



Australian Government
Inspector-General of Taxation
Taxation Ombudsman

A brief history of the Taxpayers' Charter

By the Inspector-General of Taxation and Taxation Ombudsman

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Introduction

This paper provides a chronology and brief summary of events over time that have resulted in the development of the Taxpayers' Charter. The Taxpayers' Charter is a document created by the Australian Taxation Office (ATO) which sets out mutual obligations of trust and respect between the ATO and taxpayers. The ATO website notes in relation to the Taxpayers' Charter:

The Taxpayers' Charter (the Charter) outlines your rights and obligations. It explains what you can expect from us in administering the tax and superannuation systems. We are committed to following it in all our dealings with you.

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The Charter outlines the way we will conduct ourselves when dealing with you or a representative of your choice.

It is for everyone who deals with us on tax, superannuation, excise and the other laws we administer.

It will help you understand:

- *your rights and obligations*
- *what you can expect from us*
- *what you can do if you are not satisfied.*

When we use the words 'you' and 'your' this refers to you personally, and to anyone you have nominated as your representative.

'Everyone' refers to 'us' and 'you'.

The material provided in this paper is relevant background for any further consultation or review of the principles outlined in the Taxpayers' Charter. Accordingly this summary is provided for the benefit of the community.

Introduction

The importance of the Taxpayers' Charter

The Taxpayers' Charter has been a significant part of the Australian tax system for almost three decades, since it was first recommended in the early 1990s.

Recognition of taxpayer 'rights'¹ through a document like the Charter is not unique to Australia. In the IGTO's 2016 report on *Taxpayers' Charter and Taxpayer Protections*, a brief international scan of comparable jurisdictions such as the United States of America (USA), United Kingdom (UK), Canada and New Zealand identified each had a Taxpayer Bill of Rights or Charter with the content of these documents exhibiting commonalities with Australia's Taxpayers' Charter.²

An overview of the rights included in each of these jurisdictions is set out in Table 1.

Table 1 – Overview of Taxpayer Rights in comparable jurisdictions

Jurisdiction and Governing document	Taxpayer Rights
USA - Taxpayer Bill of Rights ³	<ul style="list-style-type: none"> The Right to Be Informed The Right to Quality Service The Right to Pay No More than the Correct Amount of Tax The Right to Challenge the IRS's Position and Be Heard The Right to Appeal an IRS Decision in an Independent Forum The Right to Finality The Right to Privacy The Right to Confidentiality The Right to Retain Representation The Right to a Fair and Just Tax System

¹ Arguably, the Taxpayers' Charter does not confer any additional 'rights' upon taxpayers beyond those already enshrined in statute or those which are readily discernible from principles of good governance and administration.

² Inspector-General of Taxation and Taxation Ombudsman, *Taxpayers' Charter and Taxpayer Protections* (2016) pp 18-32.

³ Internal Revenue Service, *Taxpayer Bill of Rights* (27 August 2021) <<https://www.irs.gov/taxpayer-bill-of-rights>>.

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Jurisdiction and Governing document	Taxpayer Rights
UK - HMRC Charter ⁴	<p>Working with you to get tax right</p> <p>Getting things right</p> <p>Making things easy</p> <p>Being responsive</p> <p>Treating you fairly</p> <p>Being aware of your personal situation</p> <p>Recognising that someone can represent you</p> <p>Keeping your data secure</p> <p>Mutual respect</p>
Canada - Taxpayer Bill of Rights ⁵	<p>You have the right to receive entitlements and to pay no more and no less than what is required by law</p> <p>You have the right to service in both official languages</p> <p>You have the right to privacy and confidentiality</p> <p>You have the right to a formal review and a subsequent appeal</p> <p>You have the right to be treated professionally, courteously, and fairly</p> <p>You have the right to complete, accurate, clear, and timely information</p> <p>You have the right, unless otherwise provided by law, not to pay income tax amounts in dispute before you have had an impartial review</p> <p>You have the right to have the law applied consistently</p>

⁴ Gov.uk, *The HMRC Charter* (4 November 2021) <<https://www.gov.uk/government/publications/hmrc-charter/the-hmrc-charter>>.

⁵ Canada Revenue Agency, *Taxpayer Bill of Rights: Understanding your rights as a taxpayer* (8 April 2021) <<https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc17/taxpayer-bill-rights-guide-understanding-your-rights-a-taxpayer.html>>.

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Jurisdiction and Governing document	Taxpayer Rights
	<p>You have the right to lodge a service complaint and to be provided with an explanation of our findings</p> <p>You have the right to have the costs of compliance taken into account when administering tax legislation</p> <p>You have the right to expect us to be accountable</p> <p>You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances</p> <p>You have the right to expect us to publish our service standards and report annually</p> <p>You have the right to expect us to warn you about questionable tax schemes in a timely manner</p> <p>You have the right to be represented by a person of your choice</p> <p>You have the right to lodge a service complaint and request a formal review without fear of reprisal</p>
New Zealand - Inland Revenue Charter ⁶	<p>We will be easy to deal with, prompt, courteous and professional. We will follow through on what we say we will do. We will be responsive to individual, cultural and special needs. The person you are dealing with will give you their name. We will value your feedback and use it to improve our services.</p> <p>We will provide you with reliable and correct advice and information about your entitlements and obligations. We will assist you to get in touch with the right people for your needs. We will be well-trained and competent. We will keep looking for better ways to provide you with advice and information.</p> <p>We will treat all information about you as private and confidential, and keep it secure. We will only use or disclose it in accordance with the law.</p> <p>We will apply the law consistently so everyone receives their entitlements and pays the right amount. We will take your particular circumstances into account as far as the law allows.</p>

⁶ Inland Revenue, *Our Charter* (28 April 2021) <<https://www.ird.govt.nz/about-us/charter>>.

