner's guidelines.

The Treasurer announced in the 2004 Federal Budget that the Tax Office was to receive additional funding over 4 years to "...better educate taxpayers, raise the level of voluntary compliance with taxation obligations and undertake additional compliance activities such as reviews and audits which will result in increased revenue". One of the specific areas identified to be addressed under this funding was Capital Gains Tax (CGT).

The desired outcome of the CGT Project is to improve the intelligence and research capability of the Tax Office in relation to CGT. This project is about positioning the Tax Office in a way which allows it to effectively measure levels of compliance and make informed decisions about risk treatment strategies.

The focus of this project is to systematically develop an understanding of the real property market with a specific focus on the data generated within the natural systems which exist within these markets.

By developing this understanding, the Tax Office will be in a position to:-

- catalogue the external data holdings of the key intermediaries in the real property market;
- develop and maintain relationships with key intermediaries;
- reliably measure the activity and risk in the real property market;
- develop a series of metrics for use in the evaluation of Tax Office compliance strategies;
- identify key leverage points for possible Tax Office intervention;
- develop lead indicators providing insight into emerging issues and trends
- identify potential changes which could be made to Tax Office data holdings to improve our data matching capability;
- provide reliable data to inform the Government of both the potential costs and benefits of possible law changes.

The focus of this data matching protocol relates to the data holdings of Australia's State and Territory Government Revenue and Land Title Offices. These offices record all real property transactions. To improve compliance with taxation obligations of taxpayers (individual and non-individual), the Tax Office proposes to match the data maintained by the State and Territory Governments with that held by the Tax Office. Subject to the outcomes of our

initial activities, the Tax Office's intention is to undertake this type of data matching on an ongoing basis. To that end, the Tax Office may be seeking agreement from all the major stakeholders to provide data in accordance with some agreed delivery program.

The data in question relates to transferee and transferor details of property title transactions. This data will be used to confirm the correct completion and assessment of any declared or omitted capital gains, income, or goods and services tax (GST), from the disposal of property which should be recorded on income tax returns (ITR) or business activity statements (BAS). This work will focus on property transfers, in all states and territories, for the period 1 July 1999 to present day. It is a legal requirement that the transfers of property titles are reported to Australia's State and Territory Revenue Offices for ownership details and land tax imposition.

An important outcome to be achieved from this project is the identification of those entities that may be completely outside of the tax system. The project will also assure that clients are educated in the correct treatment, completion and assessment of their CGT, GST, ITR or BAS obligations. Non-compliance with taxation obligations will be dealt with by way of compliance activities.

2. Objectives

The overall outcome to be achieved from this project is to identify and address non-compliance with taxation obligations and increase Tax Office research and analytics capability in the real property market.

Specifically the proposed data matching program will:

- improve the intelligence and research capability of the Tax Office in relation to CGT, GST and income tax obligations
- identify key leverage points for possible Tax Office intervention
- assess correct completion and assessment of ITR/BAS in relation to CGT, income or GST on the disposal of property, and
- contribute to a compliance benchmark in relation to taxation obligations of CGT and those required to be registered for GST and Australian Business Number (ABN) purposes.

Achievement of these objectives will increase public confidence and education in the administration of the tax laws.

3. Agencies Involved

The Tax Office is the matching agency and sole user agency. The data matching program will be run on the Tax Office computer facilities. The Tax Office data consists of information provided to the Tax Office previously by entities in meeting their obligations under a taxation law.

The source organisations of the property data are as follows:

- New South Wales Office of State Revenue
- New South Wales Department of Land Property Information
- Victorian State Revenue Office
- ACT Planning Authority
- ACT Registrar General – Land Titles Office
- ACT Revenue Office
- Northern Territory Treasury
- Queensland Office of State Revenue
- Queensland Department of Natural Resources and Mines
- Department of Primary Industries, water and Environment -Tasmania
- Tasmanian Department of Treasury and Finance
- South Australia Revenue Office
- South Australia Land Services Group
- Western Australia Office of State Revenue

4. Data Issues

Initially, and where possible, the Tax Office has an interest in the collection of data where property transfers have occurred during the period 1 July 1999 to 30 June 2004. Note that for the purposes of determining a CGT liability historical transfer data dating back to 19 September 1985 may be required. The purpose of collecting this historical data is to establish a sales history of individual properties since the advent of CGT legislation on 19 September 1985.

