



Australian Government

Inspector-General of Taxation

ISSUES PAPER NUMBER 5

ATO/CLIENT INTERFACE SYSTEMS



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ISSUES PAPER NUMBER 5

ATO/CLIENT INTERFACE SYSTEMS

Overview

1 This paper encompasses concerns raised with the Inspector-General of Taxation about ATO client interface systems as they relate to individuals, businesses and tax practitioners. This includes such matters as reducing the burden on individual and small business taxpayers imposed through the PAYG and Business Activity Statement systems, as well as valuing the contribution of Registered Tax Agents to the functioning of the tax system.

2 This paper also includes concerns raised with the Inspector-General about the ATO's information technology (IT) systems, with a view to ensuring that 'best practice - least impact' policy models, not IT systems limitations, frame the ATO's approach to tax administration.

Enhancing the efficiency of the ATO'S IT systems

3 Tax administration is increasingly occurring in the electronic environment, with tax practitioners and taxpayers being encouraged to interact with the ATO via the Internet or over the telephone.

4 In this context, the taxpayer interaction with the ATO's information and communication systems will be, for many taxpayers, the complete tax experience. Taxpayers will also have 'second hand' experience of the ATO's back-office systems that process their payments and they will form views about the ATO's general efficiency based on how operational systems perform in their personal circumstances. The following review topics have been identified in this context.

ATO website

5 The ATO website provides useful information to taxpayers, including tax calculators, tax forms, public rulings and a range of publications. Tax practitioners and businesses have indicated a desire for increased useability and greater consultation in the development and structure of the website. Particular concerns identified include:

- the redesign and removal of some of tax professions' favourite web facilities without consultation (Business Tax Reform, GST and Food, or Property Issues);
- an inability to rely on the information printed on the ATO web site; if it is not downloaded or printed at the time it is first relied upon, agents could return later to find that information has been amended or deleted;
- the inappropriate grouping of tax subjects is making it difficult for tax practitioners to find and keep track of what they need (for example, rulings); and
- the counter intuitive nature of the website search function is making it extremely difficult to use this function effectively.

6 The Commissioner of Taxation has advised that the ATO website has been recently redeveloped, and, as with any new facility it may require some refinements. In this regard the Commissioner has arranged for representatives of frequent users such as members of the Corporate Tax Association to work in the ATO 'Simulation Centre' to refine navigation and other features.

7 The Inspector-General of Taxation could consult with taxpayers and tax practitioners on the ATO's website design. Such a review could examine industry consultation processes under way to improve the functionality of the website, with a view to improving the overall usefulness of this important facility.

ATO information technology systems

8 The ATO's information technology systems underpin management of the tax data and affairs of some 10 million personal taxpayers, 3 million business and non-profit organisations and the regulation of around 240,000 self-managed super funds.

9 Whether this be PAYG, BAS, company tax returns, Tax File Number information deposits from multiple private and government organisations, Commonwealth revenue data, or tens of thousands of private binding and public rulings, well functioning information technology systems are fundamental to the effective administration of the tax system.

10 Tax practitioners, taxpayer groups and business organisations have expressed serious concern at the abilities and ongoing sustainability of the ATO's information technology systems. There is a perception that the ATO's systems are hindering the effective administration of the tax system, with tax administration policy being dictated by the current ATO information technology limitations, rather than what would 'work' for taxpayers or what would constitute fair, efficient and simple tax administration for the Commonwealth.

11 Recent independent reviews of particular aspects of tax administration identified serious shortcomings with IT systems. For example, the Auditor-General's 2001-02 audit report¹ into the rulings system and Ledlin Partners' 2003 report into the ATO's debt collection practices² both raised serious concerns about IT systems in the ATO.

12 The Commissioner of Taxation has advised that the ATO has recently engaged on contract a highly qualified and experienced IT strategic adviser to assist in the transition to a new IT platform. Additionally, the ATO has recently completed the search for a new Chief Information Officer, with the successful candidate having extensive experience in large scale management of IT in the private sector.

13 The Inspector-General of Taxation could examine the ATO's move to a new IT platform, including consultation with stakeholders in its development, as well as ensuring that the ATO has designed a system that is 'least impact' in nature on tax administration. Such a scoping review may identify particular IT areas for more detailed review.

