



**Australian Government**  
**Inspector-General of Taxation**

# The Australian Taxation Office's services and support for tax practitioners

**Inspector-General of Taxation**

July 2015



**The Australian Taxation Office's  
services and support for  
tax practitioners**

Inspector-General of Taxation  
July 2015

© Commonwealth of Australia 2015

ISBN 978-1-925220-61-2

## **Ownership of intellectual property rights in this publication**

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia (referred to below as the Commonwealth).

## **Creative Commons licence**

With the exception of the Coat of Arms (see below), the IGT logo and ATO sourced material, this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence.



Creative Commons Attribution 3.0 Australia Licence is a standard form licence agreement that allows you to copy, distribute, transmit and adapt this publication provided that you attribute the work. A summary of the licence terms is available from:

<http://creativecommons.org/licenses/by/3.0/au/deed.en>. The full licence terms are available from <http://creativecommons.org/licenses/by/3.0/au/legalcode>.

The Commonwealth's preference is that you attribute this publication (and any material sourced from it) using the following wording:

Source: Licensed from the Australian Government Inspector-General of Taxation under a Creative Commons *Attribution 3.0 Australia* Licence.

The Australian Government Inspector-General of Taxation does not necessarily endorse third party content of this publication.

## **Use of the Coat of Arms**

The terms under which the Coat of Arms can be used are set out on the It's an Honour website (*see* [www.itsanhonour.gov.au](http://www.itsanhonour.gov.au)).

# TABLE OF CONTENTS

- EXECUTIVE SUMMARY..... III**
- LIST OF RECOMMENDATIONS.....V**
- CHAPTER 1 – BACKGROUND .....1**
  - Overview of stakeholder concerns .....1
  - The important role of tax practitioners.....2
  - Tax practitioners and their services .....3
  - Tax practitioners’ obligations.....8
  - Challenges faced by tax practitioners ..... 10
- CHAPTER 2 – ATO-TAX PRACTITIONER RELATIONSHIP .....15**
  - Underlying theme of stakeholder concerns.....15
  - History of the ATO-tax practitioner relationship .....15
  - ATO compliance approach to tax practitioners .....21
  - IGT observations .....24
- CHAPTER 3 – ATO-TAX PRACTITIONER ENGAGEMENT ARRANGEMENTS AND ATO COMMUNICATION...29**
  - Stakeholder concerns with ATO engagement .....29
  - ATO-tax practitioner engagement .....29
  - IGT observations .....42
  - Stakeholder concerns with ATO communication .....47
  - IGT observations .....49
- CHAPTER 4 – ATO’S TAX PRACTITIONER SERVICES.....53**
  - ATO Portals and migration of their functionality .....53
  - SBR and the migration of ELS functionality .....63
  - ATO website.....71
  - The ATO telephone services to tax practitioners .....74
- CHAPTER 5 – LODGMENT PROGRAM.....89**
  - Stakeholder concerns.....89
  - Background.....90
  - IGT observations .....101
- APPENDIX 1 – TERMS OF REFERENCE .....105**
- APPENDIX 2 – LIST OF ATO SERVICES AND SUPPORT .....111**
- APPENDIX 3 – ATO APPROACHES AND ACTIVITIES INVOLVING TAX PRACTITIONERS .....113**
- APPENDIX 4 – ATO CONSULTATION ARRANGEMENTS.....117**
- APPENDIX 5 – LIST OF SBR, ATO PORTAL AND ELS FUNCTIONS .....119**
- APPENDIX 6 – STAKEHOLDER SUGGESTED ATO PORTAL IMPROVEMENTS .....125**
- APPENDIX 7 – TRANSITION OF ATO PORTALS AND ELS TO ATO ONLINE AND SBR .....127**
- APPENDIX 8 – TIMELINE OF ELS TO SBR MIGRATION.....129**
- APPENDIX 9 – ATO RESPONSE .....131**
- SHORTENED FORMS .....133**



## EXECUTIVE SUMMARY

The Inspector-General of Taxation's (IGT) review into the Australian Taxation Office's (ATO) services and support for tax agents and business activity statement agents (collectively referred to as tax practitioners) was undertaken in response to concerns raised by the latter and their representative bodies. These concerns related to access and adequacy of ATO support and services and the resulting strained relationship between tax practitioners and the ATO.

Maintaining a positive relationship between the ATO and tax practitioners is critical to the functioning of the self assessment system as the latter assists approximately 70 per cent of individual and 90 per cent of business taxpayers to comply with their tax obligations. Tax practitioners are also an invaluable source of knowledge and practical experience which may be drawn upon to develop more effective and efficient tax laws and administrative practice.

A key underlying cause of the strain on the ATO-tax practitioner relationship has been the reliability and functionality of the ATO Portals – gateways through which tax practitioners can use a range of ATO services. The ATO Portals have been described as an indispensable tool of trade and 'the most useful tools that the ATO has ever provided'. However, in recent years, their unreliability has been a major source of tax practitioner concern and frustration as they believe it has resulted in productivity loss, missed deadlines, irrecoverable costs as well as damage to their reputation and relationship with their clients.

The ATO has acknowledged the concerns with the ATO Portals and believes that it will address the majority of tax practitioner concerns in the long term by migrating to a 'more functional software platform and flexible online system.' However, such a migration causes further uneasiness for tax practitioners because of their previous experience with the ATO's deployment of new technology. In this regard, the IGT takes comfort from the ATO's approach to maintaining the current ATO Portals and operating them in parallel with the new system.

At the closing stages of this review, the ATO advised that it estimates the migration to occur within the next two years. During this time, the ATO will not seek to implement key improvements sought by tax practitioners to the current ATO Portals but will limit enhancements to maintenance and stability assurance. Therefore, it is likely that some of the tax practitioner concerns and frustration may persist in the short term.

In addition to the above migration, the ATO is also part of the whole of government transition to Standard Business Reporting (SBR) – a standard approach to online or digital record-keeping to simplify business reporting obligations. The success of SBR relies, in large part, on the adoption of SBR-enabled software by tax practitioners and taxpayers. Therefore, rather than alienating tax practitioners by messaging such as 'evolve or die', the IGT believes that the ATO should work closely with them, as well as software developers, to optimise the user experience of resulting SBR enabled software and provide practical guidance to assist with the transition to SBR more broadly.

Another source of concern for tax practitioners has been the accuracy of ATO information and ATO communications which they believe has, in some instances, generated unnecessary follow up work and costs for them. The IGT has recommended improved communication by user-testing standardised correspondence to ensure that the tone and content are effective in generating the intended behavioural response and minimising unnecessary contact.

Tax practitioners have also raised concerns with the delays and quality of support provided on the ATO's website and telephone services. In this regard, the IGT has recommended improved ATO telephony services by maintaining shorter wait times, having technically proficient staff to answer calls, simplifying the proof of identity processes and improving the ATO's website by taking into account tax practitioners' needs.

Concerns have also been raised in respect of the ATO's Lodgment Program and associated communication which left an impression that the ATO did not sufficiently recognise tax practitioners' role in facilitating taxpayer compliance and did not appreciate individual practitioners' circumstances. A key cause for concern focused on the ATO's requirement for 85% of tax practitioner clients' returns to be lodged on time or risk losing access to concessional lodgment timeframes. The ATO has acknowledged shortcomings with its initial communications in this regard and has subsequently clarified its approach publicly by conveying that action would only be considered where the percentage of on-time lodgments is significantly lower than 85%. However, concerns have persisted with the transparency and basis for the ATO's calculations of percentage thresholds for action. The IGT has, therefore, recommended that ATO communications on lodgement performance enable tax practitioners to independently verify the accuracy of ATO calculations and that tax practitioner business models and individual practitioner circumstances be taken into account when considering late lodgment requests.

Tax practitioners have also raised concerns with the rationalisation of the ATO's consultation arrangements, which was seen by some practitioners as reducing the opportunities for them to engage and raise issues with the ATO. The IGT has recommended a number of improvements in the way the ATO engages with tax practitioners. Similar concerns with the ATO's consultative arrangements have also been raised in other IGT reviews. The new arrangements will need to be bedded down and are likely to benefit from further enhancements as time progresses. However, should concerns persist, the IGT may consider undertaking a broader review of the ATO's consultation arrangements in future.

Overall the IGT has made eight recommendations, with which the ATO has agreed fully or partially. The IGT believes that the appropriate implementation of the recommendations in this review will result in an improved ATO-tax practitioner relationship which, in turn, will have a positive effect on the administration of the tax system.



# LIST OF RECOMMENDATIONS

## RECOMMENDATION 2.1

*The IGT recommends that the ATO:*

- (a) sets up an overarching unit with overall responsibility for the co-ordination of tax practitioner services and interactions; and*
- (b) provides further information and clarification regarding the application of its risk assessment processes as applied to tax practitioners particularly with respect to the inputs used.*

## RECOMMENDATION 3.1

*The IGT recommends that the ATO:*

- (a) in reviewing current consultative arrangements, consider reinstating or enhancing some of the specialised or regional forums including improvement of the agenda setting and minute taking processes;*
- (b) harness existing or new technologies to expand its current consultative activities to include more tax practitioners with a broader range of expertise;*
- (c) allow tax practitioners to raise issues for consideration by appropriate ATO officers through its website; and*
- (d) record all issues raised by tax practitioners, whether in consultative forums, online discussion forums or elsewhere, along with the ATO's consideration of the issues, in a central register which is made publicly available on its website.*

## RECOMMENDATION 3.2

*The IGT recommends that the ATO:*

- (a) increase the use of modern modes of communication and, where appropriate, phase out outdated methods;*
- (b) user-tests all new standardised correspondences to tax practitioners to evaluate their effectiveness in generating the intended behavioural response as well as seeking to minimise compliance costs and unnecessary action for them; and*
- (c) allow tax practitioners to electronically access their clients' communications where the latter have authorised such access.*

### **RECOMMENDATION 4.1**

*The IGT recommends that, with respect to the ATO Portals, the ATO should:*

- (a) publish performance reports on a regular basis;*
- (b) publish a practical online user guide which includes information on their functionality and solutions to common issues; and*
- (c) provide an expected completion date for the migration to the new platform and if such a date is unlikely to be in the next 12 months, commence implementing the key improvements sought by tax practitioners to the existing systems.*

### **RECOMMENDATION 4.2**

*The IGT recommends that as part of the transition from the ELS to SBR-enabled software, the ATO:*

- (a) work closely with tax practitioners to better understand the barriers to adopting SBR for tax practitioners and taxpayers;*
- (b) in collaboration with software developers and tax practitioners, seek to optimise the user experience of the resulting SBR software;*
- (c) communicate the benefits of SBR to both taxpayers and tax practitioners and consider providing incentives to the latter to adopt it;*
- (d) publish the respective responsibilities and accountabilities of the ATO and software providers so that software-related issues can be appropriately addressed;*
- (e) delay the retirement of the ELS until after consultation with the tax practitioner community on the effectiveness of the new system; and*
- (f) provide practical guidance material to taxpayers and tax practitioners to assist them with the transition to SBR.*

### **RECOMMENDATION 4.3**

*The IGT recommends that in relation to its website, the ATO should:*

- (a) improve the website's ease of use by better taking into account tax practitioners' needs and concerns; and*
- (b) develop a 'web chat' functionality that provides tax practitioners with helpful information.*

**RECOMMENDATION 4.4**

*The IGT recommends that, with respect to its telephone service for tax practitioners, the ATO:*

- (a) measure and report on the handling times taken between when calls are received and when they are transferred to the appropriate ATO officer;*
- (b) where such handling times are too lengthy, investigate how improvements may be made;*
- (c) increase its workforce ability to handle complex tax practitioner enquiries, including those requiring a whole of tax practice understanding; and*
- (d) simplify proof of identification requirements for tax practitioners by, for example, using unique identifiers and/or voice recognition software.*

**RECOMMENDATION 5.1**

*The IGT recommends that the ATO:*

- (a) ensure its communications to tax practitioners, regarding their lodgment performance, contain sufficient information to enable them to independently verify the accuracy of the ATO's calculation of their performance;*
- (b) consider re-naming the 85% Lodgment Rule to better reflect the consequences of any breach;*
- (c) assist and provide incentives to tax practitioners who take on taxpayers with multiple outstanding returns by, for example, suspending legal action against such taxpayers where those returns are being prepared by tax practitioners; and*
- (d) in applying the 85% Lodgment Rule, take into account additional tax practitioner circumstances such as their business model, non-tax regulatory workloads and delays caused by factors outside of their control.*



# CHAPTER 1 – BACKGROUND

## OVERVIEW OF STAKEHOLDER CONCERNS

- 1.1 During public consultation for the Inspector-General of Taxation's (IGT) 2013-14 work program, stakeholders raised concerns with the Australian Taxation Office's (ATO) services and support for tax agents and Business Activity Statement (BAS) agents, collectively referred to as tax practitioners in this report. These concerns include issues with the Tax Agent and BAS Agent Portals (the ATO Portals), their ATO Relationship Managers, the management of the Lodgment Program and the ATO's consultation groups for tax practitioners. The IGT commenced this review in response to these concerns.<sup>1</sup>
- 1.2 The IGT invited and received many submissions to this review. The IGT also met with a range of tax practitioners and their representative bodies to gain a better understanding of their concerns and the areas that they considered require improvement. Their concerns may be broken down into the following themes:
- the ATO-tax practitioner relationship, including whether the relationship could be improved if the objectives and challenges of each party were better understood by the other;
  - the ATO-tax practitioner engagement, including the adequacy of the ATO's current arrangements for tax practitioners to raise, discuss and resolve concerns as well as the ATO's communications resulting in strained relationships with clients, unnecessary delays and significant unbillable work for tax practitioners;
  - the ATO's tax practitioner services, including functionality and reliability of the ATO Portals, the accessibility and consistency of advice from the ATO's Registered Agent Phone Line and the useability of the ATO website; and
  - the ATO's Lodgment Program, including its design and operation not taking into account significant issues for tax practitioners and, in particular, the 85 per cent on-time lodgment requirement.
- 1.3 In order to address stakeholders' concerns, it is beneficial to first consider the role played by tax practitioners in the tax system, the various types of practices and services they provide, the obligations imposed on them by the various laws, regulatory bodies and professional bodies as well as the challenges they face in providing services to their clients.

---

1 The review was commenced pursuant to section 8(1) of the *Inspector-General of Taxation Act 2003* (prior to its being amended on 19 March 2015). The terms of reference for this review issued on 26 May 2014, which are reproduced in Appendix 1.

## THE IMPORTANT ROLE OF TAX PRACTITIONERS

1.4 The Organisation for Economic Co-operation and Development (OECD) asserts that tax practitioners play a crucial intermediary role between taxpayers and the revenue authorities.<sup>2</sup> In this tripartite relationship, tax practitioners contribute to the smooth functioning of the tax system and facilitate tax compliance.<sup>3</sup> The OECD has observed that in no country surveyed would compliance with the tax laws be improved without the existence of tax practitioners:

Across the whole range of taxpayers, taxes and circumstances, the vast majority of tax advisers help their clients to avoid errors and deter them from engaging in unlawful or overly-aggressive activities.<sup>4</sup>

1.5 Tax practitioners perform a broad range of tax-related activities on behalf of a significant proportion of the taxpayer population such as preparing and filing tax returns, providing advice on the application of the tax laws and representing taxpayers in dealing with the revenue authority.<sup>5</sup> As a result of their activities, tax practitioners are an invaluable source of knowledge and practical experience<sup>6</sup> which may be drawn upon to develop more effective and efficient tax laws and administrative practices. As stated above, they also ensure a substantial proportion of the population comply with the tax laws, thereby facilitating a more efficient administration of the tax system for all parties.

1.6 In Australia, the level of taxpayer reliance on tax practitioner services began to significantly increase in 1986 with the introduction of the self-assessment system<sup>7</sup> which effectively transferred the responsibility of interpreting and applying the tax laws to taxpayers.<sup>8</sup>

1.7 Taxpayer reliance on tax practitioners in Australia has also gradually increased over the last three decades due to a number of factors including:

- complexity of business operations and related regulations;
- individual taxpayer involvement in investment activities and income sources other than personal exertion;
- scope and complexity of tax law and related compliance; and
- use of the tax system to deliver social policies as well as to collect revenue.<sup>9</sup>

---

2 Organisation for Economic Co-operation and Development (OECD), *Study into the Role of Tax Intermediaries* (OECD Publishing, 2008) p 40; OECD, *Increasing Taxpayers' Use of Self-Service Channels* (OECD Publishing, 2014) p 35.

3 OECD, *'Self-service channels'*, above n 2, p 35.

4 OECD, *'Tax intermediaries'*, above n 2, p 14.

5 OECD, *'Self-service channels'*, above n 2, p 35.

6 OECD, *Together for Better Outcomes: Engaging and Involving SME Taxpayers and Stakeholders* (OECD Publishing, 2013) pp 16-18.

7 Michael D'Ascenzo, *'Relationships between Tax Administrations and Tax Agents/Taxpayers'*, (Speech delivered at the Asia-Oceania Consultants Association General Meeting, Manilla, 11 November 2005).

8 Explanatory Memorandum, House of Representatives, *Tax Agent Services Bill 2008*, p 123.

9 Australian National Audit Office (ANAO), *The Australian Taxation Office's Management of its Relationship with Tax Practitioners* (2002) p 12.

- 1.8 As a result, the proportion of taxpayers using tax practitioners has increased from only 20 per cent of individual taxpayers in 1980<sup>10</sup> to over 70 per cent of all individual taxpayers (8 million) and 90 per cent of all business taxpayers (2 million) in 2013–14.<sup>11</sup> These current levels are among the highest in OECD countries, exceeding those of Canada (39 per cent), the United States of America (40 per cent), New Zealand (50 per cent) and the United Kingdom (67 per cent).<sup>12</sup> This highlights that tax practitioners, in Australia, have even a greater level of influence on taxpayer compliance.

## TAX PRACTITIONERS AND THEIR SERVICES

- 1.9 Tax practitioners must apply to the Tax Practitioners Board (TPB), described further below, for registration pursuant to the *Tax Agent Services Act 2009* (TAS Act 2009).<sup>13</sup> It should be noted that more recently financial advisers, providing tax advice as part of financial advice, have been allowed to register with the TPB and this will become mandatory from 1 January 2016.<sup>14</sup>

### Number of registered tax practitioners

- 1.10 According to the TPB, there were 54,939 registered tax practitioners, including 39,606 tax agents and 15,333 BAS agents in 2013–14.<sup>15</sup> Each year, these numbers change as applications for registration are approved and existing registrations are cancelled.
- 1.11 The number of new tax practitioner registrations and existing registrations for the period from 2010–11 to 2013–14 is set out in Tables 1 and 2 below respectively.

**Table 1: Number of new tax practitioner registrations**

Year	Tax Agent	BAS Agent	Total
2010–11	3,438	782	4,220
2011–12	2,575	1,577	4,152
2012–13	3,220	1,518	4,738
2013–14	3,533	1,584	5,117

Note: The TPB's Annual Reports do not provide information on the number of applications approved for all years. Therefore, the figures above may include registrations that have been withdrawn or rejected.

Source: TPB, 2011, 2012, 2013 and 2014 Annual Reports.

10 Explanatory Memorandum, House of Representatives, *Tax Agent Services Bill 2008*, p 124.

11 Australian Taxation Office (ATO), *Compliance in focus 2013-14: Tax professionals* (19 December 2013) <<http://www.ato.gov.au/>>.

12 OECD, *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2010)* (2011) p 188 <<http://www.oecd.org/>>. A complete table of available data is contained in the report at pp 188–189.

13 *Tax Agent Services Act 2009*, s 20-20.

14 *Tax Laws Amendment (2013 Measures No. 3) Act 2013*, Schedule 1, Part 3.

15 Tax Practitioners Board (TPB), *Annual Report 2013-14* (2014) p 35.

**Table 2: Number of existing tax practitioner registrations**

Year	Tax Agent	BAS Agent	Total
2010–11	37,435	16,990	54,425
2011–12	38,100	14,247	52,347
2012–13	39,080	16,270	55,350
2013–14	39,606	15,333	54,939

Source: TPB, 2011, 2012, 2013 and 2014 Annual Reports.

- 1.12 Table 1 shows that the total number of new tax practitioner registrations has increased over the 2010–11 to 2013–14 period, from 4,220 to 5,117 registrations. Tax agent registration, however, dipped almost 25 per cent in 2011–12 (from 3,438 in 2010–11 to 2,575 in 2011–12) before recovering in the subsequent two years (3,220 and 3,533). In contrast, BAS agent registrations doubled between 2010–11 to 2011–12 (782 to 1,577, respectively) and remained reasonably constant over the following two years (1,518 and 1,584).
- 1.13 Table 2 shows that the number of total tax practitioner registrations had fluctuated over the 2010–11 and 2013–14 period between a low of 52,347 in 2011–12 and a high of 55,350 in 2012–13. Total tax agent registrations had steadily increased year on year since 2010–11, from 37,435 to 39,606 in 2013–14, amounting to a 5.8 per cent increase over this period. However, BAS agent registrations, over the same period, had dropped 9.8 per cent from 16,990 in 2010–11 to 15,333 in 2013–14.

## Numbers of 'active' tax practitioners

- 1.14 Not all registered tax practitioners are 'active'. Only 24,442 tax agents and 7,205 BAS agents in 2013–14 have one or more clients who are required to lodge a tax return or an activity statement.<sup>16</sup> This may suggest that more than half of tax practitioners either lodge under a practice registration number (see below) or perform services for a limited number of clients such as themselves and/or other family members.
- 1.15 A break up of the total number of active tax practitioners in 2013–14 is provided in the following three tables. They present the number of active tax practitioners by number of income tax return clients, activity statement clients and the type of practice, or 'practice tier', to which they belong.

**Table 3: Numbers of active tax agents' income tax return clients**

Number of clients	Number of Tax Agents	% of total Tax Agents
Less than 1000	20,036	81.9%
1001-5000	4,134	16.9%
5001-10,000	212	0.8%
10,000 +	55	0.1%
<b>Total</b>	<b>24,437</b>	<b>100%</b>

Source: ATO, TPALS Tax Practitioner Risk Landscape Report (July 2013 to June 2014).

16 ATO, 'TPALS Tax Practitioner Risk Landscape Report (July 2013 to June 2014)' (Internal ATO Document) p 2.



**Table 4: Numbers of active tax practitioners' activity statement clients**

Number of clients	Tax Agent	BAS Agent
Less than 100	17,049	7,161
101-200	3,219	36
200 +	4,174	8
<b>Total</b>	<b>24,442</b>	<b>7,205</b>

Source: ATO, TPALS Tax Practitioner Risk Landscape Report (July 2013 to June 2014).

**Table 5: Numbers of active tax agents and clients, by practice tier**

Tier (a)	Agent count	% of total	Count of clients	% of total	Average number of clients per agent
Big 4	85	0.3%	162,000	1%	1,906
Significant	806	3%	2,539,000	17%	3,150
Medium	4,716	19%	3,107,000	20%	659
Small	4,035	16%	763,000	5%	189
High Bulk	2,323	9%	6,624,000	44%	2,851
Personal Tax Focused	1,978	8%	1,672,000	11%	845
Micro	10,750	44%	331,000	2%	31
<b>Total</b>	<b>24,693</b>	<b>100%</b>	<b>15,198,000</b>	<b>100%</b>	<b>615</b>

(a) 'Big 4' tier is made up of four accounting firms, Deloitte, KPMG, Ernst & Young and PricewaterhouseCoopers; 'Significant' tier is made up of large practices with more than 1,000 clients, including 50 or more business clients with net tax amounts greater than \$10 million; 'Medium' tier is made up of practices with more than 300 clients; 'Small' tier is made up of practices with between 100-300 clients; 'High Bulk' tier is made of practices that deal mainly with individual non-business clients and have more than 1,000 clients; 'Personal Tax Focused' tier is made up of practices that deal mainly with individual clients and have between 500 and 1,000 clients; and 'Micro' tier is made up of practices with less than 100 clients.

Note: Averages and percentages are rounded.

Source: ATO, TPALS Tax Practitioner Risk Landscape Report (July 2013 to June 2014).

- 1.16 Tables 3 and 4 reveal that a significant number of active tax agents lodged income tax returns for less than 1,000 clients (81.9 per cent) and lodged activity statements for less than 100 clients (69.7 per cent). This data indicates that the typical tax practice has less than 1,000 clients and performs BAS lodgment services for a considerable number of their clients.
- 1.17 Table 4 also shows that almost all active BAS agents lodged activity statements for less than 100 clients (99.3 per cent), indicating that many BAS agents may have a smaller client base than tax agents. Such data may indicate that the tasks performed by BAS agents are time-consuming and/or that many BAS agents provide their services on a part-time basis.
- 1.18 Table 5 shows that active tax agents average 615 clients each. Active tax agents in all practices averaged more than 615 clients, with the exception of those agents in the 'small' and 'micro' tiers which averaged 189 and 31 clients respectively. Active tax agents in the 'significant', 'high bulk' and 'Big 4' practice tiers all averaged over 1,000 clients (3,150, 2,851 and 1,906, respectively).

- 1.19 Table 5 also shows that 'small' and 'micro' tax agents make up a substantial proportion of the tax practitioner community (60 per cent), however, they represent a little over a million clients (7 per cent). Active tax agents in the 'significant' and 'high bulk' practice tiers make up a small proportion of the tax practitioner community (12 per cent) but represent over 8 million clients (61 per cent). Active tax agents in the 'medium' practice tier (19 per cent) also represent 3 million (20 per cent).

## Tax practitioners by entity type and age

- 1.20 Not all of the 'active' tax practitioners are individuals, as companies and partnerships may also be registered as tax practitioners. Table 6 below presents the number of registered tax practitioners by entity type.

**Table 6: Number of tax practitioners, by entity type**

	Individuals	Partnerships	Companies
<b>Tax agent</b>	29,710	938	9,433
<b>BAS agent</b>	11,970	452	2,945
<b>Tax (financial) advisers</b>	9,844	224	4,280
<b>Total</b>	51,524	1,614	16,658
<b>% of Total</b>	<b>73.8%</b>	<b>2.3%</b>	<b>23.9%</b>

Source: TPB Internal Document, provided to the IGT by the Chair of the TPB on 10 February 2015.

- 1.21 Table 6 shows that a significant proportion of registered tax practitioner entities are individuals (73.8 per cent). These figures make up both active and inactive tax practitioners.
- 1.22 The ATO has separately advised that during 2013–14, there were only 14,841 active individual tax agents and 4,971 active individual BAS agents.<sup>17</sup>
- 1.23 The ATO collects data on the age of these active individual tax practitioners and is set out in Table 7 below.

