



Australian Government
Inspector-General of Taxation

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Ms Debbie Atwell
Australian Taxation Office
GPO Box 9990
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Dear Ms Atwell

**LIST OF CONCERNS ARISING FROM ROUNDTABLE DISCUSSIONS WITH
TASMANIAN TAX AGENTS**

I met with tax agents in Launceston and Hobart on March 4 and 6 to discuss a number of concerns relating to Tax Office administration practices. I have attached a summarised list of these concerns for your information. I understand that you are the Tax Office's secretariat for the Tasmanian Regional Tax Practitioner Forum and that these issues may have been raised previously in that forum.

I would appreciate it if you could review the attached concerns and please advise us of the Tax Office's view on these concerns and any relevant changes that have, or are proposed to, address these issues. This will assist us in determining what follow up action, if any, this office should take.

If it is more convenient to meet with you to discuss relevant issues, I would be happy to do so.

I look forward to your response and am happy to discuss the above matter at any time. I can be contacted by telephone on (02) 8239 2104 or by email at peter.glass@igt.gov.au.

Kindest regards

A handwritten signature in black ink, appearing to read 'P. Glass'.

Peter Glass
Adviser

**LIST OF TAX AGENT CONCERNS ARISING OUT OF IGT
ROUNDTABLES WITH TASMANIAN TAX AGENTS**

4 - 6 MARCH 2008

Systems issues

Non-issue of notices of assessment to full self assessment taxpayers

Full self assessment taxpayers (companies, superannuation funds, approved deposit funds and pooled superannuation trusts) are not issued with a notice of assessment following the lodgement a tax return. Instead the Commissioner is deemed to have made an assessment under section 166A of the *Income Tax Assessment Act 1936* (ITAA 1936). The assessment is deemed to have been made on the day on which the return is lodged and the return itself operates as the notice of assessment, which is deemed to be served on the same day.

The lack of a notice of assessment affects taxpayers evidencing their taxable income with financiers and SMSF auditors. Financiers and auditors do not accept tax returns as evidence of taxable income. This impacts their business affairs including the ability to obtain finance from lenders as well as not being able to provide independent auditors with required information to complete their audit.

Also, the ATO does not send out payment advices for full self assessed taxpayers. There is also no screen on the tax agent portal which consolidates the tax balances for all the agents' clients stating what amounts and the dates payable and whether payments have been made. This means that the tax agent needs to go back to the individual files to determine. In some cases the ATO systems do not allow payments to be made and therefore taxpayers cannot meet their legal obligations.

Tax agents ask that the ATO provide notices of assessment for full assessment taxpayers, with a payment advice attached.

Inefficient access to pre-filling information

To access taxpayer, ATO and pre-filled information (i.e. information the ATO has obtained from Medicare, Centrelink, etc.) via the tax agent portal, tax agents must go into each individual client screen. This is time consuming, especially for those agents with a great number of clients.

Tax agents ask that the portal have a facility where the tax agent can view each client's ATO and pre-filled information on the one screen.

Inability to update client lists

Tax agents ask the ATO to take certain clients off their lists. However, the ATO is not doing so in all cases. Tax agents assume that this is because the ATO does not have any other

postal address. For example, one agent received a “lost super” letter from a client that he had not seen in 9 years. This causes unnecessary inconvenience for tax agents.

Tax agents ask that the ATO take clients off their lists when requested.

Arbitrary ATO updating of client lists

Tax agents say that in cases where a client receives a Centrelink pension (e.g. disability support pension) the ATO will remove the client from the tax agent list. The tax agent subsequently lodges the tax return and the taxpayer incurs a late lodgement penalty (even lodged within the extended time to lodge under the tax agent’s lodgement program). In one example, the tax agent said that the ATO refused to remit the late lodgement penalty and refused to acknowledge that it caused the problem.

Tax agents ask that the ATO not delete clients from their list, without first contacting and discussing the proposed deletion with agents first.

Paper amendments for company/super funds inefficient

Tax agents cannot lodge electronic amendments for companies or super funds. They can, however, for individuals. Electronic amendments are able to be tracked by tax agents. However, tax agents need to call the ATO to track a paper amendment. This involves unnecessary time and expense.

Tax agents ask that the ATO allow company and super fund amendments to be lodged electronically.

Objection flags stopping assessments

When a taxpayer objects to an assessment the ATO puts a ‘flag’ on the taxpayer’s file to stop subsequent assessments from issuing. However, tax agents observe that these flags are not removed when the objection is withdrawn and changes are needed to be made to the tax return.