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Jurisdiction and Governing document	Taxpayer Rights
	<p>We will make it easy for you to question the information, advice and service we give you.</p> <p>We will inform you about options available if you disagree with us, and we will work with you to reach an outcome quickly and simply.</p>

A more recent study by the International Bureau of Fiscal Documentation's Observatory on the Protection of Taxpayer Rights using survey data from 42 countries or jurisdictions identified that 60% of respondent jurisdictions had either a taxpayers' charter or bill of rights.⁷

While the Charter itself does not create any new rights for taxpayers, it arguably makes them more accessible – by setting out clearly the rights, obligations and expectations of all taxpayers who engage with the ATO. Furthermore, the public communication of the Charter, when viewed alongside other legislation, such as the *Inspector-General of Taxation Act 2003*, reinforces the taxpayer's right to have their concerns and issues about adherence to the Charter independently investigated.

The effectiveness of the Charter in upholding the principles that are set out depends on its currency and appropriateness having regard to the current social, economic and legal contexts within which it operates. It is also dependent on tax officials, tax practitioners and taxpayers alike having a clear understanding of the matters set out in the Charter and what actions may be taken where the principles in the Charter may not be met.

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⁷ International Bureau of Fiscal Documentation Observatory on the Protection of Taxpayer Rights, *The IBFD's Yearbook on Taxpayers' Rights 2020* (2021) p 142 <<https://www.ibfd.org/sites/default/files/2021-09/2020%20IBFD%20Yearbook%20on%20Taxpayers%27%20Rights%20%281%29.pdf>>. While there were 42 participating jurisdictions, some of these jurisdictions submitted more than one survey response to the OPTR.

⁸ International Bureau of Fiscal Documentation Observatory on the Protection of Taxpayer Rights, *The IBFD's Yearbook on Taxpayers' Rights 2020* (2021) p 142 <<https://www.ibfd.org/sites/default/files/2021-09/2020%20IBFD%20Yearbook%20on%20Taxpayers%27%20Rights%20%281%29.pdf>>. While there were 42 participating jurisdictions, some of these jurisdictions submitted more than one survey response to the OPTR.

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The Taxpayers' Charter

The Taxpayers' Charter currently sets out the following rights of taxpayers:

Your rights

You can expect us to:

- *treat you fairly and reasonably*
 - *treat you as being honest unless you act otherwise*
 - *offer you professional service and assistance*
 - *accept you can be represented by a person of your choice and get advice*
 - *respect your privacy*
 - *keep the information we hold about you confidential*
 - *give you access to information we hold about you*
 - *help you to get things right*
 - *explain the decisions we make about you*
 - *respect your right to a review*
 - *respect your right to make a complaint*
 - *make it easier for you to comply*
 - *be accountable.*
-

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The Taxpayers' Charter also sets out the following obligations or expectations of taxpayers:

Your obligations – what we expect of you

We expect you to:

- *Be truthful*
 - *Keep the required records*
 - *Take reasonable care*
 - *Lodge by the due date*
 - *Pay by the due date*
 - *Be cooperative*
-

Purpose of this document

In its [response](#)⁹ to a recommendation made by the Inspector-General of Taxation and Taxation Ombudsman's (IGTO) [Investigation into the effectiveness of ATO communications of taxpayers' rights to complain, review and appeal](#), the Australian Taxation Office (ATO) indicated that it was currently undertaking a review of the Taxpayers' Charter.

This paper provides a chronology and brief summary of events over time that have resulted in the development of the Taxpayers' Charter to inform debate and discussion and facilitate engagement between stakeholders and the ATO on areas for improvement.

The paper draws from a range of previously published reports of the IGTO, the Auditor-General and Parliamentary Committees, and has not considered any materials not already in the public domain.

Karen Payne
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November 2021

⁹ The ATO response was provided to the IGTO on 12 October 2021.

A Brief History of the Taxpayers' Charter

1993 – in the beginning ... the Joint Committee of Public Accounts inquiry

The Taxpayers' Charter finds its genesis in the 1993 report of the Joint Committee of Public Accounts (JCPA), as part of its wide-ranging examination of the administration of the tax system¹⁰.

Against the backdrop of the newly implemented self-assessment system¹¹, the JCPA identified a need to better re-balance the rights of taxpayers against their relatively new responsibilities:

The Income Tax Assessment Act 1936 (the Act) establishes amongst its numerous provisions obligations and duties in respect of tax. When taken together with the Taxation Administration Act 1953 and the Income Tax Regulations, this body of law imposes an extensive framework of legal responsibilities on taxpayers. The Australian Taxation Office (ATO) administers this body of law and in so doing utilises given provisions to enforce the obligations of the law upon the taxpayer. The question arises, 'Where is the corresponding statement of taxpayer rights?'

In reality no formal statement of the rights of taxpayers currently exists. Although protection is afforded by the principles of equity and justice established by the common law, the review and objection rights provided by relevant acts and a number of administrative mechanisms for supervising the actions of the ATO, taxpayers have no single written statement of rights. This is despite the fact that the ATO investigatory powers are far more extensive and less well supervised than any criminal law enforcement agency.¹²

¹⁰ Joint Committee of Public Accounts, Parliament of Australia, Report No. 326 *An Assessment of Tax, A Report on an Inquiry into the Australian Taxation Office (1993)*.

¹¹ Prior to 1986, the Australian tax system operated on the basis of full assessment, whereby taxpayers provided the ATO with all relevant information so that the ATO could apply the law and assess their tax liabilities. Under that system, the taxpayer's primary responsibility was to make a full disclosure of all relevant information to the ATO. A self assessment system was introduced into Australia from the 1986-87 financial year. The introduction of self-assessment fundamentally altered the balance of power and responsibilities between taxpayers and the ATO. Under self-assessment, taxpayers assume responsibility for their tax affairs and determine their own tax liabilities. The ATO continues to issue an assessment to taxpayers, however, tax returns are generally taken at face value and may be subject to post-assessment audit and other verification processes. An incorrect application of the law results in taxpayers being exposed to additional primary tax, penalties and interest charges.