**Table 7: Age of active individual tax and BAS agents**

Age category	Tax agents	% of total	BAS agents	% of total
29 or less	288	1.9%	137	2.8%
30–39	1,952	13.2%	1,007	20.3%
40–49	2,890	19.5%	1,850	37.2%
50–59	4,165	28.1%	1,384	27.8%
60–69	3,817	25.7%	549	11.0%
70 or more	1,729	11.7%	44	0.9%
<b>Total</b>	<b>14,841</b>	<b>100.0%</b>	<b>4,971</b>	<b>100.0%</b>

Source: ATO Internal Document, TPALS Tax Practitioner Risk Landscape Report (July 2013 to June 2014).

17 ATO, 'TPALS Tax Practitioner Risk Landscape Report (July 2013 to June 2014)' (Internal ATO Document) p 3.

- 1.24 The data in Table 7 reveals that the majority of active individual tax agents are over 40 years of age (84.9 per cent), with the largest proportion of such agents in the 50-59 age category (28.1 per cent). The majority of active individual BAS agents, however, are aged between 30 and 59 (85.3 per cent), with the largest proportion of such agents in the 40-49 age category (37.2 per cent).
- 1.25 It should be noted that over a third of active individual tax agents (37.4 per cent) and over a tenth of active individual BAS agents are 60 years of age or older and may be eligible for retirement. In contrast, very few active individual tax or BAS agents are 29 years old or younger (1.9 per cent and 2.8 per cent, respectively).

## Types and mix of tax practitioner services

- 1.26 The types of services that tax practitioners undertake are indicated in the results of an ATO survey of approximately 5,000 randomly selected tax practitioners. These services are shown in Table 8 below.

**Table 8: Types of services provided by tax practitioners**

Type of service provided	Tax Agent	BAS Agent
Preparing and/or lodging tax returns	99%	6%
Preparing and/or lodging BAS	98%	97%
Assistance in establishing new businesses	78%	38%
General advice on appropriate record keeping practices	76%	77%
Advice on tax planning	75%	
General bookkeeping services (other than generating & lodging BAS)	56%	95%
Superannuation services	45%	
Consulting on specific areas of taxation legislation	44%	
Setting up accounting software	42%	80%
Training in the use of accounting software and/or spread sheet packages	35%	65%
Self-managed superannuation fund audits	31%	
Payroll services	28%	83%
Independent audit services	24%	
Financial advice services	10%	
None of the above	1%	1%

Source: ATO, 2013 Tax Practitioner Research (July 2013) p 57.

- 1.27 Table 8 shows that almost all surveyed tax practitioners provided tax return preparation and lodgment services. However, a significant proportion also provided non-tax services including assisting clients to establish new businesses, advising on appropriate record keeping practices and providing general bookkeeping services. The range of tax and non-tax services provided by tax practitioners is often referred to as a 'whole of service' or 'whole of practice' approach.

- 1.28 Not all tax practitioners provide the same services and the mix of their services differ depending on their respective practices or business models. For example, tax practitioners may work as part of a larger tax practice and perform tax return preparation and lodgment services as an adjunct to their main business advisory services.
- 1.29 Tax practices that specialise in servicing particular categories of taxpayers may also tailor their services accordingly. For example, individual taxpayers with simple tax affairs may only need their annual tax return to be lodged and simple advice on allowable deductions against their salary and wage income. Taxpayers seeking to address their previous non-compliance, on the other hand, may require reconstruction of their affairs over many years and an experienced adviser to liaise with the ATO in relation to any potential punitive action.

## TAX PRACTITIONERS' OBLIGATIONS

- 1.30 As highlighted by the OECD, the tax practitioner's duty is first and foremost to their client:

Professional and ethical responsibilities to the client and to the law are uppermost in the mind and actions of any tax adviser. This is expressed in different ways but the overarching principle is constant: the tax adviser's loyalty is to the client; and the duty of loyalty to the client is to represent their interests and give best advice.<sup>18</sup>

- 1.31 Whilst tax practitioners are duty bound to act in the best interest of their clients, they must operate within the boundaries of the law which is becoming increasingly complex and at times uncertain.
- 1.32 Tax practitioners also face strong pressures from their clients to price their services competitively, particularly as their services are often viewed as a compliance cost or overhead. Thus the efficient and expeditious resolution of their issues with the ATO is critical to ensuring their client's comply with complex tax laws at minimal cost.

### The *Tax Agent Services Act 2009*

- 1.33 Tax practitioners also need to abide by the laws, the TAS Act 2009, and regulation which govern their profession and how they provide their tax services.
- 1.34 The TAS Act 2009, amongst others things:
- requires those who provide tax practitioner services for a fee (or other reward) to be registered;<sup>19</sup>

---

18 OECD, 'Tax intermediaries', above n 2, p 14.

19 *Tax Agent Services Act 2009*, Part 2 and s 50-5.

- establishes the TPB, who is responsible for the registration and regulation of tax practitioners<sup>20</sup> as well as being responsible for ensuring compliance with the TAS Act 2009; and
- legislates a Code of Professional Conduct (Code) to govern tax practitioners.<sup>21</sup>

1.35 The Code establishes mandatory requirements for the professional and ethical conduct of registered tax practitioners, including the duties such practitioners owe to their clients and the TPB.<sup>22</sup> Failure to comply with the Code may result in the TPB providing a written caution, issuing an order for the tax practitioner to take certain actions (such as completing a course of education or training) or suspending/terminating registration.<sup>23</sup> The principles within the Code are set out in five main categories which include honesty and integrity, independence, confidentiality, competence and other responsibilities.

1.36 Importantly, the principles set out above do not require the practitioner to ensure that their client's compliance obligations are satisfied on-time. Rather, the relevant principles above require them to:

- comply with the taxation laws in the conduct of their own personal affairs;
- provide their services competently and take reasonable care to ensure that taxation laws are applied correctly to the facts in relation to any advice provided to a client;
- not knowingly obstruct the proper administration of the taxation laws; and
- act lawfully in the best interests of the client and advise clients of their rights and obligations under the taxation laws.<sup>24</sup>

1.37 According to the ATO's website, failure to comply with tax practitioners' own personal tax obligations may also result in ATO compliance action against them.<sup>25</sup>

## Non-tax related regulation

1.38 As many tax practitioners provide non-tax related services, such as audit and assurance, financial advisory and superannuation services, they also need to comply with other laws, regulations and standards of conduct set out by other regulators such as the Australian Securities and Investments Commission (ASIC). For example, those practitioners who provide financial services are required to fulfil a number of obligations to obtain an Australian financial services licence under the *Corporations Act 2001*.

---

20 *Tax Agent Services Act 2009*, s 60-15.

21 *Tax Agent Services Act 2009*, Part 3.

22 *Tax Agent Services Act 2009*, s 30-10.

23 *Tax Agent Services Act 2009*, Part 4.

24 *Tax Agent Services Act 2009*, s 30-10.

25 ATO, *Your personal tax obligations* (27 February 2015) <<http://www.ato.gov.au/>>.

- 1.39 Some of the above non-tax compliance obligations may be due when tax related requirements are also due, resulting in parts of the year being particularly busy for these tax practitioners. For instance, during the end of the financial year, BAS agents are required to lodge BASs, ensure superannuation guarantee compliance, undertake payroll reporting, contractor reporting and year-end accounting preparation.

## Professional associations

- 1.40 Many tax practitioners are also members of professional bodies and associations, whose brand may provide a competitive advantage over non-members as it signifies a higher standard of skill and experience. Such bodies include CPA Australia, Chartered Accountants Australia and New Zealand (CAANZ) and the Institute of Public Accountants.
- 1.41 Members of such bodies are bound by ethical, technical and professional standards as set out by the Accounting Professional and Ethical Standards Board. Generally, in relation to Taxation Services, Accounting Professional and Ethical Standard 220 requires tax practitioners to comply with certain 'fundamental responsibilities' regarding public interest, integrity and professional behaviour, objectivity, confidentiality, professional competence and due care. The standard also provides instructions in relation to specific taxation services. For instance, in relation to the 'Preparation and lodgment of returns to Revenue Authorities':

A Member shall prepare and/or lodge returns and other relevant documents required to be lodged with a Revenue Authority in accordance with the information provided by a Client or Employer, their instructions and the relevant Taxation Law.<sup>26</sup>

- 1.42 Membership of such bodies as the Institute of Certified Bookkeepers, Australian Bookkeepers Association and National Tax Agent Association<sup>27</sup> will also require compliance with similar obligations. Members of the Tax Institute are required to adhere to the Code of Professional Conduct in the TAS Act 2009.<sup>28</sup>

## CHALLENGES FACED BY TAX PRACTITIONERS

- 1.43 In addition to the obligations imposed by the laws and regulations explored above, tax practitioners currently face a number of challenges as a result of new technology, globalisation, client demand for a wider range of services, future changes arising from 'disruptive' technology and an impending generational change.<sup>29</sup>

---

26 Accounting Professional and Ethical Standards Board, Accounting Professional and Ethical Standard 220 Taxation Services, Revised March 2011, p 6.

27 A full list of recognized professional associations is listed on the TPB's website; TPB, *Recognised professional associations* (14 April 2015) <<http://www.tpb.gov.au>>.

28 The Tax Institute, *Constitution of the Tax Institute CAN 008 392 372 - By-laws 1 - 17* (14 October 2014).

29 ATO, *Systemic drivers of change - a foresight report into the next decade for taxation* (15 July 2014) <<http://www.ato.gov.au/>>.

## Current impact of technology, globalisation and client demand for services

- 1.44 The increasing use of private sector and ATO accounting and tax return preparation software has allowed taxpayers to fulfil their tax lodgment obligations themselves. For example, taxpayers may access their tax details through the MyGov platform, which allows access to a range of online government services including *MyTax* for the lodgment of income tax returns. As this practice becomes more widespread, tax practitioners, particularly those whose clients are individual taxpayers with simple tax affairs, may suffer considerable revenue loss. By contrast, increased cross border transactions, in part facilitated by new technologies, have enabled smaller businesses to enter international markets, driving a demand for a mixture of local and foreign tax and business advisory services.<sup>30</sup>
- 1.45 One response to these challenges has been for some tax and accounting practices to merge, consolidate or change business models to specialise in certain tax areas to meet particular taxpayer needs or expand to non-tax related services, such as business and financial advisory services.<sup>31</sup> For example, in relation to businesses engaging in cross border transactions, the ATO has observed that tax practitioners increase their capability with both local and foreign tax systems and with general (e.g. labour) or specialist (e.g. agriculture) business arrangements.<sup>32</sup>

## Future changes arising from ‘disruptive’ technology

- 1.46 According to the ATO, the tax practitioner environment in the next decade will be characterised by even more changes and continuing innovation as a result of ‘disruptive’ technology.<sup>33</sup> These changes are also foreshadowed in a recent OECD paper, which envisages a future state where tax compliance obligations are ‘embedded’ into taxpayers’ natural systems:

In the seamless (invisible) self-service stage, rather than establishing, enhancing or integrating self-service channels, driving self-service involves embedding services in the natural systems, processes and activities of taxpayers, which can eliminate the need to interact with the revenue body altogether. The approach to service design in the final stage of service maturity, while primarily focused on the taxpayer, also needs to involve development of an in-depth understanding of the natural systems in which taxpayers function: the environment, processes, touchpoints, information and data flows, as well as other parties that taxpayers engage with in the course of their day-to-day activities.<sup>34</sup>

- 1.47 In line with these forecasts, the ATO has initiated a number of technological changes that are aimed to be implemented in the near future. Examples of such initiatives will be described in later chapters.

---

<sup>30</sup> Ibid.

<sup>31</sup> IBISWorld, *Accounting Services in Australia Industry* (March 2014); IBISWorld, *Global Accounting Services* (February 2014).

<sup>32</sup> Above n 29.

<sup>33</sup> Ibid.

<sup>34</sup> OECD, ‘Self-service channels’, above n 2, p 52.

- 1.48 Future fundamental shifts to tax practitioners' business models and workforce are also expected, resulting in further changes to the professional capability of tax practitioners.<sup>35</sup> For instance, the ATO anticipates that small and medium enterprises will increasingly look to tax practitioners to provide a higher level of advice drawing on insights gained from improved data analytics:

Services may include the provision of advice which may be based on sophisticated data analytics 'distilling' vast amounts of information into actionable insights, as well as non-financial information which is increasingly recognised as being as important as financial information in affecting business value and risk. Advice could also include risk management around data security, devising new business propositions and benchmarking services to ensure their clients are keeping up with competitors; generally being a more integrated part of their clients' business.

This trend need not be restricted to large professional services firms like the big four. Smaller firms will have access to increasingly more sophisticated online products and services to enable them to provide this higher level advice to their clients.<sup>36</sup>

## Generational change

- 1.49 In addition to the changes arising from technological change, the ATO expects a large cohort of older generation tax practitioners and government administrators to leave the workforce over the next decade, taking with them knowledge that may not have been transferred adequately to the younger generation, including in-depth understanding of tax policies and historical rationales for certain practices. This change has the potential to reduce the effectiveness and quality of some intermediary services and administrative decision-making.
- 1.50 Notwithstanding the significant amount of experienced practitioners who may retire or otherwise leave the industry, the ATO believes that new entrants will drive cultural and practice shifts:

[The future generational change may involve] a significant amount of experienced practitioners retiring or otherwise leaving the industry, and a new generation, with new sets of values, native digital competency and new career expectations, entering. This will drive cultural and practice shifts in the industry, and also significant more movement of people across organisations and also into and out of the tax profession as employees become more 'portable'.<sup>37</sup>

---

35 Above n 29.

36 ATO, 'Strategic Intelligence Scan: The ATO and the Intermediary Environment' (Internal ATO Document, 11 June 2014) p 13.

37 Above n 29.



- 1.51 As shown in Table 7 above, however, over 25 per cent of active individual tax agents may be eligible to retire now, with a further 25 per cent who will be eligible to do so over the next decade. In the light of these numbers it is difficult to envisage that new entrants will completely address the issues arising from this impending generational change without a substantial focus placed on improving the services and support that the ATO provides the tax practitioner community.



## CHAPTER 2 – ATO-TAX PRACTITIONER RELATIONSHIP

2.1 As discussed in the previous chapter, tax practitioners play an important role in the tripartite relationship with the ATO and taxpayers as they provide unique insight into improving the tax system as well as facilitating taxpayers' compliance.<sup>38</sup> It is, therefore, not surprising that the OECD strongly advocates the maintenance of a positive relationship between revenue authorities and tax practitioners.<sup>39</sup>

### UNDERLYING THEME OF STAKEHOLDER CONCERNS

2.2 Submissions to this review have raised significant concerns about the ATO-tax practitioner relationship citing that the ATO does not:

- appropriately engage tax practitioners or understand their circumstances when designing its practices and processes resulting in a transfer of workloads and administrative costs from the ATO to tax practitioners;
- adequately respond to difficulties tax practitioners face with ATO services, such as the ATO Portals, website and telephone service, causing unnecessary delays and irrecoverable costs for them; and
- sufficiently recognise tax practitioners' role to facilitate taxpayer compliance or their different business models particularly in requiring 85 per cent of all tax practitioners' clients tax returns to be lodged on time (85% Lodgment Rule) with potentially adverse consequences if such a target was not met.

2.3 The concerns with the ATO's engagement with tax practitioners, services provided to them and the Lodgment Program (which grants tax practitioners extended or staged lodgment deadlines) are discussed in detail in the later chapters. This Chapter explores the underlying theme of these concerns, namely the ATO-tax practitioner relationship, the history of the relationship and the ATO's compliance approach to tax practitioners.

### HISTORY OF THE ATO-TAX PRACTITIONER RELATIONSHIP

2.4 Since 2003, the ATO has gauged the level of tax practitioner satisfaction by engaging an independent contractor to conduct surveys every two years. The results of these surveys are set out in the table below.

---

<sup>38</sup> OECD, 'Self-service channels', above n 2, p 35.

<sup>39</sup> OECD, 'Tax intermediaries', above n 2, pp 14 and 44.

**Table 9: Percentage of tax practitioner satisfaction with overall ATO service**

Satisfaction level	2003	2005	2007	2010	2011
1 (Very satisfied)	5	12	28	16	14
2	23	48	44	48	37
3 (Neither satisfied nor dissatisfied)	17	14	12	19	24
4	42	24	13	15	19
5 (Very dissatisfied)	12	2	3	3	7

Source: ATO, 2011 Tax Agent Services Survey, p 25.

- 2.5 The table above shows that the level of satisfaction with overall ATO service was the lowest in 2003, with only 28 per cent of tax agents surveyed being satisfied or very satisfied. While there were improvements from 2005 (60 per cent) to 2007 (72 per cent), satisfaction levels started to decrease again from 2010 (64 per cent) to 2011 (51 per cent). These fluctuating levels of tax practitioner satisfaction correspond to certain events.
- 2.6 In 2002, the Australian National Audit Office (ANAO) described the relationship as strained, tense and involving significant dissatisfaction:

Overall, the current relationship between the ATO and tax agents and the tax and accounting professional bodies, can generally be described as strained and tense. This is over and above the 'normal' tensions that arise from the fundamental differences in roles of the parties: the ATO as 'revenue raiser' and 'compliance monitor', the tax practitioner as an intermediary operating for the benefit of the taxpayer client.<sup>40</sup>

...The ANAO's discussions with both the ATO and representatives of stakeholders showed that the parties perceive a considerable measure of dissatisfaction with the relationship between the ATO and tax practitioners, especially tax agents.<sup>41</sup>

- 2.7 At that time, the dissatisfaction was seen to be deepening rather than lessening.<sup>42</sup> As a result of the dissatisfaction, a number of tax and accounting professional bodies began to publicly raise awareness of their members' concerns and frustrations. For example, on 13 August 2002, the Institute of Chartered Accountants in Australia (ICAA)<sup>43</sup> commenced a public campaign to highlight members' concerns and frustrations with the complexities of the tax administrative system, the extent of ATO services and support for tax practitioners and the ATO's compliance demands of practitioners.<sup>44</sup>

40 Above n 9, p 83.

41 Ibid, p 47.

42 Ibid, p 85.

43 The Institute of Chartered Accountants in Australia (ICAA) is now known as Chartered Accountants Australia and New Zealand (CAANZ).

44 Such as the Taxation Institute and the National Tax and Accountants Association.

- 2.8 The above concerns and frustrations with the ATO's administration were highlighted to include:
- hours wasted 'on hold', hoping for a response from the ATO Helpline;
  - inconsistent and incorrect advice from ATO staff;
  - lack of training for ATO staff make it impossible for them to tackle the technical queries prompted by the complex ATO process;
  - an avalanche of unnecessary paperwork; and
  - costly duplication due to lack of integration of ATO systems.<sup>45</sup>
- 2.9 The ICAA threatened to abandon electronic lodgment of tax returns as of 28 October 2002 unless the quality of the ATO's services and support improved.<sup>46</sup>
- 2.10 In response, the ATO began a project which helped them to identify the level of services and support tax practitioners required. This project resulted in numerous initiatives which were intended to improve the ATO-tax practitioner relationship by making it easier for tax agents to fulfil their role. These initiatives included:
- the Tax Agent Portal, which was launched on 3 October 2002;<sup>47</sup> and
  - the Relationship Manager Program which was launched in July 2003.<sup>48</sup>
- 2.11 As shown in Table 9 above, the result is reflected in tax practitioners' satisfaction levels improving over the four years that followed. The improvement may also be partly attributable to the establishment of the ATO's dedicated tax practitioner business line (the Tax Practitioner and Lodgment Strategy (TPALS) business line) on 1 July 2006 to assume corporate responsibility for managing the relationship with tax practitioners.<sup>49</sup> The TPALS business line was later renamed the Tax Practitioner, Lodgment Strategy and Compliance Support (TPLSCS) business line.
- 2.12 The TPLSCS is an important ATO business line whose responsibilities include:
- managing the ATO's formal engagement, communication and consultation with tax practitioners;
  - developing the ATO's understanding of tax practitioners and the influence they have on participation in the tax and superannuation system;

---

45 ICAA, 'Deadline for ATO re-design urged by ICAA members' (Media Release, 13 August 2002).

46 Ibid.

47 ANAO, *Tax Agent and Business Portals* (2006) p 11.

48 ANAO, *The ATO's Management of its Relationship with Tax Practitioners: Follow Up Audit* (2007) p 29.

49 Ibid, p 14.

- developing and managing the tax agent Lodgment Program; and
  - providing a range of services to tax practitioners and taking compliance action such as managing the non-compliance of the requirements under the Lodgment Program.<sup>50</sup>
- 2.13 Other ATO business lines also conduct distinct and separate activities with tax practitioners. Appendix 3 provides an overview of existing approaches and activities of ATO business lines impacting tax practitioners. For example, the Enterprise Solutions and Technology (EST) business line is responsible for the delivery of online services and products to tax practitioners, such as the ATO Portals. The Service Delivery and Customer Service and Solutions business lines have the responsibility for managing inbound telephony, which includes the ATO's registered tax agent telephone service.
- 2.14 Over the next four years, however, the level of tax practitioner satisfaction dropped from 72 per cent in 2007 to 51 per cent in 2011. An increasing number of concerns with the ATO's services and support were raised by tax practitioners with the ATO and the IGT's office during this time.<sup>51</sup>
- 2.15 These concerns peaked during the ATO's implementation of new core processing systems (the Change Program) which generated wide-ranging and substantial numbers of complaints from the tax practitioner community early in 2010. Much of the dissatisfaction related to significant delays in processing income tax returns and refunds. Shortly thereafter, the IGT commenced a review of the ATO's Change Program at the direction of the Minister and identified a number of areas for improvement, including more timely and transparent communication of potential risks and impacts of systems changes, as well as the processes for compensating tax practitioners where the ATO does not provide such communication.<sup>52</sup>
- 2.16 Many tax professionals also raised further concerns during the IGT's 2012 *Self-Assessment* review.<sup>53</sup> These concerns particularly related to the ATO's approach to assessing tax advisers' risk of non-compliance, the so-called Risk Differentiation Framework (RDF). The IGT observed that whilst the RDF was intended to encourage a mutually constructive and collaborative relationship, its execution may have significant impacts and contribute to a further lack of trust between the ATO and the tax profession. As a result, the IGT recommended continued consultations to identify strategies to achieve a more constructive relationship, including the appropriateness and execution of the RDF.<sup>54</sup>

---

50 ATO, 'Tax Practitioner Lodgment Strategy and Compliance Support Line plan 2014-2015' (Internal ATO Document).

51 For example, at a number of meetings with the IGT, Tasmanian tax agents raised concerns with the ATO's systems, telephone service and correspondence with tax practitioners. As a result, the ATO provided its views on the 32 separate concerns raised, together with an outline of relevant changes it had implemented, or proposed to do so, to address the issues. Tax practitioner feedback noted some welcome changes, however, they also highlighted the ATO's changes had not addressed some issues: IGT, *List of concerns arising from roundtable discussions with Tasmanian tax agents* (8 April 2008) <<http://www.igt.gov.au>>.

52 IGT, *Review into the ATO's Change Program* (2011) pp 97-110.

53 IGT, *Review into improving the self assessment system* (2013).

54 *Ibid*, p 80.

- 2.17 During that IGT review, the ATO announced a 'Tax Practitioner Action Plan' which sought to indicate the work needed to improve the ATO's engagement with tax practitioners:

[The Tax Practitioner Action Plan] provides the foundations for how we will work with you, and acknowledges past difficulties, while focussing on a positive future.

... The Action Plan sets the direction the detail, the what, the how and the when we would like to work out in collaboration with tax practitioners and your professional bodies.

... There are three elements to our Plan:

- identify areas where we can improve the support we give you and work with you to design and implement the improvements,
- increase the effectiveness of our consultation with the profession - to make sure we are listening to you and acting on your feedback or where we don't, explaining why we can't or why we think it's not a good idea, and
- increase engagement with the profession around our compliance program.<sup>55</sup>

- 2.18 In 2012, the ATO's Integrated Service Delivery Steering Committee, which had previously evolved to encompass the breadth of integrated service delivery, was refocussed to manage the ATO's enterprise wide strategies to improve services to taxpayers and tax practitioners in line with the whole-of-government strategic direction. This committee was renamed the Service Improvement Steering Committee (SISC)<sup>56</sup> and accords with an OECD report that suggests establishing an overarching 'Strategic Services Committee,' responsible for setting the strategic direction for service delivery.<sup>57</sup>

- 2.19 The ATO's SISC membership comprises senior executives from the ATO's Compliance, Law Design and Practice and People, Systems and Services Groups (PSSG).<sup>58</sup>

---

55 Michael D'Ascenzo, 'Tax practitioner action plan', (Speech delivered at CPA Professional Accountants Group annual dinner, Sydney, 2 February 2012).

56 ATO, 'Service Improvement Steering Committee Charter' (Internal ATO Document) p 2.

57 OECD, *Managing Service Demand, A practical guide to help revenue bodies better meet taxpayers' service expectations* (2013) p 20.

58 Including the Second Commissioner, Deputy Commissioner Service Delivery Support, Deputy Commissioner Customer Service Solutions, Chief Information Officer EST, First Assistant Commissioner, Enterprise Applications, Deputy Commissioner, Small Business/Individual Taxpayers and Assistant Commissioner, Integrated Tax Design; Above n 56.

