



**Australian Government**  
**Inspector-General of Taxation**

## **Review into the Tax Office's Administration of Private Rulings**

### **Terms of Reference and Consultation Plan**

This document contains the terms of reference of the review which the Inspector-General of Taxation will undertake into the administration by the Australian Taxation Office (ATO) of private rulings on income tax. It also outlines how the Inspector-General proposes to consult the community on this review.

#### **Background**

Australia is one of the few countries in the world to have a system where the revenue authority is able to issue written rulings to particular taxpayers (called private rulings) on how the ATO considers that the income tax law applies to a particular arrangement. Subject to certain conditions, these rulings are legally binding on the Commissioner of Taxation. This means that if a taxpayer follows the advice in a private ruling that has been issued to them, the ATO cannot levy additional income tax, penalties and interest if that advice is wrong.

Taxpayers and tax practitioners have stated in submissions to the Inspector-General that there are problems with the ATO's administration of private rulings including:

- the extent to which the contents of private ruling advices are binding particularly where there is an issue of whether the anti-avoidance provisions (Part IVA) could apply; and
- private rulings taking too long to issue and that ATO statistics on completion times are misleading.

The ATO has recently announced that it has decided to retain the publicly available register of edited private rulings. The purpose, use and ongoing relevance of the register will also be examined together with its relationship to the ATO's more authoritative forms of guidance, such as ATO Interpretative Decisions (ATOIDs).

Private rulings have for many years been managed by the ATO using its Technical Decision-Making System (TDMS) which incorporates a number of important controls aimed at maintaining integrity, consistency and quality in private rulings. The ATO has advised that it intends shortly to move its management of private rulings to a new computer system as part of its Change Program aimed at making taxation easier, simpler and cheaper for taxpayers.

The ATO has suggested that there would be benefit in the Inspector-General undertaking a broad review of the private rulings system, including issues of productivity, timeliness and the system's future integrity.

This review has therefore been commenced by the Inspector-General both on his own initiative and in response to a specific request from the Commissioner of Taxation. The review is therefore being conducted in accordance with both subsection 8(1) and subsection 8(3) (b) of the *Inspector-General of Taxation Act 2003*.

## Terms of Reference

This review will:

- examine the purpose, use and ongoing relevance of the register of edited private rulings and the relationship of this register to the ATO's more authoritative forms of guidance, such as ATO Interpretative Decisions (ATOIDs);
- investigate timeliness, accessibility and productivity issues for private rulings, and issues concerning their binding nature;
- examine the extent to which the ATO has implemented the administrative recommendations on private rulings made in Treasury's 2004 *Report on Aspects of Income Tax Self Assessment* (the RoSA review) and the Inspector-General's 2008 review on the potential revenue bias in private rulings; and
- examine, in the context of contemporary risks, the extent to which the design of the ATO Change Program's new system will maintain the integrity and quality of private rulings and deliver benefits to taxpayers.

## Consultation Processes

The Inspector-General will:

- publish a copy of the terms of reference for this review on his website at [www.igt.gov.au](http://www.igt.gov.au);
- take submissions on this review from members of the public generally, or from particular people or organisations, within the time frame set out below; and
- request the Commissioner of Taxation to provide information and/or documents relevant to this review.

## Contacting the Inspector-General of Taxation

Submissions should be focussed on the terms of reference for the review and should be received by 15 May 2009. Submissions may be sent:

- By email:  
privaterulings@igt.gov.au
- By post:  
Consultation on Private Rulings  
Inspector-General of Taxation  
GPO Box 551  
SYDNEY, NSW 2001
- By facsimile:  
(02) 8239 2100

Further information may be obtained by telephoning (02) 8239 2111.