¹² *Ibid*, p 307

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The above taken together with submissions that had been made to the JCPA and following comparisons with the Citizen's Charter in the UK and the USA's Taxpayer Advocate Service (TAS) led the JCPA to determine that:

*Taxpayers, like every citizen, should be entitled to be fully informed of their rights and obligations according to law. In the Committee's opinion the ATO, as the body established to administer the taxation laws, was obliged to clearly, concisely, accurately and consistently advise taxpayers of their duties and rights. Such publicity should neither be restrained nor restricted to circumstances in which taxpayers were required to confront the ATO. Information concerning a taxpayer's rights and the standards of conduct expected of the ATO readily available for all taxpayers and specifically cast for taxpayers who are required to interact with the ATO. Taxpayer agents and representatives should similarly be entitled to a given level of service.*¹³

Accordingly, the JCPA recommended the establishment of a Taxpayers' Charter.¹⁴

The JCPA had initially contemplated that such a charter would set out taxpayers' common law rights as well as standards of service that they could expect from the ATO.¹⁵ This charter was to include statements in respect of taxpayers' rights to legal and commercial advice; due process, timely, accurate and confidential advice, independent review, access to administrative and judicial review, information, privacy, the presumption of innocence and individual consideration and treatment.¹⁶

The Committee noted the Bill of Rights prepared by the (then) Taxation Institute of Australia (TIA) (now The Tax Institute)¹⁷. A copy of the draft Taxpayers' Bill of Rights is attached as Annexure C¹⁸.

The role of the Taxation Ombudsman

In addition to the establishment of the Charter, the JCPA also saw a need for the establishment of a dedicated Taxation Ombudsman, for the purpose of providing a remedy to administrative impropriety or inefficiency which impacted upon taxpayers.¹⁹ Although the Commonwealth Ombudsman had always dealt with such complaints, this dedicated designation recognised the need for the Ombudsman to be able to bring a specialist focus to those complaints.²⁰ Additional funding for a Special Adviser on Taxation, who would assist the Ombudsman, was also a part of this JCPA-initiated change.²¹ Accordingly, taxpayers who

¹³ Ibid, p 311

¹⁴ Ibid, p 314

¹⁵ Ibid, p 312

¹⁶ Ibid, p 312 - 314

¹⁷ Ibid p 313

¹⁸ *Taxation in Australia*, Volume 28 No 1, pages 50-53 <<https://www.taxinstitute.com.au/tiseminarpaper/taxpayers-bill-of-rights>>.

¹⁹ Ibid, p 314

²⁰ Commonwealth Ombudsman, *Annual Report 2004-05* (2005), p 30.

²¹ Ibid.

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considered that they had been treated unfairly by the ATO, or whose rights at law had been violated, would be able to approach the specialist Taxation Ombudsman. In 1995, legislation was enacted to give effect to this JCPA recommendation.²²

The Committee also considered several possible models to implement this function²³ and concluded that the Taxation Ombudsman's office should be properly resourced within the Office of the Commonwealth Ombudsman but advertised at all ATO branch offices²⁴. Specifically, the Committee recommended:

- *a statutory position of Commonwealth Taxation Ombudsman be created within the current Commonwealth Ombudsman's Office;*
- *resources be provided to the Commonwealth Taxation Ombudsman to allow the Ombudsman to adequately investigate all complaints;*
- *the role of the Problem Resolution Units in the Australian Taxation Office be amended such that the staff of those Units work directly to a Commonwealth Taxation Ombudsman;*
- *reports by the Commonwealth Taxation Ombudsman on taxpayer complaints be provided both to the taxpayer and the Commissioner of Taxation; and*
- *a report on the activities of the Commonwealth Taxation Ombudsman be incorporated in the Annual Report to Parliament of the Commonwealth Ombudsman.*²⁵

Between 1995 and 1 May 2015, the Taxation Ombudsman function was performed by the Commonwealth Ombudsman. In 2005, the Commonwealth Ombudsman introduced new complaint handling processes in the Office, including the introduction of a public contact team to receive and register all complaints and inquiries, including those made about the ATO. The public contact team identified simple ATO complaints which did not warrant investigation and referred the remainder to the Special Tax Advisor, which was a small specialist team in the Office dedicated to providing advice and handling complaints relating to the ATO.²⁶

Since 1 May 2015, the IGTO has performed the role of the Taxation Ombudsman. The IGTO has a single office location (in Sydney) and currently employs 28 staff. For completeness, it should be noted that the IGTO is fully independent of the ATO and TPB – including the IGTO's statutory appointment, engagement of independent public servants, separate budget and funding, a location and case and records management systems separate from the ATO, etc.

²² *Taxation Laws Amendment Act (No. 1) 1995*, Schedule 2, Item 21.

²³ *Ibid* p315

²⁴ *Ibid*, p317

²⁵ *Ibid*.

²⁶ *Ibid*, p. 2.

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1997 and beyond - the evolution of the Taxpayers' Charter

The Charter was introduced in July 1997 as a document for taxpayers and tax practitioners who deal with the ATO on tax, superannuation, excise and the other laws that it administers. The Charter is designed to assist taxpayers and tax practitioners to understand their 'rights' and 'obligations'.²⁷ It also sets out steps which taxpayers and tax practitioners may take where they are dissatisfied with the conduct of the ATO and its officers.

Since its introduction, the Charter has undergone a number of reviews. The Table in Annexure A sets out its evolution, the internal and external reviews it has undergone and subsequent revisions made to it.

2021 - The ATO review of the Taxpayers' Charter

The ATO advises that it conducts reviews of the Taxpayers' Charter on a regular basis, engaging both internal and external stakeholders to assess the document's visibility, readability and useability. The ATO has also advised that its latest review, which commenced in July 2021, was delayed to accommodate support of the Government's response to the COVID-19 pandemic and their external consultation is due to commence in February 2022.

