



SENATOR THE HON MATHIAS CORMANN
Minister for Finance
Deputy Leader of the Government in the Senate
Acting Minister for Revenue and Financial Services

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

Dear Mr Noroozi

Thank you for your letter of 2 December 2016, providing the Minister for Revenue and Financial Services with a copy of your report, *Review into the Australian Taxation Office's employer obligations compliance activities*.

Pursuant to section 18 of the *Inspector-General of Taxation Act 2003*, I am writing to arrange for this report to be released publicly within 25 sitting days of the House of Representatives from the date of receipt. I propose to do this by asking that you make the report available on your official website.

I would like to extend my sincere thanks to you and your staff for your efforts in producing this report.

Kind regards

A handwritten signature in blue ink, consisting of the letters 'M' and 'C' in a stylized, cursive font.

Mathias Cormann

22 May 2017



Australian Government

Australian Government response to the
Inspector-General of Taxation report:

Review into the Australian Taxation Office's employer
obligations compliance activities

MAY 2017

INSPECTOR-GENERAL OF TAXATION

REVIEW INTO THE AUSTRALIAN TAXATION OFFICE EMPLOYER OBLIGATIONS COMPLIANCE ACTIVITIES

Background

The Inspector-General of Taxation (Inspector-General) commenced a review into the Australian Taxation Office's (ATO) employer obligations compliance activities on 29 October 2015. The review was undertaken in response to concerns raised by stakeholders during public consultation for the Inspector-General's work program.

The Inspector-General invited and received submissions to this review from a wide range of stakeholders, including employers, employees, contractors, tax practitioners and superannuation funds and their respective representatives.

The Inspector-General's recommendations can be divided into those for Government, which involve policy considerations and would normally require legislation, and those for the ATO, which involve administrative considerations and can be implemented by the ATO as part of the Commissioner's administration of taxation legislation.

The Inspector-General's report makes nine recommendations specifically for the ATO and two for the Government. The complete list of recommendations is at Attachment 1.

Response to Inspector-General's recommendations to Government

The Government thanks the Inspector-General for the work he has done in producing this report on an important issue.

The Government notes that the Commissioner of Taxation has statutory independence to administer, through the ATO, the principal Australian government taxation legislation. Consequently, how the ATO responds to its recommendations is a matter for the Commissioner of Taxation.

Recommendation 3.3

The Inspector-General recommends that the Government considers reviewing the Fringe Benefits Tax regime with a view to delivering a reduction in compliance costs in the short to medium term as well as longer term fundamental reform.

The Government notes the Review's findings that the current Fringe Benefits Tax (FBT) regime is overly complex and imposes high compliance costs on employers. The Government's 'Re: Think Tax' Discussion Paper, issued in March 2015, identified similar issues relating to the operation of the FBT regime.

Reforming the regime requires careful consideration of how best to achieve simplification and reduced regulatory burden while also maintaining equity and integrity. The Government will consider this recommendation as part of its ongoing work programme of making improvements to the tax system.

Recommendation 3.4

The Inspector-General recommends that the Government considers expanding the Taxable Payments Reporting System (TPRS) to the engagement of contractors across all industries and automating the required reporting under TPRS.

The Government is satisfied that the Taxable Payment Reporting System (TPRS) has proven to be an effective means to increase taxation compliance levels in industries where high levels of non-compliance have been evidenced. The Government announced in Budget 2017-18 that the TPRS will be extended to contractors in the courier and cleaning industries from 1 July 2018.

ATTACHMENT 1 – Full list of recommendations by the Inspector-General

Employee/contractor distinction

Recommendation 2.1

The Inspector-General recommends the ATO:

- (a) clarify the protection provided to those who use and rely on the Employee Contractor Decision tool in good faith, promote the tool and allow it to be used by employees and contractors as well as accompanying the result with links to information outlining their respective rights and obligations; and
- (b) implement and promote a Voluntary Certification System which employers, employees and contractors may use, as soon as possible, to confirm worker status and refer them to information about their respective rights and obligations once their status has been determined.

Employer obligations compliance costs

Recommendation 3.1

The Inspector-General recommends that, in relation to Single Touch Payroll, the ATO:

- (a) apply the learnings from the implementation of SuperStream and, in particular, ensure that there is rigorous testing of third party software with certification being provided to those that meet all requirements;
- (b) seek to reduce employer' reporting requirements by using the information obtained to prefill fields;
- (c) ensure that there are appropriate exemptions at least in the short-term whilst employing the possibility of providing:
 - i) a low or no cost software for qualifying small employers; and
 - ii) an alternative method of electronic access for employers facing technological challenges, through such means as e-kiosks.

Recommendation 3.2

The Inspector-General recommends that the ATO consider developing a capability for the Small Business Superannuation Clearing House to receive:

- (a) electronic files, such as Microsoft Excel and Apple Numbers; and
- (b) standardised files from commercial payroll software.

Recommendation 3.3

The Inspector-General recommends that the Government considers reviewing the Fringe Benefits Tax regime with a view to delivering a reduction in compliance costs in the short to medium term as well as longer term fundamental reform.

Recommendation 3.4

The Inspector-General recommends that the Government considers expanding the Taxable Payments Reporting System (TPRS) to the engagement of contractors across all industries and automating the required reporting under TPRS.

Employer obligations compliance activities

Recommendation 4.1

The Inspector-General recommends that the ATO:

- (a) improves its Pay As You Go Withholding and Superannuation Guarantee (SG) identification processes by analysing the utility of data from third party referrals with a view to maximising the use of sources which yield the best results;
- (b) improves its SG risk identification process by:
 - i) encouraging trustees of APRA regulated superannuation funds to refer more relevant data; and
 - ii) obtaining SuperStream payment data from superannuation funds for employers not required to use STP to promptly identify those not reporting or paying SG.

Recommendation 4.2

The Inspector-General recommends the ATO seek further means of ensuring superannuation entitlements are paid promptly including the use of deterrents, such as random audits, to curtail the propagation of non-compliance – compliant employers who undergo such audits should be reimbursed for any additional costs.

Recommendation 4.3

The Inspector-General recommends the ATO publicly announce its areas of FBT compliance focus for future year(s).

Recommendation 4.4

The Inspector-General recommends the ATO supplement the principles contained in its 'Our approach to information gathering' booklet with practical guidance, such as common scenarios in training materials, to assist compliance staff to apply them in the context of an employer obligation audit or review.

Recommendation 4.5

The Inspector-General recommends the ATO enhance its capability development framework and compliance support tools with respect to employer obligations and Personal Services Income compliance activities by:

- (a) improving the relevant training packages on the employee/contractor distinction;
- (b) ensuring that staff are assessed following completion of relevant training packages;
- (c) monitoring the results of quality assessments over time to identify recurring capability issues with a view to improving training and procedures; and
- (d) improving the documentation in the 'reasons for decision' templates, by requiring an appropriate assessment of the application of the law to the facts of the case.

Recommendation 4.6

The Inspector-General recommends the ATO increase employers' awareness of its differentiated approach to non-compliance with SG obligations and assess the utility of this approach by analysing the results obtained from measuring its effectiveness.