Pending the outcomes of the Tax Office's initial activities, real property data matching may become an ongoing activity. If this becomes the case, the Tax Office would be seeking to secure the ongoing cooperation of State Government authorities to provide regular updates to the original data sought via this protocol.

The total number of records obtained Nationally is difficult to judge as the Tax Office is unsure that data will be available for all years from each source organisation. The approach of the Tax Office is to work collaboratively with the data providers to ensure that any requests for data are reasonable both in terms of costs of compliance and the systems capability of agencies to provide the required data. Data obtained for a similar project, carried out in relation to data for the State of Victoria, contained more than 500,000 records for a four year period, suggesting that the total number of records for any one state/territory may exceed 5,000,000 records if all historical sales data back to 1985 is provided.

Subject to availability, it is proposed to request the following data items from each source organisation for each real property transaction recorded by the organisation for the relevant years:

- Date of all property Transfers
- Location and identification of all properties transferred (including street number, name, suburb, postcode and municipality property identifier)
- Property sale contract date
- Property settlement date
- Property land area
- Property subdivision date
- Total property purchase price
- Land usage code
- Transferor full name (including entity and/or trading name)
- Transferor full address (including street number, name, suburb and postcode)
- Transferor property share percentage and manner of holding
- Transferor ACN/ABN
- Transferee full name (including entity and/or trading name)
- Transferee full address (including street number, name, suburb and postcode)
- Transferee property share percentage and manner of holding, and
- Transferee ACN/ABN.

- **Data Quality**

Generally, state law requires that all property title transfers be recorded so that the appropriate land tax is able to be calculated and the legal entity is recorded as owning the property on title deeds. The Tax Office anticipates that data obtained and maintained under obligations imposed under state law will be of high quality as there are legal ramifications that may impact on a number of external bodies such as banks (where titles deeds are sought for collateral) and councils (in application of rate notices) if ownership details are not reported.

Under normal circumstances, the captured data would be transferred to the Tax Office's mainframe systems where attempts would be made to achieve an identity match with data already held by the Tax Office. In respect of this data matching program the Tax Office is considering an alternative case selection method. Under this method the Tax Office would transfer the acquired data to the Tax Office's Data Warehouse where various profiling techniques would be employed to select high risk cases. The selected cases only would then be loaded to our mainframe systems where the identity matching programs would be executed.

- **Data Integrity**

Upon receipt, the requested information will be copied into a standardised format and checked before loading onto any of the Tax Office's systems.

A high level of integrity of matched data will be ensured as records will be matched by the Tax Office on more than just one identifier (i.e. the transferee's and transferor's name and address, ABN and business name and address). Records where the initial cross-matching leaves some doubt as to whether the entity named in the source data has been accurately identified on the Tax Office's records, or where details of the transaction do not appear to be reflected on the entity's ITR and/or BAS, will be thoroughly assessed for potential risk before any administrative action resulting from the matching process is initiated. The entities will be given the opportunity to verify the accuracy of the information obtained prior to any action being undertaken.

- **Data Security**

Tax Office staff are subject to the secrecy provisions of the *Income Tax Assessment Act 1936* (ITAA 1936) and the *Taxation Administration Act 1953* (TAA). The business process for data matching is designed to allow only a small number of staff from the Tax Office's Client Identification Centre (CIDC) area to access the programs. Access to the Tax Office Data Warehouse, where the data matching program is executed, is strictly controlled, and its security system provides protection, control and audit trails of data set access and system program integrity. Features include logon identification codes, passwords and security groupings.

Existing security arrangements in the Tax Office automatically log user access to data files. The data matching program provides audit trails, which can be used to verify the processing of the data.