1 Australian National Audit Office, *The Australian Taxation Office's Administration of Taxation Rulings*, Audit Report No. 3 of 2001-02, tabled 17 July 2001.

2 Ledlin Partners, *Report to the Australian Taxation Office* (debt collection), September 2003.

ATO legal database

14 There is an immense amount of material published by the ATO relevant to its administration of the law. This includes ATO Interpretative Decisions (ATOIDs), ATO Practice Statements, the ATO's Code of Settlement Practice, the ATO's Prosecution Policy and so on. These documents inform taxpayers and their advisers about what they can expect from the ATO in its administration of the tax laws.

15 This information is by its nature extremely useful. However, it is not always presented in a way that is easy for taxpayers and their advisers to use.

16 Tax advisers suggested that the way in which ATOIDs are published is unhelpful for retrieval even though this is one of the better indexed facilities. The ATOIDs facility catalogues decisions by topic and by year of issue. However, there is no online search facility provided that would 'pick up' ATO interpretations that have application across business lines and thus allow tax practitioners to evaluate trends in ATO interpretations.

17 ATO Practice Statements are only indexed by date of issue and also lack a search facility. Even if you know the official catalogue number of a Practice Statement, you are unlikely to be able to locate it using the search facility on the ATO Homepage.

18 The ATO's Prosecution Policy, Receivables Policy and Compensation Policy are buried quite deep in the Web site; a search for these documents from the ATO Home Page will not disclose their whereabouts. Once they are located, they are no longer available in a downloadable, printer-friendly format.

19 The Inspector-General of Taxation could consult with the tax advising professions and taxpayer groups on how they would like to see information presented on the ATO Legal Database and whether it would be useful for the ATO to provide a telephone service to assist taxpayers to locate material on the Web site.

Reducing complexity for individuals

Presumption approach to taxpayer obligations

20 Division 45 of Schedule 1 of the *Taxation Administration Act 1953* (TAA 1953) requires a taxpayer who has business or investment income, to pay ongoing instalments towards their expected income tax liability. These instalments are then credited against a taxpayer's assessment when their actual tax liability is determined at the end of the income year, with a refund or liability issued accordingly.

21 This process is called the Pay As You Go (PAYG) instalments system, with the ATO writing to participants informing them of their expected liability and requesting payment on a quarterly or annual basis. Tax practitioners and industry representatives have indicated that they would like to see a further expansion of this 'presumption' approach to certain taxpayer obligations by the ATO.

22 The Inspector-General of Taxation could review whether there are any further opportunities to expand the 'presumptive instalment' approach to certain taxpayer obligations by the ATO, with a view to further reducing complexity for taxpayers.

HECS debt repayments

23 Concern was raised about the ATO accounting systems underpinning the Higher Education Contributions Scheme (HECS).

24 The ATO records all the semester debts that students do not pay up front when they are studying at Australian universities and other tertiary institutions. The ATO maintains accounts for all students. For each student, accumulated HECS debt is calculated on 1 June each year and debts are indexed in line with the cost of living, based on changes in the Consumer Price Index (CPI). Indexation is applied to the portion of debt that has remained unpaid for 12 months or more.

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25 The ATO advises that, at any given point in time, HECS accounts will reflect the latest amounts advised by educational institutions, and that HECS semester debts that occur on the 31 March census date are generally advised to the ATO in June.³

26 HECS taxpayers are concerned that there is no 'real-time' accounting of HECS debts with the result that the ATO cannot advise taxpayers who wish to amortise their HECS debts of the amount outstanding at any particular time. There is some concern that regular payments made against HECS debts (through the Pay As You Go system for wage and salary earners) are not credited to their HECS liability until their income tax assessment issues.

27 Finally, the question has been raised about whether recording HECS PAYG instalments against income tax until assessments are raised after income tax returns are lodged conforms with proper accounting standards and assists in the preparation of accurate financial reports and revenue estimates for the Commonwealth.

28 The Inspector-General of Taxation could review the ATO accounting systems underpinning HECS with a view to making it easier for taxpayers to manage their HECS accounts.

