

Taxpayers AUSTRALIA INC

Superannuation AUSTRALIA

(A wholly owned subsidiary of Taxpayers Australia Inc)



Submission to the Inspector-General of Taxation

Review into the Australian Taxation Office's services and support for tax practitioners

By Taxpayers Australia Inc.
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Introduction

We wish to thank the Inspector-General of Taxation for the opportunity to provide a submission into this review.

Taxpayers Australia has a membership in excess of 4000, largely consisting of tax agents, concentrated amongst smaller accounting and tax practices across Australia. This submission has been prepared as a result of face to face consultations undertaken with members in Melbourne and Perth through our tax discussion groups and through email submissions from other members across the country.

ATO-Tax Practitioner Relationship

Member comments:

As most of our members are part of smaller practices (and many are sole practitioners), there was a degree of frustration that they ATO fails to understand the pressures which they sometimes put on smaller practitioners. There was a feeling that the ATO is geared towards servicing the larger practices and when devising its strategies to support and assist agents, it accommodates the needs of the larger practices more than the smaller ones. This was reflected in comments about the support given to large practices through ATO staff visits and the perception that much of the ATO's consultation activities are undertaken with big practices.

It was noted by two members that recent consultations regarding the introduction of facilities for the Big Four accounting firms to undertake aspects of tax audit work on behalf of the ATO were undertaken with the accounting firms in question and their clients, without any input from those entities (small business and their advisers) who might be expected to object to the proposed plan.

There was a low level of understanding of the role of the Risk Differentiation Framework as applied to tax agents. No agents that we consulted were aware that this framework was used to risk assess agents, there was no understanding of the risk factors which the tax office applied nor of where their own practice would sit on the framework.

Taxpayers Australia comments:

Taxpayers Australia believes that tax practitioners have a key role in the system. Australian tax law is complex and the way the system currently works, it is necessary for most taxpayers (both individuals and businesses) to use a tax agent in order to ensure that their tax obligations are complied with fully, correctly and on-time.

We also believe that the current system is unsustainable. Australia has the second highest rate of tax agent usage in the OCED (only Italy is higher), a rate far higher than comparable jurisdictions such as the UK and New Zealand. This is because we have designed a system which relies on tax professionals as a pillar of the system. In reality, for most taxpayers

(particularly the many millions of individuals who have relatively straight-forward tax affairs), it should not be necessary for tax practitioners to be involved in what should be a two-way relationship directly between the ATO and the taxpayer.

Over time, it will be necessary for Australian tax law to move towards a system which is much more heavily reliant on the provision of third party information, pre-filing and simplified law.

This should lead to a situation where only businesses and individuals with complex tax affairs require the input of a tax practitioner. This would inevitably lead to a decline in the number of tax practitioners and a change in the relative skills sets of those left behind, towards higher-value tax and business advice. We would cite the UK as an example of a better balanced system. There, only businesses, individuals in business and individuals paying tax at the highest rate are required to lodge tax returns. Nearly all others (including all employees paying tax below the highest rate) are dealt with through the PAYE system, which accurately calculates on a rolling basis the correct tax deduction from income, rendering year-end tax returns unnecessary. This is the system we should aspire to. Given that this is a longer term aspiration and we have to deal with the system as it is, having designed a system which is heavily reliant on tax practitioners, it is essential that those practitioners are provided with the tools they need to fulfil their allocated role, that they are consulted in future development of the system and also that they are properly regulated. There is no doubt that (even under the regulation of the TPB) there continue to be tax practitioners who lack the necessary technical and administrative skills to adequately service the contemporary market and there appears to be no appetite to force these practitioners out of the market.

ATO-Tax Practitioner Engagement

Member comments:

Several members highlighted the apparent demise of the ATO's Relationship Management program for tax agents. In many cases, this was simply to observe that Relationship Management visits appeared to have stopped. Many who made this comment had no strong views as to the worth of the program itself but the nature of the comments indicated that there was a lack of understanding of why and when the visits had ceased.

One member noted that Relationship Managers provided one of the few tangible, personal links between the ATO and their practice. A member in Melbourne highlighted her own personal situation when, following a messy divorce, her practice had suffered as she attempted to deal with the fall-out of the divorce and the resulting depression. She noted that the Relationship Manager had provided strong support when dealing with the repercussions of the consequent fall in lodgement performance which had resulted from her neglecting her business. The Relationship Manager had been instrumental in the ATO offering flexibility in lodgement deadlines and taking a generally sympathetic approach in allowing her to get her practice back on track, which it now is. She was concerned that without the existence of this program, an agent in a similar situation now would find it much harder to achieve a positive and flexible outcome which would give the agent space to recover and avoid punitive action by the ATO.

Another member noted that the ATO tends to “bombard” tax agents with communications in the form of newsletters, emails, broadcasts, etc. In practice, it is difficult for agents to keep up with all this material and to sort the important from the trivial. The member noted that occasional relationship manager visits were a good way to synthesise all this material into “key messages” which the relationship manager was able to pass on in simple, direct terms.