The IGTO strongly encourages members of the tax profession (accountants, BAS agents, bookkeepers, solicitors, barristers, etc) and professional and industry organisations to engage with the ATO review of the Taxpayers' Charter.

A comparison of the recommendations made by the ANAO in 2004 and the IGTO in 2021 (albeit, the investigation was not specifically addressed to the Taxpayers' Charter) is set out in Annexure B for the benefit and interest of members of the community.

²⁷ ATO, *Taxpayers' charter – what you need to know* (5 January 2016) <www.ato.gov.au>.

Annexure A – An evolution of the Taxpayers’ Charter

Year	Description of development	Link to the relevant report (if applicable)
1993	The process of introducing a Taxpayers’ Charter in Australia began with JCPA’s report in 1993, which recommended that the Government consider the establishment of a Charter. The JCPA report noted the Taxpayers’ Bill of Rights as proposed by the then Taxation Institute of Australia – as set out in summary in Annexure C.	https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=reports/1993/1993_pp213report.htm
1994 - 1997	The ATO consulted extensively with staff, the general public, business and community groups, tax practitioners and other government agencies during the process of developing the Charter.	
July 1997	The Charter, together with its supporting explanatory booklets, was formally launched in July 1997. The Charter at this time comprised a set of 18 publications, including Taxpayers’ charter – in detail (A4 booklet) and Taxpayers’ charter – what you need to know (summary leaflet).	
2000	<p>The first major external inquiry that examined the role and operation of the Charter in relation to the equitable treatment of taxpayers was the Senate Economics References Committee’s, <i>Inquiry into the Operation of the ATO</i>. Regarding its role, the Committee stated in its report that:</p> <p style="padding-left: 40px;">“The law constrains the ATO to protect the Commonwealth’s revenue base, a requirement that obliges it to ensure taxpayer compliance. However, the ATO is also directly accountable to the community through the Taxpayers Charter which stipulates the philosophy and standards of treatment taxpayers can expect to receive from the ATO.”</p> <p>The Committee noted the ATO’s commitment to treat taxpayers fairly, professionally and equitably, amongst others, and that most ATO staff had successfully managed to strike the right balance between the interests of the revenue with the interests of individuals. However, it also found that:</p>	https://nla.gov.au/nla.obj-2324109455/view?partId=nla.obj-2328778751

Annexure A – An evolution of the Taxpayers' Charter

Year	Description of development	Link to the relevant report (if applicable)
	<p>“some individual officers and local work areas have concentrated solely on the goal of revenue collection, contravening clear ATO corporate guidelines. Pockets remain among ATO staff that are resistant to the spirit and approach exemplified in the Taxpayers Charter.</p> <p>As well, the Committee is disturbed by the comments of the former Special Taxation Adviser to the Ombudsman ... that the ATO was in some cases he investigated intractable and obstructive. The matters ... raised go to the very heart of concerns that government agencies invested with wide powers discharge those powers properly and fairly, and are subject to adequate levels of transparency and accountability to ensure that this happens.</p> <p>In this respect, the Committee requested public reporting on the ATO cases involving prejudicial action by ATO officers and the ATO's response to address such actions as well as reporting on instances where ATO officers have acted to obstruct his investigations.</p>	
2001 - 2003	<p>The first major ATO internal review of the Charter was conducted in the 2001-02 financial year and involved both community and staff input. The community's preference at this time was for a concise, simple format. Following the review of the Charter and taking into account the findings of the research, a revised version of the Charter was released in November 2003. The Charter principles remained essentially unchanged. However, the Charter's design and content was updated based on the community's preference. A number of changes were made, including:</p> <ul style="list-style-type: none"> ▪ Taxpayers' charter – what you need to know (A5 version) became the main publication for taxpayers; ▪ Taxpayers' charter – in detail was retained; ▪ six of the explanatory booklets were withdrawn and the remainder (12) were updated; and ▪ Charter information on the ATO's website was made easier to locate and follow. 	
2004 - 2005	<p>The Australian National Audit Office (ANAO) undertook a performance audit of the Charter in the 2004-05 financial year. The ANAO's report concluded that overall the ATO was managing its responsibilities under</p>	<p>https://www.anao.gov.au/work/performance-audit/taxpayers-charter</p>

Annexure A – An evolution of the Taxpayers' Charter

Year	Description of development	Link to the relevant report (if applicable)
	<p>the Charter, however, the ATO was yet to effectively monitor and report on its performance against the Charter principles.</p> <p>The ANAO made a total of nine recommendations to improve the ATO's management of its responsibilities under the Charter. The ATO agreed with all of the recommendations, noting that many were consistent with its own internal review and were already being developed or implemented.</p>	
2005 - 2006	<p>The ATO conducted a second internal review of the Charter in the 2005-06 financial year. This review involved feedback from the community with respect to how well the ATO was 'living the Charter'. The feedback at this time was that the ATO's strengths were in treating taxpayers fairly and with respect, as well as the clarity of the ATO's verbal communication.</p> <p>However, it was identified that further improvements were required with respect to the ATO's accountability, handling of complex queries and written communication. In response to the review findings, the ATO undertook a major review of its written correspondence.</p>	
January 2007	<p>Following the ATO's second review of the Charter, a revised set of Charter publications was released in 2007. A number of changes were made, including:</p> <ul style="list-style-type: none"> ▪ Taxpayers' charter – in detail was renamed to Taxpayers' charter – expanded version; ▪ the ATO removed publication of its service standards in the Charter explanatory booklets and instead published them on the ATO's website; and ▪ the ATO updated the Charter to remove duplicated content and make them easier to follow. 	
2007 - 2008	<p>The ANAO undertook a follow-up audit of the Charter in the 2007-08 financial year. The audit assessed the ATO's implementation of the nine recommendations from the ANAO's 2004-05 audit in 2004-05.</p>	<p>https://www.anao.gov.au/work/performance-audit/taxpayers-charter-follow-audit</p>