ATO administration of non-tax programs

*'The Australian Taxation Office is the Federal Government's main revenue collection agency. Our aim is to manage and shape the revenue systems that sustain social and economic policy and fund services for Australians.'*⁴

29 The ATO is primarily responsible for the collection and administration of all Commonwealth taxes, superannuation and excise duties (excluding customs duty). The ATO is also responsible for the collection of the GST, which is administered by the Commonwealth on behalf of the States and Territories.

30 In addition to this revenue collection role, the ATO supports the delivery of community benefits, with roles in other areas such as private health insurance, family assistance and inter-government cross-agency support.

³ Commissioner of Taxation, letter to the Inspector-General of Taxation of 27 October 2003.

⁴ ATO Web-site – About Us – Corporate Information.

31 These benefits are provided to a specified activity or class of taxpayer and are delivered via a tax exemption, tax deduction, tax offset, reduced tax rate, or by deferring a tax liability. These payments may also be delivered equally via direct expenditures; however, they are often used as an alternative method of delivering government assistance.

32 Tax practitioners, accountants and industry representatives have indicated that the increasing tendency by Government to use the taxation system to achieve social policy objectives is increasing the level of complexity experienced by taxpayers lodging returns.

33 The Inspector-General of Taxation could review, by way of a scoping study, the way in which the taxation system is being used to deliver community benefits and the impact this is having upon tax system administrative complexity. This review may also identify further reviews into the interaction of tax and Government payments systems, which may include an examination of whether ATO systems are effective deliver mechanisms.

ATO written correspondence

34 The ATO Taxpayers' Charter undertakes to provide taxpayers with professional service and assistance, as well as providing spoken and written advice, which is clear, complete, accurate and consistent, in accordance with ATO service standards. These standards are set in consultation with the community, with the ATO reporting on its performance publicly.

35 With regard to written correspondence, tax practitioners, accountants and industry representatives have indicated that they are not receiving acknowledgments or responses from the ATO within a reasonable time period and, in some cases, not at all.

36 The ATO's March 2003 service standards indicate that the ATO is achieving a 28-day response period for general correspondence in 87.9 per cent of cases. This said, the Institute of Chartered Accountants in Australia's top ten tax administration 'Bug Bear' survey for August 2003 indicated that 39 per cent of respondents to the survey consider the ATO's 'lack' of performance in this area to be of major concern.⁵

37 The Inspector-General of Taxation could review the ATO's performance in relation to achieving suitable acknowledgment or response times for written correspondence. Such a review may also examine the suitability of the underlying methodologies used by the ATO to assess its broader service standards.

Reasonable benefit limit reporting

38 Providers of benefits, including payers of eligible termination payments (ETPs), superannuation pensions and annuities, are generally required to notify the ATO of those payments. The ATO then determines whether a current benefit is in excess of the taxpayer's Reasonable Benefit Limit (RBL) by adding the RBL amount of the current benefit to any benefits previously taken by the taxpayer, indexed to a current value. A taxpayer can ask the ATO to provide them with an 'account' of their RBL position at any time.

39 There are concerns about the accuracy of information held on the ATO database about RBLs. Simple errors, such as double counting, are easy to correct. However, more significant discrepancies arise from funds failing to provide notification to the ATO.

40 At present, the law requires that the Commissioner can only make an RBL determination if he has received a notice under section 140M of the ITAA 1936 (requiring funds to report benefits).

41 It has been suggested that the law should be amended to allow the Commissioner to make a determination based on comprehensive documentation supplied by a taxpayer.

⁵ Institute of Chartered Accountants in Australia (ICCA), Submission to the Inspector-General of Taxation (published on the ICAA Website), p. 2.

42 The Inspector-General of Taxation could consult with financial advisers, funds and other stakeholders to discover the incidence of non-reporting of benefits, with a view to determining if a change to the law is required.

Withholding tax for non-resident shareholders

43 New withholding provisions in Schedule 1 to the TAA 1953 provide the framework for withholding obligations applying to particular payments made to a foreign resident. These framework provisions became operative from 1 July 2003.

44 Withholding applies to particular payments (specified in Regulations) received by foreign residents, but will be required only where the entity making the payment (the payer) does so in the course or furtherance of an enterprise. Payers are required to withhold at the rate prescribed in the appropriate Regulation. The ATO may grant a variation to the rate of withholding in special circumstances.