Tax agents ask that the ATO ensure that these holding flags are removed when objections are withdrawn.

Access to cumulative total for low rate threshold for ETPs

Tax agents say that they are unable to properly help taxpayers who previously received ETPs. This is compounded where the taxpayer has misplaced the ETP statement or is a new client.

Tax agents ask that this information be accessible from the tax agents portal.

Access to NOAs

Tax agents say that they are unable to properly help taxpayers who receive their NOA and then call the agent to query it. Often there are errors over the phone because the items on the NOA are not aligned with the figures. Tax agents say they cannot access a copy of the NOA on the portal.

Tax agents ask that this information be accessible from the tax agents portal.

Universal updating of taxpayer's contact details through all systems

Tax agents have come across situations where despite having sent in a tax return for a client containing a new postal address, correspondence relating to other aspects of tax continue to be mailed out to the former address — for example a taxpayer that had lodged a 2006 income tax return containing a new address. In the 2007 financial year the taxpayer earned a 'one-off' level of interest which triggered the Tax Office into referring to the taxpayer's integrated client account. This account contained the taxpayer's former address and correspondence relating to the amount of interest earned was sent to the taxpayer (using the old address). Tax agents said that this problem is affecting around 6% of their clients.

It is then left up to the tax agent to manually fix the address in the relevant system/account and this can take up to 30 minutes per client— a further example of Tax Office administration being shifted on to tax agents.

Tax agents ask that the ATO ensure that a change of address included in a tax return is 'filtered' throughout the tax system – i.e. so that all systems and accounts were updated with the new address.

Tax agents also request that the ATO takes a proactive approach with returned mail and checks *other* ATO databases to see whether there is a recent change of address on file.

Electronic transfer of company or super fund refunds into taxpayer bank accounts

Tax agents say the ATO does not electronically transfer company or super fund refunds into taxpayers' bank accounts. They cannot understand why.

Tax agents ask that the ATO remit company and super fund refunds electronically to their bank accounts.

Inability to access DIN when at client's address

When tax agents are at their client's premises tax agents are unable to obtain a DIN where the client has misplaced their BAS. Tax agents need to call the ATO to obtain it. Calls can involve long periods of being placed on hold. This involves unnecessary time lost and unrecoverable costs.

Tax agents ask for this information to be made more accessible via remote access to the Tax Agent Portal.

Activity statement system and income tax system interface problems

Uncertainty of lodging BAS/IAS when a tax return is still being processed

Tax agent say they cannot lodge accurate activity statements during a period when a tax return is still being processed by the Tax Office. They do not know whether the impending issue of the relevant assessment will impact upon the rate for the activity statement to be submitted. Tax agents therefore cannot accurately advise taxpayers of their PAYG liability because the ATO will not tell the tax agent when the BAS generate date occurs. The uncertainty arises from a number of variables, including the timing in which the activity statement system and income tax system "talk" to each other —for example, the ATO sends

out a cheque for income tax (indicating a credit from the activity statement) but then a debit soon after for the activity statements. Taxpayers lose confidence in tax agents who cannot tell them how much will need to be paid as they expect a balance figure to be provided. ,

Tax agents understand that the ATO may not be able to give a date with certainty. However, they ask that the ATO publicly advise tax agents of ‘cut-off dates’ upon which lodgement of a tax return will not require the adjustment of a quarterly activity statement. For example, the Tax Office should be able to advise that lodging a tax return after March 15 will not affect the March quarterly BAS. They ask that the ATO at least should give an indication — for example, the quarter in which the generate date will occur.

Inconsistent timing of credits and debits

Tax agents say they are unable to predict whether the ATO will offset a debit on one account against a credit on the other — for example, the taxpayer pays the debt, then later lodges an activity statement and the payment is offset but then another taxpayer has a pre-existing debt and the activity statement refund is not offset against the debt. In the latter example, a debit notice is subsequently sent out and GIC is applied. This type of practice continues to cause further administrative work for agents having to at times ‘guess’ how the Tax Office will allocate a refund/payment situation. Numerous occasions arise which result in taxpayers having to finance large bills despite the issue of a refund being imminent. This is also time consuming and non-recoverable time. Tax agents say that this issue has been raised before.

Tax agents ask that the ATO change the systems to ensure that the transfer of money is immediately offset on the RBA (as banks do with their accounts).

Tax agents say that the ATO does not make them aware when the taxpayers’ account is in credit and even then will not issue a refund cheque unless enough noise is made. This causes unnecessary confusion, costs and lost time for tax agents.

