



Australian Government
 Inspector-General of Taxation
 Taxation Ombudsman

IGoT News

Edition 25 | May 2024

Inside this edition

An update from the IGTO..... 1

Tax Identity Fraud Interim Report released 3

Best Practice Guide for notifying people about government debts . 4

Benchmarking Visit – Indonesian Association of Internal Auditors... 5

Review Investigation – update 6

Tax Disputes – update..... 6

Case Study – Bankruptcy and Tax Debt 6

Case Study – Fraud and Administrative Overpayment 7

Case Study – Compassionate release of superannuation 8

An update from the IGTO



This will be my last update as the Inspector-General of Taxation and Taxation Ombudsman (IGTO) - my term as IGTO ends on 5 May 2024. I want to take this opportunity to thank the community (especially All tax professionals) for your assistance and support throughout

my tenure. It has been an honour and a privilege to have served in the role and I hope I have helped to improve tax administration ... because that’s my job!

3 months into my term, before I had fully settled into the role, the Senate Economics Legislation Committee commenced an *Inquiry into the Performance of the Inspector-General of Taxation*. The Inquiry provided an opportunity for me and my team to reflect on our role and function, and what we would like to see improved so we can better serve the community. The Committee made 16 recommendations, all of which were welcomed by my office.

Shortly thereafter, the COVID-19 pandemic affected us all and life changed suddenly. My team and I pivoted and spent much of the pandemic working remotely, dealing with our own personal challenges while also establishing channels to assist taxpayers engaging with the ATO on COVID-19 economic support measures such as JobKeeper and Boosting Cash Flow.

Throughout the past five years, my office has:

- Received more than 9,000 disputes and finalised 8,400;
- Introduced a new Case Management System to enhance our dispute investigation experience, efficiency and effectiveness;
- Completed and released three reports following dispute investigations concerning JobKeeper, Boosting Cash Flow and Small Business Litigation Funding;
- Completed and released an own initiative investigation into Tax Identity Fraud, which made 13 recommendations for improvement (the majority of which the ATO agreed in principle);
- Completed and released six review investigation reports, containing 3 recommendations to Government and 33 recommendations to the ATO - over 90% of which the ATO has agreed in full, in part or in principle.

This role has not been without its challenges, but it has also reinforced for me the importance of Integrity in public service and the critical role of independent oversight – be it, ombudsman or Inspectors-General services throughout Australia (Federal, State & Territory and Industry) and around the world. The report of the Robodebt Royal Commission has also been an important reminder of the importance of Integrity in public administration. I have valued the friendship and networks of Ombudsmen, Inspectors-General and other senior public servants who have shared their experiences, learnings and time throughout my term.

I want to take this opportunity to acknowledge the contributions and assistance that I and my team have received from tax and legal professionals, their professional and industry associations and individual taxpayers. The willingness of people to speak up and bring issues to my attention for investigation is very encouraging. Change and improvement occur when people are willing to be frank & fearless, voice their concerns and engage in meaningful discussions about issues that need to be improved.

I thank the Australian Taxation Office and the Tax Practitioners Board and their respective officers for their professional engagement with me and my office. The relationship between scrutineer and the subject of scrutiny is not always easy to navigate. There may be occasion where we disagree but we are all working towards the same goal – to improve the administration of the tax system for the benefit of the community. I also thank the Treasury for their support and assistance as our Portfolio department.

I have had the pleasure of meeting and engaging with ombudsmen and other integrity officers throughout Australia and overseas, and thank them for their willingness to share their insights and practices.

Finally, a big shout out to the IGTO team (past and present) for their support throughout my term. The work of an ombudsman can be challenging but the rewards are also immeasurable (on some days). My team has demonstrated a fantastic commitment to our purpose. We all want to help taxpayers, many of whom are vulnerable and unrepresented, and will often go the extra step to listen, explore all avenues and options to help resolve their disputes. Their support and assistance throughout my term has been greatly appreciated and I wish them ALL the best in their future and careers.

Tax Identity Fraud Interim Report released

On 30 April 2024, our office released an interim report on the 'own initiative' investigation into tax identity fraud. The report focuses on the ATO's risk management controls to prevent fraudsters from changing the bank account details on a legitimate taxpayer's ATO account, which is a fundamental step in obtaining fraudulent refunds from the tax system.

Following the commencement of our investigation, the IGTO received numerous submissions from the taxpayer and tax practitioner community that raised concerns about the ATO's delay or lack of action in detecting and preventing tax identity fraud. In particular, over 50% of submissions identified instances of fraud where:

- There was an unauthorised change to the bank account details on the taxpayer's ATO account in order to perpetrate the fraud;
- The ATO was unsuccessful in preventing the refund being issued to the fraudulent bank account;
- The estimated amount the fraud related to was more than \$10,000;
- The fraud was identified by the taxpayer or their tax agent, rather than the ATO;
- The fraud involved unauthorised access to the taxpayer's myGov account;
- The bank account details on the taxpayer's ATO account were changed in order to perpetrate the fraud.

