

Mr Rick Matthews  
Deputy Inspector-General of Taxation  
Office of the Inspector-General of Taxation  
Level 19, 50 Bridge Street  
Sydney, NSW 2000

11 November 2008

Dear Rick

**Responses to matters raised from meetings held between the Office of the  
Inspector-General of Taxation and Tasmanian tax agents**

On 25 July and 8 September 2008 I provided responses to some matters raised with your office from tax agents from Tasmania.

I am pleased to be able to enclose the next set of 9 responses (*refer Attachment A2*). To assist with collation we have left the matters grouped into various parts to compliment the previous responses.

There are three remaining issues (*refer Attachment B2*) and responses which will be forwarded to you at the earliest opportunity.

Should you wish to discuss any matters arising from these responses please contact myself or Annamaria Carey, Assistant Commissioner on (02) 9374 8174.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J O'Halloran', with a stylized flourish at the end.

James O'Halloran  
Deputy Commissioner

Encl

**RESPONSE TO LIST OF CONCERNS FORWARDED BY THE  
INSPECTOR GENERAL OF TAXATION**

Responses are divided into five parts:

- Part A        SYSTEM ISSUES**
  
- Part B        ACTIVITY STATEMENT SYSTEM AND INCOME TAX  
SYSTEM INTERFACE PROBLEMS**
  
- Part C        PHONE CALL ISSUES**
  
- Part D        CORRESPONDENCE ISSUES**
  
- Part E        GENERAL**

## **Part A        SYSTEM ISSUES**

Nil responses for this update

## **Part B        ACTIVITY STATEMENT SYSTEM AND INCOME TAX SYSTEM INTERFACE PROBLEMS**

### **1. 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.

### **Tax Office Response**

#### **Allocation of payments**

Details of how the Tax Office allocates payments are set out below. This information was also published in an article ("Explaining refund-credit offsets") in the June 2008 edition of Tax Agent News.

Under the law it is mandatory for the Tax Office to offset credit amounts against outstanding tax debts, except in limited circumstances. The rules about offsetting also apply to debts that are subject to a payment arrangement. The Tax Office advises taxpayers of this when negotiating a payment arrangement with them.

When a credit has been offset, the Tax Office will notify the taxpayer. For activity statement credits an "offset advice notice" will issue, and for income tax returns, offset details will be included in the taxpayer's notice of assessment.

The Tax Office will firstly apply credits to existing debts in the tax account in which the credit originated. Once this debt is cleared, any remaining credit is applied to other

debts in the order of allocation outlined in the *ATO Receivables Policy*. Broadly speaking, credits are firstly applied to superannuation guarantee charge debts and then to other debt types such as activity statement debts.

If a taxpayer has a Centrelink or Child Support Agency debt, by law the Tax Office must remit any remaining credit to those agencies.

Where offsetting the credit amount will cause serious financial hardship, the Tax Office has the discretion to refund the credit in some circumstances. By serious financial hardship, we mean a situation where the taxpayer cannot meet the basic necessities of life.

The Tax Office policy on credit offsetting can be found in Chapter 72 and a comprehensive order of allocation is listed in Chapter 7 of the *ATO Receivables Policy*. This policy can be viewed by going to [www.ato.gov.au](http://www.ato.gov.au) and selecting- Rulings, policies & law – guidelines and policies – Receivables policy.

### **Credit Balances**

This issue was previously raised at the Tasmanian Regional Tax Practitioner Working Group, and the following response provided on 20 October 2008.

#### Causes of credit balance cases

Tax Office research has shown that a credit balance may be the result of:

- a voluntary payment in advance from a taxpayer
- an overpayment due to truncating or rounding issues
- payment receipted and awaiting processing of a form
- payments receipted to the wrong account
- scanning or processing errors
- prior period outstanding lodgments
- financial institution details not provided or incorrect
- inaccurate address details (previous mail returned unclaimed)
- payments made by 'large' withholders where incorrect electronic funds transfer (EFT) payment code is used
- Pay as you go income tax instalment (PAYGI) wash-up cases
- Tax Office risk reviews being conducted, or
- taxpayer errors.

Whilst resolving some of the credit balances is within the control of the Tax Office, there are a significant number of cases where the onus is on taxpayers to resolve the matter—for example, providing financial institution details.