- 2.20 In May 2013, a market research firm was engaged to evaluate the effectiveness of the ATO's tax practitioner engagement strategies by surveying the views of approximately 5,000 tax practitioners.<sup>59</sup> This research showed that 77 per cent of tax practitioners were satisfied with the ATO's overall service, which was a significant improvement from 2011.<sup>60</sup> This may be due to the fact that many of the problems resulting from the Change Program had been addressed by this stage.
- 2.21 However, only 66 per cent of tax practitioners felt that 'the ATO does a good job' and only 52 per cent considered that 'the ATO does a good job of engaging with tax practitioners'.<sup>61</sup> The majority of tax and BAS agents (65 per cent and 56 per cent, respectively) did not believe that the ATO had a good idea of the issues confronting tax practitioners.<sup>62</sup> In fact, 34 per cent of tax agents and 21 per cent of BAS agents reported that their business was negatively impacted as a result of ATO operational or administrative actions.<sup>63</sup> Furthermore, a third of tax practitioners felt the relationship was 'an area of high and immediate concern'.<sup>64</sup> Such research indicates that there is room for improvement.<sup>65</sup>
- 2.22 Since the above 2013 research, a number of ATO initiatives have been launched, including:
- changes to the ATO-tax practitioner external consultative arrangements, including the discontinuance of the Lodgment Working Group (LWG) and the Regional Tax Practitioner Working Groups (RTPWG), which is discussed further in Chapter 3; and
  - the introduction of the 85% Lodgment Rule which is discussed further in Chapter 5.
- 2.23 However, during this IGT review, stakeholders raised concerns, echoing similar issues that led to the ICAA's public campaign in 2002. In particular, some tax practitioners believed the importance of their role was undermined by the ATO:
- removing personalised support with the closure of the ATO's Relationship Manager Program;
  - focusing attention and assistance on high risk practitioners instead of those who are compliant;
  - not providing consistent or correct advice on the registered tax agent phone line;

---

59 Newpoll, *ATO 2013 Tax Practitioner Research Report* (July 2013) p 1.

60 Above n 59, p 41.

61 Ibid, p 11.

62 Ibid, p 28.

63 Ibid, p 55.

64 Ibid, p 5.

65 Ibid, p 28; ATO, *BAS Agent Advisory Group minutes, June 2012* (18 January 2013) <<http://www.ato.gov.au>>; Above n 36, p 3.



- not maintaining or improving the functionalities of critical services such as the ATO Portals; and
- introducing the 85% Lodgment Rule with the threat of removing access to the Lodgment Program, a fundamental tool of their business, and referral to the TPB.

2.24 Relevantly, during this IGT review, the ATO has developed the *Reinventing the ATO* blueprint for organisational change to reflect community needs.<sup>66</sup> In relation to tax practitioners, the ATO intends to:

- acknowledge tax practitioners' role in improving compliance and develop 'excellent' working relationships;
- adapt to tax practitioners' changing business practices and needs;
- provide tax practitioners with a single and secure entry point for online ATO and other government services and information;
- work with tax practitioners to encourage their clients to use systems which are compatible with ATO and government systems; and
- tailor communication and services based on a better understanding of tax practitioner circumstances.<sup>67</sup>

## ATO COMPLIANCE APPROACH TO TAX PRACTITIONERS

2.25 Generally, tax practitioners do not have any direct legal, professional and ethical responsibility to the ATO. However, the ATO applies a risk differentiation process to tax practitioners to address any compliance risk:

Over a number of years, we have developed risk-differentiation processes in our compliance approach to income tax and goods and services tax relating to large businesses and small-to-medium enterprises. We have applied similar processes when looking at intermediary populations.<sup>68</sup>

2.26 The ATO's risk differentiation process has been considered in a number of reviews by the IGT. In the IGT's 2012 *Self-Assessment* review, the IGT had expressed some reservations about the broad application of an RDF to tax practitioners and recommended that:

The ATO should continue consultation with the tax profession to identify strategies to achieve a more constructive relationship. Such consultation should include discussions on whether the use of a risk differentiation system is appropriate and if so how it should be implemented.<sup>69</sup>

---

<sup>66</sup> ATO, 'Program blueprint' (Internal ATO Document, March 2015) p 2.

<sup>67</sup> Ibid, p 17.

<sup>68</sup> ATO, *Risk-assessment processes* (3 March 2015) <<http://www.ato.gov.au>>; Note that risk differentiation processes include the application of the Risk Differentiation Framework (RDF).

<sup>69</sup> Above n 53, Recommendation 3.6.

2.27 In response, the ATO indicated that it would not consult on whether the use of the RDF is appropriate in respect of the tax profession but would instead consult with the tax profession on how to implement it as part of the implementation of the Tax Practitioner Action Plan.

2.28 Subsequently, in the IGT's 2014 *Risk* review, the IGT recommended that:

...in consultation with tax practitioners, the ATO develop and publish a complete guide on the operation of RDF for tax practitioners. Matters to be covered by the guide include:

- (a) the risk hypothesis being tested;
- (b) the inputs used;
- (c) tax practitioners opportunity for review of initial risk rating (consistent with the principles of natural justice);
- (d) communications between the ATO and practitioners;
- (e) confidentiality of the risk rating as between the ATO and the practitioner;
- (f) referral to the ATO's Aggressive Tax Planning Unit where the promoter penalty regime may apply; and
- (g) referral to the Tax Practitioners Board where the Code of Professional Conduct contained in the Tax Agent Services Act 2009 may have been breached.<sup>70</sup>

2.29 The ATO agreed to this recommendation and as a result, published a risk-assessment processes guide (the Guide) for intermediaries (which includes tax practitioners) after consultation with tax practitioners and their representatives.

2.30 In commenting on the Guide, ATO Tax Practitioner Advisory Group (ATPAG) members noted that the Guide did not provide practical information on risk triggers:

...the document is written at a high level and covers more policy and philosophy than a complete and practical guide to the triggers and tolerances that would flag 'practitioner risk' to the ATO, or outline behaviours that would not raise a risk flag with the ATO.<sup>71</sup>

---

<sup>70</sup> IGT, *Review into aspects of the Australian Taxation Office's use of compliance risk assessment tools* (2014) p 140.

<sup>71</sup> ATO, *ATPAG minutes, May 2014* (17 July 2014) <<http://www.ato.gov.au>>.

- 2.31 The ATO acknowledged that a high level description was deliberate as risks emerge and change:

Triggers, behavioural flags and tolerances are usually driven by the risks the ATO will focus on and as analysed in the compliance postures and behaviours of the client base. These are rarely static. For example, the compliance risks that the ATO is concerned about are outlined in our 'Compliance in Focus' document. This is a 'living document' and is updated frequently as risks emerge, are identified and treated. Our view of a particular risk or combination of risks from the view of tax practitioners will change quite frequently. It is difficult to be prescriptive and have a static view of practitioner risk, hence the link back to other risk profiling measures and analytics.<sup>72</sup>

- 2.32 In terms of how the ATO conducts its compliance action, the Guide mentions that the ATO seeks to differentiate its engagement with intermediaries and their clients depending on the likelihood and consequence of non-compliance.<sup>73</sup>
- 2.33 The Guide also mentions that the ATO takes a 'linear' approach to risk assessing tax practitioners' non-compliance. This approach involves comparing tax practitioners with their peers to identify outliers. The 85% Lodgment Rule is one such risk assessment tool<sup>74</sup> which has been the subject of considerable stakeholder concern in this IGT review. As a result, it is considered separately in Chapter 5.
- 2.34 In recent years the ATO has also engaged with tax practitioners to manage a range of client risks, including on-time lodgment of returns, correct reporting of income for regulatory and income tax matters (including for self-managed superannuation funds), tax debts and promotion of tax schemes.<sup>75</sup>
- 2.35 Where ATO compliance activities indicate that a tax practitioner may be breaching the TAS Act 2009, such as non-compliance with their own personal taxation obligations, the matter may be referred to the TPB for action. In 2013-14, the TPB reported that of the 1,357 complaints and referrals it received regarding tax practitioners' potential breaches of the TAS Act 2009, only 129 were from the ATO (10 per cent).<sup>76</sup> The types of cases that the ATO had referred to the TPB included 8 tax practitioners who had lodged large numbers of income tax returns for taxpayers whose identities had been stolen, 89 tax practitioners who had failed to lodge their personal income tax returns or BASs and 69 tax practitioners who had outstanding debts with the ATO.<sup>77</sup>
- 2.36 Where ATO compliance activities indicate that there is a tax crime, the ATO may refer the matter for criminal prosecution. In 2012-13, eight tax practitioners were prosecuted for offences including those relating to money laundering, false lodgment and identity fraud.<sup>78</sup>

---

72 Above n 71.

73 Above n 68.

74 Ibid.

75 Ibid.

76 Above n 15, p 45.

77 Ibid, p 50.

78 Above n 17, p 2.

## IGT OBSERVATIONS

- 2.37 As all parties have acknowledged, tax practitioners play a key role in facilitating taxpayer compliance and providing insights into developing tax policy and administrative practices. As noted earlier, the OECD has stated that preserving a positive ATO-tax practitioner relationship is critical.<sup>79</sup> Others have also come to this same conclusion. For example, a 2013 ATO report highlighted that 'tax practitioners who are negatively disposed to the ATO in general would probably be influencing clients in a less positive fashion'.<sup>80</sup>
- 2.38 Tax practitioners, taxpayers and the ATO have dependence on each other in playing their various roles within the tax system to achieve mutually beneficial outcomes. However, natural tensions may arise due to competing interests between the tax practitioners' first and foremost responsibility to their clients<sup>81</sup> and the ATO's role of 'revenue raiser' and 'compliance monitor'.<sup>82</sup> These tensions provide potential for the relationship to be complex and, at times, tense and adversarial where each party's role is not sufficiently understood and appropriately considered by the other.
- 2.39 To assist tax practitioners, the ATO provides support through a range of services, concessions and consultative forums. These ATO services have existed for a number of years and many tax practitioners have developed a heavy reliance on them to perform their work.
- 2.40 From time to time, however, the ATO's services fail, or are perceived to have failed, to meet tax practitioners' expectations. For example, when inaccurate or outdated information is held in relation to tax practitioners and their clients, it may result in unnecessary ATO correspondence and action, damaged client relationships and significant unbillable work in remedying these inaccuracies. Problems with the ATO's services and support also result in work, responsibility and cost being shifted onto tax practitioners, causing frustration and tension with the ATO which may ultimately impact the level and quality of compliance in the tax system.
- 2.41 In response to its 2013 research, the ATO has recently sought to address a number of irritants to improve the ATO-tax practitioner relationship. For example, the ATO has reduced the period of time the ATO Portals are under maintenance and has undertaken initiatives to improve the ability for call centre staff to resolve queries at the first contact.<sup>83</sup>
- 2.42 The IGT welcomes these recent initiatives and believes that there is room for further improvement to address specific concerns with the ATO's current level of services and support which are further discussed in the chapters that follow.

---

79 OECD, 'Tax intermediaries', above n 2, pp 14 and 44.

80 Above n 59, p 26.

81 OECD, 'Tax intermediaries', above n 2, p 14.

82 Above n 9, p 83.

83 ATO, 'Second Commissioner Brief - October 2014, ATO Portal Performance' (Internal ATO Document); ATO, 'CS&S & TPALS July 2013 - June 2014 service delivery insights' (Internal ATO Document, undated) p 3.

2.43 The IGT is also of the view that different ATO business lines may be unaware that their actions generate increases or disruptions in tax practitioner workloads.<sup>84</sup> For example, ATO Portal related issues, which are maintained by the EST business line, may result in an increase to inbound calls from tax practitioners, for which the Service Delivery and Customer Service and Solutions business lines are responsible.

2.44 The ATO's own internal inquiries have raised concerns with its fragmented approach to dealing with tax practitioners:

There is no clear, enterprise strategy for how we interact with the intermediary market. This has engendered a fragmented approach (excluding operational/strategic project driven processes) where accountabilities and ownership of function/role is blurred.

It is recognised that:

- Current support, engagement and compliance offers for intermediaries are fragmented amongst Compliance and Service Delivery groups, with roles and functions scattered throughout [business services lines].
- There is a potential duplication of investments across [business services lines] providing enabling/support and delivery functions/roles.
- Co-ordination of effort occurs on the fringes of activity/process, or within specific program focus areas, but is generally lacking. There is a lack of comprehensive reporting of interactions and outcomes where contacts occur outside of normal business processes. This contributes to a growth in knowledge gap, and duplication of effort.<sup>85</sup>

2.45 The IGT is also of the view that better co-ordination of efforts across different business lines is required to enable the ATO to understand the impacts of its actions and quickly respond to resulting issues faced by tax practitioners. To this end, an overarching unit with overall responsibility for the co-ordination of tax practitioner services and interactions is required. Such a unit would provide the necessary governance and accountability as well as informing the Compliance Group Executive on tax practitioner issues. The IGT believes that the proposed unit would also assist the ATO achieve the objectives of its Reinvention strategy.<sup>86</sup>

2.46 The ATO-tax practitioner relationship can also be affected by the manner in which the ATO assesses the risk posed by a tax practitioner. Many of the issues associated with the use of the RDF have been explored in previous IGT reviews, including the *Self-Assessment* and *Risk* reviews.

---

84 Above n 57, p 19.

85 ATO, 'Intermediaries approach - Blueprint outlining our approach to management of intermediary engagement, compliance and support' (Internal ATO Document) p 4.

86 Above n 66.

2.47 In the *Risk* review, the IGT noted that transparency of the risk assessment process is needed to engender confidence that decisions to take compliance action are not arbitrary and are based on objectively verifiable inputs.<sup>87</sup> In relation to applying RDF to tax practitioners, the IGT observed that:

Whilst the risk inputs, being the risk profile of the clients of the tax practitioners, may be a useful method of initial identification of higher risk practitioners, the IGT believes that care needs to be taken to ensure risk modelling is appropriately augmented by follow-up and qualitative analysis. This is because the risk assessment of clients themselves may have a degree of inaccuracy...<sup>88</sup>

... It is important that the ATO does not approach the tax practitioners on the assumption that they are doing something wrong with respect to their clients who are perceived to be higher risk taxpayers. For example, there are various reasons why a practitioner may appear to have a large proportion of clients who are outside the small business benchmarks.<sup>89</sup>

2.48 In response to a recommendation in the above IGT review, the ATO has developed and published the Guide explaining the operation of the risk assessment processes for intermediaries. However, as mentioned above, tax practitioners consider that this guide does not provide sufficient information.

2.49 In order to better inform tax practitioners and further gain their confidence in the ATO's risk assessment tools, the IGT is of the view that the ATO could provide further information and clarification particularly with respect to the inputs used. However, it should be noted that not all aspects of the ATO's risk assessment process can be disclosed without putting Government revenue at risk.

## RECOMMENDATION 2.1

*The IGT recommends that the ATO:*

- (a) *sets up an overarching unit with overall responsibility for the co-ordination of tax practitioner services and interactions; and*
- (b) *provides further information and clarification regarding the application of its risk assessment processes as applied to tax practitioners particularly with respect to the inputs used.*

### ATO response

In relation to 2.1 (a) – Agree

The “Working with our Partners in the Tax and Super Systems” program under the Reinvention of the ATO is directed by a Program Board that has overall responsibility for the work to support tax practitioners. This Board will ensure a coordinated approach.

---

<sup>87</sup> Above n 70, p 147.

<sup>88</sup> Above n 70, para [7.39].

<sup>89</sup> Ibid, para [7.45].

In relation to 2.1 (b) – Disagree

The ATO has already published on our website a comprehensive document from a whole of ATO perspective on how risk is applied with regard to tax practitioners in response to a previous recommendation of the IGT. We acknowledge the IGT recommendation but we believe the website content provides the appropriate level of detail and practical information.





## **CHAPTER 3 – ATO-TAX PRACTITIONER ENGAGEMENT ARRANGEMENTS AND ATO COMMUNICATION**

- 3.1 Many stakeholders raised a range of concerns with the ATO's engagement or consultation arrangements with tax practitioners. Some stakeholders also raised specific concerns with the ATO's communication with practitioners and their clients.

### **STAKEHOLDER CONCERNS WITH ATO ENGAGEMENT**

- 3.2 Stakeholders were of the view that the recent reduction in the number of ATO external consultative arrangements has diminished the ATO's ability to receive a range of input and feedback on issues of concern impacting on its ability to develop practical solutions.
- 3.3 Stakeholders also expressed concern that the ATO did not appropriately consider or respond to issues raised by tax practitioners. In particular, they believe that the ATO has:
- focused on providing information to tax practitioners rather than discussing the relevant issues and developing potential solutions jointly;
  - not consulted tax practitioners with sufficient knowledge of practical issues especially difficulties faced by small businesses and individual taxpayers;
  - not facilitated direct access to its decision makers; and
  - not communicated its consideration of the issues raised by tax practitioners or provided explanations for any ATO action (or inaction) taken as a result.
- 3.4 In order to better understand these concerns, it is important to appreciate the various arrangements that the ATO uses to engage with tax practitioners.

### **ATO-TAX PRACTITIONER ENGAGEMENT**

- 3.5 Positive and effective engagement with tax practitioners offers significant benefits to tax practitioners, the ATO and the tax system more broadly. The OECD has asserted that:

A strategy of positive engagement with tax advisers offers potentially significant benefits to all parties in the tax system. In particular, it can add to revenue bodies' understanding of tax advisers and the role they play in the tax system, as well as understanding of their clients and broader developments in the economy. This, in turn, should result in improved risk and compliance strategies and better-focused information requests and dialogue with taxpayers, resulting in reduced compliance costs for all.

...For revenue bodies, the principal benefit is greater understanding of how tax advisers go about their business, what drives their business practices, how they can be equitably influenced and, most importantly, what impact they have on the decisions made by their clients in relation to tax.<sup>90</sup>

3.6 The ATO has therefore, in the past five years, facilitated a number engagement arrangements for tax practitioners to communicate and provide input and feedback to the ATO, including, but not limited to:

- external consultative arrangements;
- Relationship Manager Programs;
- support and assistance visits;
- the Key Agent Program;
- telephone service;
- the ATO Portals; and
- the ATO website.

3.7 The first four engagement arrangements listed above are described in more detail in the sections that follow. The last three arrangements are separately explored in Chapter 4.

## External consultative arrangements

3.8 The ATO has a number of external consultative arrangements which provide a platform for the ATO to engage with the community, including tax practitioners, on significant issues.

3.9 In January 2013, the Commissioner of Taxation (Commissioner) commissioned an internal review of the above arrangements which, at that time, consisted of a total of 68 consultative forums with 1,494 members and 229 meetings over a 12 month period.<sup>91</sup>

---

90 OECD, 'Tax intermediaries', above n 2, p 14.

91 ATO, 'Review of ATO consultative arrangements: Report of the ATO Review Panel' (Internal ATO Document, 20 May 2013) p 4 and 8.

- 3.10 More specifically, these consultative forums included a network of 8 peak ‘external forums’ and 60 other ‘consultative groups’, including 15 listed as subgroups of the National Tax Liaison Group (NTLG), 8 listed as subgroups of the ATO Tax Practitioner Forum (ATPF) and 7 as RTPWGs.<sup>92</sup> As part of this internal review, the ATO also engaged an external consultant to:
- identify best practice consultation models;
  - review the effectiveness of ATO consultative arrangements and identify the positive aspects or shortcomings of current approaches; and
  - review the role of private sector representative bodies in guiding the ATO to improve informed and timely decision making.<sup>93</sup>
- 3.11 In drawing on the principles for consultation best practice used by international and domestic bodies,<sup>94</sup> the external consultant tested the ATO’s existing arrangements by reference to a number of effectiveness criteria which included whether the stakeholders, the expectations and the means of consulting were appropriate and whether the outcomes were recorded effectively.<sup>95</sup>
- 3.12 A number of observations were made in the resultant external consultant’s report, including:
- for some of the peak forums, information sharing by the ATO had become the primary purpose of the meeting, with little added to the agenda by stakeholders (other than topics on which they were seeking an ATO response);<sup>96</sup>
  - a number of the peak forums had very large memberships, which could result in less opportunity for dynamic engagement on relevant issues;<sup>97</sup> and
  - most peak forums did not produce outcomes that were clearly recorded, assigned a realistic timeline or allocated responsibility to an appropriate person for attending to the matter.<sup>98</sup>

---

92 The Centre for Strategy and Governance, *Review of ATO Consultative Arrangements* (2013) p 14.

93 Above n 92, p 2; Above n 91, p 5.

94 OECD, *OECD: Open Government, Fostering Dialogue with Civil Society* (2003); The Board of Taxation 2007 report to the Treasurer: *Improving Australia’s Tax Consultation System*; Department of Finance and Deregulation, *Australian Government Consultation Requirements*, July 2012.

95 Above n 92.

96 *Ibid*, p 13.

97 *Ibid*, p 18.

98 *Ibid*, p 25.

- 3.13 In drawing on the work of the external consultant, the ATO's internal review concluded that:

The current approach to the ATO's consultative arrangements is diverse and disparate. There is no holistic view of the intelligence derived from all the forums and other consultative arrangements providing a systemic view of the contribution consultation makes to the administration of the taxation and superannuation systems. There is however, co-ordination across some sectors of consultation and engagement such as in the case of tax practitioners. As a consequence, in some instances, there may be gaps in consultation that cannot be identified and overlaps or duplication that occurred which cannot be rectified. There have been some overlaps and duplications identified with our current consultative arrangements. For example, the ATO Tax Practitioner Forum has identified the Accounting Working Group as a duplication of activity.<sup>99</sup>

- 3.14 The ATO's internal review recommended that the ATO change its framework for external consultative arrangements and establish eight formal consultative committees 'that focus at the highest level on stewardship of the tax and superannuation systems,' comprising four 'liaison groups' and four 'advisory groups.'<sup>100</sup> These liaison groups would focus on strategy and relationships through an 'audience lens' while the advisory groups would focus on the system in operation by product or program.<sup>101</sup> This review also recommended the establishment of a Consultation Hub to co-ordinate all consultation between the ATO and the community, as well as providing a centralised repository of issues raised and outcomes.<sup>102</sup>
- 3.15 The ATO implemented this framework, with effect from 1 July 2013, which is illustrated in Appendix 4.
- 3.16 In explaining the basis for the changed framework, the Commissioner publicly highlighted that these new arrangements are to focus on outcomes rather than a process of holding regular meetings:

[The previous arrangements] did become a bit of a process – the meetings were held quarterly, there was an agenda, the people would get there and tick off the items – whereas I am much more focussed on the shorter term: 'Here are the issues that we have today and need some help on. Who are the best people around in Australia for this issue to help us work our way through it?' ...You do it for more like four months, and then it stops – and then there is the outcome. So it is much more focussed.<sup>103</sup>

---

99 Above n 91, p 8.

100 Above n 91, p 10.

101 Ibid.

102 Above n 91, p 20.

103 House of Representatives Standing Committee on Tax and Revenue, *2013 Annual Report of the ATO Second Report*, p 25.

3.17 For tax practitioners, the relevant changes to the external consultative arrangements included the transition of the seven RTPWGs to the one Open Regional Forum (later expanded to the Open Forum<sup>104</sup>) and the ATPF to the ATPAG. The full list of consultation forums that the ATO now convenes for tax practitioners are set out below:

- the NTLG;
- the ATPAG;
- special purpose working groups, such as the LWG;
- stakeholder relationship and management groups, such as the BAS Agent Association Group (BASAAG); and
- the Open Forum.

3.18 Each of the above forums will be explored in the next section.

3.19 Public support has been expressed for the changes, particularly the removal of duplicated consultative forums by some, including the Tax Institute and the Council of Small Business Organisations of Australia.<sup>105</sup> Some, however, have stated that the loss of ongoing consultation committees, such as the RTPWGs, has reduced ATO engagement:

The Institute of Chartered Accountants Australia cited the discontinued Fringe Benefit Tax (FBT) subcommittee as an example of the loss of ongoing specialty consultation and observed that some regional tax practitioners have had fewer opportunities to engage with the ATO since the new consultation arrangements were introduced.<sup>106</sup>

3.20 In acknowledging tax practitioner feedback that the reduction to the external consultative arrangements may have been excessive, the Commissioner has suggested that the effectiveness of the new arrangements should be assessed after a sufficient amount of time has elapsed:

Changes to our consultation arrangements have been a major shift for many and some feedback has suggested that we have gone too far. I think we need to let them play out this year to see if they work and we will refine them if necessary. The bottom line is that I am committed to effective consultation and it will be more on a project basis rather than via static, longstanding committees.<sup>107</sup>

---

104 ATO, *ATPAG minutes November 2014: Open Forums* (6 March 2015) <<http://www.ato.gov.au>> (Accessed 30 March 2015).

105 Above n 103, pp 24-25.

106 Ibid.

107 Chris Jordan, *Reinventing the ATO - building trust in Australia's tax administration*, ATAX 11th International Tax Administration Conference, Sydney, 14 April 2014.

- 3.21 Accordingly, the ATO has stated that it intends to undertake a post implementation review of the new external consultative arrangements in the first quarter of 2015 and use the outcomes of the review to better align the consultation process with external stakeholder expectations.<sup>108</sup>

### **National Tax Liaison Group (NTLG)**

- 3.22 The NTLG is the ATO's peak consultative 'liaison' group on tax matters and 'focuses on significant matters in the national interest and supports key relationships reflecting the broader community.'<sup>109</sup> Furthermore, the NTLG charter states that:

...the NTLG identifies significant issues and drives improvements in relation to the following aspects of the tax system:

- tax law interpretation, administration, design and policy (including technical issues)
- confidence in and compliance with the tax system
- ATO service delivery.

The NTLG will also maintain an oversight function over the ATO's other tax-focussed stewardship committees in order to identify systemic issues and drive systemic improvements.<sup>110</sup>

- 3.23 The NTLG is chaired by the Commissioner and members include key ATO decision makers, senior Treasury officials, representatives of major tax, law and accounting professional bodies and some industry associations.<sup>111</sup>
- 3.24 The NTLG meets on a quarterly basis,<sup>112</sup> and minutes from meetings are published on the ATO website.<sup>113</sup>

### **ATO Tax Practitioner Advisory Group (ATPAG)**

- 3.25 The ATPAG (which replaced the ATPF) is an 'advisory' group and focuses on 'system in operation':

The ATO Tax Practitioner Advisory Group (ATPAG) will focus on the 'system in operation'; address strategic issues and manage key relationships and focus on issues of a national interest. The ATPAG will deal with high level, significant issues in the national interest.<sup>114</sup>

---

108 Above n 103, p 26.

109 ATO, *Consultation: National Tax Liaison Group (NTLG)* (21 January 2015) <<http://www.ato.gov.au>>.

110 Above n 109.

111 Ibid.

112 Ibid.

113 Ibid.

114 ATO, *ATO Tax Practitioner Advisory Group (ATPAG) – charter* (11 February 2015) <<http://www.ato.gov.au>>.

- 3.26 The ATPAG membership comprises tax practitioners, representatives of the major tax, law and accounting professional bodies and senior members of the ATO. Members are expected to address issues that are systemic and strategic in nature, i.e., not specific to individual clients.<sup>115</sup> Tax practitioner members have a three-year tenure while other members such as representatives of professional bodies have ongoing tenure.<sup>116</sup>
- 3.27 Meetings are convened when required and in addition, out of session meetings may be held in various formats (phone conference, video conference) between meetings.<sup>117</sup> Minutes from face-to-face meetings are published on the ATO website.<sup>118</sup>

### Special purpose working groups

- 3.28 Special purpose working groups are convened to focus on particular issues that have been referred for specific attention. Prior to 1 July 2013, these were sub-groups of the ATPF that regularly met to focus on key issues or areas.
- 3.29 There were no LWG meetings between 30 August 2013 and 11 August 2014. This had led stakeholders to believe that the LWG, along with the RTPWGs, had been disbanded as a result of the January 2013 ATO internal review into their consultative arrangements. The LWG is now being convened regularly and the ATO has confirmed that it intends to continue LWG meetings into the future.
- 3.30 According to the ATO, the LWG was established to:
- develop and design the tax agent lodgment program that reflects changing workloads, priorities, legislation and revenue requirements;
  - monitor and analyse tax agent lodgment performance and identifying solutions where trends indicate that achievement of the lodgment program is at risk;
  - identify and examine systemic issues with a broader impact on lodgment or related functions over a longer term;
  - input into the development of support mechanisms, particularly the Tax Agent Portal; and
  - promote a shared understanding of the current program structure.<sup>119</sup>
- 3.31 The LWG acts in an advisory capacity and therefore assists the ATO in its decision making. Members also make recommendations on particular ATO products, services and administrative approaches.<sup>120</sup> For instance, LWG members were heavily involved in the design of the new Lodgment Program framework which includes the 85% Lodgment Rule.

