

APPENDIX 1: TERMS OF REFERENCE AND CONDUCT OF THE REVIEW

TERMS OF REFERENCE

A.1.1 On 18 January 2007 the Inspector-General announced the terms of reference for his review of the underlying causes and the management of objections to Tax Office decisions. The terms of reference for this review were as follows:

This review will focus on what causes objections to Tax Office decisions and the management of objections. The Inspector-General's staff will work with the Tax Office to gain a sound understanding of the range and categories of objections with a view to determining underlying causes.

The Inspector-General will seek input and submissions from the community to understand the taxpayers' experience and perspective in relation to lodging objections.

The timeliness and quality of Tax Office approaches upstream of objections will be explored including audit, communication, and technical decision making insofar as they may be contributing to potentially unnecessary disputes and litigation.

The review will also examine objection resolution procedures and the administrative framework, including the laws that govern these areas.

This review will examine the extent and reasons for the Tax Office conceding cases after the objection process, focusing on the quality of decision making and processes employed in determining taxpayers' objections.

In the context of potentially unnecessary litigation, it would determine whether disputes (and their associated costs) could have been prevented and whether the broad system and sequence of amended assessment, objection, and dispute resolution could be improved. The review will also examine whether the current system minimises any disproportionate effects on taxpayers, in particular corporations and encourages alternative dispute resolution processes.

The review focus is not only on the Tax Office conduct and approaches to dispute resolution but also on the administrative systems established by the tax laws for resolving disputes between taxpayers and the Tax Office.

CONDUCT OF REVIEW

A.1.2 The Inspector-General advertised the review on his website, www.igt.gov.au, from 18 January 2007. The review was also reported in specialist accounting and legal publications.

A.1.3 Written submissions to the review were taken from members of the public and a number of organisations.

APPENDIX 2: A WHOLE OF TAX OFFICE APPROACH TO DISPUTE RESOLUTION

A.2.1 This appendix contains a diagrammatic representation of the Tax Office’s current ‘whole of Tax Office approach’ to improving dispute resolution.

A WHOLE OF TAX OFFICE APPROACH TO DISPUTE RESOLUTION

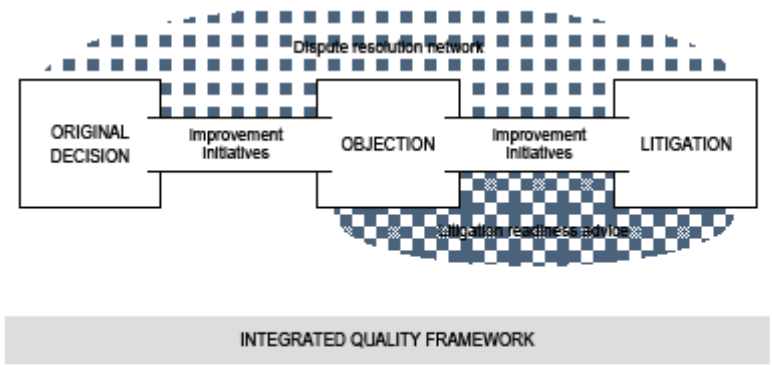
DISPUTE RESOLUTION PRINCIPLES

- Identification and resolution of disputes as early as possible
- Differentiated approaches to objection processing to improve responsiveness
- Deployment of alternative approaches to dispute resolution, as appropriate, and
- Where litigation is inevitable, all relevant information and evidence has been captured

1. DESIRED – MOVING DISPUTE RESOLUTION CLOSER TO POINT OF ORIGINAL DECISION



2. CURRENT – TRANSITION TO DESIRED STATE



IMPROVEMENT INITIATIVES INCLUDE

- Improving communication with taxpayers and agents
- Embedding collaborative work processes and practices
- Expanding differentiated approaches
- Enhancing data capture, analysis and feedback mechanisms
- Improving quality management
- Expanding diagnostic tools to measure the health of the dispute system

Objections Review Project

APPENDIX 3: TAX OFFICE RESPONSE TO THE REVIEW

A.3.1 The Tax Office's full response to each recommendation, contained in Attachment 1 to this letter, has been incorporated into both the overview chapter and body of the report after each of the Inspector-General's recommendations.



Mr. Ali Noroozi,
Inspector-General of Taxation
Level 19, 50 Bridge Street
Sydney NSW 2001

Dear Ali,

Review into the Underlying Causes and the Management of Objections to Tax Office Decisions

Thank you for your emails of 13 March 2009 and 1 April 2009 and the opportunities for discussion on this review.