#### Analysis of credit balances

Analysis conducted by the Tax Office has found that credit balance cases generally result in the following outcomes:

- 80 per cent of the value require the raising of liabilities to match payments received
- 10 per cent of the value are payments incorrectly posted to the wrong account and requires transferring to another account, and
- 10 per cent of the value relates to legitimate taxpayer refunds.

The majority of credit balances are resolved through normal Tax Office administrative processes—for example, where a payment has been received before the corresponding form notifying the debt is processed. Our challenge is to identify the ‘genuine’ credits that are required to be refunded and fast track their resolution. This will only be achieved in partnership with tax agents and taxpayers.

### Using the Tax Office portals

The Tax Office has a Tax Agent Portal that provides tax agents with rapid online access to a range of information, services and functions, including the ability to:

- request refunds and transfers
- view income tax, activity statement and fringe benefits tax account information
- view and update a range of business details
- access a client directory that lists all your taxpayers and their roles
- retrieve a range of reports containing specific information about taxpayers
- the ability to prepare and lodge activity statements online and view details of previous activity statements, and
- send enquiries and receive answers from the Tax Office via messaging facilities.

There is also a Business Portal, which is a secure online service that allows businesses to lodge activity statements, check tax accounts, update business registration details and much more. It is a fast, convenient, and secure way for business operators to comply with their tax obligations.

Tax agents and business taxpayers can assist in reducing credit balances by ensuring address details and financial institution details are correct and that all lodgments are up to date.

### Tax Office legislative requirements

There is no legislative requirement to issue statements of account. If the Tax Office were to issue statements for accounts with credit balances, it would result in a significant increase in the number of notices issued. As outlined above, just because an account is in credit does not automatically mean a refund is due. The credit may have been posted to an incorrect account, or due to timing issues, a payment has been received, but the corresponding form notifying a debt has not been processed yet. Sending a credit advice may raise the expectation that a refund is due, when in a significant number of instances, this is not the case.

Generally, when a credit becomes available, it must be offset against other taxation debts owed by the taxpayer. Where a taxpayer makes a payment and there is no

corresponding debt on the account, the payment will be treated as being a voluntary payment in anticipation of a tax debt that will be owed in the future. The Commissioner is not required to refund an account surplus that arises because a payment is made in respect of an anticipated tax debt unless the taxpayer later requests that the Commissioner do so.

The requirement to offset payments and credits against tax debts is outlined under Division 3 of Part IIB to the *Taxation Administration Act 1953*. Offsetting is mandatory except if the debt is:

- not a business activity statement (BAS) amount and is due, but not yet payable
- subject to arrangement to pay by instalments, or
- subject to a deferral of legal action.

Chapter 72 of the ATO Receivables Policy provides further details of the circumstances when payments and credits will be offset against tax debts. The ATO Receivables policy can be accessed via Law Administration Practice Statement PS LA 2008/13.

### Interest

Generally, a taxpayer will be paid delayed refund interest where a BAS refund that the Tax Office is required to give is issued after 14 days following the receipt of the related activity statement. Interest will also be paid in certain circumstances where an income tax refund is issued after 30 days following the receipt of a related income tax return.

### Activity statements

#### *Strategies to address credit balances*

The Tax Office has an existing automated refund system that issues credits claimed via an activity statement, subject to certain risk reviews. This functionality was enhanced in 2005–06 to incorporate pre-existing small credits on a taxpayer's activity statement account when refunding the amount claimed via an activity statement.

Additionally, the Tax Office has introduced an automated process to address the following issues:

- Activity statement accounts with small credit balances are checked weekly and automatically refunded provided there is a limited risk of incorrect payment. In these instances, there is no need for an activity statement to be processed. Implementation of this process removes the need for taxpayers to contact the Tax Office to request the refund of a small credit. Since 1 July 2006, approximately 247,000 transfers worth \$61 million have been actioned.
- Accounts are scanned for credit balances that have arisen from a payment amount. If the payment can be matched to liabilities owed by the taxpayer on another account, the payment is automatically transferred to that account. Since 1 July 2006, approximately 43,000 transfers worth \$297 million have been actioned.
- Accounts with credit balances are also compared to discrepancies identified with the pay as you go withholding amounts notified during the financial year and the amount notified in the annual report given to the Tax Office after the end of the

financial year. If the credit matches the debit discrepancy amount, a liability equal to the difference is posted to the account. Since 1 July 2006, approximately 3,000 transfers worth \$6 million have been actioned.