Data transfer will be effected on mutually acceptable transfer media; for example CD-ROM, magnetic tape cartridge etc. This will vary dependent upon data parcel size. The Tax Office will arrange for the disk to be collected personally from each source organisation by an authorised Tax Office representative or sent by registered mail to a named Tax Office representative. Upon receipt, the data will be loaded onto the Tax Office Data Warehouse, not the mainframe operating system. All access to this data will be strictly monitored and controlled by the Data Matching Steering Committee, the Data Warehouse gatekeeper and the CGT data management project team.

5. The Matching Process

The matching process will identify those transferees and transferors registered with the various State & Territory Revenue and land title Offices who may or may not have had dealings with the Tax Office.

The data obtained from the source organisations may be matched on more than one identifier. That is, where an ABN and name and address data is

available, both will be used in order to match records. Very high quality matches will occur where both identifiers match. Data matches on the name and address fields alone will still provide for a high quality match. Some of the data is expected to be matched at lower confidence levels due to missing data fields, or differences in fields between the source organisation and Tax Office data.

A high quality match will identify the entity as being registered against the profile on the Tax Office systems. The fields used for matching against Tax Office taxpayer records will be: transferee's and transferor's name and address, ABN and business name and address. Matching on more than one field will ensure the results from the data matching process will have greater integrity.

The data fields about property transfers, provided by the various State & Territory Revenue and land title Offices, will be used to check and confirm whether entities identified as parties to those transactions have reported them correctly for taxation purposes.

That is, the data will be used to check whether the transferor has correctly declared the sale/disposal on their ITR/BAS along with meeting other tax obligations such as GST registration or lodgement/payment.

6. Action resulting from the Program

A high level statistical profile of the lodgment, registration compliance and correct taxation treatment of property transactions along with correct recording on ITR/BAS for entities undertaking such transactions will be obtained. This information will be used to gain a clear statistical picture of the compliance of entities with their taxation obligations.

Taxpayers identified as presenting a high risk that they may not be compliant with their taxation obligations may be referred to the relevant desk audit or field area of the Tax Office for appropriate follow up action. This action may include telephone, written or field contact. These cases may be actioned by way of compliance or educational activity, to determine the level of compliance with taxation laws. Action resulting from the program will be to ensure that selected individuals and entities:

- are correctly accounting for property transactions for CGT, income tax and/or GST purposes;
- who are required to be registered for GST, are in fact registered; and
- are meeting ITR and/or BAS lodgment requirements and any other taxation obligations.

Taxpayers identified as having outstanding taxation obligations may be referred to the Operations area of the Tax Office for appropriate follow up action such as to follow up lodgments and payments related to the obligations listed above.

In cases where entities fail to comply with obligations, even after being reminded of them, escalation to our Prosecutions area for follow up action may be appropriate.

At the initial stage of any administrative action on high risk entities, clients will be given the opportunity to verify the information collected by the Tax Office eg: if an entity is suspected of not meeting its taxation obligations in relation to CGT, GST or income tax, they will be given an opportunity to verify this information. Clients will be given at least 28 days to respond to the information about transactions identified by this matching program. Refer to appendix A for an example of a draft letter that may be sent to individuals.

7. Time Limits

It is envisaged that the data matching exercise, in relation to the State & Territory Revenue and Land Title Offices, will be conducted annually after the end of each financial year. The matching program will be run for the first time in 2004/05, once the program has been publicised and the data has been received.

It should be noted that, in respect of this ongoing process, the Tax Office is seeking to retain data beyond the scope of the retention periods outlined in the Federal Privacy Commissioner's Data Matching Guidelines. As mentioned earlier in this document, this data matching program is seen as an ongoing, business as usual process.

In order for the Tax Office to undertake an effective CGT, GST or income tax compliance program it must have access to historical data relative to the sale of real property. This can only be achieved through the retention of existing data for a period of time longer than that allowed under the Federal Privacy Commissioner's Guidelines and the ongoing acceptance of new data to support the data matching program. Retention of data in these circumstances is seen to be in the public interest as it permits the Tax Office the time required to effectively identify those taxpayers who may not have met their taxation obligations.

