



Australian Government

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

ATO's Fraud Control Management

OCTOBER 2018

INSPECTOR-GENERAL OF TAXATION

ATO'S FRAUD CONTROL MANAGEMENT

Background

The Inspector-General of Taxation (Inspector-General) commenced a review on 27 June 2017 into the Australian Taxation Office's (ATO) fraud control management. The review was undertaken at the request of the Senate Economics References Committee. It followed events connected to Operation Elbrus including allegations of tax fraud that may be linked to abuse of position by a public official.

The Inspector-General invited and received submissions to this review from a wide range of stakeholders, and also engaged with a number of stakeholders including academics, legal and risk professionals as well as taxpayers, tax practitioners and their representative bodies.

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 13 recommendations specifically for the ATO and one 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 7.1

The Inspector-General recommends that the Government consider a broad review of the current arrangements for interagency collaboration for combatting tax fraud including the following key issues:

- **optimal models for information sharing between agencies;**
- **the extent to which specialist capabilities should be shared amongst agencies and mechanisms to ensure that each agency has appropriate access to such capabilities;**
- **structure and funding for interagency taskforces including whether they should be headed by an independent leader with appropriate powers and secretariat;**
- **permitting the ATO to use telecommunication interception information obtained in joint investigations of prescribed taskforces in raising assessments for those who are subjects of such investigations; and**
- **in appropriate circumstances, allowing the ATO to issue production orders to third parties such as financial institutions who hold relevant information about persons or transactions of interest.**

The Government agrees in principle with the recommendation.

The Government's Serious Financial Crimes Taskforce (SFCT), which was established in 2015, is a multi-agency taskforce targeting serious financial crime in Australia. The SFCT brings together the

agencies' strategic and operational level intelligence, capacity and capability to identify and treat serious financial crime.

The Australian Taxation Office intends to review how the Taskforce operates. This review will take into account the factors listed by the IGT at Recommendation 7.1.

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

Prevention of internal fraud

Recommendation 3.1

The Inspector-General recommends the ATO:

- a) conduct a risk assessment of every position in the organisation to determine the level of pre-employment and ongoing checks required and periodically reassess the risk associated with moderate to high risk positions;
- b) use criminal intelligence databases to determine whether candidates for high risk positions are known to law enforcement, either by reason of their own conduct or that of their associates or relatives;
- c) as part of its pre-employment checks:
 - i. depending on the level and types of risk associated with the relevant position, require candidates to provide declarations about matters such as their financial circumstances; and
 - ii. request information, such as those relating to misconduct, from previous employers of external candidates; and
- d) require all employees to make an annual disclosure about matters that are assessed in the pre-employment checks of their current position and periodically check such disclosures at a frequency rate reflective of the risk associated with the relevant position.

Recommendation 3.2

The IGT recommends the ATO formalise its fraud risk controls relevant to SES officers and officers in high risk roles including the periodic rotation of officers.

Recommendation 3.3

The IGT recommends the ATO strengthen its fraud awareness and ethics training by:

- a) requiring new staff to complete the mandatory fraud training during their induction process and prior to allowing them access to taxpayer information;
- b) withdrawing access to ATO systems for contractors who fail to complete the mandatory training package within a reasonable timeframe;
- c) incorporating into the assessments of mandatory training packages, a series of practical scenarios that requires staff to apply ethical principles;
- d) requiring managers to discuss with new starters ethical matters as they apply to their work area, including by way of practical scenarios, and ensuring that those managers receive sufficient guidance and support for this process to take place shortly after new starters have completed the mandatory fraud training; and
- e) increasing the level of staff interaction in its mandatory fraud training particularly those delivered by the Fraud Prevention and Internal Investigations unit.

Recommendation 3.4

The IGT recommends that the ATO:

- a) update its conflict of interest guidance document to clarify ambiguities and provide further explanation, including practical examples, as well as require officers to register their conflicts of interest as soon as they become aware of them;
- b) bolster its processes for ensuring that former colleagues of current ATO officers do not obtain information or exert influence by virtue of their previous associations;

- c) improve awareness and compliance with its conflict of interest policies and guidance including through its active promotion by the Commissioners and other senior executives;
- d) conduct periodic reviews on the central conflicts of interest register to identify trends, verify the accuracy of the declared information as well as ensure that the appropriate management actions have been taken to address the conflict; and
- e) seek ways to capture and analyse information for detecting undeclared conflicts of interest as part of some its existing checks as well as from other sources.