---

115 Ibid.

116 Ibid.

117 Ibid.

118 Ibid.

119 ATO, *Lodgment Working Group charter* (8 November 2013) <<http://www.ato.gov.au>>.

120 Ibid.

- 3.32 Members are expected to have a detailed understanding of the practical issues facing tax practitioners, and/or a detailed understanding of the ATO's administrative arrangements impacting on tax practitioners. Similar to the ATPAG, tax practitioner members have a three-year tenure, subject to the chair's<sup>121</sup> discretion while professional association members have an ongoing tenure.<sup>122</sup> Minutes from meetings are published on the ATO website.<sup>123</sup>
- 3.33 During the review, the ATO also established a Future Tax Industry Limited Life Working Group (renamed to The Future of the Tax Profession Working Group (FTP)), another special purpose working group, to discuss specific work in relation to:
- the 85 per cent tax practitioner lodgment program, the reliability and stability of the Portals and the ongoing consultation process with the industry;
  - the transition of services from the Electronic Lodgment Service (ELS) to Standard Business Reporting (SBR) from now to 2016; and
  - what the industry might look like in 2020 and what that means to practitioners and their practices.<sup>124</sup>
- 3.34 Membership of the FTP comprises tax practitioners, representatives of the major accounting software companies, tax, law and accounting professional associations and senior members of the ATO. Minutes from meetings are published on the ATO website.<sup>125</sup>
- 3.35 The FTP was subsequently split into two separate groups, one focusing on short term ('2015-16') issues and the other on long term ('2020') issues.<sup>126</sup> Both these groups are co-chaired by members of the professional associations.

### Stakeholder relationship and management groups

- 3.36 The ATO's stakeholder relationship and management groups focus on maintaining relationships with key areas of the community and business. Currently, the ATO only convenes one such group directly related to tax practitioners, namely, the BASAAG.

---

121 Deputy Commissioner, Tax Practitioner, Lodgment Strategy and Compliance Support.

122 Above n 119.

123 ATO, *Key messages - ATO Tax Practitioner Advisory Group (ATPAG)* (6 February 2015) <<http://www.ato.gov.au>>.

124 ATO, *The Future Tax Industry Limited Life Working Group - key messages, September 2014* (16 October 2014) <<http://www.ato.gov.au>>.

125 Ibid.

126 ATO, *Report on consultation arrangements* (2 April 2015) <<http://www.ato.gov.au>>; ATO communication to the IGT, 6 May 2015.



3.37 According to the BASAAG charter, this group is designed to promote an ‘open and frank exchange of views between the ATO, BAS agent professional bodies and other relevant stakeholders.’<sup>127</sup> Meetings are scheduled as required and are primarily used to consult with members on specific matters. Out of session meetings may also be held in various formats (for example, phone conference or video conference) between meetings.<sup>128</sup> Minutes from face-to-face meetings are published on the ATO website.<sup>129</sup>

## Open Forum

3.38 The seven RTPWGs transitioned to the Open Forum in 2013. Although originally named the Open Regional Forum, in October 2014, the ATO expanded the Forum to a number of metropolitan and suburban areas around Australia and renamed it the Open Forum to take into consideration the expanded demographic.<sup>130</sup>

3.39 The Open Forum is intended to:

- provide opportunity for regional tax practitioners to have an open two-way dialogue with the ATO on matters that are impacting them, strengthen the ATO's relationship with them and tailor the engagement to ensure relevance to their specific needs;
- use the knowledge and know-how of regional practitioners to inform strategies, processes and communications; and
- allow the ATO to share information on matters of key importance to regional tax practitioners.<sup>131</sup>

3.40 Importantly, the ATO considers the Open Forum affords ‘opportunities for regional practitioners to provide their views on systems and processes, and discuss their ideas and interact directly with the ATO and [its] senior staff of projects and areas that directly affect their work’.<sup>132</sup>

3.41 According to the ATO's website, the Open Forum is convened as required in different areas of Australia. During the 2014 calendar year, the ATO convened thirty-four Open Forums in twenty-five locations, including:

- Cairns - 12 February 2014;
- Ballarat - 13 March 2014;
- Coffs Harbour - 10 April 2014;

---

127 ATO, *BAS Agent Association Group – charter* (10 February 2015) <<http://www.ato.gov.au>>.

128 Ibid.

129 ATO, *Key messages – Tax practitioner forums – BAS Agent Association Group* (3 April 2015) <<http://www.ato.gov.au>>.

130 ATO, ‘2015 Open Forum delivery plan’ (Internal ATO Document); ATO, *ATPAG minutes, November 2014* (6 March 2015) <<http://www.ato.gov.au>>.

131 ATO, ‘Open Forum delivery plan’, above n 130; ATO, ‘Tax Practitioner Engagement’ (Internal ATO Document).

132 ATO, ‘Tax Practitioner Engagement’ (internal ATO Document).

- Darwin - 21 May 2014;
  - Albany - 25 June 2014;
  - Mt Gambier - 13 August 2014; and
  - Rockhampton - 10 September 2014.
- 3.42 By way of comparison, the previous RTPWGs were held periodically in various states across the country, including New South Wales, North Queensland, South-East Queensland, South Australia / Northern Territory, Tasmania, Victoria and Western Australia.
- 3.43 The RTPWGs had similar aims to the current Open Forum. For example, the New South Wales RTPWG charter contained the following objectives:
- enable a broad range of tax practitioners to have input into the administration of the Australian tax system by their practical perspectives on systemic issues;
  - enhance communication between regional tax practitioners and the ATO on decision making and planning;
  - provide an opportunity to identify, discuss and jointly resolve significant tax administration issues that cannot be handled by local tax agent service areas or other ATO problem resolution mechanisms;
  - exchange information about future issues and events relating to the administration of the Australian tax system; and
  - provide greater visibility of the ATO in the tax practitioner community.<sup>133</sup>
- 3.44 RTPWGs were chaired by senior tax officers and members consisted of a mixture of tax practitioners and representatives of professional associations. Members were also encouraged to limit their tenure on the RTPWGs to approximately three years. Membership was reviewed annually and each review considered the capacity of the members to achieve the purpose of the group.<sup>134</sup>
- 3.45 Each of the seven RTPWGs had regular quarterly scheduled meetings, two meetings by teleconference and two face-to-face. A summary report of the common and unique issues raised through the groups was also prepared and provided at each ATPF meeting. Minutes from teleconferences and face-to-face meetings are published on the ATO website.<sup>135</sup>

---

133 ATO, *New South Wales Regional Tax Practitioner Working Group charter* (22 June 2009) <<http://www.ato.gov.au>>.

134 Ibid.

135 Ibid.

- 3.46 Unlike the RTPWGs, the Open Forum is not formally chaired and there is no set membership. Moreover, the ATO has stated that the Open Forum does not have a charter which outlines its function and operating requirements.<sup>136</sup> Furthermore, the Open Forum does not re-visit the same region during the year. However, similarly to the RTPWGs, ‘follow up’ messages presented during the Forum are published on the ATO website. In some of these publications, the ATO also documents the feedback and concerns that tax practitioners have raised.<sup>137</sup>
- 3.47 Another key distinguishing feature of the Open Forum is that it is open to a broader range of tax practitioners (capped to a maximum number)<sup>138</sup> than the RTPWG which, as mentioned above, had explicit requirements for its membership.
- 3.48 The ATO has conducted an evaluation of the Open Forum which included the following key findings:
- overwhelming support for the forums to continue and a stated intention to attend future forums, particularly for those who were not professional association members.
  - consider delivering separate tax and BAS agent sessions.
  - the main reasons for attending a forum were to interact with the ATO, for professional development and information updates. Attendees felt the forums demonstrated how the ATO is becoming more open, transparent and willing to listen.
  - provide more time for dialogue between tax practitioners and ATO speakers, especially for raising questions and issues.
  - increase promotion and awareness of Open Forums through our website and other channels as most found out about the Open Forums from the email invitation.<sup>139</sup>

## Relationship Manager Program

- 3.49 The Relationship Manager Program began in 2003 and offered all tax practitioners, representing 100 clients or more, a dedicated team of ATO officers as a point of contact.<sup>140</sup> The program also provided a field visit for each tax practitioner within the first year of its operation.<sup>141</sup>

---

136 ATO communication dated 4 March 2015.

137 For example, Bathurst Open Regional Forum - 5 December 2012; Coffs Harbour Open Regional Forum - 10 April 2014 - follow up; Albury Open Regional Forum - 30 October 2013 - follow up; Riverland (Berri) Open Regional Forum - 4 December 2013 - follow up; Mt Gambier Open Regional Forum - 13 August 2014 - Follow Up; Darwin Open Regional Forum - 21 May 2014 - follow up.

138 ATO, ‘Open Forum delivery plan’, above n 130.

139 ATO, ‘Open Forum delivery plan’, above n 130.

140 ATO, *ATPF issues log - numbering index A101 to A150* (10 July 2007) <<http://www.ato.gov.au>>.

141 Ibid.

- 3.50 According to the ATO, the Relationship Manager Program was an escalation point and was not a first point of contact for tax practitioners nor was it a replacement for ATO telephony and website services. The ATO has stated whilst Relationship Managers were not experts in any area of ATO operations, they would take ownership of the tax practitioner's problem and became the conduit to ensure that their concerns were addressed.<sup>142</sup>
- 3.51 This program was discontinued in 2012<sup>143</sup> as it may have not been 'sophisticated' enough to handle complex issues raised by tax practitioners.<sup>144</sup>
- 3.52 Prior to the program being discontinued, an external tax agent services survey was conducted for the ATO in 2011. A number of reasons may be inferred from the results of the survey as to why the Relationship Manager Program was discontinued. For instance, most surveyed tax practitioners had received a visit from a Relationship Manager but just over half of these had not seen one for 18 months or more.<sup>145</sup> Those from smaller practices were significantly less likely to have been visited by a Relationship Manager.<sup>146</sup>
- 3.53 Furthermore, although those who had seen a Relationship Manager found it useful, their view of this usefulness was trending downward over time.<sup>147</sup> The focus of the tax practitioner's last visit from a Relationship Manager was also found to be about providing statistics on the practice's business performance, or was about administrative issues.<sup>148</sup>
- 3.54 Notwithstanding the above results, almost half (45 per cent) reported that it was important to have access to a Relationship Manager. The result of the survey of the previous year was similar in this regard.<sup>149</sup> Over 37 per cent of tax practitioners had tried contacting their Relationship Manager and most of these (90 per cent) indicated that they had received a visit from their Relationship Manager.<sup>150</sup> However, 40 per cent of respondents found it somewhat difficult to contact a Relationship Manager, which was a significant increase from the 19 per cent result in the previous year.<sup>151</sup>

---

142 Ibid.

143 ATO communication to the IGT, 26 February 2015.

144 ATO, *ATPAG minutes, February 2014* (2 April 2014) <<http://www.ato.gov.au>>.

145 Chant Link and Associates, *2011 Tax Agent Services Survey* (2011) p 6.

146 Ibid, p 91.

147 Ibid, p 6.

148 Above n 145, p 93.

149 Ibid, p 96.

150 Ibid, p 94.

151 Ibid, p 95.

## Support and assistance visits

3.55 The ATO's support and assistance visits are another form of engagement which is only made available when issues cannot be addressed through other channels. For example, when there are significant issues impacting a tax practitioner's practice, such as retirements, restructures, natural disasters, death or serious illness.<sup>152</sup> This service was recently replaced with the 'Complex issue resolution service'. According to the ATO, the 'Complex issue resolution service' deals with complex administrative issues or technical interpretation queries.<sup>153</sup>

## Key Agent Program

3.56 The ATO identifies 'Key Agents' as those tax practitioners that are high consequence, such as a large practice whose clients have a low likelihood of compliance risk and those that have influence within the practitioner community.<sup>154</sup>

3.57 These 'Key Agents' are specifically targeted for consultation to identify and resolve issues within the tax system. According to the ATO's website, the ATO will:

...consult and collaborate with Key Agents to gain an understanding of their practices, and address issues in the tax system that impact their ability to support willing and proper participation of their clients, and identify Best Practice approaches.

...consult with Key Agents on the kind of relationship they want; some possible elements to the relationship model may include;

- maintaining an awareness of the activities of Key Agents
- working closely with the Key Agent to address the issues effectively, as they arise
- appointing a Key Agent Manager to a Key Agent as the point of contact between the Key Agent and the ATO
- encouraging other lines and risk owners to engage the Key Agent Managers, in their interactions with a key agent
- working with other risk owners to employ differentiated strategies that acknowledge the positive role that Key Agents play in the tax and superannuation system
- consulting with Key Agents on a range of systems and administrative issues.<sup>155</sup>

---

152 ATO, *Requesting a support and assistance* (22 December 2014) <<http://www.ato.gov.au>>.

153 ATO, *Complex issue resolution* (2 April 2015) <<http://www.ato.gov.au>>.

154 ATO, *New South Wales Regional Tax Practitioner Working Group minutes, March 2013* (11 September 2013) <<http://www.ato.gov.au>>.

155 Above n 154.

## Other engagement arrangements

- 3.58 The ATO also utilises other arrangements to facilitate engagement with the tax practitioner community. Such engagements include the 'tax professionals community' online forum. It is an interactive and online channel hosted on the ATO's website for tax practitioners to discuss a limited range of topics raised by the ATO.

## IGT OBSERVATIONS

### Consultative arrangements

- 3.59 Some stakeholders have acknowledged that, prior to the ATO's January 2013 review of its external consultative arrangements, there may have been too many forums and a degree of rationalisation may have been warranted. Such rationalisation, if implemented appropriately, would bring about efficiencies and cost reduction for the ATO, tax practitioners and the general community. However, it is important to ensure that adequate channels are maintained for ATO-tax practitioner engagement given the interconnectedness of their roles and the benefits to be derived from their co-operation.
- 3.60 At first glance, the reduction of consultative forums from 68 to just 8 seems to be quite a deep cut that may have adverse effects particularly on the ATO-tax practitioner engagement and the broader relationship. However, the Commissioner's willingness to review the arrangement and make any necessary changes seems to be a sound strategy. For example, the LWG had been reinstated after a year. Whilst, reinstatement of all forums may defeat the purpose of the rationalisation, it is expected that those that are necessary would be reinstated and/or alternative channels for engagement with tax practitioners would be provided.
- 3.61 The decision to transition the RTPWGs to the Open Forum, for instance, should be considered further as part of the Commissioner's review to assess whether it has had any adverse impacts on ATO-tax practitioner engagement or relationship. The IGT is of the view that, whilst the Open Forum may have extended the engagement to a broader range of tax practitioners, not all the positive features of the RTPWGs have been maintained. For example, a summary report of the common and unique issues raised through the groups was prepared and provided at each ATPF meeting.<sup>156</sup> Furthermore, RTPWGs were convened more regularly than Open Forum meetings and in the same regions allowing for the following up of issues.
- 3.62 Furthermore, in feedback received regarding the ATO's Open Forum, stakeholders indicated that more time for dialogue between tax practitioners and the ATO was needed, especially for raising questions and issues. It was also noted that one of the main reasons for attending a forum was to interact with the ATO.

---

156 Ibid.

- 3.63 The above observations are consistent with those of the ATO's external consultant who reported that for some of the peak forums, "meetings tend to be structured affairs in which presentations are made – the 'messages' are delivered – and some questions raised. There is often little opportunity for dynamic discussion, especially where the group is a large one."<sup>157</sup> The external consultant's report also observed that information sharing by the ATO has become the primary purpose, with little added to the agenda by stakeholders.<sup>158</sup>
- 3.64 The IGT is of the view that, where the ATO presents information without consulting or seeking tax practitioner feedback, ATO initiatives do not benefit from their input and they may become disenfranchised which may ultimately be reflected in the compliance behaviour of their clients. It is therefore critical that consultative forums provide a two-way communication. The ATO already has a number of other avenues for disseminating information such as its newsletters, website and social media.
- 3.65 The IGT also believes that opening up participation, particularly special purpose working groups, to a broader range and number of tax practitioners would enhance the quality of the input, consideration and outcomes. This could be achieved by harnessing existing or new technology, particularly since many tax practitioners are unable to attend ATO consultations. Such technology could include the ATO's new 'tax professionals community' online forum. However, as the ATO currently controls the subjects for discussion on this forum, participation is limited to those issues.
- 3.66 Online forums would allow the ATO to generate discussion on materials prior to consultations being convened. Such discussions have the benefits of transparency and self-moderation. For example, one tax practitioner's issues may be resolved by another tax practitioner, or greater insights into the underlying causes and practicable solutions may be synthesised by various tax practitioners sharing their experiences. Such discussions would also provide a greater understanding of the practical issues and impacts of potential solutions.
- 3.67 It is acknowledged that enhancing the current consultative arrangements will come at a cost and that a cost/benefit analysis should be conducted to achieve the optimum result.
- 3.68 In addition to the numbers of engagement opportunities available to tax practitioners, effective engagement requires participants with diverse skills and experience to match the nature of issues considered and the objectives sought to be achieved.
- 3.69 The Board of Taxation has commented that 'effective consultation involves bringing together different perspectives to develop more focused policy direction and to generate creative and effective solutions to implementation of problems.'<sup>159</sup>

---

157 Above n 92, p 13.

158 Ibid.

159 Board of Taxation, *Government Consultation with the Community on the Development of Taxation legislation* (2002).

- 3.70 The IGT considers that for external consultative arrangements with an overarching focus on issues of broader or overriding concern, such as the NTLG and ATPAG, participation by the range of relevant tax practitioner representative bodies is appropriate as they reflect the views of the general tax practitioner community and filter those issues of overriding priority. Such arrangements also allow the ATO and tax profession as a whole to prioritise matters of comparative urgency and allocate responsibility of more detailed consideration and response to relevant special purpose working groups.
- 3.71 In the case of special purpose working groups, the IGT believes that extending their memberships to tax practitioners affected by the specific issue under consideration would:
- provide the ATO with a broad range of views and perspectives including commercial considerations; and
  - generate practical solutions that appropriately balance the interest of all parties.
- 3.72 To assist in identifying such people, the ATO's external consultant has observed that members of specialist forums (such as special purpose working groups) could be drawn from lists of pre-qualified experts appointed by the ATO, based on recommendations made by relevant peak stakeholder bodies and others identified by the ATO as having relevant expert knowledge and experience.<sup>160</sup>
- 3.73 For the ongoing overarching forums, such as the ATPAG, the IGT supports the findings of the ATO's external consultant that there should be appropriate turnover in those who participate to provide fresh perspectives and realise further improvements.<sup>161</sup> Consistent with this approach, the IGT believes that membership appointments should be for fixed terms but with an option to renew.<sup>162</sup>

## Direct engagement with tax practitioners

- 3.74 Generally, direct engagement between tax practitioners and ATO senior officers is quite limited. The majority of a tax practitioner's day-to-day engagements with the ATO occur through call centre operators who may have little understanding of the practitioner's business and little influence in resolving underlying issues. Accordingly, the IGT supports the ATO's approach of having senior ATO executives attend many of its external consultative arrangements.
- 3.75 Stakeholders have commented that the ATO's former Relationship Manager Program was an effective way for tax practitioners to engage with the ATO to resolve issues. Some stakeholders suggested that some Relationship Managers did not have sufficient influence within the ATO or specialised knowledge to directly address tax practitioner concerns. However, they were at least a point of contact, could take ownership of the tax practitioner's problem and became the conduit to ensure that practitioners' concerns were at least with the appropriate ATO staff.

---

<sup>160</sup> Above n 92, p 14.

<sup>161</sup> Ibid, p 19.

<sup>162</sup> Ibid.



- 3.76 Although the Relationship Manager Program was disbanded in 2012, the ATO provides a Key Agent Program for a limited number of tax practitioners. This program offers a consistent point of contact and a close working relationship to address issues effectively. Whilst this program has been generally supported, some submissions to this review have suggested that excluding smaller practitioners from this process has created a perception that the ATO favours larger practitioners, especially where the ATO's engagement with smaller practices is focussed on enforcement or compliance and not one of support and assistance.
- 3.77 It may be too resource intensive to expect every tax practitioner to be allocated a dedicated ATO officer with the appropriate level of expertise and influence within the ATO. However, the IGT is of the view that through the use of technology, discussions between tax practitioners and appropriate ATO officers can take place. For example, the ATO's 'tax professionals community' online forum could be expanded to allow tax practitioners to raise issues which may be considered by appropriate ATO officers. It would be preferable for such officers to have a general understanding of tax practitioners' businesses, a certain level of authority to marshal resources within the ATO and adequate tax technical expertise as well as knowledge of relevant ATO policies, processes and practices.

### **Transparency and ATO accountability**

- 3.78 Merely improving opportunities to raise issues does not of itself improve confidence that the issues have been considered and actioned by the ATO.
- 3.79 Submissions to this review have identified that external consultative arrangements lacked adequate processes for capturing and addressing issues raised. In particular, some stakeholders mentioned that since January 2014, any formal agenda setting process that had previously allowed members to raise issues for discussion has been discontinued.
- 3.80 Participants to the ATPAG mentioned that issues are currently raised on an ad-hoc basis which has led to inconsistency in how the ATO handles the issues (ranging from a separate consultation being held to an issue not being addressed) and a lack of confidence in whether an issue that was raised would be addressed.
- 3.81 Furthermore, while some external consultative arrangements, such as the ATPAG provide minutes, the level of information captured is not consistent across all external consultative arrangements. For instance, in the FTP meetings, only high level messages and information disseminated during the meeting is outlined in the minutes.

- 3.82 The IGT is of the view that the ATO's current process of agenda setting and record keeping requires some improvement. Such improvements could be considered as part the ATO's review of the new arrangements set to take place this year. Furthermore, the IGT believes that all issues raised by tax practitioners, whether in consultative forums, online discussion forums or elsewhere, should be recorded, along with the ATO's consideration of the issues, in a central register which would be publicly available on the ATO website. In addition to being a useful tool for tax practitioners and ATO officers, such a register would demonstrate the ATO's accountability and transparency and further foster tax practitioners' confidence in the tax system and the ATO as a fair and competent administrator.
- 3.83 The ATO already publishes a register of issues relating to the care and maintenance of the tax system, which was the result of a Board of Taxation recommendation in its *Improving Australia's tax consultation system* report.<sup>163</sup> The ATO also logs technical, compliance or administrative matters under consideration on its website. However, this list only outlines the broader matter being consulted and not the specific irritants which would elicit valuable insight from tax practitioners.<sup>164</sup>
- 3.84 In some external consultation forums, such as the ATPAG, the ATO already provides tables of issues raised in its published minutes. However, as many tax practitioners are unlikely to review minutes to every external consultation, a central register would provide easy access to all issues that were raised and where available, their resolution. Such a register could also be referred to during consultations, thereby reducing duplicated efforts and alleviating concerns that issues were not considered or addressed.

### **RECOMMENDATION 3.1**

*The IGT recommends that the ATO:*

- (a) in reviewing current consultative arrangements, consider reinstating or enhancing some of the specialised or regional forums including improvement of the agenda setting and minute taking processes;*
- (b) harness existing or new technologies to expand its current consultative activities to include more tax practitioners with a broader range of expertise;*
- (c) allow tax practitioners to raise issues for consideration by appropriate ATO officers through its website; and*
- (d) record all issues raised by tax practitioners, whether in consultative forums, online discussion forums or elsewhere, along with the ATO's consideration of the issues, in a central register which is made publicly available on its website.*

---

163 Board of Taxation, *Improving Australia's tax consultation system: A Report to the Treasurer* (2007) Recommendation 12.

164 ATO, *Consultation: Administration* (1 April 2015) <<http://www.ato.gov.au>>.

## ATO Response

In relation to 3.1 (a) - Agree in part

We will not reinstate the regional tax practitioner working groups but will continue to engage with the broader practitioner community via consultative groups, open forums and targeted consultation activities. We will continue to enhance the open forums based on stakeholder feedback and improve the agenda setting process in the stewardship, relationship and special purpose working groups.

In relation to 3.1 (b) - Agree

In relation to 3.1 (c) - Agree

The ATO already has existing channels on the website (together with other communication channels) where members of the community including tax practitioners can raise matters for consultation. Link here: <https://www.ato.gov.au/General/Consultation/>

Other issues may be resolved by the Complex Issues Resolution service - <https://www.ato.gov.au/Tax-professionals/Services-and-support/Technical-and-administrative-support/Complex-issue-resolution/>

We also include the systemic issues as they arise as part of our web based material. Further, issues can be escalated to Secretariats of the practitioner consultative groups directly or via the professional associations.

In relation to 3.1 (d) - Agree

## STAKEHOLDER CONCERNS WITH ATO COMMUNICATION

- 3.85 Stakeholders have expressed concerns that the ATO was, at times, sending important letters directly to clients without the tax practitioner's knowledge and in contravention of the client's instructions and ATO guidelines. Such situations caused anxiety and confusion amongst clients because they expected the tax practitioner to deal with the ATO. It also led clients to doubt the professional competence of tax practitioners and required the practitioner to allay their client's concerns before dealing with the ATO. Although the ATO's communications protocol allows officers to send correspondence directly to the clients where the subject of the correspondence is 'high risk',<sup>165</sup> tax practitioners believe many letters did not relate to high risk matters and queried whether the guidelines<sup>166</sup> were being followed by officers.
- 3.86 Stakeholders also believe that the ATO should make more use of modern technology in communicating with them and phase out some of its more outdated methods. For instance, registering for the ELS requires tax practitioners to send a facsimile message (fax) containing an ATO form, which may be inconvenient and increases the risk of transmission errors.<sup>167</sup> Tax practitioners also mentioned that making simple administrative changes such as updating BAS reporting from monthly to quarterly

---

165 ATO, *Contacting you or your clients* (29 January 2015) <<http://www.ato.gov.au>>.

166 Ibid.

167 The Tax Institute, *On ELS registration - the ATO responds* (18 July 2014) <<http://www.taxinstitute.com.au>>.

required a written letter to be sent to the ATO and could not be done electronically via the ATO Portals.