There were concerns expressed that the current focus of agent interaction – whereby so-called “key” agents and agents regarded as “high risk” by the ATO’s risk differentiation framework are the only agents to receive face to face support – was an abandonment by the ATO of the concept of face to face support. This is particularly so since current visits now seem to be used as part of a broad suite of compliance strategies to target poorly performing agents rather than as part of a program to support and assist agents. No members commented on the changes to the ATO’s formal consultation mechanisms (ie, the dramatic reduction in the number of working groups and other formally constituted committees). Few members had any experience of sitting on such committees and there appeared to be a general acceptance that there were too many such bodies with a minimal level of connection to practitioners in the community.

Taxpayers Australia comments:

Taxpayers Australia supports the reduction in the number of formally constituted consultative forums. The current arrangements – consisting of a small number of key stewardship committees and an informal supporting mechanism whereby issues are submitted on a needs basis to a consultation hub and then progressed informally – appears to work well and is considerably less resource intensive for all sides.

We do not support the removal of the Relationship Manager program and concur with the members comments summarised above.

Whilst we support the concept of risk assessing tax agents, there needs to be greater clarity around the processes which underpin the risk assessment and more openness from the ATO around the fact that they do this, the reasons they do this and the potential impacts on agents and their clients. All tax agents should be advised in writing as to what their risk rating is, how that rating has been arrived at and they should have the opportunity to formally challenge that.

ATO’s Tax Practitioner Services

No subject elicited greater comment than the ATO Portal. This is a vital tool in the business of all tax agents and we received numerous complaints that the Portal is unreliable and prone to failure at key times (especially around lodgement dates when the volume of Portal use is greatest). One member noted that the Portal was down for over 5 days recently and another expressed irritation that when the Portal is down, complaints to the ATO are often met by an insistence that the fault has been fixed, even though the agent can see that it isn’t.

We also received numerous complaints about planned outages when the ATO is maintaining the system. Members criticised the number of such outages and the duration, with some members noting portal outages over entire weekends.

Members noted that the ATO appears to have an insufficient understanding of the importance of the Portal as a business tool for agents. It is speculated that this is because nobody at the ATO itself uses it. For those that do, however, it is crucial that this platform should be stable and reliable.

One member noted that the Portal is good “at about 8AM when nobody else is using it”. Another member noted that they would like to see the email facility in the Portal utilised by the ATO in their specific dealings with the tax agent.

There were several complaints that the failure of the Portal around lodgement dates has led to missed lodgement deadlines which can be a source of friction with clients, who tend to blame their agent for the failure.

More generally, several members criticised ATO call-centre staff for their lack of knowledge and lack of accountability, with some comments expressing frustration that every time they call about a particular issue they have to speak to somebody new, who then has no knowledge of the issue they have called about (possibly a flaw in the information-collection and note-taking capabilities of the previous person they spoke to). Some members also remarked on the long delays which can arise when calling the ATO.

Two members also expressed frustration with the ATO’s Proof of Identity procedures, particularly where the ATO phones the agent and then requests that the agent verifies their identity. Members expressed incredulity that this was necessary where the ATO itself has initiated the contact. Taxpayers Australia does not endorse this view because we understand the importance of the ATO ensuring they are speaking to the correct person, whether the call is agent initiated or ATO initiated, nevertheless this is a topic of concern to some agents.

Few members were aware of the ATO’s proposal to replace the Portal with a new system based around Standard Business Reporting but those that were expressed concern that Practitioners were facing several years of further uncertainty and poor service whilst the transition took place. There was also concern that there would be insufficient consultation with practising tax agents as to what functionality they want/need in the new service.

There were numerous criticisms of the ATO website, with a particular focus on the number of broken links and the difficulty in navigating the site to find relevant material. It was noted that the website was redesigned over a year ago and still contains numerous flaws. It was widely felt that the “old” website was easier to use.

ATO's Lodgement Program

There was a high level of understanding around the ATO's Lodgement Program. We did not encounter any members who were unaware of the ATO's stated 85% lodgement target for tax agents.

We did, however, encounter a degree of confusion around some of the important details around the Program.

Several members did not understand how the 85% figure was calculated for their practice. This was based on discrepancies between their own lodgement figures and the percentage calculated by the ATO. One member also noted that the lodgement figures which they downloaded from the ATO's own system also did not tally with the figure quoted for their lodgement program reporting.

A common cause for concern was the perceived unfair burden placed on agents to meet the 85% target whilst the ATO "has it easy" by consistently failing to deliver the tools which will allow the agent to meet that target (which links back to the Portal comments above).

Several members expressed concerns about those non-lodging taxpayers who have dropped off (in some cases "cleansed" by the ATO itself) their client list in order to improve their lodgement performance. In particular it was noted that the ATO has in place compliance strategies to target those non-lodgers who have fallen off agent lists and are now regarded as self-preparers. It was felt that the most likely outcome is that once these taxpayers find themselves targeted by the ATO, they will go back to the agent who previously acted for them with a view to getting that agent to bring their affairs up to date. As such, it was felt that the whole client list cleansing exercise is largely an exercise in statistical window-dressing which will ultimately leave most agents (and the affected taxpayers) back where they started.

One agent suggested this problem could be addressed by giving agents extra lodgement "credits" for bringing the tax affairs of non-lodgers up to date.