The Tax Office is continually analysing the risk parameters and thresholds for this automated functionality to increase the number of accounts reviewed.

Various other projects are underway to further identify opportunities to develop automated strategies to resolve low risk cases and better identify legitimate cases for timely refund. All strategies require endorsement from the Credit Refund Integrity Steering Committee prior to implementation. These Projects include:

- Identification and manual actioning of aged credit balances cases above a certain value, and
- Transfer of (PAYGI) credits from taxpayers' integrated account to their income tax account to allow the amount to be refunded with the next income tax return processed. Since implemented, this strategy has refunded credits for approximately 264,000 taxpayers worth \$66 million.

These strategies have contributed to a 30% reduction in the number and a 5% reduction in the value of activity statement credit balances compared to the same time in 2006.

### Income Tax

#### *Strategies to address credit balances*

Strategies to address credit balances include actioning of targeted cases.

Investigation is also underway to develop parameters for an automated process where a credit balance may be used to offset a liability on another account. This may include identifying payments made to an incorrect account.

Income tax credit balances have increased by 15% in number and 18% in value compared to the same time in 2006. One factor has been a project to transfer credit balances (where no GST registration was present) from the taxpayers activity statement account to the income tax account, as lodgment of the relevant income tax return will usually resolve these credit balances. Of the amounts where a transfer was made during 2007, 93% have resolved after lodgment of an income tax return with the amount either used to offset existing debts or refunded to the taxpayer. Another factor is a change in work practices relating to the re-crediting of stale and returned cheques.

### Legacy taxes

For legacy taxes—that is, Pay as you Earn (PAYE), Prescribed Payments System (PPS), Sales Tax (STAX) & Reportable Payments System (RPS), we have implemented strategies to ensure all legacy tax credit balances are resolved.

This includes all cases over a certain value being manually examined and resolved and automated processes will be used to resolve lower risk cases.

These strategies have contributed to a 48% reduction in the number and a 93% reduction in the value of legacy credit balances compared to the same time in 2006.

#### Future improvements

The Tax Office is investing in new technology, training and development to improve our products and services to make taxpayers and tax agents experiences easier, cheaper and more personalised.

Enhancements planned through the Change Program include the regular issue of a statement of account where the account balance is other than nil.

In terms of managing credit balances, the proposed Change Program system will have processes for automatic refunds; carrying forward of credit for certain role types, such as excise duty; and manual intervention for specific refund requests.

The Tax Office is continuing to collaborate and co-design with the Accounting Working Group (AWG) to resolve identified problems, support the accounting needs of tax practitioners and deliver improved client experiences.

### **Part C      PHONE CALL ISSUES**

Nil responses outstanding

### **Part D      CORRESPONDENCE ISSUES**

#### **2. 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.

## Tax Office Response

As part of our Change Program we plan to introduce delivery and channel preferences, which should resolve some of these issues. This will mean a client, or their authorised representative, will be able to choose whether the correspondence is delivered electronically or via paper.

Our design is, as a general rule, legal correspondence relating to a Debt Management action will be sent directly to the client to their address for service of notices. A tax agent can choose to get a carbon copy – this would be sent electronically to the tax agent.

At a more detailed level, the business approach and requirements for communication preferences is broken into the following areas:

- **Channel Preferences** – defining which channel communications are delivered through.
- **Agent Preferences** – defining whether an agent or the client receives communications.
- **Address Preferences** – defining which address is used to send communications.
- **Accessibility Preferences** – defining whether accessibility options are used.
- **BAS Generation** – defining which channel is used to send the pre-populated BAS.

### Channel Preferences

Agents may choose which channel is used to send communications. The channel preference is consistent with the overall Tax Office channel strategy, in particular to encourage electronic channels and to communicate with clients through the same channel that they communicate with the Tax Office.

### Agent Preferences

Agents may choose to have client communications sent to them rather than to the client. This reflects a relationship between the client and the agent where the client has given responsibility to the agent to act on their behalf.

### Address Preferences

Clients may in some circumstances have different addresses for different tax products. The address preference allows clients to nominate a specific address for each product or account, or rely on the client level details for communications.

