



**Tasmanian Divisional Council** GPO Box 1804 HOBART TAS 7001  
Ph (03) 6231 1326; Fax (03) 6231 1441; Email: pinkardf@southcom.com.au

5 May 2009

Mr Ali Noroozi  
Inspector-General of Taxation  
PO Box 551  
SYDNEY NSW 2001

Attention Peter Glass

Dear Mr Noroozi

### **Meetings with Tasmanian Tax Agents**

A summary of issues raised on our behalf by you with the ATO and our responses is appended.

#### **Inefficient access to pre-filing information**

Tax agents can only view clients ATO and pre-filled information via the portal on individual client screens. Tax agents are seeking a facility where agents can view clients ATO and pre-filled information on the one screen.

#### ATO response

The Prefilling report was enhanced in August 2008 so that tax agents could view a maximum of five clients at one time.

#### Our comment

The ATO has not addressed the issue. We believe it is more important to see everything about a client on the one screen, or at least have links to other screens.

#### **Paper amendments for company/super funds**

Tax agents want to be able to lodge electronic amendments for companies or super funds, as they can for individuals. Lodging paper-based amendments creates difficulties, not only with the paperwork, but in tracking.

#### ATO response

Provision has been made for electronic amendments to non-individual tax returns as part of the ATO Change programme.

#### Our comment

This may be available in the 2009 ELS software.

#### **Access to cumulative total for low rate threshold for superannuation payments**

Tax agents seek access to the progressive total via the portal.

#### ATO response

Inclusion of the data in the Prefilling report is being considered.

#### Our comment

Later information is that this will be available in 2009.

#### **Access to Notices of Assessment**

Tax agents seek a copy of Notices of Assessment be available via the portal.

#### ATO response

Will be available as part of the ATO Change programme.

#### **Access to Document Identification Numbers (DIN's)**

Tax agents want this information to be made available via remote access to the portal, to facilitate obtaining details when out of the office.

#### ATO response

ATO is investigating methods to allow tax agents to log into the portal via secure remote access.

#### Our comment

Now available by using a USB stick. A good solution.

#### **Cut off dates for generation of activity statements**

Tax agents say they have difficulty advising taxpayers of PAYG liabilities when lodging an income tax return, if it is close to the activity statement cut-off date.

#### ATO Response

The ATO does not publish cut-off dates, as there are many factors that could affect the process. Usually, activity statements are generated two weeks prior to the end of the reporting period, except in December, when they are generated four weeks before the end of the quarter.

#### Our comment

There has been significant progress on this issue and some dates are now published on the ATO website.

#### **Proof of identity issues**

Tax agents say that ATO staff are not following their proof of identity procedures and providing surname or contact details.

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

#### ATO response

The ATO is reviewing its proof of identity guidelines.

#### Our comment

Tax agents still have lots of issues with this.

#### **ATO contacting tax agents about activity statements not submitted by the tax agent**

ATO officers are calling tax agents about activity statements not submitted by the tax agents.

#### ATO response

ATO procedures are for staff to phone authorised contacts. Tax agents could assist by ensuring their authorised contact details are up to date.

### Our comment

ATO databases are terribly out of date. Why is there a field in activity statements for contact details?

### **ATO phone protocols**

ATO officers have been calling tax agents on mobile phones and outside business hours and expecting to speak to the agent there and then.

### ATO response

Mobile phone protocols have been reviewed.

### Our comment

Tax agents still have lots of issues with this.

### **ATO correspondence to taxpayers regarding ATO audit programs**

Tax agents object to the wording of some of this correspondence, as it casts aspersions on their competence. They also object to taxpayers being sent "pre-lodgement awareness" letters in the middle of the tax season.

### ATO response

The ATO sends tax agents a copy of the letter and a list of affected clients at least two or three days prior to mailing letters to clients.

### Our comment

There has been some improvement in the clarity and tone of some letters. The ATO has undertaken to forward pre-lodgement awareness letters to taxpayers prior to June 15.

### **Deductibility of pre-paid workers compensation premiums**

The ATO insists on apportioning premiums over two years, where applicable, even though the premiums are required to be paid a year in advance.

### ATO response

No change, due to different workers compensation schemes across jurisdictions.

### Our comment

The tax agent who submitted this cannot see why the ATO could not issue separate rulings covering all jurisdictions. The ATO seems to think that insurance premiums can be paid on a day by day basis, but the reality is that they must be paid annually.

### **BAS returns**

Tax agents recommend that BAS include a capital sales box to remind taxpayers to report capital sales, which are often overlooked.

### ATO response

No plans to introduce a separate section on BAS, but will continue to issue reminders.

### Our comment

This issue was raised before the introduction of GST and it is still a problem. It is difficult to understand the ATO's reluctance to address the issue.

### **Inaccurate administration by Australia Post**

Tax agents were concerned about Australia Post staff incorrectly processing transactions against different barcodes.

### ATO response

The ATO will contact Australia Post to advise its concerns about any inaccurate processing.

### Our comment

We offered a solution to this in 2002 and have been ignored.