- 3.87 Stakeholders have further asserted that communication between the ATO and tax practitioners could be improved if a greater use of email was adopted, such as confirming the details of phone conversations in writing. For example, they believe that transparency and efficiency would be enhanced if emails were used to immediately confirm agreed terms of payment arrangements. Currently, some tax practitioners check such terms have been correctly recorded when they are officially sent by post days later.
- 3.88 Furthermore, stakeholders noted that many ATO letters were poorly designed and were not adequately tested. They observed such letters used confusing terminology, contained broad information requests or had an inappropriate tenor implying taxpayer non-compliance.<sup>168</sup> Furthermore, stakeholders observed that the ATO, on occasion, sends irrelevant or incorrect information to clients causing tax practitioners unnecessary work and additional costs that cannot be recovered.

## Communication methods

- 3.89 The ATO uses a number of communication methods which include post, email, telephone, short message service (SMS) and fax. In some instances, the ATO also provides online interactions such as the ATO Portals and the PAYG withholding variation application.<sup>169</sup> However, in other instances, such as registering for the ELS, tax practitioners are provided with one form of communication method only, that being facsimile.<sup>170</sup>
- 3.90 In some instances, the ATO provides tax practitioners with an option to determine where clients' communications are sent – either to the tax practitioner on behalf of the client or directly to the client. This currently occurs for activity statements<sup>171</sup> and related mail, where for example, a tax practitioner could decide that BASs are sent to them, while instalment activity statements (IAS) could be sent to the client.<sup>172</sup>
- 3.91 During this review, the ATO also introduced a 'client correspondence list' feature in the ATO Portals which provides tax practitioners with online access to ATO correspondence issued to clients.<sup>173</sup>

## ATO communication guidelines

- 3.92 On its website, the ATO publishes guidelines for contacting tax practitioners and their clients. These guidelines apply to all correspondence the ATO initiates. The guidelines

---

168 The Tax Institute, *Submission to Inquiry into the Annual Report of the Australian Taxation Office 2014* (16 March 2015) <[www.aph.gov.au](http://www.aph.gov.au)>.

169 ATO, *PAYG withholding variation application (e-variation)* (1 May 2014) <<http://www.ato.gov.au>>.

170 ATO, *Register for ELS* (5 January 2015) <<http://www.ato.gov.au>>.

171 Activity statements include GST, PAYG instalments, PAYG withholding, FBT instalments, luxury car tax and wine equalisation tax.

172 ATO, *Interaction management – managing client mail* (29 January 2015) <<http://www.ato.gov.au>>.

173 ATO, *Client correspondence list* (3 March 2015) <<http://www.ato.gov.au>>.

sets out a number of correspondence or instances where the ATO may contact the taxpayer directly without informing the registered agent:

- educational letters for taxpayers;
- marketing, research or user testing letters;
- a previous letter to the agent had not resulted in the action required;
- where legal documents or other notices are required by law to be served personally on a taxpayer;
- where there is dialogue with a large business and administrative arrangements, such as key client managers and client-based teams, are in place;
- where a tax practitioner has formally notified their preferences for where their client's correspondence is to be sent;
- where the tax practitioner has not dealt with the ATO on behalf of the taxpayer for a long period; and
- where the taxpayer is suspected of being seriously non-compliant such as when the taxpayer is suspected of being involved in fraudulent activities or tax evasion.<sup>174</sup>

3.93 However, in all circumstances, including the above, the ATO asserts that when written correspondence is issued directly to clients, the tax practitioner is informed at least one week before the letter is sent.<sup>175</sup>

## IGT OBSERVATIONS

3.94 Positive and effective communication with tax practitioners is critical in ensuring a productive working relationship between the ATO, tax practitioners and their clients. As indicated by stakeholders, communication which is incorrect, inefficient, unnecessary or has inappropriate tone, results in uncertainty, anxiety and unrecoverable costs.

3.95 In previous reviews, the IGT has observed that ATO correspondences with individual taxpayers have improved where the ATO obtains feedback on recipients' understanding and impressions through user-testing.<sup>176</sup> Accordingly, the IGT supports more user-testing of ATO correspondence.

3.96 The IGT has also previously recommended that the ATO have regard to the findings of behavioural insights research in developing its correspondence and communication strategies. This would involve considering whether the proposed letters would generate the intended response as well as seeking to minimise

---

174 Above n 165.

175 Ibid.

176 IGT, *Review into the Australian Taxation Office's compliance approach to individual taxpayers – superannuation excess contributions tax* (2014), p 59; IGT, *Review into the Australian Taxation Office's compliance approach to individual taxpayers – income tax return integrity program* (2014) p 41.

- compliance costs and unnecessary action for tax practitioners and their clients.<sup>177</sup> The ATO has begun to adopt such an approach.
- 3.97 In the recent *Debt Collection* review, the IGT noted that the ATO has sought to update its debt letters and scripting to incorporate behavioural economics principles and associated design improvements to positively influence voluntary compliance.<sup>178</sup> The IGT is of the view that this approach should be more broadly adopted and, in particular, applied to correspondence to tax practitioners.
- 3.98 In relation to increasing the efficiency of ATO communication, the IGT supports the further use of modern technology. While the ATO already uses various modern modes of communication, such as email, SMS and online interactions, their use could be increased across the board to replace remaining outdated methods. However, the IGT acknowledges that in some interactions, certain communication methods may not be appropriate without additional safeguards. An example of the latter would be correspondence containing taxpayer Tax File Numbers (TFN) being sent via email.
- 3.99 The ATO has published guidelines for communicating with clients of tax practitioners in addition to, or instead of, with tax practitioners. These guidelines seem to be broadly appropriate. The IGT acknowledges that there may be instances where the ATO may need to contact clients directly or it would be undesirable to give notice to tax practitioners of direct contact with clients. However, such circumstances are expected to be rare and should not form part of the ATO's general practice.
- 3.100 Whilst the above guidelines may be appropriate, there is room to improve adherence to these guidelines by relevant ATO officers as reflected in stakeholder experience. The ATO has already sought to address the lack of such adherence by introducing a new ATO Portal feature that provides tax practitioners with online access to correspondences issued to clients.
- 3.101 The ATO has also begun to provide tax practitioners with the flexibility to electronically determine, i.e., via the ATO Portals, where clients' correspondences are delivered. The IGT endorses this initiative and believes there is merit in expanding it to include all tax practitioner related correspondence. However, the ATO's ability for such expansion has been restricted partly due to systems' limitation. Furthermore, some taxpayers may be able to make such determination by themselves through the previously mentioned MyGov platform.
- 3.102 The IGT believes there is also merit in having an ongoing dialogue with tax practitioners on the way the ATO communicates with them. The IGT acknowledges that it may not be possible for the ATO to accommodate every permutation of the working dynamics between the tax practitioner, their clients and the ATO. However, where there is a broad consensus, further improvements may be realised.

---

177 IGT, 'Income tax refund integrity', Ibid, p 62; IGT, 'Excess contribution tax', Ibid, p 60; IGT, *Review into the Australian Taxation Office's compliance approach to individual taxpayers – use of data matching* (2014) p 56.

178 IGT, *Debt collection* (in progress).

## **RECOMMENDATION 3.2**

*The IGT recommends that the ATO:*

- (a) increase the use of modern modes of communication and, where appropriate, phase out outdated methods;*
- (b) user-tests all new standardised correspondences to tax practitioners to evaluate their effectiveness in generating the intended behavioural response as well as seeking to minimise compliance costs and unnecessary action for them; and*
- (c) allow tax practitioners to electronically access their clients' communications where the latter have authorised such access.*

### **ATO Response**

In relation to 3.2 (a) – Agree

This is already occurring through the Digital Outbound Release process.

In relation to 3.2 (b) - Agree

This has been undertaken in the past where practical.

In relation to 3.2 (c) - Agree

The ATO is required to use MyGov for individuals as part of the whole of Government protocol. For other clients there is preferencing available.

Agents within a tax practice with the appropriate access to the Tax Agent Portal will have access to the client correspondence list for clients with a MyGov inbox. This in turn will allow electronic access to the correspondence.





## CHAPTER 4 – ATO’S TAX PRACTITIONER SERVICES

- 4.1 The ATO’s services to tax practitioners provide the latter with access to important information and electronic processes for fulfilling their clients’ tax obligations. Key services in this regard include the ATO Portals which allow tax practitioners to access client tax information as well as communicate and complete a range of transactions electronically with the ATO.<sup>179</sup> For example, tax practitioners use the ATO Portals to amend certain returns, manage client information, generate ATO reports as well as lodge deferrals, objections and private rulings.
- 4.2 Another key service is the ELS which facilitates the electronic lodging of ATO forms via a software interface platform.
- 4.3 The ATO also maintains a website which provides general and specialist services to tax practitioners through direct access to ATO forms, tax technical information and various tools. A range of telephony services are also provided to tax practitioners. Appendix 2 sets out a detailed list of the various ATO services that are provided.
- 4.4 The above services are fundamental to tax practitioners’ day-to-day business. As stated in Chapter 1, the vast majority of taxpayers use tax practitioners to assist them to comply with the tax laws.<sup>180</sup> Therefore the quality and efficiency with which these services are provided also have a significant bearing on the effective functioning of the tax system as a whole including minimising the overall delivery costs for the ATO.
- 4.5 As discussed in Chapter 2, some of the ATO’s tax practitioner services have at various times failed to meet expectations, resulting in frustration and tension with the ATO. The ATO has taken action to address irritants and improve its services. However, concerns with the quality of ATO services have persisted.
- 4.6 This chapter examines the key ATO tax practitioner services, associated stakeholder concerns and potential improvements.

### ATO PORTALS AND MIGRATION OF THEIR FUNCTIONALITY

- 4.7 The ATO Portals are a secure online gateway to various internal systems that the ATO uses to administer the tax system.<sup>181</sup>
- 4.8 The Tax Agent Portal and the BAS Agent Portal operate on the same ATO infrastructure but have different sets of functions and interfaces to cater for the different roles of tax and BAS agents.

---

179 ATO, *Tax Agent Portal* (31 March 2015) <<http://www.ato.gov.au>>.

180 TPB, *Annual Report 2012-13* (2013) p ii; Above n 11.

181 Above n 83.

## Stakeholder concerns

- 4.9 For most tax practitioners, the ATO Portals are 'the most useful tools that the ATO has ever provided' and is essential to their business—'tools which they cannot do without'. However, a common complaint raised by tax practitioners was their unreliability. In particular, during busy periods, they can be unstable, unresponsive, slow or just not available for significant periods of time. Such unreliability has resulted in productivity loss, missed deadlines, irrecoverable costs as well as damage to their reputation and relationships with clients. This has led some tax practitioners to refer to the ATO Portals as the 'pot hole'.
- 4.10 Some tax practitioners also believe that information on the ATO Portals is not always accurate or up to date and they suffer further productivity loss in seeking to make corrections. Examples of inaccurate information on the ATO Portals include:
- the due dates on the Tax Agent Portal being different to those on their income tax return lodgment report;
  - the ATO Portals showing clients' returns as 'not lodged' where the previous returns were marked as 'final';
  - a requirement for newly registered entities to lodge returns in years when they did not exist; and
  - clients appearing in tax practitioners' lists when they had previously been deleted.
- 4.11 Furthermore, stakeholders also noted that ATO officers lacked an understanding of the ATO Portals' operation and were ill-equipped to assist or provide advice when tax practitioners experience difficulties with the ATO Portals.
- 4.12 Concerns have also been raised with the impending migration of the ATO Portals' functionality onto a new software platform. Given previous experience with the ATO's deployment of new technology, such as the Change Program,<sup>182</sup> many queried the adequacy of the ATO's preparedness to mitigate potential risks for tax practitioners. Many tax practitioners also questioned whether the same level of functionality provided in existing ATO services will be available on the new platform.
- 4.13 Each of the above concerns is discussed in the following sections.

## Reliability of the ATO Portals

- 4.14 Some of the causes of unreliability of the ATO Portals are outside of the ATO's control. Such causes include browser incompatibility or AUSkey-related issues.<sup>183</sup>

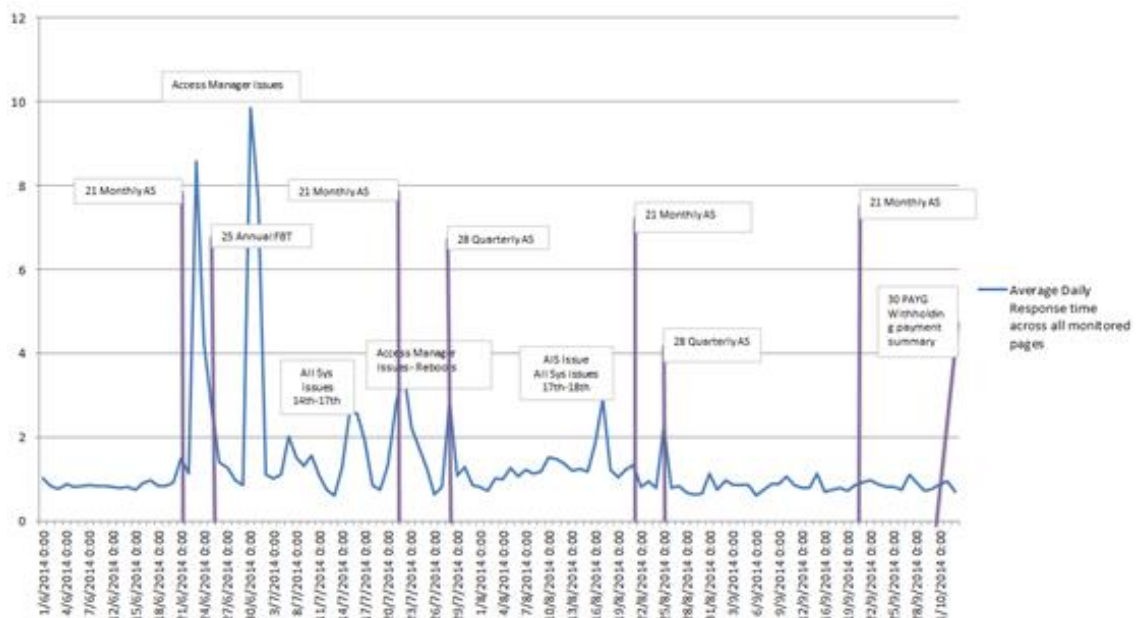
---

182 Above n 52.

183 ATO communication to the IGT, 6 May 2015.

- 4.15 Furthermore, some of the unreliability experienced by tax practitioners is attributable to the various ATO internal systems which are accessed through the ATO Portals rather than the ATO Portals themselves. These internal systems require maintenance which results in certain functionality not being available when necessary maintenance is being carried out.<sup>184</sup>
- 4.16 Where the reliability of the ATO Portals is within the control of the ATO, the ATO has established an internal performance standard.<sup>185</sup> These include a three-second response time in 95 per cent of both business and non-business hours.<sup>186</sup> Daily reporting on the ATO Portals' performance is provided internally to the chair of the ATO's LWG<sup>187</sup>, but is not published.
- 4.17 The graph below depicts the ATO Portals' average daily response times, for all transactions that are monitored,<sup>188</sup> from 1 June 2014 to 1 October 2014.<sup>189</sup>

**Figure 1: Average daily response time across all monitored pages**



Source: ATO.

- 4.18 The above graph shows that there were four days over the four month period (June – September 2014, inclusive) in which the ATO Portal response times averaged more than 3 seconds. These days occurred close to lodgment deadlines for fringe benefits tax as well as monthly and quarterly activity statements or because of system issues. In September 2014, however, slower response times were not experienced close to the deadlines for monthly activity statement lodgment or the PAYG withholding and payment summary.

184 ATO communication to the IGT, dated 6 May 2015.

185 Evidence to Standing Committee on Tax and Revenue, House of Representatives, Canberra, 27 August 2014, p19 (Geoff Leeper, Second Commissioner of Taxation).

186 Ibid.

187 Assistant Commissioner, Practice Risk and Consultation, Tax Practitioner, Lodgment Strategy and Compliance Support.

188 The monitoring is only applied to pages included in core transactions.

189 Above n 83.

- 4.19 However, the above data is an average of response times over the day and may not reflect the user experience for specific transactions:

Within a day you might have periods of difficult access, followed by periods of relatively rapid access. Overall, it meets the three-second standard.<sup>190</sup>

- 4.20 Accordingly, the ATO intends to respond quickly when problems arise and service standards are not met:

We keep our ears finely tuned to the feedback from tax agents. We understand that this is fundamentally how they do their business. Whilst we have not met that service standard at all times, certainly I want to make it clear to my people that we listen very, very carefully and respond quickly when there are problems. We acknowledge there has been some issues, that's for sure.<sup>191</sup>

- 4.21 The ATO Portals may also be unavailable while the ATO conducts routine maintenance. The ATO has acknowledged that the ATO Portals' maintenance schedules may no longer support tax practitioners' evolving business models,<sup>192</sup> especially for those tax practices operating on Saturday and Sunday.

- 4.22 Planned maintenance has been limited to once a month on a Saturday from 9:00pm to Sunday 9:00am—a total of 12 hours per month.<sup>193</sup> The ATO also aims to reduce this period further to a 9 hour window overnight:

We minimise actual outages as much as we possibly can, although with a system with many, many parts—60,000 interfaces—there is a lot of maintenance work that has to be done. Occasionally on weekends, we will have to bring the ATO Portals and the mainframe systems down. When we do that, we try to limit that to say 9 pm to 6 or 7 am in the morning.<sup>194</sup>

- 4.23 Notwithstanding this aim, the ATO has scheduled longer periods for maintenance. For example, the ATO Portals were unavailable for 56 hours from 11:00pm Friday 7 November until 7:00am Monday 10 November 2014.<sup>195</sup>

- 4.24 Furthermore, where possible, the ATO aims to provide advance warning of service disruptions and the potential need to take mitigating action by:

- sending SMS alerts which advise on significant unplanned outages, functionality issues and service restoration;
- updating the ATO Portals' homepages to identify problems and any proposed workarounds while restoration work is undertaken; and
- providing inbound telephone support messages on any current issues.<sup>196</sup>

---

190 Above n 185.

191 Ibid.

192 Above n 83.

193 ATO, *System maintenance* (7 April 2015) <<http://www.ato.gov.au/>>.

194 Above n 185.

195 ATO, *System maintenance and issues* (4 November 2014) <<http://www.ato.gov.au/>>.

196 Above n 83, p 2.

- 4.25 A list of known system issues affecting access to or use of the ATO Portals to alert tax practitioners is also published on the ATO website. This list includes a description of the issue, the status of their resolution and possible workarounds.<sup>197</sup>
- 4.26 It should be noted that the reliability of the ATO Portals may impact other ATO services. For example, issues with the ATO Portals' performance may result in an increase in tax practitioner telephone calls to the ATO, as was experienced during 1-2 October 2014 when such calls amounted to approximately 12 per cent of all tax practitioners' calls to the ATO.<sup>198</sup>
- 4.27 The ATO expects that concerns with the reliability and performance of the ATO Portals<sup>199</sup> will be more comprehensively addressed when migration to a 'more functional software platform and flexible online system' occurs in the near future.<sup>200</sup>
- 4.28 It has been observed that this migration should not prevent the ATO from addressing current service disruption and speed issues with the ATO Portals.<sup>201</sup> Accordingly, the ATO has stated that it intends to 'maintain the [ATO Portals] as best [it] can in their current state'.<sup>202</sup> In fact, it released a new version of the ATO Portals in March 2015 which was intended to deliver:
- increased availability, stability and performance, resulting in an improved experience for users;
  - [capability to] enable changes to be delivered in a more flexible manner with minimal outage, and
  - an improved platform to provide services as we work to implement the end-state.<sup>203</sup>

### Accuracy of information on the ATO Portals

- 4.29 The ATO Portals are a gateway to information held in a number of other ATO systems<sup>204</sup> such as the Integrated Core Processing (ICP) system which processes all ATO registrations, forms, payments and accounting transactions.
- 4.30 Inaccuracies with information on other systems, therefore, may be reproduced on the ATO Portals. Inconsistencies between systems may also arise when system updates are completed in staggered batches over time rather than in real-time.<sup>205</sup>
- 4.31 The ATO has identified the following inaccuracies and inconsistencies appearing on the ATO Portals:

---

197 ATO, *Business and practitioner – troubleshooting* (31 March 2015) <<http://www.ato.gov.au/>>.

198 Above n 83.

199 Above n 103, p 28; Above n 185, p 20.

200 Above n 103, para [2.191].

201 Ibid, p 48; Above n 185, p 20.

202 Above n 185.

203 ATO, Submission to the Tax and Revenue Committee, *2014 Annual Report of the Australian Taxation Office*, 27 February 2015, para 97.

204 ATO, 'Lodgment Working Group minutes' (Internal ATO Document, 19 February 2015).

205 ATO communication to the IGT, 1 April 2015.

- incorrect status of 'not lodged' for a subsidiary member of a consolidated group – such subsidiaries are not required to lodge;
- incorrect status of 'not lodged' for some income tax years when a Further Return Not Necessary (FRNN) status applies for multiple years;
- incorrect status of 'not lodged' for recently registered clients; and
- incorrect year of commencement for FRNN indicators.<sup>206</sup>

4.32 The ATO advises that each of the above issues is currently under investigation. However, it has not advised when such issues are expected to be resolved.

### ATO Portals training for ATO officers

4.33 The ATO aims to improve ATO officer awareness and understanding of the ATO Portals through a self-directed 'foundation' training course.<sup>207</sup> Call centre officers are also provided with access to basic information on the ATO Portals and its functions<sup>208</sup> as well as a list of known issues with the ICP system and any remedial action that may be taken.<sup>209</sup> ATO officer training on subject matter other than the ATO Portals is discussed later in this chapter.

4.34 Since January 2014, the ATO has also provided its call centre officers with access to the ATO Portals to support them in assisting tax practitioners to navigate the systems. Prior to this change, such assistance was provided without such access.<sup>210</sup>

### Migration of ATO Portals' functionality

4.35 As stated earlier, the ATO has plans to progressively migrate 'priority Portal services' (or functions) into 'a more robust platform for online services', namely ATO Online.<sup>211</sup> The ATO has advised that ATO Online is intended to provide the user with a holistic, integrated and seamless experience in accessing relevant taxation information and transacting with the ATO.<sup>212</sup> Appendix 7 illustrates the planned transition of the ATO Portals to ATO Online and other software.

4.36 Although no date has been set for the migration of the ATO Portals' functionality to ATO Online, the ATO intends to operate each system concurrently until the ATO Portals are decommissioned following consultation with the tax profession.<sup>213</sup>

4.37 To gain a better understanding of tax practitioners' views of the ATO Portals functions, the ATO surveyed practitioners and conducted face-to-face workshops in September 2014. Over 3,000 tax practitioners took part in the survey and 16 took part

---

206 Above n 197.

207 ATO, 'Tax Agent Portal (TAP) Learner Workbook' (Internal ATO Document, 2014).

208 ATO, 'SMART training material - An introduction' (Internal ATO Document) p 1.

209 ATO, 'SMART - Tax Agent Portal and ELS' (Internal ATO Document).

210 ATO, 'Tax Practitioners and de-badging' (Internal ATO Document) p 1.

211 Above n 185.

212 ATO, 'Online Blueprint' (Internal ATO Document, 7 September 2011).

213 Above n 103, p 28.

in the workshops.<sup>214</sup> They identified pre-filling reports, account balances and adding or deleting clients as the most important functions of the Tax Agent Portal and lodging activity statements as the key function of the BAS Agent Portal.<sup>215</sup>

4.38 Participants also identified the following 'critical' services to migrate first to the ATO Online platform:

- Prefilling
- Viewing activity statements
- Regenerate BAS
- Add client/update details
- Viewing other accounts (more description on transfers into the ICA)
- Self-help deferrals
- Other correspondence
- Super Guarantee – generate amounts and calculate interest
- Lodging IAS.<sup>216</sup>

4.39 Furthermore, participants identified the following 'wish list' functions:

- compatibility with certain software and hardware products, such as tablets;
- visibility of how lodgments are progressing; and
- real-time alerts.<sup>217</sup>

## IGT observations

4.40 The ATO Portals provide a suite of functions<sup>218</sup> which have become fundamental to the operation of many tax practices. As mentioned previously, tax practitioner satisfaction with the ATO's services in 2002 was at a low and it could be said that the ATO Portals' implementation was a key factor in subsequent improvement in tax practitioners' satisfaction.

4.41 Since 2002, however, expectations of service delivery have been raised due partly to improvements in communication and technology. What was seen as efficient 10 years ago may now be seen as slow and obsolete.

---

214 ATO, *Research – Tax Agent and BAS Agent Portals* (29 January 2015) <<http://www.ato.gov.au>>.

215 Ibid.

216 ATO, *Portal services consultation results* (10 October 2014) <<http://www.ato.gov.au>>.

217 ATO, *Portal survey – what you told us* (13 October 2014) <<http://www.ato.gov.au>>.

218 A list of all functions is shown in Appendix 5.

## Reliability of the ATO Portals

- 4.42 For tax practitioners, the ATO Portals allow them to perform many day-to-day activities more efficiently than through other service channels. Where the performance of the ATO Portals becomes unreliable, however, tax practitioners may be forced to engage with the ATO by telephone or letter. For many day-to-day activities, such methods of communication are less efficient and impose additional costs on the ATO and tax practitioners alike.
- 4.43 The ATO has announced that it aims to migrate the most important functions of the ATO Portals to a more robust platform for online service and other software in the future. The realisation of this aim may address many of the stakeholders' concerns relating to the performance and reliability of the ATO Portals.
- 4.44 Given the limited future of the ATO Portals, enhancements may not be practical. However, the IGT is of the view that as the work of tax practitioners, and to some extent the efficient administration of the tax system, is dependent on the ATO Portals, the ATO should ensure that they are operating effectively with minimal service disruption.
- 4.45 As stated earlier, the ATO has implemented a number of strategies which aim to reduce the number and impact of these disruptions. One of these is monitoring the response time on a daily basis and understanding performance issues. As previously mentioned, one of the earlier reports had indicated that slow performance issues were closely related to systems issues and user load occurring near lodgment deadlines. In addition to uncovering such matters, monitoring also provides a basis to seek improvements and assess the effectiveness of such improvements. For example, the response times experienced close to the September 2014 deadline for lodging monthly activity statements was significantly quicker than for the preceding activity statement deadlines.
- 4.46 Unfortunately, the performance reports of the ATO Portals are not publicly available, leading to perceptions of poor performance remaining unchallenged if verifiable data exists to indicate the contrary. If these reports were publically available, tax practitioners and the ATO would have a shared understanding of the challenges and could work collaboratively to resolve significant issues. Accordingly, the IGT is of the view that the above performance reports should be made publicly available on a regular basis.
- 4.47 In relation to ATO Portals being down due to maintenance work, the ATO is seeking to limit the time taken for such work and is aiming to schedule them during periods of low usage. It is expected, however, that occasionally more time may be required. The ATO aims to mitigate any adverse impacts on tax practitioners by alerting them via direct communication and on the ATO website. The ATO also provides a list of known issues on its website together with a description of the issues and any workarounds for tax practitioners.