45 There is concern about the lack of clarity, certainty and uniformity in the processing of non-resident withholding tax across all income types. There is also concern about the level of information and advice provided by the ATO.

46 The Inspector-General of Taxation could review the way in which the ATO has communicated with taxpayers and financial institutions in relation to changes to non-resident withholding provisions.

Reducing complexity for small business

Business Activity Statement

47 The TAA 1953 requires that the operators of a business complete and lodge a Business Activity Statement with the ATO on a monthly or quarterly basis depending on turnover. To complete a BAS a business must negotiate its way through six separate sets of activity statement instructions.

48 Data collected by the ATO on BAS forms indicates that half of all businesses with a turnover of less than \$20 million completed their last BAS return in eleven minutes after having spent seven hours or less in preparation.

49 The time that small business operators spend completing their BAS was recently highlighted in a report by the NSW Chamber of Commerce – *Red Tape Register – The Tax Burden*. This report found that:

Just under half (44%) of respondents completed their BAS in 1 to 2 hours. But a further 38% took 5 to 15 hours to complete this. As a quarterly tax statement, this means that a third of businesses spend up to 60 hours a year completing BAS – making it much more time consuming to do than company tax and fringe benefits tax. Translating these costs into dollar value, using average weekly earnings, shows a third of companies ‘pay’ over \$1300 each year in compliance costs for GST. This is in addition to the actual tax paid.⁶

50 The compliance burden of the BAS is especially heavy on small businesses. Small business operators do not have the same level of resources or educational experience as their large business counterparts. Tax practitioners have indicated that many small business operators are struggling to complete their BAS forms correctly and are simply doing the best they can because they have no other option.

51 The BAS was originally intended for business operators to be able to complete and lodge by themselves on a quarterly basis. This has not occurred; some small business operators pass BAS compliance work to their tax agents, many of whom do not know enough about their clients’ businesses to correctly complete the BAS. Other small businesses complete their own quarterly returns but engage a tax agent to prepare the annual reconciliation; tax agents report that, when they come to review quarterly returns, they are discovering that their clients have struggled to complete BAS returns and have made mistakes.

52 Particular issues with the BAS identified by tax practitioners and business include:

- the categories and amount of data collected in the BAS, in particular, the difference between capital and revenue items; it is not clear to tax practitioners and small business operators what the ATO uses this information for or whether it is actually necessary;

6 Report by the NSW Chamber of Commerce – *Red Tape Register – The Tax Burden*, p. 3. The survey was conducted through the State Chamber of Commerce (NSW)’s regional Chamber network during July 2003. 536 responses were received.

- the ATO advises that this information is collected to enable the ATO to exclude from audit those businesses that have made a large claim for a GST credit because they have made an extraordinary capital purchase;⁷
- the definition of what level of turnover constitutes a small to medium size enterprise; in particular, the use of cash vs accrual systems for the BAS;
- the perception that small businesses are forced to change their accounting systems to match the administration of the tax system (cash vs accrual);
- the inclusion of a unique business identifier on the BAS; the person who completes the BAS (Tax Agent or Business Operator) must use the ATO provided document which contains the unique identifier (rather than being able to just use a 'blank' form); and
- the withdrawal of BAS lodgments by telephone and fax.

53 The Commissioner of Taxation has advised that the above arrangements are in place either to implement legislative features or for fraud protection considerations.⁸

54 The Auditor-General is currently reviewing the ATO's Management of Activity Statements. Any review by the Inspector-General of Taxation would not commence until after the tabling of the Auditor-General's report (scheduled for Autumn 2004).

Company tax compliance costs for small business

55 An Australian business operator is required to consider multiple forms and navigate their way through hundreds of pages of supporting documentation in order to complete their annual company tax return. Adding to this level of complexity is the requirement to lodge an ongoing Business Activity Statement, on a monthly or quarterly basis.

⁷ Commissioner of Taxation, letter to the Inspector-General of Taxation of 27 October 2003.

⁸ Commissioner of Taxation, letter of 27 October 2003.

56 While these requirements may be necessary as part of the ATO's administration of the company tax system, the compliance burden on small business operators is significant, with a small business operator facing the same taxation compliance arrangements as Australia's largest industrial corporations or major financial institutions.