Annexure A – An evolution of the Taxpayers’ Charter

Year	Description of development	Link to the relevant report (if applicable)
	The ANAO’s report concluded that the ATO had progressed well in implementing its recommendations and made four recommendations for further improvement, including improving complaints reporting and trend analysis and implementing procedures to align future training programs with the Charter principles.	
2008 - 2009	The Charter was transitioned into a ‘business as usual’ model whereby the ATO aspired to a model of ‘living the Charter’ rather than specifically promoting it as something separate from its ordinary activities.	
2010	<p>Following a third internal review of the content of the Charter which took into account legislative and procedural changes, as well as input from ATO staff, a revised version of the Charter was released in July 2010.</p> <p>The revised Charter contained a number of changes, including:</p> <ul style="list-style-type: none"> ▪ the Charter principles remained consistent with the 2007 version, however the document presented was smaller and more concise; and ▪ the ATO removed the Taxpayers’ charter – expanded version from the suite of Charter documents, and retired two of the explanatory booklets, Who can help with your tax affairs and If you’re not satisfied, thereby reducing the number of explanatory booklets from nine to seven. 	
November 2015	<p>The IGTO announces a review, which includes elements of the Taxpayers’ Charter. The terms of reference were as follows:</p> <p>The IGTO will identify the opportunities to improve taxpayer protections and avenues for redress, with a focus on:</p> <p>The framework for taxpayer protections</p> <ol style="list-style-type: none"> 1. The adequacy and clarity of the Taxpayers’ Charter in protecting taxpayers’ rights and in setting out their obligations. 2. The ATO’s guidance and support to its staff in complying with the Taxpayers’ Charter as well as guidance to the community as to their rights and obligations under the Charter. 	

Annexure A – An evolution of the Taxpayers' Charter

Year	Description of development	Link to the relevant report (if applicable)
	<p>3. The effectiveness of the ATO's systems and processes to identify, investigate, address and report allegations of breaches of the Taxpayers' Charter.</p> <p>4. The requirement for further taxpayer protections and the need to guard against effective administration being impeded due to factors such as inappropriate litigation, delay and costs.</p> <p>Compensation and other avenues for redress</p> <p>5. The adequacy of existing avenues for compensation in providing redress for loss or damage, including opportunity costs, as a result of inappropriate ATO actions.</p> <p>6. The ATO's processes for making compensation decisions, including the consistency of decisions made and the effectiveness of any internal review mechanisms.</p> <p>7. The available external review mechanisms for compensation decisions.</p> <p>8. Guidance material for both ATO officers and the public in relation to availability and application processes for compensation.</p> <p>Model litigant rules</p> <p>9. The effectiveness of the ATO's systems and processes to identify, investigate, address and report allegations of breaches of the model litigant rules.</p> <p>10. The effectiveness of any external channels to enforce or review ATO duties and obligations under the model litigant rules.</p> <p>Cross-border information exchanges</p> <p>11. The basis and extent to which the ATO presently engages in cross-border information exchanges and its impact on Australian taxpayers.</p> <p>12. Whether there should be clearly defined rights and remedies for taxpayers with respect to</p> <ul style="list-style-type: none"> ▪ information exchanges—particularly the extent to which they should be kept informed and ▪ afforded opportunities to review and correct any inaccuracies. <p>13. The effectiveness of the ATO's systems and processes to maintain the confidentiality of information exchanges.</p>	

Annexure A – An evolution of the Taxpayers’ Charter

Year	Description of development	Link to the relevant report (if applicable)
	<p>The IGTO may also examine other relevant concerns raised or potential improvements identified during the course of this review.</p>	
<p>December 2016</p>	<p>The IGTO releases its investigation report - <i>Review into the Taxpayers’ Charter and taxpayer protections</i>.</p> <p>The report includes 4 recommendations but only one, Recommendation 1 relates to the Taxpayers’ Charter as follows:</p> <p>The IGTO recommends that the ATO:</p> <ol style="list-style-type: none"> a. promote and educate taxpayers and tax practitioners about the Charter and in particular draw their attention to its principles at the outset of interactions which are likely to generate dispute or disagreement, such as reviews, audits, objections and litigation; b. treat allegations of any breaches transparently and address them independently of the substantive issues; c. enhance staff awareness and understanding of their obligations under the Charter through more practical training and guidance; d. improve its monitoring and reporting of the Charter by matching complaints cases against the Charter principles and publicly reporting on its annual performance; and e. consult with stakeholders on updating the Charter and in particular consider the following: <ol style="list-style-type: none"> i. the need to include any higher standards set by the ‘Reinvention Program’; ii. its application to digital interactions, tax practitioners when acting as agents or in their personal capacities and the interaction between taxpayers and any external service providers engaged by the ATO; iii. the impact of any recent law changes or evolution in tax administration and whether any additional or existing ‘rights’ should be incorporated; 	<p>https://www.igt.gov.au/wp-content/uploads/2021/07/161_Review-into-the-Taxpayers-Charter-and-Taxpayer-Protections.pdf</p>

Annexure A – An evolution of the Taxpayers' Charter

Year	Description of development	Link to the relevant report (if applicable)
	<ul style="list-style-type: none"> iv. the need for a clear statement that Charter 'rights' are not contingent on taxpayers discharging their 'obligations'; and v. the most effective way of presenting the Charter, such as a single page summary of all 'rights' and 'obligations' with links to further information. <p>The ATO partially agreed with a, b and c, agreed in principle with d and agreed with e.</p>	
August 2017	The ATO undertook consultation with stakeholders in response to Recommendation 1(e) of the IGTO's 2016 report.	
October 2021	<p>The IGTO releases an investigation report – <i>An investigation into the effectiveness of ATO communications of taxpayer rights to review, complain and appeal.</i></p> <p>The IGTO made 6 recommendations to improve the experience of taxpayers and improve the level of engagement with the principles set out in the Taxpayers' Charter. The ATO agreed with all 6 recommendations, although Recommendation 6(a) was agreed in principle only.</p> <p>As part of its response to the IGTO, the ATO advises:</p> <p><i>The ATO is currently undertaking a review of the Taxpayers' Charter.</i></p>	https://www.igt.gov.au/wp-content/uploads/2021/10/IGTO-Report_ATO-communications-of-taxpayer-rights.pdf