- 4.48 Information which allows users to self-diagnose their issues and reduce the need to contact the ATO phone service for assistance is beneficial. However, whilst the list of known issues on the ATO's website may alert tax practitioners to the existence of performance issues, no explanation or timeframes for their resolution is provided. By providing this additional information, the ATO could better manage tax practitioner expectations and maintain their confidence in the system. Such information could be provided in the central register proposed in Recommendation 3.1 of this report.
- 4.49 The IGT also believes that the ATO should remain alert to tax practitioners' concerns with the ATO Portals until they are decommissioned by maintaining continued dialogue on the topic through the ATO's 'tax professionals community' online forum amongst others. Confidence in the ATO's responsiveness in this respect would be promoted by capturing the issues raised transparently on the central register recommended above.

### Accuracy of information on the ATO Portals

- 4.50 As mentioned earlier, inaccurate, incomplete or out-of-date information on ATO systems may be reproduced on the ATO Portals or may arise from the staggered approach to updating systems. Therefore, corrective action may involve a number of ATO systems requiring considerable ATO resources. However, such information may require tax practitioners to incur substantial time and unrecoverable costs in engaging with the ATO to rectify the causes and ensure consistency of information.
- 4.51 The list of known issues on the ATO website, referred to above, contains instances of inaccurate information to the extent that the ATO is aware of them. The IGT supports this approach. However, many of these issues are reported to have an 'under investigation' status which does not provide an indication for when such issues will be rectified. These issues need to be addressed expeditiously and, as mentioned above, an expected completion time should also be provided.

### ATO Portals training for ATO officers

- 4.52 As mentioned earlier, ATO call centre officers receive foundation level training and access to basic information on ATO Portal functions. However, they were only recently provided with access to the ATO Portals. The IGT believes that, through such access, their working knowledge of the systems should improve over time. The IGT is also of the view that their working knowledge could be enhanced by providing a practical user guide. Publication of this guide would also provide a valuable reference tool for tax practitioners.<sup>219</sup>
- 4.53 The ATO also supports its call centre operators in assisting tax practitioners by maintaining a list of ICP system issues together with remedies. However, ATO Portal issues which are not related to the ICP system are not captured in a similar way. The IGT considers that expanding the existing list to capture all ATO Portal issues would improve the support to such staff and consequently their ability to better assist tax practitioners.

---

219 ATO, *Lodgment working group minutes, October 2014* (6 January 2015) <<http://www.ato.gov.au>>; Above n 203.

## Migration of ATO Portals to ATO Online

- 4.54 The Tax Agent Portal was positively received when it was first introduced in 2002. However, these systems have remained largely unchanged since they were first introduced.
- 4.55 The ATO has acknowledged that there has been 'trouble maintaining the infrastructure to a state or degree that is satisfactory from the tax agent's point of view'.<sup>220</sup> In the light of the rapid changes in technology and electronic service delivery expectations over the last 13 years, the ATO Portals are in need of upgrade. Accordingly, the ATO has advised that the ATO Portals will be migrated to a 'more functional software platform and flexible online system.'<sup>221</sup>
- 4.56 The IGT supports this migration, particularly where it is expected to improve reliability and performance. However, it is noted that no timeframe for the completion of this migration has been provided. This is a key question, as if full migration is quite some time away, it may be necessary to not only maintain the ATO Portals with minimal disruption but to also improve them.
- 4.57 Transitions of information technology systems pose significant risk of disruption to services. The IGT has previously observed the difficulties with such transitions during the Change Program and resulting impacts on tax practitioners' businesses and client relationships.<sup>222</sup> A key issue concerned the extent to which the ATO's communication and engagement allowed tax practitioners to take early preventative action and minimise adverse impacts. The IGT believes that if the migration from the ATO Portals to other platforms is not carefully managed there could be a substantial increase in telephony and other traditional mediums increasing costs, productivity loss and frustration for all parties.
- 4.58 The ATO's approach to minimising the migration risks is to initially maintain the ATO Portals and operate them in parallel with the new systems. The ATO Portals would only be decommissioned after consultation with tax practitioners.
- 4.59 The IGT takes a great deal of comfort from the above ATO approach as it substantially reduces the risk of adverse impacts on tax practitioners during the migration. Operating the old and new systems in parallel is more costly, however, it will provide tax practitioners with a more orderly transition to the new platform and a 'safety net' if significant difficulties arise.
- 4.60 Appendix 6 contains a range of enhancements to the current ATO Portals identified by tax practitioners during this review. Other improvements have also been raised in ATO surveys and workshops. To the extent that such enhancement or improvements are still necessary following the migration, they could be considered in subsequent upgrades.

---

220 Above n 103, p 27.

221 Ibid, para [2.191].

222 Above n 52.

## RECOMMENDATION 4.1

*The IGT recommends that, with respect to the ATO Portals, the ATO should:*

- (a) publish performance reports on a regular basis;*
- (b) publish a practical online user guide which includes information on their functionality and solutions to common issues; and*
- (c) provide an expected completion date for the migration to the new platform and if such a date is unlikely to be in the next 12 months, commence implementing the key improvements sought by tax practitioners to the existing systems.*

### ATO Response

In relation to 4.1 (a) - Agree

The ATO commits to publishing additional information in relation to the system performance within the network of the ATO. The amount of information that we can publish relating to the performance of the practitioners online systems is restricted as we do not have access to the system performance of each practitioner.

In relation to 4.1 (b) – Agree

Work on improving online guides has been ongoing since December 2014 and we are currently consulting with the tax profession on further refinement. We are also working with ATO support staff to guide the development of practical how-to guides and YouTube videos for standard functions.

The ATO will review all published issues that affect either availability of function or accuracy of information and provide regular updates on the progress of redressing these issues.

In relation to 4.1 (c) – Agree in part

The ATO, professional associations and software developers will continue to work together on improvements to the portal and practice management software. We anticipate that the portal functionality will be available via ATO on-line within the next 2 years. Enhancements to the current portal will be limited to maintenance and stability assurance.

## SBR AND THE MIGRATION OF ELS FUNCTIONALITY

- 4.61 Many countries are currently progressing whole-of-government strategies to provide a single portal for government services, a single source of information from government and a single authentication in dealings with government.<sup>223</sup> Such strategies rely on the sharing and reuse of reported data, implying a need for

---

223 OECD, 'Self-service channels', above n 2, p 26.

standardisation of required data.<sup>224</sup> Standard Business Reporting (SBR) is one such strategy.

4.62 Since 2010, Australia has pursued the adoption of SBR which aims to simplify business reporting obligations through a standard approach to online or digital record-keeping, collection of electronically reported information and distribution of that information to the appropriate government agency.<sup>225</sup> As such, SBR is not an information technology system but a 'collection of core services, data and message standards that uses a hub or mail centre.'<sup>226</sup>

4.63 The intended benefits of SBR for tax practitioners from a government perspective include the following:

- **Reduction of data entry** - information is gathered directly from your clients' business records.
- **Increased productivity** - less time spent on administrative activities gives you more time to provide expert advice to clients.
- **Sharing information** - you can be part of your clients' business online and in real time to help them to understand how their business is tracking.
- **Greater certainty** - if you have a subscription or cloud based package, changes to reporting legislation are updated through your software provider.
- **Real time validation** - you will get confirmation that reporting obligations have been completed and lodged.
- **Security** - using AUSkey you can be assured of secure transmission.<sup>227</sup>

4.64 In accordance with the Government's SBR initiative, the ATO intends to upgrade its online platform to facilitate SBR. These plans include the phasing out of the ELS over the 1 July 2016 to 1 July 2018 period. The ELS has been used by tax practitioners since 1990 as the primary means to electronically lodge their clients' income tax returns, activity statements and other tax forms as well as a channel to request and receive various reports from the ATO.<sup>228</sup>

4.65 Tax practitioners will now be expected to implement SBR-enabled practice management software to lodge their clients' forms.<sup>229</sup> Taxpayers will also be encouraged to adopt SBR-enabled business accounting software.

---

224 Ibid.

225 ATO, *How SBR works* (1 July 2014) <<http://www.ato.gov.au>>.

226 ATO, 'Blueprint ELS to SBR program of work' (Internal ATO Document, 19 October 2012) p 11.

227 Standard Business Reporting, *Benefits for intermediaries* (22 October 2014) <<http://www.sbr.gov.au/>>.

228 Above n 226, p 16.

229 ATO, *Standard business reporting capability ELS-SBR transition timeline* (15 July 2014) <<http://www.ato.gov.au>>.

## Stakeholder concerns

4.66 Stakeholders have generally supported the SBR's aim of streamlining reporting requirements for different government departments such as ASIC and the ATO. Some also supported mandatory adoption of SBR-enabled accounting software for larger businesses due to the efficiencies which may be realised. Tax practitioners with smaller taxpayer and business clients, however, were concerned that some of their clients may find it difficult to adopt SBR-enabled software for a number of reasons, including that:

- adopting such software may not realise the intended benefits as differences in accounting approaches or quality of accounts may require tax practitioners to manually adjust information before it is reported to the ATO;
- their clients may be reluctant to provide real-time information to government and the ATO which would take focus away from their business operations; and
- information may not flow through to different government agencies if the departments themselves did not have SBR-enabled software.

4.67 Some smaller tax practitioners also indicated resistance in adopting the new SBR-enabled practice management software as they did not consider the benefits worthwhile. Concerns were also expressed with ATO comments that part of the \$500 million savings expected to be generated by SBR will come from reduced tax practitioners' fees (see below for more details)<sup>230</sup>. Doubts have been raised with such estimates as the ATO will incur substantial costs in taking action in response to information being incorrectly reported.

4.68 Concerns were also raised with the ATO's control of the future lodgment platform and that its maintenance may effectively be transferred to various private sector software providers. As a result, the ATO would reduce its understanding of the lodgment and software related issues faced by tax practitioners. Some suggested that without clearly setting out responsibilities to address such issues, it would be difficult to determine the accountabilities of software providers and the ATO.

## Migration of ELS functionality to SBR enabled practice management software

4.69 Although the ATO plans to decommission the ELS on 30 June 2018, it intends to migrate the 'features, functions and services currently supported by [the] ELS to appropriate ATO delivery or data collection channels' through a series of releases.<sup>231</sup> The ATO's focus is not to make enhancements to the ELS' functionality but to migrate that functionality to the ATO's new online environment without 'degradation in service, functionality or client experience'.<sup>232</sup> Although the ATO intends to consider

---

230 Accountants Daily, *ATO warns accountants they face \$500m shortfall* (28 October 2014) <<http://www.accountantsdaily.com.au>>.

231 Above n 226, p 4.

232 Ibid, p 16.

- some 'irritants' in the current system during this work, it does not intend to address all defects and limitations.<sup>233</sup>
- 4.70 To ensure that lodgment data reported by tax practitioners to the ATO accords with SBR standards, the ATO will provide commercial accounting software providers with the specifications for each form required to be lodged with the ATO. The ATO will no longer produce the electronic lodgment software specification used by software providers to develop ELS accounting software from 2016 onwards.
- 4.71 The ATO is aiming to ensure all interactions with the ATO will be supported by SBR by 1 July 2015,<sup>234</sup> with no new forms and services being added to ELS from 1 July 2016.<sup>235</sup>
- 4.72 The ATO's implementation of SBR began in 2010. The migration of the ELS' functionality to an SBR-enabled environment commenced with the release of SBR taxonomy to software developers in 2014. This taxonomy sets out the data items required to be reported to the ATO.
- 4.73 The ATO has stated that all software developers should commence development of software packages from July 2014 with production pilots to be available by no later than December 2014.<sup>236</sup> For the 2014-15 financial year,<sup>237</sup> the ELS and the ATO's systems to capture forms lodged by SBR-enabled software will operate in parallel. The timeline in Appendix 8 provides a high level outline of the ATO's plans.
- 4.74 The ATO has acknowledged that the proposed implementation timeframes for providing SBR-enabled lodgment software is 'aggressive with ambitious delivery timeframes'.<sup>238</sup> Software developers have also noted that their ability to meet the deadlines depends on timely access to ATO information.<sup>239</sup>

## Adoption of SBR

- 4.75 Of the approximately 2.1 million actively trading businesses in Australia,<sup>240</sup> 21,000 (1 per cent) collectively lodged approximately 396,600 tax-related reports with SBR-enabled software during the 2013-14 financial year.<sup>241</sup> Compared to the previous year, there was a ten-fold increase in the use of such software by businesses from approximately 2,100 to over 21,000. The numbers of commercial software providers licenced to develop SBR-enabled products (from 129 to 169) and SBR-enabled products in the market (from 33 to 54)<sup>242</sup> also increased.

---

233 Ibid.

234 ATO, 'Tier 2 project business case' (Internal ATO Document, June 2014) p 9; Above n 226, p 11.

235 Above n 226, p 16.

236 Above n 229.

237 Above n 234, p 10.

238 Above n 234, p 10.

239 ATO, ATO Future Tax Industry working group (18 December 2014).

240 Australian Bureau of Statistics, *The number of Australian businesses have increased* (2 March 2015) <<http://www.abs.gov.au>>.

241 Commissioner of Taxation, *Annual Report 2013-14* (2014) pp 79 - 80.

242 Ibid, p 79.

4.76 The ATO has identified a key impediment to broader tax practitioner and taxpayers adoption of SBR. They state:

Although software developers recognise the benefits of SBR, they do not see a market opportunity to develop SBR-enabled software as long as ELS continues to be supported by the ATO.<sup>243</sup>

## Promotion of SBR by the ATO

4.77 The ATO currently undertakes a number of activities to improve tax practitioners' awareness and understanding of SBR-enabled practice management and accounting/business software, including:

- online discussion groups;
- providing information on the ATO and other government websites; and
- formal consultation arrangements and conferences, including the FTP and the National Tax Practitioner conference.

4.78 The ATO also uses its general communications with tax practitioners to make them 'aware of the online service changes at a high level.'<sup>244</sup> Such communication includes speeches about the impact of the move to SBR. For example, there have been recent reports that the Second Commissioner – PSSG, in a speech to the Accountants Technology Showcase Australia in October 2014, stated:

The red-tape reduction savings from SBR, which is a priority for the government, total probably \$500 million in the economy. A lot of that will come from professional fees. To resist that is to resist microeconomic reform and economic efficiency and productivity growth. It's not always comfortable when the bus comes to your door for the change but at the moment this is one place where the bus is coming.<sup>245</sup>

4.79 The ATO also expects tax practitioners to seek out information about SBR from their software providers.<sup>246</sup> Accordingly, the ATO supports these providers as well as professional bodies to provide information about SBR to tax practitioners.<sup>247</sup>

4.80 During this review, software providers and tax practitioners requested more detail on the transition to SBR, such as the ATO's project plan and a clear timeline.<sup>248</sup> Subsequently, the ATO updated its website by providing a 'Roadmap of change for tax professionals' providing information on the changes as well as the work required and the support available.<sup>249</sup>

---

<sup>243</sup> Above n 226, p 11.

<sup>244</sup> ATO, 'ELS2SBR Communications and consultation strategy' (Internal ATO Document) p 3.

<sup>245</sup> Accountants Daily, ATO warns accountants they face \$500m shortfall (28 October 2014) <<http://www.accountantsdaily.com.au>>; Above n 168, p 3.

<sup>246</sup> Above n 229.

<sup>247</sup> Above n 244.

<sup>248</sup> ATO, ATO's Future Tax Industry Working Group for 2015/16 and 2020 meeting (18 November 2014).

<sup>249</sup> ATO, Roadmap of change for tax professionals <<http://www.ato.gov.au>>.

## IGT observations

- 4.81 The benefits of SBR, such as a reduction of data entry, increased productivity and the sharing of information, are contingent on tax practitioners and their clients using SBR-enabled practice management and accounting/business software.
- 4.82 While SBR was introduced almost 4 years ago, recent statistics show that the take up by businesses has been low, with only approximately 1 per cent of all Australian businesses directly lodging reports through SBR. Similarly, take up has also been low among tax practitioners.<sup>250</sup>
- 4.83 Based on submissions to this review and the ATO's observations of software developers, the minimal demand for SBR-enabled software arises from a perception that the benefits are insufficient to outweigh the set-up costs of implementation. Therefore, to influence the increased adoption of SBR-enabled products, government is faced with effectively mandating its use or making it more appealing.
- 4.84 In the tax system, the ATO also faces challenges and risks which impact the willingness of tax practitioners and business taxpayers to take up the needed software. Tax practitioners may be forced to move away from their pre-existing systems which are entrenched in their business processes.
- 4.85 Unless developers seamlessly update currently provided software, decommissioning the ELS will require tax practitioners to upgrade their practice management software to lodge electronically and, therefore, increase demand for SBR-enabled software. However, there is a risk that unnecessary burdens will be placed on tax practitioners and the tax system if insufficient importance is placed on the user experience. As cautioned by the OECD:
- Mandating is hardly ever a popular decision, which may put the revenue body in the political, media and public spotlight. Combined with poor self-service design, it may result in increased aggregate service demand and create reputational challenges for the revenue body.<sup>251</sup>
- 4.86 Furthermore, retiring the ELS may not influence taxpayers to adopt compatible software. Without increased taxpayer uptake of such software, many of the benefits expected to arise for tax practitioners may go unrealised. Accordingly, the successful implementation of SBR in the tax system relies, in large part, on the broader taxpayer adoption of SBR-enabled accounting software.
- 4.87 The IGT believes that the ATO should work closely with tax practitioners to understand and respond to causes of tax practitioner and taxpayer resistance to adopting SBR-enabled software. Such co-operation, however, will be difficult if tax practitioners are pushed towards products which may not provide full functionality and may expose the ATO to the risk of lower practitioner engagement and

---

250 Above n 226, p 11.

251 OECD, 'Self-service channels', above n 2, p 63.



- satisfaction. In this respect, ATO messaging to tax practitioners that they need to 'evolve or die'<sup>252</sup> may not evoke the desired response.
- 4.88 The ATO could also work more closely with software developers as well as tax practitioners and taxpayers to focus more on the user experience of the resulting software. Such improved user experience as well as other benefits of adopting SBR could be better communicated to all the relevant parties.
- 4.89 Furthermore, the ATO could consider targeted financial incentives to reduce set up or upgrade costs for tax practitioners. It could also adopt concessional treatment during the transition period, such as allowing the deferral of certain payments or lodgment obligations without penalties being incurred – as was done in the United Kingdom in broadly similar circumstances.<sup>253</sup> Tax practitioners and taxpayers could be made aware of such treatment well in advance of the transition period.
- 4.90 As stated earlier, once the ELS is retired, the ATO will provide SBR specifications to software developers which will be used in their design and development of practice management software. There is a potential risk that issues may remain unaddressed if there is insufficient clarity on the roles undertaken by the ATO and software providers in discharging their respective responsibilities in addressing tax practitioner lodgment issues. The IGT notes that the respective responsibilities and accountabilities should be publicly articulated to provide clarity for the ATO, software providers and tax practitioners.
- 4.91 There is a transitional risk that a decrease in expected functionality would adversely impact tax practitioners' businesses, leading them to pursue other, more expensive channels to undertake their tasks. The ATO could minimise this transitional risk by only discontinuing the ELS after consultation with the tax practitioner community on the effectiveness of the new system. While this may extend the planned period for concurrent lodgment platforms, it would provide tax practitioners with an alternative lodgment platform in the event that SBR-enabled software and the ATO's systems are not meeting expected service standards.
- 4.92 Lastly, the IGT is of the view that SBR education and training for tax practitioners will be needed to reduce the risk of incorrect reporting and demand on the ATO's telephony channel from taxpayers and tax practitioners seeking assistance. The IGT believes that the ATO could provide educational materials such as online tutorials delivering practical guidance that would assist tax practitioners with the transition to SBR.

---

252 ATO, *Delegate's handbook for the National Tax Practitioner Conference 2014: Systemic driving forces in the next decade* (15 July 2014) <<http://www.ato.gov.au>>.

253 HM Revenue & Customs, *Online filing of Company Tax Returns: two years on* (undated) <<http://www.gov.uk>>.

## **RECOMMENDATION 4.2**

*The IGT recommends that as part of the transition from the ELS to SBR-enabled software, the ATO:*

- (a) work closely with tax practitioners to better understand the barriers to adopting SBR for tax practitioners and taxpayers;*
- (b) in collaboration with software developers and tax practitioners, seek to optimise the user experience of the resulting SBR software;*
- (c) communicate the benefits of SBR to both taxpayers and tax practitioners and consider providing incentives to the latter to adopt it;*
- (d) publish the respective responsibilities and accountabilities of the ATO and software providers so that software-related issues can be appropriately addressed;*
- (e) delay the retirement of the ELS until after consultation with the tax practitioner community on the effectiveness of the new system; and*
- (f) provide practical guidance material to taxpayers and tax practitioners to assist them with the transition to SBR.*

### **ATO Response**

In relation to 4.2 (a) – Agree

We are already working closely with software developers and professional associations to ensure tax practitioners are aware of the changes and to ensure software developers' products are adopting SBR.

In relation to 4.2 (b) – Agree in principle

Whilst we will work with our partners to design the services to be made available through software, user experience design of commercial software is driven by the software developers.

In relation to 4.2 (c) - Agree in part

The ATO agrees to communicating the benefits of SBR but will not be considering incentives to adopt.

In relation to 4.2 (d) - Disagree

We agree with the intent of ensuring an effective means for tax practitioners to deal with system issues but do not agree this would be supported by publishing the responsibilities of software developers and the ATO. We will look at ways to improve the quality of the guidance to ensure tax professionals know what to do when they experience system issues when using their software.

In relation to 4.2 (e) - Disagree

The ATO is currently committed to completing the transition to SBR by 1 July 2016, but we will continue to review contingency arrangements as the project proceeds.

In relation to 4.2 (f) – Agree

The ATO will provide guidance through communications and engagement activities on what is needed to transition to SBR.

## ATO WEBSITE

4.93 The ATO uses its website to communicate with tax practitioners, as well as provide them with access to important ATO forms, tax technical information, guidance and publications, and various tools.

### Stakeholder concerns

4.94 Stakeholders have raised concerns in relation to the ATO website's useability and accessibility which ultimately impacts on their ability to find relevant information. In particular, the website was difficult to:

- navigate particularly because of the presence of broken links;
- search with many finding a search through google to be more effective; and
- locate important material which should be prominently displayed, such as common tax forms and instructions and provided in a 'printer friendly' version relieving users of the need to print each page separately.

4.95 These sentiments were echoed in a recent survey of online communication with tax professionals. In that survey, it was found that close to a third of website users believed the information they needed was not easy to find as the menus did not make it easy to navigate and that the search engine was ineffective.<sup>254</sup>

4.96 Stakeholders also asserted that the launch of the ATO's redesigned website, on 26 June 2013, was poorly planned as it occurred during the busiest period of the year, resulting in a productivity loss while tax practitioners re-familiarised themselves with the new site. They also believed that the ATO website was not sufficiently tested prior to its launch.

### ATO materials

4.97 In October 2013, the ATO established a Website Limited Life Working Group with representatives from the professional associations to explore concerns with the website. The group was disbanded on 22 November 2013 and resulted in the ATO:

- identifying the root cause of broken links and dedicating resources to correct any broken links;
- releasing a print friendly function on the website; and

---

<sup>254</sup> ATO, 'Online communication with tax professionals survey 2014, Analysis of results from an online survey, 11-26 June 2014' (Internal ATO Document, undated) p 11.

- resolving some of the concerns with the basic search function.<sup>255</sup>

4.98 On 31 October 2014, the ATO also renamed one of the webpages to the 'Tax professionals newsroom' to better represent the information found on that page.<sup>256</sup> However, a consequence was that the location of webpages was changed, resulting in a number of broken links.

4.99 The following message was provided on the ATO's website to warn tax practitioners of these changes:

As we improve information, you may need to replace links and bookmarks to web pages you use regularly. We understand this will cause frustration however it is unavoidable when making improvements.<sup>257</sup>

4.100 On 3 November 2014, the ATO released an update on the upcoming changes to its website:

We are progressively reviewing all information on our website so it better meets your needs. Information will be easier to find and understand with improved menus and examples where required.<sup>258</sup>

4.101 The ATO also stated that they were working with an accredited business partner of the search function's supplier.<sup>259</sup> The ATO believes that the imbedded search engine is expected to improve over time as it 'learns' to output relevant results much like Google.<sup>260</sup> The following improvement examples were also recently announced on 16 February 2015:

- You can filter your search results by the area of our website you want to search as well as by current or previous years (more date filtering options will soon be available).
- You will see relevant ATO definitions displayed with the search results. This will allow you to see where we may have referred to something differently and you can refine your search, if necessary.
- We will provide links to other popular information related to your search, where applicable.
- The bottom of the search result page will show related search options.<sup>261</sup>

---

255 ATO, *ATO Website limited life working group: Key messages from meeting held 22 November 2013* (3 January 2014) <<http://www.ato.gov.au>>.