57 Tax practitioners and small business operators have noted that the absence of delineation in the ATO's approach to company tax compliance is placing considerable burdens on small to medium size entities, in terms of increased time, effort and financial costs.

58 The Inspector-General of Taxation could review the ATO's administrative approach to company tax compliance, with a view to reducing the company tax compliance burden on small businesses.

Other tax compliance costs for small business

59 The ATO oversees 10 million personal taxpayers, 3 million business and non-profit organisations and regulates around 240,000 self managed super funds as part of its management of the taxation system. The tax administration arrangements that the ATO adopts when assessing these groups can impact considerably on the compliance costs and burdens they face.

60 Tax practitioners, accountants and small business operators have indicated that they consider that there is an absence of a substantive 'delineation' in the ATO's approach to big and small to medium size enterprises (SMEs).

61 Whether this is in Business Activity Statements or general tax compliance, industry representatives consider that the ATO's 'one size fits all' approach to business administration is placing considerable burdens on SMEs, in terms of increased time, effort and financial costs.

62 The Inspector-General of Taxation could review the ATO's general tax administration arrangements, as they apply to business, with a view to reducing the overall compliance burden faced by small businesses.

Simplified Tax System

63 The Simplified Tax System (STS), which commenced on 1 July 2001, is a package of measures that seek to reduce the compliance costs faced by small businesses by providing an alternative method of calculating taxable income.

64 The key features of the STS include the use of cash rather than accrual accounting, a simplified depreciation system, including the immediate 'write off' of assets less than \$1000, and simplified treatment of trading stock rules, limiting the need to account for changes in the value of trading stock.

65 Tax practitioners and small business operators have indicated that, although they support the STS there are concerns about its limitations, especially the 'all or nothing' approach to entry into the STS.

66 Particular areas of concern for small business include:

- the turnover thresholds for adopting cash vs accrual accounting methodologies;
- the accounting treatment of capital vs revenue items, where they are isolated from accounts to comply with tax laws;
- the debt to equity rules that apply to loans to a company by principals of that company; and
- the need to modify accounting and information technology systems to match those which are used or required by the ATO.

67 The Inspector-General of Taxation could review the administrative aspects and application of the Simplified Tax System, with a view to further reducing the compliance burden on small business.

GST refunds

68 The Commissioner of Taxation's power to make and withhold taxation refunds from business is governed by the ATO Receivables Policy. In his dealings with taxpayers, the Commissioner has undertaken to 'adopt or adapt the best practices of both public and private organisations to ensure professional, efficient and effective administration of the taxation laws'.⁹

69 Tax practitioners and industry representatives have expressed an opinion that the Commissioner is 'unfairly' withholding substantial amounts of GST refunds from business. The accepted justification for this delay is the ATO's anti-avoidance practices, and the belief is that the vast bulk of GST refunds are being held up so the ATO can conduct audits in order to 'catch' the few businesses attempting to rort the system.

70 There are claims by industry that the ATO deferred payment of about \$17 billion of GST refunds for extended periods of time in the last financial year for the purpose of ultimately disallowing a small percentage of claims, some of which may still be contested.

71 The Commissioner of Taxation has advised that the ATO processes 95 per cent of all GST refunds within 14 days of lodgement, with \$240 million in refunds being disallowed last financial year. It was also noted by the Commissioner that there is a need to balance ease and service for taxpayers with appropriate compliance and fraud risk controls.

72 The Auditor-General recently reviewed the ATO's GST fraud control procedures, including the ATO's Risk Rating Engine (RRE) that profiles GST registrations at the time of lodgement of an activity statement and prior to the issue of any refund, recommending ongoing enhancement of the RRE.¹⁰

73 This said, cash flow is the life-blood of industry and there is serious concern in business circles that the ATO should speed up GST refunds to the maximum extent consistent with good fraud control.

74 The Inspector-General of Taxation could review the ATO Receivables Policy and GST fraud risk management systems to assess the potential for

⁹ Section 1.3.4 – Principles underlying the ATO Receivables Policy.

