

SELC Inquiry into the Performance of the Inspector-General of Taxation (IGTO) – 17 June 2020

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) welcomes the tabling and release of the report by the Senate Economics Legislation Committee on 17 June 2020 - *the Performance of the Inspector-General of Taxation*. The Committee commenced its Inquiry on 1 August 2019. The Committee makes 16 recommendations, all of which are welcomed by the IGTO.

The community's perception of the fairness of the tax administration system has an important influence on voluntary compliance by taxpayers and tax practitioners alike – which ultimately determines tax revenues raised and the timeliness of lodgements. The IGTO legislative framework, protections and process of investigation is equally an important influence in establishing trust in the fairness of the tax administration system – since IGTO investigates and provides assurance about the integrity, fairness and effectiveness of the system itself and the actions and decisions made by those administering that system.

Any further action in respect of the Committee's recommendations is ultimately a matter for Government. The IGTO welcomes any next steps in relation to these recommendations, which are as follows:

Recommendation 1

The committee recommends the Australian Government assess whether the IGTO is adequately resourced, both now and into the foreseeable future, to effectively discharge its dual role as the Inspector-General of Taxation and the Taxation Ombudsman.

Recommendation 2

The committee recommends the Australian Government consider whether the IGTO's current portfolio arrangements are appropriate, and whether alternative arrangements could improve actual, or perceived, independence.

Recommendation 3

The committee recommends the Australian Government review the IGTO's current access to the ATO and Tax Practitioners Board's systems, data, and records and considers improving access, where necessary, to further enable it to perform its legislative functions.

Recommendation 4

The committee recommends the Australian Government consider whether the IGTO should have a formal role to independently advise the minister on the administrative aspects of new tax laws and amendments to existing tax laws.

Recommendation 5

The committee recommends the Australian Government better publicise the IGTO's ombudsman function through the development of a marketing campaign. Such a campaign should, amongst other things, clarify how the IGTO's role interacts with other ombudsmen, such as the Small Business and Family Enterprise Ombudsman.

Recommendation 6

The committee recommends the Australian Government consider strengthening protections available to individuals who disclose information to the IGTO, regardless of whether the disclosure is in relation to a complaint investigation or systemic review.

Recommendation 7

The committee recommends the rights of tax officials who are interviewed during investigations undertaken by the IGTO be clarified, and that protections afforded to them be strengthened. This includes providing officials the legal right to choose whether or not they have other persons present when providing information.

Recommendation 8

The committee recommends the Australian Government ensure that non-binding recommendations made by the IGTO, in respect of a complaint, be formally responded to within a reasonable time frame and, where a recommendation is not accepted, rationale for the non-acceptance be provided.

Recommendation 9

The committee recommends the Australian Government clarify which entities are responsible for investigating and prosecuting offences under the IGT Act, such as those created under section 39.

Recommendation 10

The committee recommends the Australian Government review the IGT Act and its interactions with the Ombudsman Act, with the objective of improving the IGT Act's clarity. Such a review would also include an assessment of the necessity of the exclusion in subsection 7(2) of the IGT Act regarding rules and quantification.

Recommendation 11

The committee recommends the Australian Government consider the benefits of introducing more formal arrangements between the IGTO and Australian Tax Clinics, as well as improving the model for inter-agency collaboration to permit joint investigations.

Recommendation 12

The committee recommends an independent review of the PID Act be undertaken in 2021, which includes consideration of establishing a single whistleblower authority.

Recommendation 13

The committee recommends the IGTO be made an 'investigative agency' under the PID Act.

Recommendation 14

The committee recommends the IGTO be made an 'eligible recipient' under the TAA 1953.

Recommendation 15

The committee recommends the Australian Government resolve the inconsistencies between the TAA 1953 and the IGT Act regarding taxation officers who make unauthorised disclosures to the IGTO.

Recommendation 16

The committee recommends the Australian Government remove the requirement for the Tax Commissioner to authorise disclosures by tax officers if an IGTO review has either commenced or is being contemplated.