Tax agents ask that the ATO pro-actively tell taxpayers and tax agents when their clients are in credit and promptly issue a refund when asked the first time.

Phone call issues

Tax Office requesting tax agents to chase up taxpayer debts

Tax agents receive calls from Tax Office staff asking them to track down taxpayers about their outstanding debts. In a number of cases this involves taxpayers that are no longer clients of the tax agent (and, in some cases, have not been for a number of years). Tax agents may know about their clients’ outstanding debts but are not in position to do anything about it.

These calls are unnecessarily burdening tax agents. The calls take up time in a number of ways – for example, the Tax Office calls an agent’s number and leaves a message with his/her secretary (at the time of the call the agent is otherwise occupied such as in a meeting with another client). The ATO officer will not tell the agent’s secretary what the matter is about or whom it is about (citing the secrecy provisions) and leaves a 1300 number for the agent to call. The agent then has to call back the 1300 number, go through the steps (and time) in reaching an ATO officer who will talk to the agent (including going through

identification requirements). The ATO officer that takes the call is usually unaware of the reason for the agent's call (i.e. the officer receiving the call did not make the initial call to the agent). Time is then wasted by both parties trying to establish why the original call was made. Once the ATO officer identifies the reason for the original call is made and which taxpayer it was about, the tax agent then tells the ATO officer that they will need to call the ATO officer back after they have retrieved the file and had an opportunity to go through the file. Once the tax agent has done this they then call back the 1300 number and go through all the steps for a second time. The tax agent is unable to charge the client for this time and these types of calls continue to be made to tax agents and affect the efficient operation of their businesses.

Tax agents acknowledge that the Tax Office have made efforts in this area including a number of new strategies (e.g. dialler technology) aimed at re-engaging taxpayers who had not responded to previous demands and increasing the number of taxpayers that are contacted – but it is the taxpayers that should be contacted and not the agents. It is also noted that the above types of issues have arisen in discussions at ATO Tax Practitioner Forum (ATPF) meetings.

Tax agents ask that the Tax Office should call the taxpayer directly when chasing up a debt and not the tax agents – unless the tax agent has specifically asked the Tax Office to call them first in relation to any debts. A better way to inform tax agents would be to copy them in on correspondence to tax debtors.

Tax agents also ask that if the Tax Office needs to call the tax agent, then for the ATO officer to tell the secretary what the matter is about (so the agent is prepared) and a direct number for the ATO officer who made the call.

Proof of identity issues

Tax agents say that ATO staff are not following their proof of identity procedures. There are occasions where Tax Office staff fail to provide their surname or their contact details. This is in direct conflict with proof of identity (POI) procedures listed on the Tax Office website which states (for step 2):

“Tax Office staff will continue to identify themselves clearly by providing their full name and the section they work in. If at any stage you have doubts about the caller being an employee of the Tax Office, or want more formal confirmation, you should:

- ask for the officer's contact details:*
- the officer's full name*
- their extension number (if available), and*
- the name of their team leader and their extension number”*

This issue continues to surface and has done so for a number of years. However, nowadays, agents are seeing an increase in the number of callers impersonating ATO calls. This is fuelling a tax agent response of refusing to talk with ATO staff when they cannot sufficiently identify themselves.

Tax agents ask that the ATO ensure that their staff adhere to the POI procedures and that a central contact number be given for tax agents to report non-compliance by ATO staff.

ATO officers phoning tax agents and asking for POI

ATO officers are calling tax agents and then asking for POI before discussing the reason for the call.

Tax agents ask that if the ATO contacts the tax agent on an agent provided number then there should be a reasonable degree of comfort that the ATO officer is talking to the person they intended to talk to, perhaps confirming this by getting verification of the tax agent's number.

ATO contacting agents for matters outside the scope of their authority

ATO officers are calling tax agents to discuss the taxpayers' activity statement when the tax agent did not prepare the activity statement. These calls (coupled with the POI requirements and call back arrangements) compound waste of tax agents productive time. The ultimate result of these calls is that the tax agent can not help the ATO officer because he is unaware of the activity statement details.

Tax agents ask that before contacting tax agents on activity statements matters that the ATO confirms that it was the tax agent who lodged the activity statement.

ATO phone protocols

Tax agents observe that the ATO will call agents on their mobile phone, sometimes outside of hours and expect to speak about the matter with the agent there and then. Often an agent is with another client or somewhere where it would be otherwise inappropriate to discuss a taxpayer's affairs.