### Accessibility Preferences

Some clients will require accessibility preferences to convert electronic material into a format suitable for accessibility software.

### BAS Generation

The BAS form, unlike most other tax forms, operates by sending a pre-populated BAS to clients for completion and return. The BAS form will be sent to the client through the same channel that they nominate for lodgment. The BAS is currently supported through Paper, ELS, ECI and Portal.

Regarding tax agents having access to all letters sent and planning to be sent, it is not expected that agents will be able to view correspondence before it is sent to a client or to allow tax agents to view historical copies of correspondence. Tax agents will only be able to see the correspondence if it has been sent or copied to the tax agent.

It is also noted that sometimes non-system correspondence is produced by the Tax Office. Copies of this correspondence will only be able to be sent by hard-copy.

Please note the design of the delivery and channel preferences is still being finalised, so some of the information above may be subject to change.

### Superannuation Mail

The Tax Office is aware that the vast majority of correspondence for co-contributions is issued to Tax Agents and the frustration this has caused to the industry. The reason this has occurred is that the system uses the postal address from the income tax return when the taxpayer has not provided the Tax Office with a preference to have their correspondence issued differently for superannuation purposes. We have been working on a number of strategies to improve the address information used. Strategies include:

- Updating taxpayer addresses to their residential address when a superannuation form is lodged e.g. when a taxpayer nominates a fund for their co-contribution payment.
- Updating taxpayer addresses in response to correspondence about this issue from both taxpayers and tax agents.
- Limiting the number of letters that are issued to taxpayers by sourcing payment destinations from information held by the Tax Office.

We have also initiated changes through our change program that are due to be introduced in early 2009. This will enable us to issue co-contributions correspondence to the taxpayer's residential address where it is available.

### **3. 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.

### **Tax Office Response**

Not all registered entities have an annual obligation to lodge income tax returns.

Each year the Commissioner of Taxation issues a Legislative Instrument advising which entities must lodge income tax returns. The instrument sets due dates and also states

relevant thresholds and circumstances under which an individual is required to lodge an income tax return.

Taxpayers are required to determine whether they have an obligation to lodge under the Legislative Instrument, but they do not have to advise the Tax Office where they have determined that their circumstances do not require them to lodge an income tax return. Consequently, where a taxpayer's income tax record shows that an income tax return has not been received for a particular year, it does not necessarily mean that there is an obligation to lodge.

Our corporate lodgment strategies use a balance of educational and compliance activities to improve taxpayers understanding of their lodgment obligations, and subsequently manage those who do not meet their obligations. Generally, a new TFN declaration will not by itself constitute grounds for compliance activities.

To effectively use the resources available, the Tax Office monitors and takes compliance action in cases of late or non lodgment of income tax returns which are selected based on an assessment of their relevant risk.

The Tax Office also performs lodgment compliance activities for other government departments eg the Child Support Agency (CSA).

Accordingly, the Tax Office uses differentiated, risk based treatments to prioritise our lodgment compliance activities. Continuous refinements of risk assessment processes or nomination by CSA can result in final notices issuing for income tax returns that, in previous years, had been assessed as low risk.

## **Part E        GENERAL**

### **4. 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.

#### **Tax Office Response**

The Tax Office recognises that tax agents and other tax practitioners provide valuable intelligence on the activities of unregistered agents and potentially improper behaviour of registered agents through the Tax Practitioner Integrity Service (TPIS) information line.

Priority is now afforded to referrals received via TPIS. Informants who use this service will receive a call back within two business days to confirm receipt of the information and to request further detail. In addition, the Tax Office has focussed on improving the timeliness of the review of such information and providing feedback to informants at the conclusion of the review. However, the level of information that can be supplied to informants is influenced by relevant privacy and secrecy provisions.

Since 1 June 2007, the Tax Agent Integrity Unit has received 8 referrals relating to the Tasmanian region. These referrals point to potentially inappropriate behaviour by registered tax agents or concerns about unregistered preparer activity. Four referrals have since been finalised, two referrals did not warrant further investigation and two of the referrals are currently in progress.

Further, in July 2008 the Tax Agent Integrity Unit established a rapid response capability to ensure a timely response to issues such as unregistered preparers and inappropriate behaviour by registered tax agents. This early intervention by the Tax Office has restricted the capacity of unregistered preparers to continue to operate.