256 ATO communication to the IGT, 10 November 2014.

257 ATO, *Improving our website is a top priority* (3 November 2014) <<http://www.ato.gov.au>>.

258 Ibid.

259 ATO communication to the IGT, 6 May 2015.

260 Above n 255.

261 ATO, *Try our improved search function* (16 February 2015) <<http://www.ato.gov.au>>.

## IGT observations

- 4.102 Since the website was introduced in 1998 and subsequently updated in 2013, it has become an important resource for tax practitioners, particularly in relation to tax technical information, forms and 'practice type' information.<sup>262</sup> Therefore, any difficulties in finding relevant information on the website not only impacts tax practitioners' work but may also require ATO assistance and increases administrative costs.
- 4.103 The ATO did respond to stakeholder concerns by establishing a limited life consultative forum with representatives from the professional bodies. As a result, a number of concerns were addressed as set out above. The ATO has advised that the work continues and it is progressively reviewing all information on the website.
- 4.104 The IGT considers that as the ATO website is a fundamental tool for all citizens, the design and release of updates and new versions of the website need to be carefully considered. Where the website is working well, it allows users to move toward a greater level of self-service. There are a number of ways in which the ATO can facilitate a smoother experience for website users, including improved dialogue in relation to the design and improvements sought. In relation to tax practitioners, this approach may also include analysis via real-time analytics and user-centred design approaches to gain insight into experiences, preferences and expected behaviour. For example, such analysis could reveal the web content which is most important to the user and determine how it could provide easy access to this information, thereby optimising the tax practitioner experience.<sup>263</sup>
- 4.105 Importantly, the ATO website also presents opportunity to provide interactive assistance without the need for practitioners to telephone the ATO's call centres. For example, a 'web chat' assistance tool could assist users by providing information on the ATO's website as and when they visit the site. Another example would be to provide a regularly updated FAQ on common website queries made by tax practitioners.

### RECOMMENDATION 4.3

*The IGT recommends that in relation to its website, the ATO should:*

- (a) improve the website's ease of use by better taking into account tax practitioners' needs and concerns; and*
- (b) develop a 'web chat' functionality that provides tax practitioners with helpful information.*

262 ATO, 'Use of www.ato.gov.au, qualitative research report' (Internal ATO Document) p 6.

263 OECD, 'Self-service channels', above n 2, p 45.

## ATO Response

In relation to 4.3 (a) – Agree

In relation to 4.3(a) – We have undertaken research and consultation with tax professionals to understand how we can make improvements to the website and our online communication channels. Many of the priorities from the research and consultations have been implemented with positive feedback received. More are being progressed in 2015. We are currently undertaking further research to gauge how tax professionals are responding to the improvements and to enable us to consider our next program of work to improve ato.gov.au.

In relation to 4.3 (b) – Disagree

The ATO has heavily invested in the search functionality and improving web content. The feedback about the changes has been very positive. The current research will explore if further work is required since these changes were made.

## THE ATO TELEPHONE SERVICES TO TAX PRACTITIONERS

- 4.106 Tax practitioners may direct queries to an ATO officer by using the registered agent telephone service. This phone service is available between 8.00am and 6.00pm Monday to Friday.
- 4.107 Due to the costs associated with delayed calls, many organisations, who operate such telephone services, seek to improve first contact resolution as an important objective. The reason is that it is indicative of how effectively the customer's requests are being handled and the quality of the customer experience.<sup>264</sup> In 2013–14, tax practitioners made approximately 1.4 million telephone calls to the ATO.<sup>265</sup> Of these calls, approximately 27,000 (2 per cent) were abandoned and 48,000 (3.4 per cent) were either escalated or transferred by the ATO officer answering the call.<sup>266</sup> The remaining calls (94.6 per cent) were answered and the issues raised were resolved during the first call.<sup>267</sup>

### Stakeholder concerns

- 4.108 Tax practitioners raised a range of concerns with the registered agent telephone service. These included frustrations with ATO delays in answering calls or calls dropping out which required tax practitioners to call again and recommence the enquiry and escalation process.
- 4.109 The telephone service was also considered to be ineffective for resolving complex matters as operators had limited authority, accountability, technical capability and understanding of tax practitioners' practices. As a result, many tax practitioners opted not to use the service for technical assistance and limited use to simple administrative

---

264 Oracle, *Best practices for improving first-contact resolution in the contact centre* (2012) pp 1 and 6.

265 Above n 241, p 34.

266 Above n 241, p v.

267 Above n 241, pp v and 34.

or system queries, such as interest and penalty remissions and setting up payment arrangements. Tax practitioners also noted that due to ATO phone operators using scripted responses when dealing with enquiries, they did not always seek to understand the issue and appeared indifferent to whether the caller's issue was resolved.

- 4.110 Furthermore, the quality and consistency of advice given to tax practitioners was raised as a concern. The advice was found to be at times inconsistent with the material on the ATO's website and/or advice provided by another ATO officer. Stakeholders also noted inconsistency in tasks that ATO officers were able to perform over the phone. In some instances, requests for changes to lodgment from monthly to quarterly were done during a phone call, whilst other officers insisted that the request had to be in writing.
- 4.111 Stakeholders also expressed frustration with the ATO's proof of identity (POI) procedures. Tax practitioners indicated that POI was difficult to establish because complex information was often required and not always easily accessible, for instance in transit or during a client meeting. In addition, they expressed frustration that POI procedures are often repeated when calls are transferred to a different person within the ATO. Furthermore, when ATO officers called tax practitioners, they require the practitioner to verify their identity without any need to provide POI themselves. This was seen to be particularly concerning because ATO officers often requested confidential information about clients which may expose tax practitioners' clients to identity fraud.
- 4.112 Frustration was also expressed with ATO operators who do not provide their contact details, resulting in follow up calls with different officers about the same matter.

## ATO materials

- 4.113 While the ATO appears to offer a dedicated registered agent telephone service line, calls from tax practitioners are answered by the same pool of call centre operators that handle taxpayer calls. However, tax practitioner calls are given priority in the queue.
- 4.114 The ATO aims to answer 90 per cent of tax practitioner calls within 2 minutes.<sup>268</sup> In 2013-14, the ATO exceeded this target by answering 92 per cent,<sup>269</sup> with an average wait time of 33 seconds.<sup>270</sup> This performance is substantially the same as that in the two preceding years.<sup>271</sup>
- 4.115 Tax practitioners may input Fast Key Codes (FKC) that allow calls to be directed to the relevant areas of the ATO's call centre. Calls are usually directed to the Customer Service and Solutions (CS&S) business line which handles the majority of tax

---

268 Above n 241, p 34.

269 Ibid.

270 ATO, 'Service delivery insights', above n 83, p 6.

271 ATO, 'CS&S Heartbeat Report' (Internal ATO Document, June 2014).

practitioner calls. Prior to 4 August 2014, a small percentage of calls<sup>272</sup> were answered by the Tax Practitioner Services (TPS) area within the TPALS business line.<sup>273</sup>

### Recent developments and changes

4.116 A number of recent developments and changes occurred during this review. These were aimed at reducing the number of transfers and instances where ATO officers resolve issues outside the phone call (non-phone escalations (NPEs)). These changes include:

- transitioning the inbound TPS telephony service to the CS&S business line;
- transitioning the inbound Small Business / Individual Taxpayers (SBIT) telephony service to the CS&S business line; and
- changing call centre policies, procedures and practices to improve ATO operator ability to resolve tax practitioner calls at the first instance.

### Transitioning the inbound TPS telephony service to CS&S

4.117 Analysis conducted by the TPALS and CS&S business lines on a sample of 354 calls received by the TPS area between July - December 2012 observed the following in relation to transferred calls:

- 39 per cent of total calls going directly to the TPS area were subsequently transferred to other business lines;
- 25 per cent of calls were transferred into the TPS area from other ATO business lines with 29 per cent of these calls subsequently transferred by the TPS area to other business lines, involving a minimum of three operators in each such call;
- only 58 per cent of total calls directed to the TPS area were able to be resolved without the need to transfer or escalate the call; and
- 100 per cent of the calls were either scripted or scriptable.<sup>274</sup>

4.118 The performance of the various types of calls taken by the TPS area between 1 July 2012 and 19 November 2012 echo the above findings which are set out in Table 10 below.

**Table 10: TPS queue performance (1 July 2012 and 19 November 2012)**

Description	Calls Answered	Average			Hold time %	Consult %	Transfer %	NPE %	Resolve
		Handle Time	Talk Time	After Call Work Time					
Electronic Lodgment Service (ELS)	12,141	459	225	175	26%	4%	33%	17%	53%
Practice Administration	8,601	433	210	172	24%	3%	58%	6%	42%
Portals and Website Navigation	21,646	424	217	167	19%	3%	38%	5%	60%
Disasters	1,901	272	124	109	31%	6%	79%	0%	24%

272 As at 4 December 2012, calls answered by TPALS TPS comprised 9.2% of total tax practitioner calls answered by the ATO; ATO, 'Review of TPALS TPS Telephony Services, Office Minute' (Internal ATO Document, 31 July 2013) p 6.

273 ATO, 'TPS Telephony Services', Ibid, p 6.

274 ATO, 'TPS Telephony Services', above n 272, p 8.



Practice Address Updates	1,550	385	207	164	7%	1%	29%	0%	72%
Rendezvous	55	469	243	180	19%	2%	25%	7%	73%
ELS Escalations (by phone)	4,821	580	303	223	18%	2%	10%	0%	90%
Other TPS Escalations (by phone)	10,415	363	190	142	17%	2%	38%	0%	63%
<b>Totals</b>	<b>61,130</b>	<b>429</b>	<b>217</b>	<b>167</b>	<b>21%</b>	<b>3%</b>	<b>39%</b>	<b>6%</b>	<b>58%</b>

Source: ATO.

4.119 Due to the above findings, the inbound TPS telephony service was transitioned to the CS&S business line on 4 August 2014.<sup>275</sup> The following improvements were expected to be realised as a result of this transition:

- increased first contact resolution rates though a reduction in the number of transfers and escalations across business lines;
- reduced average handling times through a reduction in the number of transfers across business lines;
- opportunities to draw on a broader skill set to build on the service provided;
- consistent approach in the management of inbound telephony and better capacity to roster for peaks and troughs through greater resourcing; and
- increased client service window.<sup>276</sup>

#### ***Transitioning the inbound SBIT telephony service to CS&S***

4.120 The inbound SBIT telephony service was also transitioned to the CS&S business line in February 2014.

4.121 Call analysis was conducted jointly by the SBIT and CS&S business lines on calls received between July 2013 – June 2014 which identified:

- 65.4 per cent of total calls answered by the SBIT business line were transferred from other business lines;
- 7.8 per cent of calls transferred into the SBIT business line were subsequently transferred to other business lines, resulting in a minimum of three call centre operators being involved in the enquiry;
- 12.7 per cent of calls received directly by the SBIT business line were transferred to other business lines; and
- staff were under-utilised, with occupancy rates at approximately 65 per cent (compared to 97 per cent for the CS&S business line).<sup>277</sup>

<sup>275</sup> ATO, 'Tax Practitioners, Lodgment Strategy & Compliance Support (TPLSCS): Jul 2014 – Oct 2014 Service Delivery Insights' (Internal ATO Document, undated) p 18; ATO, 'Service delivery insights', above n 83, p 25; ATO, 'TPALS TPS Telephony Transition to CS&S 31 July 2014 update' (Internal ATO Document, 31 July 2014).

<sup>276</sup> ATO, 'Service delivery insights', above n 83, p 25; ATO, 'Office Minute: Review of TPALS Tax Practitioner Services Telephony Services' (Internal ATO Document, 31 July 2013) p 9.

<sup>277</sup> ATO communication to the IGT, 29 January 2015.

4.122 The expected outcomes of the transition were a reduction in call volumes, call handling times and NPEs as well as increased rates of first contact resolution.<sup>278</sup>

### ***Improving the ability to resolve tax practitioner calls at the first instance***

4.123 The ATO's CS&C business line has also sought to improve its ability to resolve tax practitioner calls at the first instance, as well as reducing the creation of approaches that delay resolution (such as NPEs and transfers).

4.124 In July 2013, the ATO implemented a 'floor support' strategy which required telephone operators to seek real time assistance from technically proficient staff (otherwise known as 'floorwalkers'), rather than transferring or escalating queries to seek out specialist assistance.<sup>279</sup>

CSRs [Client Service Representatives] are to request the assistance of floorwalkers only after having attempted to research an answer to a customer's enquiry. At the same time they must seek assistance from the escalation queue.

NPEs are not to be raised unless there is a clear requirement to do so - if a floorwalker can provide the answer to the CSR the CSR should provide it to the customer unless the complexity of the issue (and the CSRs lack of familiarity with it) jeopardises the quality of the interaction with the customer. NPEs should only be raised if agreed to by a floorwalker or escalation queue specialist. If neither is available and the CSR is unable to deal with the enquiry an NPE may be raised.<sup>280</sup>

4.125 Floorwalkers are expected to be on call to assist phone operators when answering a caller's enquiry. Floorwalkers are also expected to record the details of each request for assistance in a database and provide feedback to team leaders and senior advisers on a regular basis. Such issues were aimed to be addressed through mechanisms such as coaching or training sessions.<sup>281</sup>

4.126 Figure 2 below is an ATO flow chart of their escalation and feedback process for phone operators when seeking assistance to answer a caller's enquiry.

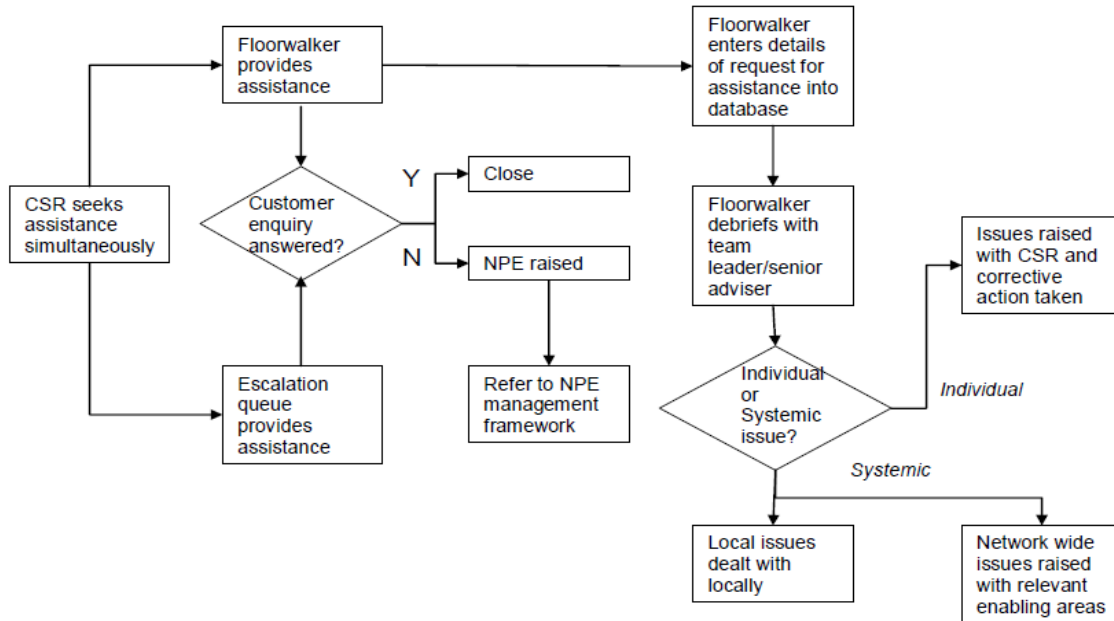
---

278 ATO, 'Project Outline - CS&S 'Advice' skill alignment' (Internal ATO Document) p 10.

279 ATO, 'Service delivery insights', above n 83, p 3.

280 ATO, 'On Site Escalation Support' (Internal ATO Document, November 2013).

281 Above n 280.

**Figure 2: On-site escalation support flow chart**

Source: ATO.

4.127 The ATO's detailed explanation of the above flowchart is reproduced below:

- CSRs will seek assistance from floorwalkers and the escalation queue simultaneously.
- The SQM [Skilling & Quality Manager] ... within sites will work together to assign floorwalkers to team(s) or groups of staff for periods of no less than a week to develop awareness of team needs. The only exceptions to this will be to cover unplanned leave.
- Floorwalkers are to have an initial briefing with a senior adviser and the team leader(s) at commencement of a rotation.
- Team leaders are to provide floorwalkers with advice regarding expectations and known issues within the team.
- Floorwalkers are to enter details of every request for assistance into the OSES database used in their site.
- Floorwalkers are to informally debrief team leaders daily on:
  - Staff apparently in need of training
  - Behavioural issues
- Floorwalkers are to formally debrief at week's end with team leaders and senior advisers.
- Senior Advisers are to collate weekly reports on significant endemic and/or emerging issues and submit them to the SQM and the site's contact centre leadership group.

- The SQM is to recommend and implement processes to address issues at the individual, team and site levels. Issues having a broader impact will be raised with the SQM Network.
- Team Leaders will review NPEs generated from within their own team to identify knowledge and skilling issues and/or behavioural issues requiring attention, and will take steps to address them.<sup>282</sup>

4.128 The ATO also expects the following call centre staff to focus on improving phone operator knowledge and capability:

**...CSRs operating as floorwalkers:** Floorwalkers are expected to roam and observe CSR behaviours - including call management techniques and system navigation methods. They are to take over calls as necessary, educate CSRs (not just provide answers), and provide verbal or written feedback to team leaders, senior advisers and the SQM. In addition they are to gather and submit intelligence, and enter information into relevant databases.

**...Senior advisers:** Senior advisers are to brief and debrief with floorwalkers regularly (daily if necessary), review floor walking data to identify trends and systemic issues, and co-ordinate (with team leaders) additional support for CSRs requiring it.

**...Skilling & Quality Manager (SQM):** The SQM will co-ordinate the allocation of floorwalkers to teams/staff and analyse local escalation support data to identify systemic needs. The SQM will be the conduit to enabling areas for issues requiring attention on a broader scale.

**...Team leaders:** Team leaders will analyse local escalation support data and debrief with floorwalkers to identify skill and knowledge gaps their staff may have. They will liaise with the SQM/senior advisers to prepare developmental plans to address those gaps. Team leaders will work with their peers and Assistant Directors to address broader issues within the site. Issues requiring attention will be addressed through coaching or other appropriate mechanisms.<sup>283</sup>

4.129 A number of other changes were also implemented by the CS&S business line to improve operator ability to resolve tax practitioner calls at the first instance, including:

- no longer giving priority service to internal transfers with effect from October 2013;<sup>284</sup> and
- from January 2014, requiring telephone operators to send NPEs directly to their team leaders which would allow for real time coaching and contribute to a reduction in NPEs.<sup>285</sup>

---

282 Above n 280.

283 Ibid.

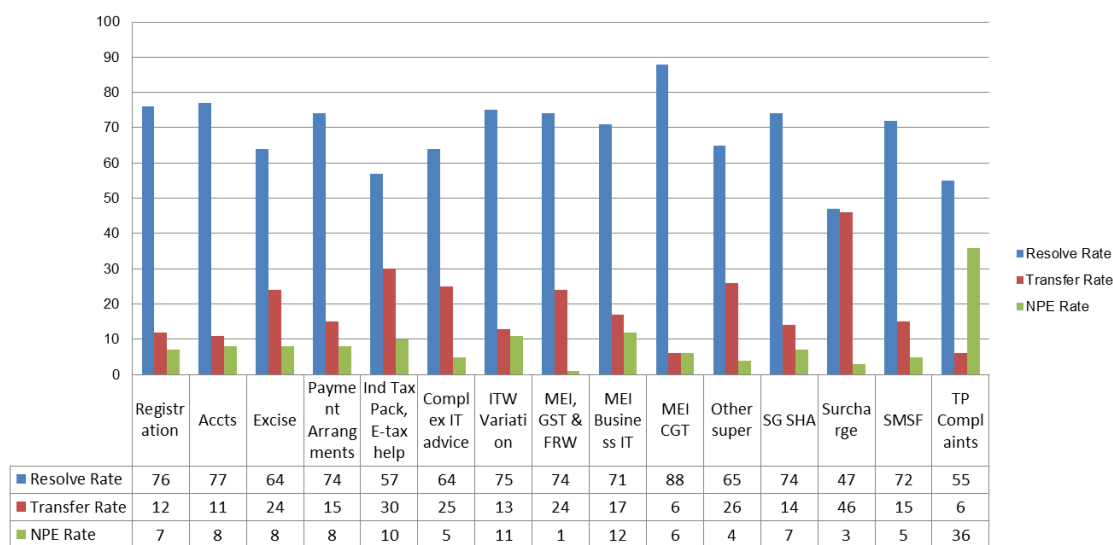
284 ATO, 'Service delivery insights', above n 83, p 3.

285 Ibid.

## Call handling

- 4.130 Although the ATO aims to resolve calls at the first instance, calls involving complex income tax advice from tax practitioners may require transfer or escalation to another ATO officer.<sup>286</sup>
- 4.131 Figure 3 below shows the percentage of tax practitioner calls that did not involve a transfer or require a NPE (resolve rate), a percentage of transferred calls answered (transfer rate) and percentage of NPEs (NPE rate), by the subject of the call.

**Figure 3: Resolve, transfer and NPE rates (July 2013–June 2014)**  
**Resolve, transfer and NPE rates**



Source: ATO, CS&S & TPALS – July 2013 – June 2014 Service Delivery Insights, p8.

- 4.132 Figure 3 reveals that tax practitioner calls on certain issues such as the superannuation surcharge, other superannuation matters, personal income tax return lodgment through Tax Pack and E-Tax, complex income tax advice, Goods and Services Tax (GST) and excise issues experience the highest transfer rates (46 per cent, 26 per cent, 30 per cent, 25 per cent, 24 per cent and 24 per cent respectively).
- 4.133 Furthermore, tax practitioner complaints, personal income tax, business income tax and withholding variation issues have the highest rates of NPEs.<sup>287</sup> Whereas matters relating to CGT and accounts experience the lowest transfer rates.

## Staff skilling and performance

- 4.134 According to the ATO, all telephone operators are trained on five topic areas, namely Business, Debt, Individuals, Superannuation and Advice.<sup>288</sup>
- 4.135 Each of these five topics have three tiers of ATO officer expertise. Tier 1 represents the basic level of expertise and tier 3 represents the specialist level. Table 11 below shows the specific skills that encompasses each of the five topic areas, by tier.

<sup>286</sup> Ibid, p 9.

<sup>287</sup> ATO, 'Service delivery insights', above n 83, p 8.

<sup>288</sup> ATO, 'CS&S Services Model' (Internal ATO Document, undated).

**Table 11: CS&C skill sets**

	Business	Debt	Individuals	Superannuation	Advice
<b>Tier 3</b>	Specialist	Specialist	Specialist	Specialist	Specialist
<b>Tier 2</b>	PAYG Accounts Excise GST Security Assessed Clients	Payment Arrangements Self Help Dropouts Debt Letter Responses Security Assessed Clients	PAYG CGT Foreign Income First Home Saving Account Income Tax Withholding Variation Security Assessed Clients	Co-contribution Superannuation Guarantee Superannuation Holding Account Reserve SuperChoice Surcharge TaxPack A3 Employment Termination Payment Reasonable Benefit Limits SMSF Electronic Data Security Assessed Clients	GST Business Income Tax CGT
<b>Tier 1</b>	Registrations, Remissions, AUSkey, Business Activity Statements, TaxPack, Simple Superannuation, Lost Members Register, Departing Australia Superannuation Payment, Tax Pack T3, Accessing Super and Portability				
<b>Foundation</b>	Client Updates, TFN/ABN Applications, Tax Evasion Referral Centre, Wickenby, Simple alternate work types, Online Services, eTax, myTax, myGov				

Source: ATO, CS&S Services Model.

4.136 The model composition of telephone operators' skills within the CS&C business line is also shown in Table 12 below.

**Table 12: Model workforce skill composition**

Tier	Business and Debt	Individuals and Debt	Superannuation
<b>3</b>	2%	2%	0.26%
<b>2</b>	23%	14%	4%
<b>1</b>	54%		

Source: ATO, CS&S Services Model.

4.137 Table 12 shows that the model state of the workforce is that 54 per cent should be trained at the Tier 1 level, 41 per cent at the Tier 2 level and 4.26 per cent at the Tier 3 level.

4.138 The ATO also conducts quality assessments on telephone interactions. Any findings are documented to provide feedback and to identify the coaching needs of staff.<sup>289</sup> The assessment concentrates on the individual's actions and associated procedures, for example:<sup>290</sup>

- What action did the officer take and was it consistent with the procedures?
- How well did the officer observe, collect and record objective evidence?

289 ATO, 'Quality Evaluation Handbook: Telephony 2014/15' (Internal ATO Document, July 2014) p 8.

290 Ibid.

4.139 Assessment are based on three elements, namely service, quality and cost as well as ten criteria which include:

- Service – Interpretation of customer request/situation;
- Service – Appropriate interaction style/Professionalism;
- Service – Interaction protocols applied;
- Service – ATO Values and Behaviours;
- Quality – PORO/Privacy;
- Quality – Appropriate system information and procedures used effectively;
- Quality – Outcome appropriate to customer situation;
- Quality – Information conveyed accurately and completely;
- Quality – System actions/updates completed correctly; and
- Cost – Interaction handled efficiently and/or service standards met.<sup>291</sup>

4.140 The results for the November 2014 assessments are provided in Table 13 below.

**Table 13: November 2014 tax practitioner call performance assessments**

Rating	Number	%
Silver	3	0.50%
Met Standard	341	53.70%
Met Standard – Coaching Required	155	24.40%
Met Standard – Immediate Coaching Required	110	17.30%
Standard Not Met	26	4.10%
<b>Total</b>	<b>635</b>	<b>100%</b>
<b>Pass Rate</b>		<b>95.91%</b>

Source: ATO.

4.141 Table 13 above shows that 41.7 per cent of call performance assessments identified the need for coaching notwithstanding that the call performance was considered to have met standard. Furthermore, 4.1 per cent of calls were considered to have not met standard.

### **Proof of identity (POI) protocols**

4.142 POI requirements reduce the risk of third parties obtaining unauthorised access to client information.<sup>292</sup>

<sup>291</sup> Ibid, p 9.

<sup>292</sup> ATO, *Proof of identity for registered agents* (29 January 2015) <<http://www.ato.gov.au>>.