### **Objection flags stopping assessments**

Tax agents observe that objection flags preventing the issue of assessments are not removed when objections are withdrawn.

### ATO response

Dispute indicators must be removed when the objection is finalised. The ATO wishes to be advised of any specific examples, so that any potential systemic problems can be fixed.

### **Arbitrary updating of client lists**

Tax agents complained that the ATO removes clients from the tax agent list when they qualify for a Centrelink pension. This can result in late lodgement penalties.

### ATO response

Centrelink data match processing can result in a return not necessary indicator being put on taxpayers' records, but where the client is on a tax agent list, the lodgement due date should default to 15 May following year. The ATO wishes to know about any instances of clients being removed from the tax agent list as a result of the Centrelink data matching.

### Our comment

We wonder why this data matching is necessary.

### **Changes of address**

Tax agents complained about advising the ATO of new postal addresses, but ATO correspondence continues to be sent to old addresses.

### ATO response

The ATO is aware of the issues tax practitioners have with the storage of addresses in the ATO system. There is no immediate solution, but the issue is being addressed as part of the ATO Change Program.

### Our comment

Every time there is a new address in an income tax return, the whole ATO database should be updated.

### **Multiple letters and envelopes**

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

### ATO response

No immediate solution, but the issue is being addressed as part of the ATO Change Program.

### **Coherence of correspondence**

Tax agents request that ATO correspondence be unambiguous, free of jargon and easily understood by tax agents and taxpayers.

### ATO response

The ATO is reviewing content and improving letters that have been identified as confusing or causing problems for taxpayers and tax practitioners. Priority is being given to debt demands, payment arrangements and PAYG instalment letters. Outside consultants have been engaged to assist with this.

### Our comment

Correspondence is getting better.

### **Lodgement dates for "unclassified" clients**

Tax agents complained that "unclassified" clients on their client lists do not have lodgement dates. Tax agents request that "unclassified" clients are given a default lodgement date which will not give rise to a late lodgement penalty or non-lodgement warning.

#### ATO response

A default lodgement date of 15 May should be shown for "unclassified" clients on client lists generated via the portal. The ATO needs more information to determine the characteristics which are triggering the "unclassified" status.

### **Tax agent verification of clients' records**

Tax agents have concerns about attitudes adopted by ATO auditors with regard to the extent to which tax agents undertake verification of information provided by clients. In one case, a tax agent alleges that an auditor threatened to refer him to the Tax Agents Board for not undertaking "unduly onerous auditing" of taxpayers records.

#### ATO response

It is not essential for tax agents to sight receipts and records, but, if they are available, they should be examined as part of the tax return process. It is good professional practice for tax agents to request all relevant documentation relating to their clients, noting both what is seen and what evidence the clients advise you they have, but have not produced to you.

ATO auditors who have concerns about tax agents are required to refer them to the Tax Agent Integrity Unit, which may, in turn, refer the matter to the Board.

#### Our comment

This response shows how little the ATO understands of day-to-day income tax preparation.

### **Inconsistent treatment of debits and credits**

Tax agents are concerned about the additional work created by the ATO's apparently inconsistent approach to dealing with debits and credits.

Tax agents are also concerned that taxpayers and/or tax agents are not notified when a taxpayer's ATO account remains in credit for an extended time.

#### ATO response

Unable to change the existing policy, but strategies have been put in place to address outstanding credit balances. Statements will not be issued for accounts with credit balances.

### **Unnecessary correspondence sent to tax agents**

Tax agents continue to receive information that is not relevant to their duty as tax agents e.g. correspondence about superannuation co-contributions.

#### ATO response

As part of the Change program, delivery and channel preferences will be introduced, which should mean a client or tax practitioners will be able to choose whether correspondence is sent electronically or via paper. Taking this further, preferred options will be introduced for agents, addresses, accessibility and pre-populated BAS.

The ATO has been working on a number of strategies to reduce the frustration of tax agents about superannuation correspondence, by updating taxpayers' addresses to their residential address when a superannuation form is lodged; updating taxpayer addresses in response to correspondence from both taxpayers and tax agents and limiting the number of letters issued to taxpayers.

### Our comment

Tax agents can control the correspondence they receive.

### **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. In the meantime, records may have been mislaid or destroyed.

### ATO response

Taxpayers are not required to notify the ATO when they are not required to submit an income tax return; consequently, the ATO uses risk assessment to decide whether to issue final notices for income tax returns which have not been previously submitted.

### Our comment

Many taxpayers do not understand the self-assessment system fully.

### **Approach of the ATO to tax agent malpractice**

Tax agents queried the apparent lack of action by the ATO about practices of "rogue" tax agents, allowing agents to continue their bad practices, giving them an unfair competitive advantage.

### ATO response

Priority is now afforded to information received through the Tax Practitioner Integrity Service information line. Since 1 June 2007, the Tax Agent Integrity Unit has received eight referrals relating to Tasmania, of which four referrals have been finalised, two referrals did not warrant further investigation and two referrals are still in progress.