Where practitioners wish to further discuss the actioning of referrals they may contact the National Director of the TPALS Tax Agent Integrity Unit, Mike Barry, on 03 9275 2535 or 0437 890 370

## **5. 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.

### **Tax Office Response**

The issue raised relates to inaccuracies in the data being supplied by Centrelink to the Tax Office, which is then used in the identification of discrepancies for income matching purposes. Specifically the problem arises where Centrelink data has been amended but this is not reflected in the data supplied to the Tax Office.

Previously Centrelink supplied data to the Tax Office in August each year, followed by one update of amended data in the following February. Centrelink data amended after this time was not reported to the Tax Office, resulting in discrepancies between

Centrelink payments and amounts reported to the Tax Office in individual Income Tax Returns.

In conjunction with Centrelink the Tax Office has developed more regular reporting of data from Centrelink in respect of all years. Since the commencement of the 2007 income year, the Tax Office has been receiving amended data from Centrelink on a fortnightly basis and that amended data is reflected in the Tax Office Information Matching system.

Where an Information Matching discrepancy letter is issued to a taxpayer and the Centrelink data has not been updated in the Tax Office systems, the taxpayer is required to provide the Tax Office with the amended payment summary that should have been provided to them by Centrelink.

If tax agents have future instances of data matching problems with Centrelink, it would be appreciated if they could provide details of the case (to the Relationship Manager teams on 13 72 86, Fast Key Code 32) so they can be investigated.

## **6. 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.

## **Tax Office response**

### Contacting tax agents about their clients' tax debts

Tax Office guidelines prescribe that initial contact (either verbal or written) will be directed to the preferred address for service of notice, or address for telephone contact held in Tax Office systems.

These guidelines were developed in consultation with practitioner representatives with the principal objective that initial contact is made with the listed contact which, in many cases, is the tax agent.

While we recognise that some tax agents prefer we contact the taxpayer directly about debt issues, there are generally an equal number of tax agents who wish to be contacted on all taxation matters that relate to their clients. Unfortunately, our current systems do not allow us to separately list tax agent details for lodgment matters and taxpayer details for debt matters.

On receiving a call from either the Tax Office or one of our external collection agencies, tax agents can advise the debt collection officer to contact the taxpayer directly if they prefer that we speak with the taxpayer about their debt. Tax agents can also remove their details from client records via the tax agent portal.

As a result of feedback from tax agents we have commenced a review of our protocols for contacting tax agents about their client's debt matters. As part of this review, we are investigating the possibility of using a 'Don't call the tax agent' flag on cases where tax agents have advised that they prefer we contact the taxpayer directly about debt matters.

In addition, scripting changes will be made to better equip our staff to deal with this issue, including better communication of our current system limitations.

These will be interim solutions pending improved functionality anticipated under our Change Program, which is yet to be fully implemented.

### Contacting tax agents about former clients

We understand that receiving calls about former clients may be frustrating to tax agents. However, in some circumstances our systems may not have been fully updated to reflect that a tax agent no longer acts for a particular taxpayer.

Tax agents can remove their details from client records via the tax agent portal, which may assist in reducing the number of unnecessary calls being made.

Nonetheless, we are aware that there are issues around our data integrity and that our current systems have limitations which may result in tax agents receiving calls about former clients from time to time.

We expect that instances of this nature will decrease when the Tax Office's Change Program is fully implemented in the future.

### Proof of identity (POI), leaving messages for tax agents and tax agent call backs

In relation to calls to tax agents, Tax Office proof of identity (POI) guidelines prescribe that if the tax agent name is quoted by the person who answers the call then no further POI is required and we can then share client information with them. If the tax agent name is not quoted by the person who answers the call, the tax officer is required to identify that they are a representative of the Australian Taxation Office and request a tax agent number to establish POI.

POI is a key component of the induction package rolled out to all new staff. POI policy and procedures are readily accessible to staff on our internal intranet site. We regularly assess how well staff are applying POI in the course of their work through our quality assurance process and mentoring program. Any identified deficiencies are addressed.

Our external debt collection agencies are contractually bound to adhere to the same privacy standards that apply to the Tax Office. We provide them with sufficient taxpayer information to establish POI and collaborate closely with them to ensure that they are properly applying POI.