Tax agents ask that all ATO officers ask the tax agent at the start of the phone call whether the tax agent can talk with them.

Correspondence issues

Unnecessary correspondence sent to tax agents

Tax agents continue to receive information that is not relevant to their duty as a tax agent. This continues to waste their time in sorting through and reading unnecessary mail from the Tax Office (many agents have around 1000 clients). It also adds unnecessary costs by the tax agent referring the material to the taxpayer. However, in many cases the material is thrown away unread (defeating the ATO's purpose for the correspondence). For example, information continues to be mailed out to tax agents regarding super co-contributions which is not a matter within their practice (they are not financial planners).

Tax agents ask that when designing communication strategies for new policy initiatives, the Tax Office should discuss with the tax profession whether the communication material is better sent directly to the taxpayer or the agent.

Tax agents also ask that the Tax Agent Portal could have access to (and has electronic copies) all letters sent and planning to being sent to their clients, with a facility to allow tax agents to choose whether the letter goes directly to the taxpayer or the agent.

Issuing final notices to lodge

Tax agents continue to receive final notices requiring the lodgement of a return for a tax year that has long passed — for example, up to 5 years had passed before a final notice had issued. Problems have arisen with these types of cases with taxpayers misplacing records during these lengthy periods of delay. Tax agents presume that the notices were generated because of a new TFN declaration lodged by the taxpayer.

Tax agents ask that the Tax Office be more timely in chasing up late lodgements, for example, within 1 month after the date due to lodge.

Multiple letters and envelopes

Tax agents say they receive multiple letters for the same taxpayer. This causes additional time and expense in opening additional envelopes, especially for tax agents with hundreds of clients.

Tax agents ask that multiple letters to the same taxpayer be inserted into one envelope.

Coherence of correspondence

Tax agents say that the ATO needs to work on making its correspondence more comprehensible — for example, they say that they are generally unable to understand the PAYG correspondence that is issued. Tax agents say that this inability to clearly and succinctly state the reason for the correspondence does not recognise the time and cost pressures on agents.

Tax agents ask that the ATO ensure that its correspondence is unambiguous, free of jargon and can easily be understood by taxpayers and tax agents.

Unnecessarily cancelling the DIN for undelivered BASs

The ATO will cancel a DIN if a BAS is returned to the ATO as undeliverable. This means that the tax agent cannot use an electronic copy of the BAS from the portal. This results in the taxpayer failing to lodge and being exposed to penalties. However, tax agents have observed cases where the BAS was not delivered to the most recent taxpayer's address.

Tax agents ask the ATO to ensure that the BAS was sent to the most recent address (including that provided on the tax return) before cancelling the DIN.

Tax Office letters mailed directly to taxpayers informing them of monitoring

The Tax Office sends letters to targeted taxpayers informing them that they will be monitored because of specific tax behaviour they are engaged in. This generates unnecessary confusion with the taxpayer and erodes taxpayer confidence with their agent. The apprehended message is “your tax agent may be wrong and this is what you can really claim”.

Tax agents ask that ATO send these letters directly to the tax agent so that the agent can work with the taxpayer to address any problematical tax behaviour. Alternatively, the ATO should provide details of affected clients to tax agents with sample letters in May.

Transfer of information between the Tax Office and other government departments

Tax agents raised their concerns over the efficient flow of accurate information between the Tax Office and other government departments and their ability to amend this information.

For example, Centrelink changed a taxpayer's entitlement to the family tax benefit. This information was wrong and the tax agent corrected this with Centrelink. However, in the interim, Centrelink had sent this information to the ATO and the ATO acted on this incorrect information. The ATO did not accept from the tax agent that Centrelink had changed the information. The ATO said it would need to hear from Centrelink. However, Centrelink information was only sent to the ATO once a year and this time had passed.

This issue has been raised with the ATO before and tax agents say that the ATO agreed to fix it. However, as of yet tax agents still believe that this problem has not been fixed.

Problems with member contributions statements

Tax agents need to lodge a 15 page paper amendment for incorrect member contribution statements. Often the tax agent will not have all the information from the original MCS. Tax agents observe that the ATO takes about a year to process these requests and have observed many ATO mistakes – for example, effectively doubling the liability by adding the amended figures rather than replacing the original figures with the amendment. Further, the GIC is accrued in cases of wrong liability and the ATO refuses to automatically remit – asking the agent to lodge a request for remission. In the interim the ATO may also send out overdue notices even though the amendment has been lodged but not processed by the ATO. This all causes unnecessary time and unrecoverable costs for tax agents to correct.