¹⁰ Australian National Audit Office, *Goods and Services Tax Fraud Prevention and Control*, Report No. 55 of 2002-03.

expediting GST refunds to businesses while maintaining the integrity of the system.

Low value assets

75 The introduction of the Uniform Capital Allowance (UCA) provisions on 1 July 2001, in the *Income Tax Assessment Act 1997* (ITAA 1997), resulted in the removal of the long-standing *de minimus* exemptions, or immediate deduction for low value assets below \$300. The removal of the *de minimus* exemptions was designed to prevent the misuse of the exemption by businesses engaged in the purchase of large volumes of low value items of equipment (sale and leaseback etc).

76 Under the UCA arrangements, expenditure by businesses on low value capital items (eg staplers, hand tools and signage) must be depreciated over the life of the item, rather than treated as an immediate expense for taxation purposes. Industry representatives and tax practitioners have indicated that these changes have resulted in significant increases in compliance costs for business, due to the associated record keeping requirements, with little apparent benefit to revenue.

77 On Friday 16 September 2003, the ATO announced a new streamlined arrangement for the purchase of low value items by business, with a view to lessening the cost of abiding by the UCA provisions. The new arrangements apply to capital purchases with a value of a \$100 or less, with these purchases generally being accepted as being revenue items and, as such, deductible in the year of expenditure for taxation purposes.

78 The Inspector-General of Taxation could review the new streamlined arrangements applying to low value assets, with a view to determining if business concerns about the compliance burden have been addressed.

ATO oral advice

79 The increasing complexity of the Australian taxation system has resulted in taxpayers and tax practitioners relying more heavily upon the verbal advice provided by the ATO. This applies to the application of the law to factual or proposed situations, and to administrative processes.

80 In many situations, the relative skill set and training of the ATO official may not be comparable to that of the tax practitioner or accounting professional seeking the assistance.

81 This set of circumstances has given rise to concerns in the accounting and tax practitioner professions that the ATO is not willing, or able, to stand behind its verbal advice.

82 Tax practitioners consider that the ATO does not have the appropriate quality control mechanisms in place to monitor the provision of verbal advice, with inconsistent advice being given by different ATO officers resulting in situations where it is possible that some agents are 'shopping around' for advice that is favourable to their clients.

83 Tax practitioners also consider that, although the tax laws are becoming increasingly complex, the ATO is not sharing the burden of responsibility for helping taxpayers understand and comply with the law.

84 The need for tax practitioners to obtain advice from the ATO, then check to ensure verbal advice is accurate or fair, gives rise to high administrative costs that are being passed on to clients. This is increasingly difficult in circumstances where the client has received different advice from the ATO to the information that the ATO has provided to their agent.

85 With the increasing complexity of the tax laws, taxpayers and tax agents alike are increasingly relying on telephone advice they receive from the ATO to understand their compliance obligations.

86 The Auditor-General plans to review the ATO's Management of Call Centres in 2003-04. For this reason, it would not be appropriate for the Inspector-General of Taxation to embark immediately on a review of this issue.

Small business record keeping requirements

87 A small business operator is required by law to adequately record all transactions. The Commissioner of Taxation further requires that a business operator must maintain a proper system for recording financial transactions, and that all relevant transactions be recorded and adequately explained on that system.¹¹

88 Under Part Seven of the *ATO Prosecution Policy – Record Keeping Offences*, the ATO requires that transactions should be recorded in such a manner that allows a businesses' liability under the relevant Acts to be readily ascertained. Further, it is the ATO's view that a person's liability is determined to be readily ascertainable if ATO staff with accounting skills can determine the person's liability quickly and easily with minimal assistance from that person.¹²

89 Tax practitioners, industry representatives and small business operators have expressed concerns at what they see as overly onerous record keeping requirements placed on small business operators.

90 The Inspector-General of Taxation could review these record-keeping requirements, with a view to reducing the substantiation requirements on small business wherever possible.

Income Tax Exempt Charity status

91 Under Section 50-115 of the *Income Tax Assessment Act 1997* (ITAA 1997), an entity may apply to the Commissioner of Taxation for endorsement as a entity that is exempt from paying income tax for taxation purposes. The application must be in the form approved by the Commissioner, with his dealing of 'an application for endorsement' specified by Section 50-120 of the ITAA 1997.