When leaving messages for tax agents, debt collection officers from both the Tax Office and our external collection agencies should provide sufficient details to ensure that the tax agent is prepared when they return the call, including:

- the name of the tax agent being called
- the name of the debt collection officer calling
- the name of the taxpayer that they are calling about
- a call back number
- the date by which the call back is expected
- a suggestion that the tax agent provides a TFN or ABN when returning the call to enable a more personalised service to be provided.

After leaving a message, the debt collection officer should make a note on the taxpayer's records that a message has been left for reference purposes when the call is returned.

Under automated dialling, debt collection officers from the Tax Office and our external collection agencies who make outbound calls do not provide their direct numbers for call backs. Due to the high volume of calls being made by these officers it would be difficult for tax agents to get in contact with them so the Tax Office and each of our external

collection agencies have established dedicated incoming call teams with generic call back numbers.

The debt collection officers receiving call backs from tax agents are capable of locating a case quickly when given a TFN or ABN and then discussing it with a view to helping the taxpayer to address their tax obligations.

We accept that there will be occasions when mistakes are made in relation to POI, leaving messages and managing call backs. As a result of feedback from tax agents we are currently reviewing our POI guidelines with a focus on how the Tax Office can make it easier for taxpayer representatives to contact us to discuss their clients' tax matters without compromising the privacy and secrecy of taxpayer information.

## **7. 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.

### **Tax Office Response**

As part of Release 3 of our Change Program, we are implementing the Integrated core processing (ICP) system which is a single system for processing all Tax Office registrations, forms, payments and accounting transactions — across all types of revenue products. We recently deployed our fringe benefits tax product onto the ICP system, which is the first of our fully self assessed tax products to go onto ICP.

As part of the new ICP arrangements for FBT, a statement of account is issued to taxpayers as confirmation that an assessment has been processed. The statement of account provides the position of their account, as well as clearly identifying the

assessment outcome as a transaction on the account. The statement also provides a summary of any other credits and debits that have been applied as a result of processing the assessment. Where a debit statement of account is issued, a payment slip, showing the amount payable, is included.

When the Income Tax product is deployed onto ICP for company and superannuation fund income taxpayers, a similar statement of account will also issue to these taxpayers as confirmation that an assessment has been processed. The Income Tax product is currently scheduled to be deployed onto ICP in January 2010. The deployment date will be confirmed once the design phase for the Income Tax release is complete, which is expected to be six months before the scheduled release date.

At this point in time providing a consolidated view of the tax balances for all the tax agent's clients is not in scope for the Tax Agent Portal, and it would be fairly complex to create in the current systems. However it may be able to be considered in the future, subject to final reporting design.

## **8. Income Matching Errors**

The ATO income matching system is a serious embarrassment to the department due to the lazy and reactive way the system is designed.

When an employer makes an error with the PAYG Payment Summaries they write to the ATO admitting to the error with a copy to the taxpayer. The taxpayer lodges a return with the correct details as per the letter. The ATO fails to take into account the adjustment made by the employer in their records.

The taxpayer is presented with a letter which requires them to show why the taxpayer made the error within 21 days. This is produced in January (during a holiday period). The taxpayer is presumed guilty until proved innocent. If the mail fails to arrive, the taxpayer has changed address or the taxpayer does not read their mail within 21 days they are presented with an account for the shortfall of tax.

If the taxpayer gets the mail they are required to telephone a number which is not in the income matching section. While the taxpayer may be able to explain the error the ATO employee cannot fix the problem but tells them to write to the income matching section with a copy of the employer's letter which is already held in the section. The telephone personnel frustrate the taxpayer and fail to assist in any useful way.

In a particular case the ATO was able to amend the prior year errors before the current year. The taxpayer was presented with an account which showed the outstanding balance despite the current year being a nil result therefore the interest is calculated to a date where the taxpayer cannot actually receive the money to which she is entitled. The reason for the month delay is given as a Queensland cyclone. This is either a poor excuse or poor administration such that failure to issue amendments (current year only) is prevented by a natural disaster in a remote part of Australia.