Recommendation 3.5

The IGT recommends the ATO improve the policies regarding senior officer intervention by;

- a) specifying the circumstances in which senior officers are authorised to intervene in individual matters;
- b) where senior officers receives requests to intervene in matters outside their area of responsibility, requiring such requests to be transferred to their counterpart in the relevant area;
- c) requiring intervening officers to document the initial request and all subsequent actions, including the details of decisions made, supporting reasons and resulting outcomes as well as briefings provided to the original decision maker on a single centralised system and in a form which is transparent and easily accessible; and
- d) periodically review senior officers' compliance with such policies.

Recommendation 3.6

The IGT recommends that the ATO publish more information about its Independent Assurance of Settlements process such as identified improvement opportunities and work undertaken to implement them.

Recommendation 3.7

The IGT recommends the ATO consider incorporating, into its Organisational Behavioural Assessment process, other data sets including employees' technology usage and conflicts of interest disclosures.

Detection and response to internal fraud

Recommendation 4.1

The IGT recommends the ATO improve its ability to detect internal fraud and corruption by such means as:

- a) acting on the advice it received in its 2017 Corruption Risk Review, including requiring each business line to describe, in detail, potential fraud and corruption events in their area;
- b) retrospectively analysing events surrounding any significant internal fraud case and recording all findings and resulting actions in one central library for future use; and
- c) contemporaneous recording of officers' requests to access information about a particular taxpayer and ensuring availability of such records to its Fraud Prevention and Internal Investigations Unit.

Recommendation 4.2

The IGT recommends that, with respect to its internal fraud investigations, the ATO:

- a) periodically review the appropriateness of sanctions imposed;
- b) conduct appropriate and periodic external and internal quality assurance reviews and publish the results of such reviews;

- c) provide more public information about the investigation process such as timeframes and procedural safeguards; and
- d) develop a formal complaints handling process as well as inform its staff about the process and how such complaints may be lodged.

Governance, structure and oversight for managing internal fraud risk

Recommendation 5.1

The IGT recommends the ATO strengthen its oversight of internal fraud risks by:

- a) bolstering the independence of its Audit and Risk Committee by ensuring that, at the very least, the majority of its members, including the chair, are external to and independent of the ATO;
- b) maintaining the role of the Integrity Advisor and providing him or her with all necessary access and support as well as enabling ATO staff to discuss ethical or fraud related concerns with him or her;
- c) requiring the Assistant Commissioner of Fraud Prevention and Internal Investigations to regularly report internal fraud risk trends and issues to the Commissioners and other ATO Executives;
- d) conducting periodic reviews of the ATO's corporate integrity indicators and providing the results and actions arising from them to the Commissioners and other ATO Executives; and
- e) augmenting the existing induction program for new SES officers, recruited from outside the ATO, with specific training on ethical standards and the highest level of integrity expected at such an organisation.

The ATO's approach to external fraud

Recommendation 6.1

The IGT recommends that the ATO improve the prevention of external fraud by:

- a) requiring its officers to routinely consider whether risks encountered in their case work indicate a potential weakness in the system, ensure such risks are promptly prioritised and investigated as well as publicly reporting the outcomes where appropriate; and
- b) improving its media strategy to increase the reporting of its tax crime investigations, prosecutions and recoveries of proceeds of crime.

Recommendation 6.2

The IGT recommends the ATO:

- a) better inform the public about making tax evasion referrals including by specifying the type of information required and assuring them of confidentiality;
- b) formalise and document consistent processes, across all business lines, for dealing with tax evasion referrals; and
- c) publically report aggregate data about the outcome of its investigations of tax evasion referrals including the extent to which they give rise to compliance activities, any identified trends and the most common types of referrals.

Recommendation 6.3

The IGT recommends that the ATO consider:

- a) reporting ATO officer referrals, about potential fraud, which have led to successful prosecution along with appropriate recognition; and
- b) requiring all its officers to complete more in-depth training about the range of behaviours and events which may be indicators of fraud being perpetrated.

Interagency collaboration

Recommendation 7.1

The IGT recommends that Government consider a broad review of the current arrangements for interagency collaboration for combating tax fraud including the following key issues:

- a) optimal models for information sharing between agencies;
- b) the extent to which specialist capabilities should be shared amongst agencies and mechanisms to ensure that each agency has appropriate access to such capabilities;
- c) structure and funding for interagency taskforces including whether they should be headed by an independent leader with appropriate powers and secretariat;
- d) permitting the ATO to use telecommunication interception information obtained in joint investigations of prescribed taskforces in raising assessments for those who are subjects of such investigations; and
- e) in appropriate circumstances, allowing the ATO to issue production orders to third parties such as financial institutions who hold relevant information about persons or transactions of interest.