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

Australian National Audit Office	Inspector-General of Taxation and Taxation Ombudsman
Taxpayers' Charter - Audit Report No.19 2004-05	An investigation into the effectiveness of ATO communications of taxpayer's rights
17 December 2004	14 October 2021
<p>The objective of the Australian National Audit Office (ANAO) was to examine how the ATO manages its responsibilities under the Taxpayers' Charter as an important element of its performance. This involved an examination of the ATO's: systems and processes used to develop, maintain and update the Charter; strategic commitment to implementing the principles of the Charter; integration of Charter principles with its business processes; and monitoring and reporting of its performance against commitments in the Charter.</p>	<p>This investigation will seek to identify opportunities to improve the information communicated to taxpayers (and their representatives) in ATO written communications on the review, appeal and complaint rights available to taxpayers consistent with principles of procedural fairness and the Taxpayers' Charter. This includes rights to object, dispute, review, appeal or investigate an ATO decision or action. The IGTO will examine and consider:</p> <ul style="list-style-type: none"> ▪ whether ATO written communications to taxpayers appropriately provides complete information on formal and informal review rights available to taxpayers; and ▪ the adequacy of such information that is provided to taxpayers and their representatives. <p>The IGTO will undertake this investigation in stages, focusing initially on areas affecting the most vulnerable taxpayers and those least likely to be able to afford representation.</p>

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

Australian National Audit Office	Inspector-General of Taxation and Taxation Ombudsman
	All taxpayers, advisers (tax practitioners, solicitors or barristers) and professional bodies are welcome to provide observations, comments and suggestions to this review. The IGTO welcomes submissions and comments on how to improve communication and awareness of taxpayers' rights of review.

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
<p>Recommendation 1</p> <p>The ANAO recommends that the ATO, when undertaking future reviews of the Charter, consider:</p> <ul style="list-style-type: none"> • Revisiting Client Service Standards and Charter principles as part of the review, including their revalidation with the community; and • Taking necessary action for timely completion of reviews to increase their relevance and to allow for more effective implement of recommendations 		Not within the scope of the IGTO Review
<p>Recommendation 2</p> <p>The ANAO recommends that the ATO explicitly document how relevant strategies and measures within its sub-plans relate to the principles of the Charter. This would demonstrate the ATO's management's commitment to the Charter. It would also provide staff with necessary guidance on how the Charter</p>	<p>Recommendation 1</p> <p>The IGTO recommends that the ATO plays a pro-active role in informing taxpayers of their rights to review, complain and appeal decisions and develop strategies to discharge this role, including by:</p> <ol style="list-style-type: none"> a. updating the Taxpayers' Charter to include an express right to be informed of taxpayer rights to review, 	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
<p>principles are embedded in the ATO's strategic planning processes.</p>	<p>complain and appeal decisions and all relevant channels to do so; and</p> <p>b. requiring (encourages or instructs) its Officers to communicate clearly and completely (i.e. comprehensively) information to taxpayers of their rights to review, complain and appeal the relevant administrative decisions.</p> <p>Recommendation 2</p> <p>Consistent with Recommendation 1 and the premise or principle that the ATO will proactively inform taxpayers of their rights to question and challenge the ATO's actions and decisions, the IGTO recommends that the ATO:</p> <p>a. ensure all ATO Officers whose responsibilities include making decisions about taxpayers' tax affairs are aware of their obligations in this respect when engaging with taxpayers and tax practitioners; and</p> <p>b. support its Officers to understand the range of available channels to question or challenge ATO decisions and actions, including by requiring all ATO Officers to undertake relevant training courses on these matters that are refreshed on a regular basis.</p>	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<p>Recommendation 3</p> <p>The IGTO recommends that the ATO improve its data capture and reporting to measure its performance against the rights that taxpayers have under the Taxpayers' Charter. This should include:</p> <ul style="list-style-type: none"> a. complete data in relation to compliance with the Taxpayers' Charter in respect of all complaints; b. whether the ATO advised the taxpayer of their right to question and right to complain; and c. developing public reporting on this data to assure itself and the community how it is honouring the Taxpayers' Charter. 	
<p>Recommendation 3</p> <p>The ANAO recommends that the ATO develop a Corporate Management Practice Statement that provides clear guidance to staff on how they are to meet their responsibilities under the Charter.</p>	<p>Recommendation 2</p> <p>Consistent with Recommendation 1 and the premise or principle that the ATO will proactively inform taxpayers of their rights to question and challenge the ATO's actions and decisions, the IGTO recommends that the ATO:</p> <ul style="list-style-type: none"> a. ensure all ATO Officers whose responsibilities include making decisions about taxpayers' tax affairs are aware of their obligations in this respect when engaging with taxpayers and tax practitioners; and b. support its Officers to understand the range of available channels to question or challenge ATO 	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<p>decisions and actions, including by requiring all ATO Officers to undertake relevant training courses on these matters that are refreshed on a regular basis.</p>	
<p>Recommendation 4</p> <p>The ANAO recommends that, when finalising the Law Administration Practice Statement on Technical Clearances, the ATO include explicit references to the Charter, or comment on the relevance of its principles to the technical clearance process. This would provide assurance that technical publications issued by the ATO take account of the Charter principles.</p>	<p>Recommendation 1</p> <p>The IGTO recommends that the ATO plays a pro-active role in informing taxpayers of their rights to review, complain and appeal decisions and develop strategies to discharge this role, including by:</p> <ul style="list-style-type: none"> a. updating the Taxpayers' Charter to include an express right to be informed of taxpayer rights to review, complain and appeal decisions and all relevant channels to do so; and b. requiring (encourages or instructs) its Officers to communicate clearly and completely (i.e. comprehensively) information to taxpayers of their rights to review, complain and appeal the relevant administrative decisions. <p>Recommendation 3</p> <p>The IGTO recommends that the ATO improve its data capture and reporting to measure its performance against the rights that taxpayers have under the Taxpayers' Charter. This should include:</p>	<p>A review of PSLAs and technical clearances was not within the scope of the IGTO Review.</p>

