

APPENDIX 3

Recommendations made by the Board of Taxation and the Government's response¹

SPECIFIC RECOMMENDATIONS AND OUTCOMES

Recommendation 1

The legislation establishing the Inspector-General should include an object clause stating that the object of the legislation is to improve the way in which the Australian Taxation Office administers the Australian taxation system from the perspective of taxpayers.

Response: Agreed in principle.

Recommendation 2

In achieving this objective, the functions of the Inspector-General of Taxation should be broadly defined to include providing advice to the Government, reviewing the systems used by the Australian Taxation Office to administer the tax system, and making recommendations to the Government about how these systems could be improved.

Response: Agreed in principle.

Recommendation 3

The Inspector-General of Taxation should be established outside the Ombudsman's office, with the Ombudsman retaining its existing functions.

Response: Agreed.

Recommendation 4

The efficiency and effectiveness of the new office should be reviewed within five years of the appointment of the first Inspector-General of Taxation.

Response: Agreed.

¹ Taken from Press Release, Minister for Revenue and the Assistant Treasurer, Senator the Hon Helen Coonan, *Minister Responds to Inspector-General Report*, 16 September 2002

Recommendation 5

The Inspector-General of Taxation should have a right of access to individual taxpayer information held by the Australian Taxation Office, but only to the extent necessary to carry out its functions, and should be under an obligation comparable to that of the Ombudsman to maintain the confidentiality of any such information.

Response: Agreed.

Recommendation 6

The Inspector-General of Taxation should be appointed by the Governor-General.

Response: Agreed.

Recommendation 7

The Governor-General should be able to remove the Inspector-General of Taxation from office only for misbehaviour or physical or mental incapacity.

Response: Agreed.

Recommendation 8

The Inspector-General of Taxation should be able to undertake work on both an "own motion" basis and in response to a direction given by a Minister. The legislation should not prescribe how the Inspector-General of Taxation's work priorities would be established.

Response: Agreed in principle. The Inspector-General will be able to undertake reviews on an 'own motion' basis and will have a high degree of discretion in prioritising work.

However, the Inspector-General will be obliged to respond to directions from Treasury Ministers, to reinforce the Inspector-General's role in providing a new source of advice to the Government on matters of tax administration, independent of the Australian Taxation Office and the Treasury.

Recommendation 9

The Inspector-General of Taxation should be required to report annually to the Parliament. The legislation should require that the annual report outline the matters on which advice has been provided to the Minister, and list the formal reports given to the Minister, in the reporting period.

Response: Agreed in principle. The Inspector-General's enabling legislation will impose a special annual reporting requirement on the Inspector-General to ensure transparency.

Recommendation 10

The Inspector-General should be able to publish reports of reviews of the systems used by the Australian Taxation Office to administer the tax system, and recommendations to the Government about where these systems could be improved (but not advice to the Government), but only after giving the Minister a reasonable opportunity to comment. A person whose interests would be adversely affected by the publication should be given a reasonable opportunity to comment, and to have their comments included in the publication. The Inspector-General should not be liable to be sued for an act done in good faith in exercise of any power conferred by the legislation, including the power to publish.

Response: Agreed in part and in principle.

The Government agrees that it will be important for the Inspector-General's reports to be made public. It will be important for the Inspector-General to be accountable to taxpayers, their advisers and representatives, for the way in which taxpayers' concerns are addressed. It follows that the operations of the office of Inspector-General must be transparent and that the Inspector-General must maintain the respect and cooperation of taxpayers.

However, the Inspector-General of Taxation is not intended to duplicate the roles of the Auditor-General nor the Ombudsman, both of whom have a continuing public reporting role on tax administration.

A key function of the Inspector-General of Taxation will be to advocate the concerns of taxpayers to the Treasury Ministers to enable fast resolution of any systemic problems in the tax system. For this reason, the Inspector-General will report to the Treasury Ministers.

The Inspector-General's inquiries and reports may include recommendations for legislative amendments or changes in administrative processes. It is desirable for recommendations involving changes to the tax system to be released simultaneously with the Government's decision on such changes to avoid speculation and uncertainty about the taxation system. Accordingly, it is proposed that the Treasury Ministers would have the responsibility for releasing reports by the Inspector-General.

The Government agrees that, if there is criticism of the Commissioner or any other tax official arising from a review by the Inspector-General, then the Commissioner should have an opportunity to address such criticisms prior to completion of the report.

The Inspector-General of Taxation will be given appropriate immunity from being sued.

Recommendation 11

The Ombudsman's role in reviewing administrative action taken by the Australian Taxation Office, both in response to a complaint and on an "own motion" basis, should not be affected by the establishment of the Inspector-General of Taxation.

Response: Agreed.

Recommendation 12

The Inspector-General of Taxation should be obliged to consult with the Ombudsman and the Auditor-General in establishing a work program and priorities.

Response: Agreed. However, it is not intended that such a consultation arrangement would impinge on the independence of any of the statutory office-holders involved.

Recommendation 13

The Government should appoint as the inaugural Inspector-General of Taxation someone who:

- (a) has a strong capacity to understand commercial and public sector issues in tax administration;
- (b) is committed to community consultation and building constructive relationships with stakeholders; and
- (c) has earned the trust of both government and external stakeholders.

Response: Agreed.

Recommendation 14

The establishment of the Inspector-General of Taxation should not affect the functions of the Board of Taxation.

Response: Agreed.

Recommendation 15

The Inspector-General of Taxation should not be an ex-officio member of the Board of Taxation.

Response: Agreed.