92 The ATO's administrative application of the Income Tax Exempt Charity (ITEC) status provisions of the ITAA 1997, particularly the application process, is causing some concern. There are also concerns about the issue of ABNs to ITECs and about the availability of tax return forms for ITECs (with some forms displayed on the Internet but unable to be downloaded).

11 The ATO Prosecution Policy, Record Keeping Offences, 7.1.2.

12 The ATO Prosecution Policy, Record Keeping Offences, 7.1.3 – *Taxation Ruling TR96/7*.

93 The Inspector-General of Taxation could review the ATO's administrative systems for dealing with ITEC applications and other ITEC returns, with a view to improving procedures. Such a review would also examine whether the ATO adopts a stricter approach to its interface with ITECs than for other entities, and whether this is necessary for risk management reasons.

Quarterly Superannuation Guarantee

94 Under the *Superannuation Guarantee (Administration) Act 1992* (SGAA 1992), an employer is now required to contribute superannuation for employees on a quarterly basis, as well as being required to report these payments in writing to employees within 30 days of making such a payment.¹³ These provisions came into effect on 1 July 2003, with the amended legislation commonly referred to as the quarterly superannuation guarantee.

95 Tax practitioners and industry representatives have indicated that the requirement for employers to report employee superannuation contributions on a quarterly basis is increasing complexity for businesses. The administrative burden is especially heavy upon those employers with an itinerant workforce, including agricultural industries (with seasonal labourers such as fruit-pickers), retail, tourism and hospitality sectors. Employers face heavy penalties for not providing written notification to the registered addresses of these employees.

96 The Inspector-General of Taxation could review the possibility of building flexibility into the administration of the SGAA 1992 by the ATO, especially in regard to itinerant workers.

¹³ *Superannuation Guarantee (Administration) Act 1992*, Section 23A refers.

Reducing complexity for tax practitioners

ATO's interface with Registered Tax Agents

97 Registered Tax Agents play an ever-increasing role in the effective and efficient functioning of the Australian taxation system. Around 75 per cent of Australia's 10 million personal income taxpayers now rely on tax agents to complete their tax affairs,¹⁴ with the majority of small to medium size business operators also relying on these same practitioners to complete their GST compliance and company tax returns.

98 There is a perception among industry representatives that, in recent years, there has been a move by the ATO to rely increasingly upon the tax agent industry for the effective handling of taxpayer compliance. This view has been prompted, in part, by the ATO's tactic of auditing a sample of a tax agent's clients to form a view of that agents approach to return preparation.

99 Registered Tax Agents consider that the deliberate 'outsourcing' of compliance and audit functions by the ATO to tax agents, under the guise of quality assurance reviews, has shifted significant complexity and costs to industry, without appropriate compensation or consideration of the resulting impact. Central to this issue is what information from a client can be taken at 'face value', and what level of verification an agent is required to perform.

100 Industry has indicated that the high cost and low returns associated with tax compliance are leading to changes in the structure of the tax agent and accounting professions. These include:

- major accounting firms are shedding compliance functions (lodging tax returns etc) by pricing compliance clients out of the market, and specialising in tax consulting only;
- smaller accounting practices do not have the resources of their larger counterparts and are meeting increased client resistance in terms of billing for the research necessary to do tax compliance properly, so they are also looking to exit compliance;

14 ATO, *Compliance Program 2003-04*, p. 8.

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- tax agents who offer to complete income tax returns and BAS annual reconciliations are picking up some taxpayers 'looking for a home'; and
- residual compliance work (such as quarterly BAS returns) is done by bookkeepers, rather than tax professionals.

101 Industry considers this to be a disturbing trend for several reasons. First, there are tens of thousands of taxpayers that are having difficulty contracting for good tax compliance advice at a reasonable price.

102 Second, there is no new blood coming into the tax compliance end of the industry. Young accounting professionals are not drawn by the prospect of keeping abreast of developments in increasingly complex tax law for low returns. According to industry, the vast majority of firms providing tax services are small businesses or single practitioners, many of whom will reach retirement age in the next decade.

103 Finally, as businesses seek cheaper tax compliance options, opportunities are being lost for accountants to identify serious cash-flow performance and other problems in small and micro businesses, which could mean the ultimate failure of those businesses.