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers’ Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<ul style="list-style-type: none"> a. complete data in relation to compliance with the Taxpayers’ Charter in respect of all complaints; b. whether the ATO advised the taxpayer of their right to question and right to complain; and c. developing public reporting on this data to assure itself and the community how it is honouring the Taxpayers’ Charter. 	
<p>Recommendation 5</p> <p>The ANAO recommends that the ATO develop appropriate protocols and procedures to advise taxpayers of relevant Charter rights and obligations as a normal part of all interactions with the ATO. To maintain a consistent and coordinated approach, the protocols and procedures relating to Charter messages could be incorporate in the ATO’s overall strategy for managing marketing and education activities across the ATO.</p>	<p>Recommendation 1</p> <p>The IGTO recommends that the ATO plays a pro-active role in informing taxpayers of their rights to review, complain and appeal decisions and develop strategies to discharge this role, including by:</p> <ul style="list-style-type: none"> a. updating the Taxpayers’ Charter to include an express right to be informed of taxpayer rights to review, complain and appeal decisions and all relevant channels to do so; and b. requiring (encourages or instructs) its Officers to communicate clearly and completely (i.e. comprehensively) information to taxpayers of their rights to review, complain and appeal the relevant administrative decisions. 	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<p>Recommendation 4</p> <p>Consistent with Recommendation 1, where the ATO does not propose to issue written correspondence to taxpayers in relation to its actions or decisions, ATO Officers should:</p> <ul style="list-style-type: none"> a. Ensure that taxpayers are verbally informed of their rights to challenge or question the ATO's decisions; and b. Inform taxpayers that they can request the decision also be communicated in writing. <p>Recommendation 5</p> <p>The IGTO recommends that the ATO ensure information relating to taxpayer rights to complain, review and appeal can be easily located on the ATO's website.</p> <p>Recommendation 6</p> <p>The IGTO recommends that, as part of its communication to taxpayers, the ATO should ensure that taxpayers are informed about:</p> <ul style="list-style-type: none"> a. their right to lodge a complaint with the ATO (including a formal complaint with the ATO's Complaints Unit), and encourage taxpayers to do so should they have any 	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<p>concerns or are dissatisfied with the ATO's actions or decisions; and</p> <p>b. the availability of the IGTO's services and how to engage with the IGTO where they have been unable to address their concerns through a complaint with the ATO.</p>	
<p>Recommendation 6</p> <p>The ANAO recommends that the ATO consider a systematic approach to its supplementary quality assurance processes. Such an approach would complement the existing Technical Quality Review process by providing assurance on broader aspects of the business processes, including compliance with Charter principles.</p>		<p>Not within the scope of the IGTO Review</p>
<p>Recommendation 7</p> <p>The ANAO recommends that the ATO analyse and coordinate complaints information between ATO Complaints and the Charter Section. This would help identify issues relating to Charter performance and improve its reporting and accountability across the ATO.</p>	<p>Recommendation 3</p> <p>The IGTO recommends that the ATO improve its data capture and reporting to measure its performance against the rights that taxpayers have under the Taxpayers' Charter. This should include:</p> <p>a. complete data in relation to compliance with the Taxpayers' Charter in respect of all complaints;</p> <p>b. whether the ATO advised the taxpayer of their right to question and right to complain; and</p>	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<p>c. developing public reporting on this data to assure itself and the community how it is honouring the Taxpayers' Charter.</p>	
<p>Recommendation 8</p> <p>To better monitor its performance against the commitments made in the Charter, the ANAO recommends that the ATO:</p> <ul style="list-style-type: none"> • Finalise its Charter measurement strategy; and • Develop qualitative measures (using existing business process to provide assurance on the quality of the relationship with the taxpayer and the quality of services provided. 	<p>Recommendation 3</p> <p>The IGTO recommends that the ATO improve its data capture and reporting to measure its performance against the rights that taxpayers have under the Taxpayers' Charter. This should include:</p> <ul style="list-style-type: none"> a. complete data in relation to compliance with the Taxpayers' Charter in respect of all complaints; b. whether the ATO advised the taxpayer of their right to question and right to complain; and c. developing public reporting on this data to assure itself and the community how it is honouring the Taxpayers' Charter. 	
<p>Recommendation 9</p> <p>To facilitate improved internal reporting against Charter performance, the ANAO recommends that the ATO examine the material that it has available from its existing reports, and develop a framework for regular internal report in relation to its responsibilities under the Charter.</p>	<p>Recommendation 3</p> <p>The IGTO recommends that the ATO improve its data capture and reporting to measure its performance against the rights that taxpayers have under the Taxpayers' Charter. This should include:</p>	

Annexure B – A comparison of recommendations made by the ANAO (2004) and IGTO (2021) in relation to the Taxpayers' Charter

ANAO Recommendations	IGTO recommendations which align with previous ANAO recommendations	Comments
	<ul style="list-style-type: none"> a. complete data in relation to compliance with the Taxpayers' Charter in respect of all complaints; b. whether the ATO advised the taxpayer of their right to question and right to complain; and c. developing public reporting on this data to assure itself and the community how it is honouring the Taxpayers' Charter. 	