As data becomes redundant it will be destroyed in accordance with General Disposal Authority 24 (GDA24) and the Records Disposal Authority 1194 (RDA1194). All data to be destroyed will be handled securely under the supervision of the Tax Office's IT Trusted Access branch and in accordance with the Tax Office's *Security Procedures Table* for In-Confidence Material.

8. Public Notice of the Program

The Tax Office will publish a notice with general information about the program in the Commonwealth Government Gazette before the first data matching run is executed. This will be done in December 2004 or May 2005. A draft notice is attached at Appendix B.

9. Relationship to Lawful Functions

The Commissioner of Taxation has responsibility for seeing that entities meet their taxation obligations in relation to registration, lodgement, payment and correctly reporting their obligation. For the purposes of this data matching exercise an entity is defined as:

- An individual
- A body corporate
- A body politic
- A partnership
- Any other incorporated or un-incorporated association or body
- A trust
- A superannuation fund.

The taxation compliance behaviour of these entities is a matter of concern to the Commissioner and is seen as potentially undermining community confidence in the integrity of the tax system.

The data matching program is part of the Tax Office's focus on addressing the issues raised by non-compliant behaviour and will also provide education to clients that are not fully conversant with legislative requirements. Data matching will provide a degree of assurance that entities are meeting their taxation obligations.

10. Legal Authority

Requests for data will be negotiated with the relevant State and Territory organisations and, where appropriate, formal notices of acquisition issued to ensure statutory requirements are met.

Where appropriate, the information sought from the various State and Territory authorities may, be acquired under

- Section 264 of the *Income Tax Assessment Act 1936*
- Section 65 of the *Taxation Administration Act 1953*
- Section 128 of the *Fringe Benefits Tax Assessment Act 1986*, and
- Section 77 of the *Superannuation Guarantee (Administration) Act 1992*.

These provisions relate to information to be used by the Tax Office for income tax, GST, FBT and Superannuation Guarantee purposes (respectively). The ATO will use the information for taxation compliance purposes. This use is reasonably necessary for the protection of the public revenue, and so is permissible under exception (d) to Information Privacy Principle (IPP) 10, contained in section 14 of the *Privacy Act 1988*.

11. Alternative Methods

Currently the Tax Office has no alternative method to identify all those entities failing to meet their taxation obligations in relation to real property transactions.

It does however obtain limited information on entities failing to meet their taxation obligations through refund integrity checks conducted by the Client Verification Cell (CVC), General Field compliance activities and examination of rental schedule information by Active Compliance.

These processes cannot identify all entities that have either disposed of or acquired properties from details provided on BAS or ITR hence determining compliance with their taxation obligations often involves random case selections. The Tax Office has no single identifier to track these property transactions through Tax Office information and systems. However, from the information provided by Active Compliance, CVC and General Field Compliance, empirical evidence suggests that the incorrect treatment of the disposal and acquisition of properties is of concern and clients are generally confused with their taxation obligations as they have limited exposure to these types of transactions. This can lead to incorrect reporting or the omission of the transaction on their ITR/BAS.

Obtaining data from the State & Territory Revenue and Land Title Offices will provide a much more complete and accurate profile of high risk entities that have disposed of properties and/or are currently running a business within all industries. This third party data is more reliable and has greater integrity, as transferee and transferors are legally bound to record the change in ownership as legal ramifications may impact on a number of external bodies if ownership details are not reported.

12. Pilot programs

There have been no specific pilot data matching programs preceding this project. However, the Tax Office has recently gained access to approximately 500,000 property sales records from the Victorian State Revenue Office. This data relates to the period 1 July 2000 to 30 June 2003 and is currently being used to select high risk cases which could have an adverse impact on revenue. This activity has been carried out in accordance with a Data Matching Program Protocol published by the Tax Office and advertised in the Commonwealth Gazette of 28 April 2004.