Tax agents ask that ATO quickly and accurately process these amendments, flagging a stopper on any overdue notices and automatically adjusting or remitting the GIC.

Applying for a tax file number for migrants

The ATO will not give a TFN to migrants until they have a work visa. However, there are delays in DIMIA processing work visas. Tax agents understand this. However, Centrelink will not give Medicare and child benefits to migrants until they have a TFN. These entitlements should not rely on the issuing of a TFN.

Tax agents ask that the ATO talk with Centrelink so that Centrelink no longer requires a TFN before providing Medicare and child benefits.

Tax Office auditors' views of to what extent tax agents should verify taxpayer records

Tax agents continue to have concerns about the attitudes adopted by Tax Office auditors on some occasions. Examples raised included auditors strongly 'challenging' the extent to which tax agents had undertaken verification of the material provided by clients and of the client's backgrounds. IN one case a tax agent alleges that an auditor threatened to refer him to the tax agents' board for not doing what the tax agent said was unduly onerous auditing of the taxpayers' records and inconsistent with his role as a tax agent. Tax agents say in a self assessment environment, if the evidence of the claim looks reasonable then it is reliable on which to base a claim.

Tax agents ask that the ATO provide its auditors with structured training regarding the role of tax agents.

Deductibility of pre-paid workers' compensation premiums

Tax agents say that ATO auditors narrowly interpret the words "required by law" when assessing the exclusion to the rule for deductibility of pre-paid workers compensation premiums. Tax agents understand the ATO says that the words related to the requirement for the pre-paid component rather than the requirement to pay the premium. Tax agents say that the commercial reality is that premiums are required and are paid 1 year in advance. The ATO refuses to state publicly its view because it is not an important enough issue. However, tax agents say that almost all workers compensation premiums for the Australian workforce would have a pre-paid component (estimated 1 million employers with about 80% paying more than \$1000 in premiums).

Tax agents ask that the ATO state publicly whether it confirms the view adopted by its auditors.

Lodgement dates for 'unclassified' clients

One tax agent referred to his own Client List Report (provided by the Tax Office) relating to the lodgement of tax returns. On his list a number of taxpayers have been listed as 'unclassified'. This resulted in him having to contact the Tax Office to establish whether they knew the lodgement due date for these taxpayers – further work taking up his time unnecessarily. The ATO then incorrectly told him that it was a May lodgement date. The tax agent lodged the return in February. The client then received a failure to lodge warning. This ATO error caused the taxpayer's lack of confidence in the tax agent

Tax agents ask that the Tax Office ensure that 'unclassified' clients are given a default lodgement date which will not give rise to a late lodgement penalty or non-lodgement warning.

Approach of the Tax Office to tax agent malpractice

Tax agents queried the apparent lack of action by the Tax Office to information provided about the practices of 'rogue' tax agents. The tax agents commented that the information

they supply to the Tax Office is obviously valuable as the agents are ‘at the coalface’ of the tax profession and therefore know what’s occurring. Tax agents were curious as to how many ‘dob ins’ occur before the Tax Agents’ Board is informed or takes any action? Lack of ATO action is causing a continued unfair competitive advantage to the rogue agents and taxpayers are unnecessarily exposed to penalties arising from rogue tax agent misconduct.

Tax agents ask that the ATO ensures that it acts quickly and appropriately on reports of malpractice by tax agents.

BAS returns

Tax agents expressed their frustration that BASs are reviewed (and therefore delayed) whenever large capital purchases are made by a taxpayer — for example when a taxpayer purchases a truck resulting in the Tax Office ‘stopping’ the processing of the BAS to undertake a review. They say that such large capital purchases are often an ordinary part of business life and that the agent is put to a lot of wasted time and cost that comes to nothing.

Tax agents ask that the ATO be more discerning and proactive when large capital purchases delay the issue of a GST refund.

Tax agents also request that BAS should include a Capital Sales box to remind taxpayers to report any capital sales for the business made during the relevant period for this particular BAS.

Inaccurate administration by Australia Post

Tax agents referred to numerous examples of Australia Post staff incorrectly processing Tax Office transaction — for example, putting 3 cheques (from the same taxpayer but for different liabilities) against one bar code. Payments went to the wrong account and the tax agent was put to unnecessary time and unrecoverable cost to correct this error.

Tax agents ask the ATO to ensure that Australia Post correctly processes payments when dealing with multiple payments from the same taxpayer.