In another case the ATO misread a 2 as a 3. Unfortunately this was in the tens of thousands column. The additional tax due was approximately \$3150. The telephone number given to contact did not have access to the file nor could they correct this obvious error. The taxpayers version of the payment summary was faxed to the income

matching section with a request that it be receipted. No response was made. The following day the fax was sent again. This prompted a telephone call to state that the error had been recognised and would be corrected. Nothing was received in writing despite the request.

In the past the reporting of some trusts (usually cash management trusts) to the ATO as interest has caused a discrepancy to appear because the ATO did not check to see if the amount of shortfall was shown at Item 12. It appears that the trust are now showing the correct information to the ATO however the ATO failed to do a simple check before issuing queries to the taxpayers.

The above are examples of failure of the ATO to adhere to their taxpayers charter. The taxpayer was correct and had lodged returns correctly but had to prove it in a time consuming and frustrating manner despite the correct information being in the hands of the correct section months before the amended returns were issued.

The 'system' fails to use information available to it before it creates additional work and angst for taxpayers, their agents, and the ATO.

### **Tax Office Response**

We have been aware of some problems with the processing of withholding information and have made some significant improvements which will take effect this year.

In 2006/07 and prior years employers notified us of amendments to payment summaries by letter. Processing of these amendments was often subject to considerable delay due to competing priorities and the fact that many of these letters did not include all of the information necessary for the data recorded on our systems to be amended. These latter cases required further contact to be made with the employer before the amendment could be finalised.

We recognised this amendment process was not working effectively and have implemented new processes in collaboration with commercial developers of payroll software. With effect from the 2007/08 year, employers who use payroll software will be able to notify amendments to payment summaries by lodging an electronic file.

Other employers will use a Tax Office printed form which can now be processed automatically through our image capture sites. All amendments notified in this way will be processed promptly, avoiding the delays which occurred under previous arrangements.

The letters which are issued to clients with an apparent discrepancy allow 28 days for response. To limit any impact on our clients over the Christmas holiday period we plan to stop sending Information Matching letters to our clients in early December and recommence in late January. If a client believes that the discrepancy is not correct they will generally be required to provide evidence from their employer.

We can understand that frustration will arise when the employer has already told us of the mistake or change but we are confident that our new procedures will considerably reduce the number of cases where this might occur.

Prior to this year, all Income Matching System (IMS) calls were answered by the Client Contact Centre where the procedure was to ask for a copy of the employer's letter. As all correspondence received in the office is now scanned, the procedures are being changed - Client Contact Centre staff will check Tax Office systems for a copy of the letter, and only when the letter cannot be located, will a copy be requested. In addition, the IMS area now handles some of these calls.

Unfortunately, without the actual case details we cannot address the specific issue where a letter advising that the error was corrected was not received. Generally, when a response is received to a letter from the Information Matching System which results in a nil discrepancy, a letter is issued to the client advising that there will be no further action taken.

There is also mention of an error in reading a figure on a form received by us. Tax Office image capture software identifies most cases where there is uncertainty about a character written on a form and refers these cases to an operator who will examine the form and enter the correct character. However, there are a few instances when a character is read incorrectly and automatically recorded as read. These mistakes are rare and occur much less often than was the case with manual keying errors.

We apologise for any inconvenience that may have been caused and assure you that the Tax Office is continually striving to improve service to taxpayers.

## **9. 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 Response**

Clients receiving business activity statements (BAS) have a Client Activity Centre (CAC) account for indirect taxes. Clients are required to provide a postal address for this account and must notify the Commissioner within 28 days of that address being changed.

To ensure clients who comply with these laws are not disadvantaged, BAS that are returned as unclaimed have a returned mail indicator placed on the CAC postal address. Termination of the activity statement cancels the DIN and prevents lodgment enforcement action commencing on the returned statement. The statement is held by the Tax Office until a new CAC postal address is received (or otherwise located).

Each month a "held incorrect address" run generates BAS where the CAC postal address has been updated and the returned mail indicator removed. The BAS are re-issued with a deferred due date to prevent penalties being applied before the client has been given an opportunity to lodge.

The address provided on the income tax return may not be appropriate for BAS purposes if it relates to a third party that has not been authorised by the taxpayer for that client role. However it may be used if it is the residential address of the taxpayer or the address of the taxpayer's place of business.

## **LIST OF OUTSTANDING ISSUES**

1. Inability to update client lists
2. Problems with member contributions statements
3. Applying for a tax file number for migrants