13. Costs and Benefits

The Costs of this data-matching program are:

- Cost of obtaining the data from these Authorities – this is a cost borne by each State & Territory Revenue and Land Title Office. It is possible that these authorities may request the re-imbursment of costs incurred in providing the data from the Tax Office.
- Data space in the Tax Office IT facilities.

- Tax Office resource cost to allocate data space and develop/support a data matching system – some additional costs in the longer term but, in the short term, it is anticipated that current systems will be adequate.
- Tax Office resource cost to run the data matching program – some additional costs will be incurred in data preparation and case selection.
- Further internal Data Warehouse expenditure will be required in the areas of data manipulation and profiling.

While the costs are acceptable, the benefits that can be expected are high, and include:

- Integrity of the tax system - the Australian National Audit Office in a report to Parliament in November 1999 indicated that there are risks to integrity of the tax system when people don't comply with their tax obligations, including those operating outside the tax system. This matching program will identify some transferors and transferees across Australia who have transferred properties but are not meeting their taxation obligations.
- Reducing risk to taxation revenue
- Enabling enforcement and recovery of taxation revenue – identify entities not complying with their taxation obligations and correcting that non-compliant behaviour. Tax Office data indicates that while the amount of net capital gain declared by individuals trends upwards, the number of individuals declaring capital gains is reducing. We can have no assurance that a wider risk to revenue does not exist without carrying out this process.
- Community confidence - maintaining community confidence is seen as critical to the ongoing role of the Tax Office. This program will highlight actions being taken by the Tax Office in relation to capital gains tax, income from property sales and GST.

If you consider that any gain you made on disposal of the property did not form part of your assessable income (as either ordinary income or capital gains), we ask that you provide:

- A detailed explanation as to why you considered the gain was not assessable; and
- All relevant records supporting your position, including legal documents.

Other information

An information sheet *Audits of individual tax returns* is enclosed. This explains what you can expect from the Tax Office, and your rights and obligations, during the audit.

If you require more detailed information about capital gains tax, the publication *Guide to capital gains tax* (NAT 4151-6.2003) is available on the Tax Office website at www.ato.gov.au, or phone our Publications Distributions Service on 1300 720 092.

Contact

If you have any questions about this audit or have any difficulty in responding in 28 days, please phone **13 28 69** and ask for x on extension x.

Yours sincerely

Deputy Commissioner of Taxation

APPENDIX B

Commissioner of Taxation NOTICE OF A DATA MATCHING PROGRAM

The Australian Taxation Office (the Tax Office) will request and collect business names and addresses and details pertaining to property title transfers from the following State and territory authorities:

- New South Wales Office of State Revenue
- New South Wales Department of Land Property Information
- Victorian State Revenue Office
- ACT Planning Authority
- ACT Registrar General – Land Titles Office
- ACT Revenue Office
- Northern Territory Treasury
- Queensland Office of State Revenue
- Queensland Department of Natural Resources and Mines
- Department of Primary Industries, water and Environment -Tasmania
- Tasmanian Department of Treasury and Finance
- South Australia Revenue Office
- South Australia Land Services Group
- Western Australia Office of State Revenue

These will be electronically matched with certain sections of Tax Office data holdings to identify non-compliance with Capital Gains Tax, Income tax and GST obligations under taxation law.

This program is called the Capital Gains Tax Data Matching Project and it enables the Tax Office:

- To address non compliance with CGT, Income Tax and GST,
- Check and assess correct completion and assessment of property transactions in BAS and income tax returns,
- Provide education to clients confused with their obligations in relation to these types of transactions, and
- To be more strategic in its approach to Tax Office business activities.

A document describing this program has been prepared in consultation with the Office of the Federal Privacy Commissioner. A copy of this document is available from:

Capital Gains Tax Data Matching Project
Australian Taxation Office
PO Box 9990
Brisbane QLD 4000

Or by phoning Tony Goding (07) 3853 4668

The Tax Office complies with the Federal Privacy Commissioner's *Guidelines on Data Matching in Commonwealth Administration*, which includes standards for data matching to protect the privacy of individuals.