Annexure C – The Taxation Institute of Australia – draft 1993 Taxpayers’ Bill of Rights

1	2
Right Number	Description of Taxpayer Right
1	Taxpayers shall have the right to reasonable certainty under the law in respect of their liability for tax.
2	Taxpayers shall have the right to a full explanation of the basis of any assessment imposing on them a liability for tax.
3	Taxpayers shall be entitled to equal treatment under the law and to equal treatment by the Australian Taxation Office. Taxpayers shall also be entitled to fair and courteous ATO treatment.
4	Taxpayers shall have the right to object and appeal against decisions made against them by the ATO, either in respect of actions taken during the course of an examination of their affairs or in respect of any determination of their liability to tax at any time.
5	The cost of exercising rights of review shall be reasonable and have regard to the resources of the taxpayer concerned. Taxpayers shall have the right to have decisions of Taxation Officers reviewed internally by the ATO and to have disputes with the ATO resolved quickly, with the least cost to the taxpayer.
6	Taxpayers shall have the right to obtain confidential advice from any recognised adviser in respect of their taxation affairs.
7	Taxpayers shall be entitled at all times to be represented when dealing with the ATO and shall be entitled to natural justice in respect of those dealings.
8	Taxpayers shall be entitled to exercise their legal and other rights without adverse inferences being made against them.
9	Taxpayers shall have the right to privacy in respect of their taxation affairs.
10	Taxpayers shall be entitled to rely on advice provided to them by the ATO. To that end, taxpayers shall have the right to be compensated for loss resulting from any actions taken against them by the ATO without lawful authority or cause
11	There shall be a Taxation Ombudsman who shall have access to all such resources as are necessary to enable the investigation and resolution of all matters taxpayers may bring before his/her office.

The Taxpayers’ Bill of Rights (in full) as proposed by the Taxation Institute of Australia (as it then was) can be found in *Taxation in Australia*, Volume 28 No. 1 (July 1993) pp 50-53. The full article can be found on The Tax Institute’s website at <https://www.taxinstitute.com.au/tiseminarpaper/taxpayers-bill-of-rights>.

Annexure D — Glossary and defined terms

Abbreviation	Defined term
AAT	Administrative Appeals Tribunal
ADJR Act 1977	<i>Administrative Decisions (Judicial Review) Act 1977</i>
ANAO	Australian National Audit Office
ANZOA	Australian and New Zealand Ombudsman Association
APH	Parliament of Australia
APS	Australian Public Service
ATO	Australian Taxation Office
CDDA	Scheme for Compensation for Detriment caused by Defective Administration
Commissioner	Commissioner of Taxation
Complaint	<p>A complaint is defined AS/NZS 10002:2014 Guidelines for complaint management in organizations</p> <p><i>Expression of dissatisfaction made to or about an organization, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.</i></p> <p><i>Disputes - Unresolved complaints escalated internally or externally, or both.</i></p> <p><i>Feedback - Opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly or implicitly to or about the organization, its products, services, staff or its handling of a complaint. Organizations may choose to manage such feedback as a complaint.</i></p>
Disclosures as part of a review and Investigation	these disclosures are protected because there is a Review and the disclosure of information assists in achieving a public purpose.
DPN	Director Penalty Notice
entity	<p>an entity is defined in section 960-100 of the <i>Income Tax Assessment Act 1997</i> that is:</p> <ul style="list-style-type: none"> an individual a body corporate a body politic a partnership any other unincorporated association or body of persons a trust a superannuation fund
FOI	Freedom of Information
FOI Act 1982	<i>Freedom of Information Act 1982</i>
GST	Goods and Services Tax
IGIS	Inspector-General of Intelligence and Security
IGT Act 2003	<i>Inspector-General of Taxation Act 2003</i>

Annexure D — Glossary and defined terms

Abbreviation	Defined term
IGTO	Inspector-General of Taxation and Taxation Ombudsman. The acronym “IGTO” is used throughout the submission to denote both the “Inspector-General of Taxation”, as named in the enabling legislation, and “Inspector-General of Taxation and Taxation Ombudsman” as recently adopted due to recent calls for greater understanding and awareness of our complaints services function.
IRS	Internal Revenue Service
ITR	Income tax return
JCPAA	Joint Committee of Public Accounts and Audit
NTA	National Taxpayer Advocate
OAIC	Office of the Australian Information Commissioner
OECD	Organisation for Economic Co-operation and Development
PAYG	Pay As You Go
PGPA Act 2013	<i>Public Governance, Performance and Accountability Act 2013</i>
PGPA Rule 2014	<i>Public Governance, Performance and Accountability Rule 2014</i>
PID Act 2013	<i>Public Interest Disclosure Act 2013</i>
SCTR	House of Representatives Standing Committee on Tax and Revenue
STP	Single Touch Payroll
TAA 1953	<i>Taxation Administration Act 1953</i>
Tax Official	<p>The term ‘tax official’ is defined in section 4 of the IGT Act 2003 to mean:</p> <ul style="list-style-type: none"> (a) an ATO official; or (b) a Board member of the Tax Practitioners Board; or (c) an APS employee assisting the Tax Practitioners Board as described in section 60-80 of the <i>Tax Agent Services Act 2009</i>; or (d) a person engaged on behalf of the Commonwealth by another tax official (other than an ATO official) to provide services related to the administration of taxation laws; or (e) a person who: <ul style="list-style-type: none"> (i) is a member of a body established for the sole purpose of assisting the Tax Practitioners Board in the administration of an aspect of taxation laws; and (ii) receives, or is entitled to receive, remuneration (but not merely allowances) from the Commonwealth in respect of his or her membership of the body. <p>For the purpose of this submission, the term ‘tax official’ is also used to refer to a ‘taxation officer’ to whom subdivision 355-B of Schedule 1 to the TAA 1953 applies.</p>
TERC	Tax Evasion Referral Centre
TFN	Tax File Number
TPB	Tax Practitioners Board