The IGTO's investigation found that a taxpayer's ATO account details can be too easily changed without the taxpayer knowing or authorising the change. There are also limited automated controls in place to detect unauthorised account changes in real time (24/7). Instead, the ATO's risk management framework relies heavily on access controls (i.e. account login requirements) and post-event treatment to mitigate and address tax identity fraud.

The IGTO makes a total of thirteen (13) recommendations for ATO improvement in this interim (Phase 1) report - *The importance of bank account integrity*. The ATO response, which is included in the report states:

The ATO is pleased that IGTO's interim report recommendations align broadly with ATO-identified work in progress, and agree in principle with the majority of recommendations made.

The ATO notes that some recommendations are dependent on matters for Government to consider. The ATO looks forward to IGTO's final report with any remaining findings and recommendations from this investigation, and will provide an ATO response against each recommendation in both interim and final reports as a consolidated set at that time.

The IGTO recommendations focus on improvements to:

- Make the ATO less attractive for fraudsters by improving ATO system controls and responsiveness so that it is more difficult for monies to be diverted to the fraudster's bank account.
- Harden the financial system against tax identity fraud by introducing more effective collaboration between the ATO and financial institutions on case-specific issues in real-time.

- Better detect and prevent tax identity fraud by empowering the two key participants in the tax system (i.e. legitimate taxpayers and tax agents), who are much better placed than the ATO to quickly and reliably determine if a transaction is fraudulent.

Chapter 3 of the report provides a small selection of case studies which demonstrate and illustrate the experience of people in the community who believe they have been the subject of, or have observed, TaxID fraud. They illustrate some of the concerns raised by the IGTO and demonstrate the urgent need to implement the IGTO's recommendations set out in this report.

- Case study 1 – Unauthorised access and bank account changes made after the ATO had locked the taxpayer's ATO account
- Case Study 2 – ATO reluctant to garnish funds sitting unclaimed in a Fraudster's bank account but instead wanted the taxpayer's consent to do so
- Case study 3 – ATO asked Legitimate taxpayer to repay a \$46,000 refund that was paid to a Fraudster without matching claimed Pay-as-you-go (PAYG) Withholding credits with an employer's PAYGW reporting. The ATO did not seek any information and concluded that Mr B was not a victim of TaxID fraud after he disclosed that he shared his myGov details
- Case study 4 – ATO controls did not prevent unauthorised change in bank account details, and taxpayer was not notified of those changes
- Case study 5 – Taxpayer difficulties in proving they were not complicit in the fraud where a fraudulent bank account was opened in their name

Phase 2 of our investigation will focus on concerns raised about the ATO's response after fraud has occurred and the impact on affected taxpayers. This includes the ongoing security measures placed on the taxpayer's account and the ATO's investigation and treatment of debts arising from alleged fraud (which are attributable to the legitimate taxpayer unless they can prove they were not complicit in the fraud).

A copy of the interim report - *The importance of bank account integrity* - together with the ATO response to IGTO recommendations is available on the IGTO website: [Tax Identity Fraud: An Own Initiative Investigation Interim Report - IGTO](#)

Best Practice Guide for notifying people about government debts

The IGTO and the Commonwealth Ombudsman/ACT Ombudsman have jointly released a Best Practice Guide for Commonwealth agencies when engaging with people about monies they may be owing to the Government.

The full guide is available on our website: [Best Practice Principles for Commonwealth agencies, such as the ATO, when engaging with people to tell them they owe the government money - IGTO](#)

We have also set up a page containing case studies and other information to assist taxpayers who are engaging with the ATO about debts that may be owing. That information is also available on our website: [How to tell people they owe the government money - IGTO](#)

Benchmarking Visit – Indonesian Association of Internal Auditors



In early March, we hosted a Benchmarking Visit from members of the Indonesian Association of Internal Auditors. The Association members included representatives from Indonesian ministries, local governments, state-owned enterprises and private sector enterprises.

During the visit, we shared and discussed with the representatives our approach to conducting review and dispute investigations and how we uphold principles of fairness, transparency, integrity and continuous improvement.

Review Investigation – update

A brief status update for our current Review Investigation is provided below.

Administration and Management of Objections – Phase 2

The review investigation into the [Administration and Management of Objections](#) is well progressed and we are currently finalising our initial draft based on our engagement with key stakeholders and analysis of ATO information and data. We continue to engage with the ATO about improvement opportunities. We are working towards finalising and releasing the report by the end of the 2023-24 financial year, or early next financial year.