We welcome the majority of the findings of the report and your positive acknowledgement of the direction and the progress made by the Tax Office in re-shaping our end-to-end dispute resolution process.

When the approximately 15,000 objections received during 2007-08 are viewed in context of the more than 3 million active compliance activities carried out in the same period, it is clear that there is currently a low level of disputation. Having said that, we also acknowledged that there are areas where we can improve.

It was pleasing that the Inspector-General's review recognised the degree of independence in our current objection process and that in complex cases there are benefits in the original decision maker or technical expert providing relevant input to the objection officer.

The Tax Office places a very high value on consistency in our decision making and, for that reason, objection review officers are not able to re-examine or re-determine a settled ATO view. However, in cases where the review officer considers that there is a genuine and well supported challenge to the correctness of a settled Tax Office view, these issues are promptly escalated to either the Tax Counsel Network or the Centres of Expertise for timely reconsideration.

The review concludes that an ideal dispute resolution system contains many facets already in place or under development within the Tax Office, such as the work underway with the integrated quality framework and with early dispute resolution.

We also appreciated the opportunity to discuss your concepts of 'genuine' and 'non-genuine' objections and we acknowledge the reasoning behind your concerns. However, we must administer the tax system as currently legislated and treat taxpayers' review and objection rights as they currently exist within that legislative framework which requires taxpayers to pursue out-of-time amendment requests by way of objections, even though there is no real dispute.

We could not comment on the first recommendation as it is a matter for Government to consider, but we have agreed to eight of the eleven recommendations directed at the Tax Office and have agreed in part or in principle to two other recommendations. We have provided a detailed response to each of the recommendations in the attachment to this letter.

Performance standards

We have noted in discussions and in our response to recommendation four that we are not in a position to commit to the specific performance standards proposed in this recommendation. We agree however to review our performance standards on implementation of our new case management system and quality framework. In addition, in implementing recommendations nine and ten we aim to identify and measure our performance against the most appropriate measures and standards that reflect reasonable community expectations in relation to the resolution of disputes, particularly objections.

We agree that a two year time frame is a reasonable period to expect progress on this matter and we welcome the Inspector-General's understanding of the variables and dependencies in this era of change and development.

General interest charge (GIC)

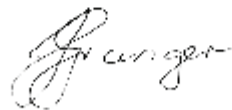
The Tax Office disagrees with the observations in relation to the application of the GIC. We believe that current policy appropriately addresses any instances of Tax Office delay in resolving objections and request that you alter the Tax Office response to your recommendation 5 in your final draft report to include this statement. Please see our full response to recommendation 5 in Attachment 1.

General comment on the review

We appreciate the degree of collaboration and open discussion in conducting this review and we also welcome your understanding of both the challenges and opportunities facing us during this time of change in our workload profiles, our case management systems and our quality framework.

Thank you again for the opportunity to respond to this final draft report.

Yours sincerely,



Jennie Granger
Second Commissioner Compliance
6 April 2009

APPENDIX 4: ABBREVIATIONS

AAT	Administrative Appeals Tribunal
ARC	Administrative Review Council
ATP	Aggressive Tax Planning
Commissioner	Commissioner of Taxation
ELS	Electronic Lodgement Service
ERR	Early Resolution Report
EXC	Excise
FBTAA	<i>Fringe Benefits Tax Assessment Act 1986</i>
GIC	General Interest Charge
GST	Goods and Services Tax
ICAA	Institute of Chartered Accountants in Australia
IGT Act	<i>Inspector-General of Taxation Act 2003</i>
Inspector-General	Inspector-General of Taxation
IQF	Integrated Quality Framework
ITAA 1936	<i>Income Tax Assessment Act 1936</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
LBI	Large Business and International
MEI	Micro Enterprises and Individuals
ORCLA	Online Resource Centre for Law Administration
PoWA	Provision of Written Advice
QA	Quality Assurance
Ralph Review	Review of Business Taxation
RoSA	Review of Aspects of Self Assessment
SIC	Shortfall Interest Charge
SME	Small to Medium Enterprises

SPR	Superannuation
STS	Simplified Tax System
TAA	<i>Taxation Administration Act 1953</i>
TAP	Tax Agents Portal
Tax Office	Australian Taxation Office
TIA	Taxation Institute of Australia
TQR	Technical Quality Review