104 In addition, industry groups have expressed the view that the professional resources tied up in tax compliance are essentially unproductive and wasted, and that there is a need to simplify tax compliance so that resources can be freed up to make Australian businesses more successful and competitive.

105 The Inspector-General of Taxation could review the systems that the ATO has in place to ensure the viability of its long term relationship with tax agents, including the systems it has in place to monitor tax compliance burdens on the tax agent and accounting professions, and whether those systems are having an adverse impact on the future viability of the industry. In conducting such a review, it would be essential to involve the accounting/tax professional bodies.

106 Any review to be conducted by the Inspector-General would draw on the comprehensive audit of the ATO's relationship with tax practitioners, undertaken by the Auditor-General in 2002.¹⁵

Complexity of ATO communication products

107 The way in which the ATO communicates with tax practitioners, accountants, lawyers, businesses and individuals governs taxpayers' understanding and acceptance of their tax obligations. The ATO produces multiple 'glossy' publications and information kits that aim to improve the way the ATO communicates with its clients by delivering a clear and consistent message.

108 An important consideration for the ATO is to keep such information relevant and targeted to its audience, thus ensuring that the message is being conveyed effectively.

109 Tax practitioners and industry representatives have indicated that they are being swamped with large quantities of unnecessary or irrelevant information from the ATO. This has resulted in some tax agents 'switching off' as the quantum of information delivered is too much for them to properly consider.

110 In this regard, a survey by the Institute of Chartered Accountants of its membership has identified the large quantities of unnecessary or irrelevant information delivered to tax agents as being a major administrative annoyance.¹⁶

111 The Inspector-General of Taxation could review the structure and quantum of communication products produced by the ATO, with a view to providing the Commissioner with guidance on how to better target these products and thus ensure that the ATO message is being conveyed effectively.

15 Australian National Audit Office, *The Australian Taxation Office's Management of its Relationship with Tax Practitioners*, Report No. 19 of 2002-03.

16 ICCA, *Top Ten Administration Bug Bears*, 21 August 2003.

Tax Agent Portal — running balance accounts

112 The Tax Agent Portal provides tax practitioners with convenient access to live client account and registration information, online request forms, running balance accounts, a range of online reports including PAYG instalments, as well as a secure messaging service for electronic lodgement services.

113 The ATO is continuing to expand the range of features and functions available on the Tax Agent Portal in response to world's best practice, emerging industry needs, and ongoing feedback from tax professionals.

114 While Registered Tax Agents welcome the availability of Tax Agent Portal online services, and note the continuing 'roll out' of additional features, they have indicated that further improvements could be made, especially in the area of running balance accounts (RBAs).

115 Concerns identified by Tax Agents include the retention of refunds due to individual taxpayers as a credit to the client's RBA, the misallocation of debits and credits between accounts (activity vs income tax vs fringe benefits tax accounts) and the absence of up-to-date lists of client data on the system.

116 The Inspector-General of Taxation could review the functional abilities of the Tax Agent Portal, with a view to providing the Commissioner with guidance on further refining and improving this service.

Electronic lodgement services

117 The Tax Agent Portal allows tax practitioners online access to their client details, and they can lodge returns through the use of the electronic lodgement services (ELS). If the tax agent represents their client in respect of both income tax and activity statement matters, they must complete two separate forms.

118 The *CD* form (Tax Agents Update of Client Details) allows a tax practitioner to identify themselves as the client's practitioner for income tax return purposes. The *CB* form (Tax Agents Update of Activity Statement Clients) allows the same practitioner to identify themselves as the client's practitioner for Activity Statement purposes.

119 Tax practitioners have indicated that this level of duplication in the application processes is unnecessary, as the majority of taxpayers use the same tax practitioner to manage their income tax return and activity statement tax affairs.

120 The Commissioner of Taxation has advised that the ATO is currently working with tax agents to develop an appropriate solution to this problem (as part of the *Making it Easier to Comply* process), which is expected to be implemented progressively over the current financial year.

121 Taking these developments into account, there is potential for a review that would examine the steps taking by the ATO in mediating tax practitioner concerns, with a view to ensuring that the application processes for client representation authority are reduced.

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