Tax Disputes – update

As at the end of Q3 FY24, we have received 1,300 (within jurisdiction) complaints which represents an increase of 15% (1,130) compared to FY23.

The increase in demand for our services is consistent with the ATO recommencing or increasing certain activities, including debt collection, and ongoing themes of financial distress post-COVID, such as employees raising concerns regarding unpaid superannuation.

We continue to triage and prioritise cases demonstrating exceptional circumstances. All other complaints are placed in a queue to be allocated on a 'first in, first out' basis. Taxpayers are advised that the current wait time is twelve months.

Our project to introduce a new case management system is progressing well. The first phase of our deployment commenced in March of this year, and we are currently working on system refinements and a further deployment to implement an external portal for those who have lodged disputes with us. The system will support more efficient investigation processes and enable complainants to see the progress of their matter if they lodge online.

Case Study – Bankruptcy and Tax Debt

A sole trader taxpayer had a dispute (or unresolved complaint) with the ATO concerning its intention to disclose a \$590,000 tax debt to Credit Reporting Bureaus (CRB) and had been offsetting their tax refunds against the debt. The taxpayer believed the ATO was discriminating against them given they were previously incarcerated and a discharged bankrupt.

The IGTO's investigation found that there was a primary tax debt amount of \$100,000 which was incurred in 2005, however, by 2008 the taxpayer entered bankruptcy and was discharged in 2011. Accordingly, the primary debt amount and interest accrued until the time of discharge should have been treated by the ATO as irrecoverable at law. However, the ATO was unaware of the bankruptcy and discharge, and the debt accrued interest for 15 years which resulted in the total debt amount of \$590,000.

As a result of the IGTO's investigation, the ATO treated the debt as irrecoverable at law, did not disclose any debts, and returned refunds to the taxpayer. The taxpayer was satisfied with the outcome of the IGTO's investigation, stating "I really appreciate your help. It's rare to find someone these days that would go out their ways to help people like me."

Case Study – Fraud and Administrative Overpayment

The taxpayer approached the IGTO for assistance in relation to the ATO's recovery of an administrative overpayment (AMOP). An AMOP is an amount that the ATO has paid to a person by mistake and to which the person is not entitled. The taxpayer had previously approached the Commissioner to have the AMOP debt removed on the basis that the AMOP had resulted from a fraud that had been perpetrated. The taxpayer advised that they never received the original amounts and provided evidence that they did not have a bank account with the bank where the original amounts were paid.

The IGTO commenced an investigation to consider whether the ATO should remove the debt from the complainant's ATO account by reason of the fraudulent activity. The IGTO identified that the bank account listed had account details in the name of a third party that was unrelated to the taxpayer. Furthermore, the taxpayer furnished a letter from the bank confirming the complainant did not have an account with them. Having regard to the information available following our investigation, we formed the view that it would be reasonable for the ATO to remove the AMOP debt from the taxpayer's account.

As a result of our investigation, the ATO agreed that the bank account did not belong to the taxpayer and subsequently agreed that fraud had occurred on their ATO accounts. Accordingly, the ATO took action to remove the AMOP debt from the taxpayer's account. The taxpayer was relieved and provided positive feedback to the IGTO following our assistance.

Following the investigation, the IGTO also provided the ATO with observations and feedback for its consideration as part of an internal, senior executive led review into AMOP processes and systems.

Case Study – Compassionate release of superannuation

The taxpayer was a citizen of the United Kingdom (UK) and was based in the UK. They held superannuation monies in Australian funds. The taxpayer approached the IGTO to seek assistance in relation to the urgent release of his superannuation on compassionate ground to cover the medical and end of life care expenses for his dependent daughter. The taxpayer had experienced some difficulties dealing with the ATO on this matter due to the urgency of the request.

The IGTO commenced an investigation to examine whether the ATO was appropriately considering the request for urgent release of superannuation on compassionate grounds. The IGTO liaised with the ATO throughout the investigation to confirm what information the ATO required to process the request and relayed this to the complainant to assist in expediting the ATO's consideration of the request.

As a result of our investigation and involvement in expediting the ATO's actions on this case, the complainant received the approved sum from their superannuation fund on compassionate grounds and was able to financially provide for the care needed for his daughter.

Karen Payne

Inspector-General of Taxation | Taxation Ombudsman

phone: +61 2 8239 2111

email: igt@igt.gov.au

www.igt.gov.au



The Inspector-General of Taxation and Taxation Ombudsman acknowledges the traditional owners and their ongoing cultural connection to Country, throughout Australia. We pay our respects to their Elders past, present and future.