### Our comment

Publicity of any disciplinary action would serve the public, as they then know which agents are of doubtful quality. There is plenty of publicity about financial planners who are banned - why not publicise details of disciplinary action taken against tax agents?

### **Transfer of information between ATO and other government departments**

Tax agents expressed frustration about the efficient flow of accurate information between the ATO and other government departments, particularly when the information is amended.

### ATO response

The issue relates to inaccuracies in data being supplied by Centrelink, which is now updated fortnightly rather than six monthly. Taxpayers are required to provide the ATO with amended payment summaries.

### Our comment

It is unfair to impose costs on taxpayers and tax agents for bureaucratic errors.

### **Involvement of tax agents in collection of ATO debts**

Some tax agents object to getting phone calls from the ATO asking them for information and assistance in collection of ATO debts owed by clients and former clients. Agents who have been contacted advise that the proof of identity requirements, particularly if it is necessary to call back, can be onerous.

### ATO response

ATO guidelines prescribe that an initial contact will be directed to the preferred address for service of notice or address for telephone contact held in ATO systems.

The ATO is investigating introducing a "do not call the tax agent" flag for tax agents who would prefer that the ATO and/or its representatives contact the taxpayer direct about overdue debts.

The ATO is currently reviewing Proof of Identity guidelines to see whether it is possible to make it easier for tax agents to contact the ATO without compromising taxpayer confidentiality.

#### Our comment

We think the ATO has unrealistic expectations of tax agents.

#### **Notices of assessment for companies, super funds etc**

At present, the ATO does not issue notices of assessment for companies, super funds etc. This causes difficulties with finance companies and auditors.

#### ATO response

As part of the ATO change program, statements of account will issue when an assessment has been processed.

#### Our comment

The ATO has no understanding of commercial reality. We fail to understand why Notices of Assessment cannot be issued.

#### **Income matching errors**

Tax agents were not happy about delays in the ATO processing amendments to PAYG Payment Summaries, which has resulted in taxpayers being queried about discrepancies.

Correspondence about data matching requires taxpayers to phone a number which is not in the income matching section, so they are told to write to the income matching section with supporting evidence.

When correspondence is received, the ATO fails to acknowledge receipt of the correspondence and confirm that the matter is closed.

#### ATO response

The ATO recognised that there were issues with the processing of amendments to PAYG payment summaries, and arranged for payroll software to be amended so that users can notify amendments to payment summaries by lodging an electronic file. It also introduced a specific ATO form for lodging paper amendments to PAYG payment summaries. These amendments should be processed promptly.

Some income matching system calls are answered by the Information Matching System area. Other calls will be answered by Client Contact Centre staff, who now have access to scanned copies of correspondence, meaning that they do not need to request taxpayers to forward correspondence which has already been received.

#### Our comment

We believe all calls about data matching errors should be directed to the Income Matching System area

#### **Cancellation of DIN for undelivered BAS**

The ATO cancels the DIN for any BAS returned to the ATO as undeliverable. This can result in the taxpayer failing to lodge and being exposed to penalties. Tax agents have noted that cases where the BAS was not delivered to the taxpayer's most recent address. Tax agents want the ATO to check its records to ensure that the BAS was sent to the most recent address, including that provided on an income tax return, before cancelling the DIN.

### ATO response

Cancellation of the DIN prevents lodgement enforcement action commencing on the returned BAS. If the address is updated, BAS are reissued with a deferred due date to prevent penalties being applied before the client has been given an opportunity to lodge.

### Our comment

It should not be difficult for the ATO to locate an updated address with the resources at its disposal.

### **Conclusion**

We believe some progress has been made by the ATO in dealing with the issues raised, but there is considerable room for improvement. If you take up any of the issues further with the ATO, we would like to be kept informed of any responses.

We believe the exercise was worthwhile, but are very disappointed with the time it took the ATO to respond. (Well beyond its internal standards!)

We consider it is important for the Inspector General of Taxation to get grassroots feedback on how the ATO is dealing with its core constituency and we hope you found the exercise was worthwhile as well.

Unfortunately, the ATO is in a state of change, which looks as if it will continue, judging by changes implemented over the last 12 months and some of the pre-budget announcements which have been in the news lately. The implementation of the ATO's own "change" program is vital. Delays in its implementation are giving us cause for concern.

We believe it is very important for the ATO to respond promptly to tax agent issues. In Tasmania, tax agents are fortunate to have a Regional Tax Practitioners Working Group through which we can raise issues with the ATO. However, meetings are often taken up with top-down agenda items rather than bottom up. Too often, responses to agenda items do not address the specific issues raised by forum members and it takes some time to get meaningful responses. If the Commissioner of Taxation is serious about listening to tax agents, should ensure that agenda items from forum members receive priority.

We are pleased to note that the ATO has recently increased the number of Regional Tax Practitioner Working Groups to 7, including Tasmania. We trust the forums will be extended so that there is national coverage.

We look forward to your feedback.

Yours faithfully

Eric Pinkard  
Divisional Council Secretary