- 4.143 The ATO recently changed the POI requirements due to the TPB public release of tax practitioners' registration numbers. The changes removed the requirement for personal details when verifying POI and instead, ask for details that relate to the client's interaction with the ATO, such as recent<sup>293</sup> information from a notice of assessment, details of ATO documents, ATO correspondence or lodged return. The information required depends on whether the tax practitioner is listed on the taxpayer's account and the scope of their authority.<sup>294</sup>
- 4.144 On 8 September 2014, the ATO introduced voice authentication, allowing taxpayers to record a short 'voiceprint' that can be used to verify their identity for future calls. Voice verification was introduced with the aim of speeding up the authentication process and reduces the time needed on the phone to the ATO.<sup>295</sup> The voice authentication system is currently available to individuals calling on their own behalf or on the behalf of another entity, such as an individual or a company. However, future releases will support individuals acting in their role as an intermediary, for example a tax practitioner.
- 4.145 When ATO officers call tax practitioners, they are required to identify themselves by providing their full name and the section in which they work.<sup>296</sup> However, if tax practitioners have doubts about the identity of the caller, they may:
- ask for the officer's contact details, including
    - their full name
    - their extension number, if available
    - the name of their team leader and their extension number
  - ask the officer if you can phone them back on 13 28 69 between 8.00am and 5.00pm, Monday to Friday. This is charged at your local call rate.<sup>297</sup>

### **'Pushing' tax practitioners to online self-service channels**

- 4.146 According to the ATO's website, where there is no online option, tax practitioners may direct queries to an ATO officer by using the registered agent telephone service.<sup>298</sup>
- 4.147 The ATO has stated that a number of telephone calls made by tax practitioners were unnecessary because their issues could have been addressed through self-service channels, such as the website and the ATO Portals.<sup>299</sup> As a result, an initiative was

---

293 No more than five years old.

294 Above n 292.

295 ATO, *ATO launches voice authentication* (9 September 2014) <<http://www.ato.gov.au>>.

296 Above n 292.

297 Ibid.

298 ATO, *Services and support* (29 January 2015) <<http://www.ato.gov.au>>.

299 ATO, 'Jul 2014 - Oct 2014 Service Delivery Insights', above n 275, p 5.



piloted in March 2014 to 'strongly encourage' tax practitioners to use online services when they called the ATO for enquiries that could be self-served.<sup>300</sup>

- 4.148 From 1 September 2014, the ATO escalated its approach to a firmer one where staff would only action tax practitioner requests that could be self-served through online channels under exceptional circumstances:

Where transactions and information is available on the ATO Portals, Standard Business Reporting (SBR), Australian Business Register (ABR), the electronic lodgment service (ELS) or the electronic commerce interface (ECI), our call centre staff will advise you which channels can be used.<sup>301</sup>

- 4.149 The ATO has, however, stated that where services are not available through online channels, they will assist tax practitioners, including when system issues prevent tax practitioners from using online services.<sup>302</sup>
- 4.150 The ATO measures the performance of call centre operators in 'pushing' tax practitioners to self-service channels, which is set out in Table 14 below for the November 2014 month.

**Table 14: November 2014 tax practitioner pushback performance assessments**

Month	Total assessments	% of performance marked as 'coaching required', 'immediate coaching required' and 'standard not met'
September	843	2.61%
October	849	1.65%
November	635	0.79%
December	101	1.98%
<b>Total</b>	<b>2428</b>	<b>1.77%</b>

Source: ATO.

- 4.151 The reasons for a grade of 'coaching required,' 'immediate coaching required,' or 'standard not met' in individual cases include:
- actioning Australian Business Number cancellations where the tax practitioner should have cancelled the number themselves;
  - performing POI unnecessarily which led to excessive call duration as the tax practitioner could have lodged a return not necessary on the ATO Portals or via ELS;
  - not advising the tax practitioner that progress of return enquiries are no longer a call centre function; and
  - not asking appropriate questions to determine the tax practitioner's situation which lead to ATO officers performing actions which could have been performed by the tax practitioner.<sup>303</sup>

300 Ibid, p 5.

301 ATO, *Working Online* (29 January 2015) <<http://www.ato.gov.au>>.

302 Ibid.

## IGT observations

- 4.152 At first glance it seems that the ATO's registered agent telephone service is operating reasonably well with 94.6 per cent of calls being answered and the issues raised being resolved during this first call. However, there may be aspects of call handling that require improvement.

### Call handling and delays

- 4.153 Calls could be delayed for a number of factors, including the amount of times they are transferred or escalated to another ATO officer. Whether a call is transferred or escalated is influenced by a number of factors, including the complexity and type of issue, the experience of the officer, the quality of officer training and the tools that are available to the officer. As mentioned above, the ATO has undertaken a number of initiatives to reduce call times by addressing some of these factors.
- 4.154 Inevitably, some calls will require transfer or escalation. In such instances, call times could be minimised by the ATO operators expeditiously identifying the underlying issue and transferring the call to the appropriate person for resolution. To achieve such an outcome, the IGT believes that the ATO should monitor and report on the call handling time, i.e., the time from when the call is received to when it is transferred. Where the handling times are lengthy, the reasons for such delay could be explored and solutions developed. For example, questions could be developed for call centre operators to quickly identify which calls are too complex and to whom they should be transferred.

### Staff skilling, abilities and accountability

- 4.155 As mentioned earlier, the ATO has implemented a number of changes during this review which were aimed at addressing tax practitioners' concerns with phone operators' ability to resolve tax practitioner calls at first instance. A key component of these ATO initiatives is to improve the skill level of call centre operators. For example, 'floorwalkers' are expected to educate and not just provide answers to operators while 'team leaders' are expected to identify skill and knowledge gaps in their staff.
- 4.156 The IGT believes that many of the strategies have potential to address the concerns raised by stakeholders, if appropriately implemented. However, as these strategies are still in their infancy, it is difficult to gauge their success. Furthermore, these strategies may take some time before the benefits are fully realised.
- 4.157 The IGT also expects that as electronic interactions with the ATO improve, common and simple transactions that are undertaken on the phone will be completed on various electronic self-service channels. The ATO's recent initiative to encourage tax practitioners to use online services is indicative of this change. The best form of encouragement is to ensure that the online services are effective and user friendly.

- 4.158 With the uptake of online services, in the near future, a greater proportion of call centre operators will most likely be required to handle complex and unique cases that cannot be easily addressed by self-service channels. Therefore, it is critical that the ATO aims to improve the knowledge and skill base of its call centre operators to ensure that they are capable of handling such cases in the future.
- 4.159 Table 12 above highlighted that the ATO's model workforce would have more than 50 per cent trained in simple matters involving registrations, remissions, AUSkey, BAS and TaxPack. However, less of the ATO's workforce are expected to be familiar with Tier 2 and Tier 3 level of expertise ranging from 2 per cent to 23 per cent of the workforce, depending on the subject matter.
- 4.160 The IGT is of the view that in line with the ATO's planned migration to SBR-enabled practice management software, the ATO should aim to increase the skill set of its workforce so that over time, the proportion of staff that have Tier 2 or 3 level of expertise increases. An increase in the level of expertise to Tier 2 and 3 levels will ensure more call centre operators will be capable of meeting the needs of the future.
- 4.161 Furthermore, the ATO does not train call centre operators on issues that are specific to tax practitioners, notwithstanding the dedicated telephone service to this market segment. With this in mind, the IGT believes that call centre staff should receive training that is particular to tax practitioners, such as commercial and whole of practice understanding, deferral requests and SBR.

### **POI protocols**

- 4.162 Providing POI is important to ensure that callers are not misrepresenting themselves to unlawfully gain confidential information from the ATO about certain taxpayers. However, the IGT is of the view that the current POI requirements are onerous because they require tax practitioners to recall detailed information about the client.
- 4.163 The IGT believes that the ATO should explore opportunities to simplify the POI process. One option could be to use unique identifiers for tax practitioners and/or their client. Such an identifier could be used in subsequent calls in relation to the same client on the same matter. Similarly, it could be used by the ATO officer when contacting the tax practitioner about their client. The use of this identifier would allow the tax practitioner to be assured that the person on the other line is an authorised ATO officer. The ATO's current practice is for operators to provide their full name and the section in which they work, however, this information alone does not assure tax practitioners of the identity of the ATO officer.
- 4.164 Alternatively, the IGT understands that the ATO will expand its voice recognition software to tax practitioners which will simplify and overcome concerns raised by tax practitioners. As this technology has only recently been released to taxpayers, it is difficult for the IGT to gauge its success in terms of simplifying the POI authentication process. There are a number of security concerns with using such technology. For example, how should the system deal with a situation where tax practitioners move from one firm to another and their clients change. However, this situation is also a challenge for the existing POI processes.

- 4.165 It should also be noted that voice recognition may only be helpful for incoming calls and not when ATO officers contact tax practitioners.

#### **RECOMMENDATION 4.4**

*The IGT recommends that, with respect to its telephone service for tax practitioners, the ATO:*

- (a) measure and report on the handling times taken between when calls are received and when they are transferred to the appropriate ATO officer;*
- (b) where such handling times are too lengthy, investigate how improvements may be made;*
- (c) increase its workforce ability to handle complex tax practitioner enquiries, including those requiring a whole of tax practice understanding; and*
- (d) simplify proof of identification requirements for tax practitioners by, for example, using unique identifiers and/or voice recognition software.*

#### **ATO Response**

In relation to 4.4 (a) – Agree

This reporting is undertaken by our ATO contact centres.

In relation to 4.4 (b) - Agree

We meet all our current service standards. If our QA results in a particular queue suggest handling times are becoming too lengthy we would consider implementing improvements including providing training, support and resources.

In relation to 4.4 (c) - Agree in principle

There would need to be further analysis in relation to the specifics of the work type and associated capability gaps.

In relation to 4.4 (d) - Agree

When voice recognition is made available to third party representatives this will simplify proof of identification for agents.

## CHAPTER 5 – LODGMENT PROGRAM

- 5.1 The ATO's Lodgment Program is an important feature of the tax system. It assists registered tax practitioners to spread their workload by offering concessional due dates that allow the progressive lodgment of documents throughout the year.<sup>304</sup> Similarly, it provides the ATO with an opportunity to manage work flow peaks and troughs.
- 5.2 As a condition of receiving concessional lodgment due dates, since 1 July 2012, the ATO has required tax practitioners to lodge returns electronically and to ensure that at least 85 per cent of their clients' current year returns were lodged on time (85% Lodgment Rule).<sup>305</sup>

### STAKEHOLDER CONCERNS

- 5.3 The need for a differentiated ATO Lodgment Program was generally appreciated by stakeholders. However, many tax practitioners expressed a number of concerns with the new Lodgment Program framework.
- 5.4 Some tax practitioners expressed concerns that they would be adversely affected if they lose their lodgment concessions for failing to meet the requirements of the new Lodgment Program, namely, the 85% Lodgment Rule. Others believed this perception arose from the ATO not clearly communicating what action it would take when a tax practitioner failed to meet the rule.
- 5.5 Tax practitioners were also concerned with ATO email alerts being sent to them about their lodgment performance. The email alerts to some tax practitioners contained statements to the effect that they had 'failed' to meet the rule. There was also insufficient information in the emails to confirm the accuracy of the results. This was exasperated by some of these emails containing information about similar sized practices who had performed worse than the recipient of the email. This approach created confusion and fear amongst many tax practitioners and they began to form a view that the ATO was now stepping into the shoes of the TPB and acting as a 'quasi regulator' of tax practitioners.
- 5.6 Certain tax practitioners also believed the 85% Lodgment Rule was counterproductive to the aim of improving overall lodgments as it placed undue pressure on practitioners to lodge returns promptly potentially giving rise to a risk that there is a quality trade off. It also discouraged tax practitioners from assisting taxpayers whose current year returns were already late and those with outstanding returns for prior years. It should be noted that outstanding prior year returns frequently require considerably more time and effort to complete and lodge.

---

304 ATO, *Tax agent lodgment program 2014-15* (4 July 2014) <<http://www.ato.gov.au>>; ATO, *Tax returns by client type* (1 July 2014) <<http://www.ato.gov.au>>.

305 ATO, *Requirements and how they affect you* (1 July 2014) <<http://www.ato.gov.au>>; ATO, *About the Lodgment program 2014-15* (1 July 2014) <<http://www.ato.gov.au>>.

- 5.7 Tax practitioners believed that the 85% Lodgment Rule was a 'blunt instrument' that did not sufficiently take into account tax practitioner business models or their individual circumstances as it applied to all tax practitioners equally. A range of tax practitioners also felt that they were sometimes in a 'bind' as they had no authority or direct means of pressuring their clients to provide information and finalise these returns on-time. In addition to unresponsive clients, practitioners also mentioned that their performance was impacted by a lack of appropriate assistance or service support from the ATO such as the ATO Portals' unreliability (refer to Chapter 4 for more discussion on the ATO Portals).

## BACKGROUND

- 5.8 The proposal to develop a differentiated Lodgment Program was first tabled at a LWG meeting in November 2010, in response to a joint submission raised by professional associations' members, requesting that the ATO consider means of distinguishing between tax practitioners based on their Lodgment Program compliance history:

Tax agents that have demonstrated a high degree of compliance by way of timely lodgment of income tax returns currently receive little acknowledgement of their compliance history.

Conversely, tax agents that have a demonstrably poor compliance history suffer no specific consequences as a result.<sup>306</sup>

- 5.9 Between 2011 and 2012, the ATO, in consultation with members of the LWG, which includes tax professionals and representatives of tax professional bodies, began developing a new framework for a differentiated Lodgment Program.<sup>307</sup>
- 5.10 As a result, a framework was developed with the aim of increasing the number of electronic returns lodged on-time and supporting a level playing field between those practitioners that are managing their lodgment obligations well and those who do not.<sup>308</sup>
- 5.11 On 1 July 2012, the ATO commenced its transition to the new Lodgment Program (applicable to income tax returns and Fringe Benefits Tax (FBT) returns) which targeted 23,745 registered tax agents and contained the 85% Lodgment Rule.<sup>309</sup>

---

306 ATO communication to the IGT, September 2014, p 6.

307 Ibid, p 3.

308 ATO, *Lodgment Working Group minutes, March 2012* <<http://www.ato.gov.au>>.

309 ATO, 'About the Lodgment program', above n 305.

- 5.12 The 85% Lodgment Rule recognised that there will be circumstances beyond an agent’s control that might prevent them from lodging 100 per cent of clients’ returns on time.<sup>310</sup> During this review, the ATO expanded on this in a written response to the IGT stating that the 85% Lodgment Rule:

...allows a 15 per cent margin for client-driven issues, and tax agents continue to have access to lodgment deferrals where additional time is required to lodge due to unforeseen or exceptional circumstances.

This benchmark is considered ‘reasonable’ as it recognises that there will sometimes be circumstances beyond an agent’s control that might prevent them from lodging 100 per cent of clients’ returns on time.

However, it also sets an expectation that a registered agent, as a trusted advisor, has influence over the compliance behaviour of their clients, and takes into account the generous lodgment concessions provided to agents under the Lodgment Program.<sup>311</sup>

### Calculation of tax practitioners’ performance

- 5.13 According to the ATO’s website, a tax practitioner’s lodgment performance percentage is calculated by adding all the current year returns lodged by the due date<sup>312</sup> and then dividing this figure by the total number of clients as reported in the Tax Agent Portal.<sup>313</sup> Below is the ATO’s illustration of this calculation.

**Figure 4: Lodgment performance calculation**

#### INCOME TAX, FROM 1 JULY 2013



\*On-time\* means lodgments received by lodgment program due date or deferred due date

Source: ATO website.

310 Above n 306, p 5.

311 Ibid.

312 Includes current year tax ‘returns’ lodged by the deferred due date, ‘return not necessary advices’ and ‘further tax return not necessary advices’.

313 ATO, *How we calculate your lodgment performance* (1 July 2014) <<http://www.ato.gov.au>>.

## Communication of tax practitioners' performance

5.14 The ATO provides email 'performance summary' alerts to tax practitioners, informing them of their lodgment performance progressively during the income year. These alerts show:

- the lodgment program period on which the performance is based;
- the number of returns due in the period;
- the number of returns lodged on-time; and
- the lodgment performance percentage.

5.15 The alerts also advise tax practitioners of what can be done to improve their performance. For example, the ATO may instruct tax practitioners to:

- Ensure your clients are aware of their obligation to lodge and assist them in lodging their overdue documents.
- Keep your client list up to date by removing clients who no longer use your services; this may improve your on-time performance rate.
- Consider the benefits of notifying us if any of your clients don't need to lodge for the current or future years.<sup>314</sup>

## ATO response to a failure to meet the 85% Lodgment Rule

5.16 The ATO, in a regional working group, advised that tax practitioners would be given a year (from 1 July 2012 to 30 June 2013) before the new Lodgment Program framework applied. In that year, the ATO indicated that it would not apply any treatments to tax practitioners but instead advised that it was:

- raising awareness of the new Lodgment Program framework;
- providing assistance and guidance to tax practitioners;
- working with those practitioners who were not lodging electronically and/or who were not meeting the proposed on time lodgment benchmark; and
- assisting them with bulk 'clean-up' of client lists.<sup>315</sup>

5.17 The ATO provided a service, between September-December 2012 and February-April 2013<sup>316</sup>, to assist tax practitioners in a bulk 'clean-up' of their client lists. The bulk clean-up was necessary because tax practitioners' performance percentages took into account all of their clients on the ATO Portals. The ATO provided assistance with this bulk clean-up because the system only allowed practitioners to remove clients one-by-one which would have been a very time consuming task.

---

314 ATO Lodgment Performance alert sent to a tax practitioner by the ATO.

315 ATO, *Tasmanian Regional Tax Practitioner Working Group Minutes* (July 2012) <<http://www.ato.gov.au>>.

316 Above n 306, p 9.



- 5.18 As a result of the above service, over 8,100 tax agent requests were actioned and almost 630,000 clients removed from client lists. Over 50 per cent of these were then identified as 'Further Return Not Necessary' or 'Return Not Necessary' taxpayers. Tax practitioners were highly supportive of the ATO service in this regard with 100 per cent of the agents surveyed indicating that they would use the service if it was offered again.<sup>317</sup>
- 5.19 Some stakeholders speculated that the removal of these clients from their list meant disconnecting the client from the tax system. However, the ATO has advised that these 630,000 removed clients 'have been segmented and subject to multiple engagement or lodgment compliance strategies.'<sup>318</sup>
- 5.20 The transitional year was also used to measure and monitor tax practitioner performance against the proposed 85 per cent benchmark to enable further analysis of the varying levels of compliance and also whether the proposed benchmark was workable.<sup>319</sup>
- 5.21 After the transitional year, the ATO had stated that those practitioners who did not lodge 85 per cent or more would not immediately lose access to the Lodgment Program. During this review, the following diagram was published on the ATO's website, showing the progressively increasing stringent treatment strategies the ATO would apply.

**Figure 5: ATO treatment strategies**



317 Above n 306, p 9.

318 Ibid.

319 Above n 308.

5.22 Some tax practitioners claimed that the approach outlined in Figure 5 had not been taken by the ATO and provided the IGT with examples of ATO communications to the contrary.

5.23 In one example, the ATO sent a performance alert to a tax practitioner who had lodged 84 per cent of relevant returns on time. Notwithstanding that the same alert contained average performance for similar practices was only 81.3 per cent, the ATO's message to the practitioner was:

The majority of registered agents lodge 85 per cent or more of their client's returns on-time. You have failed to meet the performance benchmark for the 2013-14 lodgment program year.<sup>320</sup>

5.24 In another example, an ATO performance alert stated that the tax practitioner had lodged 71 per cent of relevant returns on time and implied that this performance could result in a referral to the TPB:

If your client is granted safe harbour because they had provided you with all their information to enable on-time lodgment, we may refer the matter to the Tax Practitioner's Board (TPB) to consider whether there has been a breach of the 'Code of Professional Conduct' under the Tax Agent Services Act 2009.<sup>321</sup>

5.25 These communications were perceived by tax practitioners as the ATO threatening referral to the TPB to investigate whether the practitioner had breached the 'Code of Professional Conduct' under the TAS Act 2009. The ATO has now removed references to referrals to the TPB in their more recent performance alerts.

5.26 As a result of tax practitioner dissatisfaction with the implementation of the 85% Lodgment Rule, during this review, the ATO has amended its communication to tax practitioners, including its email alerts, to state that the 'treatments' would only apply when a tax practitioner's performance fell below 65 per cent or more. The ATO has also publicly acknowledged its error in its earlier communications, examples of which are mentioned above. The ATO has asserted that such earlier actions were inconsistent with its original intentions that the on-time lodgment performance benchmark was not a 'pass or fail concept', but rather a tool to encourage continual improvement across the profession.<sup>322</sup>

---

320 ATO Lodgment Performance alert sent to a tax practitioner by the ATO.

321 ATO Lodgment Performance alert sent to a tax practitioner by the ATO.

322 ATO, *Lodgment Working Group Key Messages: 8 October 2014* (26 February 2015) <<http://www.ato.gov.au>>.

5.27 The following table sets out the ATO's updated treatments for various levels of lodgment:

**Table 15: Current ATO treatment strategies**

Lodgment performance range	Treatment
85% or more	<b>No treatment</b>
	You are meeting the benchmark and will receive a certificate to confirm.
75-84%	<b>No treatment</b>
	You are close to achieving the benchmark and can take some steps to improve your performance in the future.
65-74%	<b>No treatment</b>
	You need to take some steps to improve your performance for next year, or we may contact you in the future.
41-64%	<b>Treatment</b>
	We will contact you to discuss the circumstances that are affecting you and steps you can take to improve. We will continue to monitor your progress.
Below 40%	<b>Treatment</b>
	We will contact you to discuss your low performance. If you have been below 40% for some time you may be entered into a guided lodgment program.
	The guided lodgment program comprises of a series of progressive lodgment milestones throughout the year. It may result in us writing directly to your clients to seek lodgment.

Source: ATO website.

5.28 As the table above indicates, where tax practitioners' performance is below 65 per cent, the ATO will make contact to discuss their circumstances and the steps to improve performance.<sup>323</sup>

5.29 The ATO has announced that only tax practitioners who continually have poor lodgment performance, with a poor compliance history may be at risk of losing access to concessional due dates under the Lodgment Program.<sup>324</sup> The ATO's website continues to have specific reference to tax practitioners potentially losing access to the Lodgment Program.<sup>325</sup>

323 ATO, *Meeting the lodgment program performance requirement* (9 February 2015) <<http://www.ato.gov.au>>.

324 ATO, *If you do not meet the performance requirement* (11 March 2015) <<http://www.ato.gov.au>>.

325 Above n 323.

5.30 Furthermore, before applying a treatment, the ATO:

...will contact you to discuss individual circumstances that may be affecting your lodgment performance. We will take into account your individual performance and compliance history.<sup>326</sup>

5.31 The circumstances that may affect individual performance include:

- illness and other extenuating factors
- starting up a new business, for example newly registered agents
- buying an existing client base or restructuring their practice and undergoing a whole of practice transfer of the client base. This could include taking on clients who may have outstanding obligations.<sup>327</sup>

5.32 According to the ATO, the only treatment that has been applied to date is 'to place significantly underperforming tax practitioners onto a guided lodgment program whereby the ATO helps them to achieve the 85 per cent level over time.'<sup>328</sup>

## Results and evaluation of the Lodgment Program

5.33 The ATO has evaluated performance of the 2013–14 Lodgment Program against the following 4 main goals, which were:

- **Goal 1:** there is a sustained increase in the on-time lodgment of agent prepared returns;
- **Goal 2:** there is a sustained increase in the number of agents meeting the 85% Lodgment Rule;
- **Goal 3:** there is a sustained decrease in the number of agents who lodge paper returns; and
- **Goal 4:** there is a sustained decrease in the number of paper returns lodged by agents.<sup>329</sup>

5.34 **Goal 1** results are shown in the figure below, outlining the number of tax returns lodged late and on-time by tax practitioners from the 2009–10 to 2012–13 income years.

---

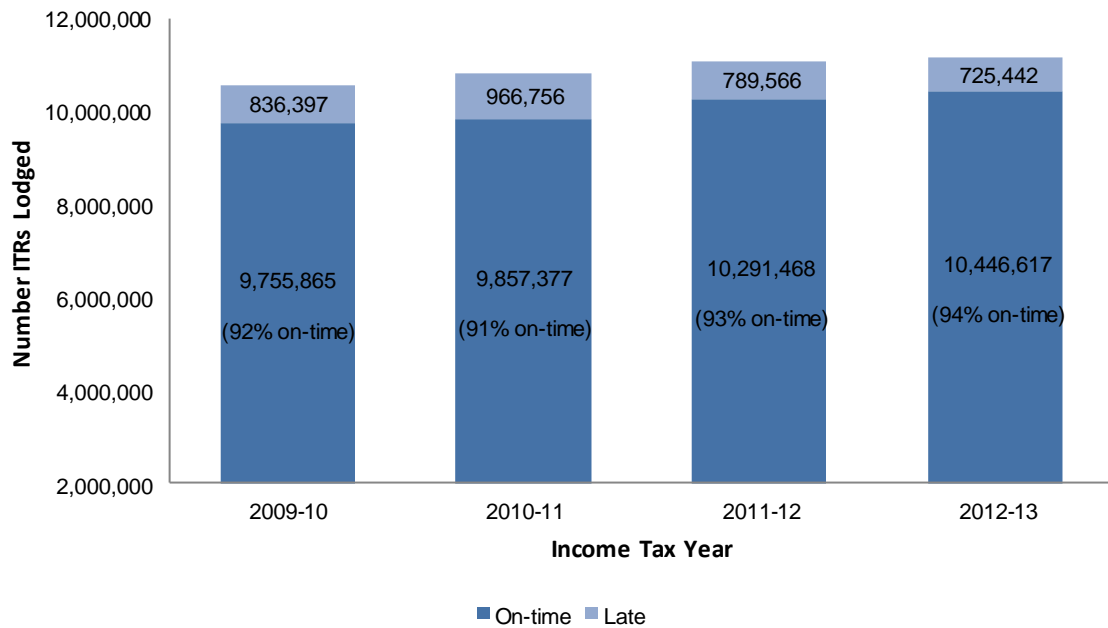
326 Above n 324.

327 Above n 306, pp 4-5.

328 ATO, *Submission to Inquiry into the Annual Report of the Australian Taxation Office 2014* (27 February 2015) <[www.aph.gov.au](http://www.aph.gov.au)> para 89.

329 ATO, 'Lodgment Program Framework Evaluation Report 13-14' (Internal ATO Document, undated) p 1.

**Figure 6: Income tax returns on-time lodgment comparison (point in time as at 29 June each year)**



Source: ATO, Lodgment Program Evaluation Report 2013–14, p 4.

- 5.35 Table 16 below shows the change in on-time, late and total income tax returns lodged by tax practitioners from the 2009–10 to 2012–13 income years.

**Table 16: Income tax returns on-time lodgment comparison (point in time as at 29 June each year)**

Income Year	On-Time	Change	%	Late	Change	%	Total	Change	%
2009-10	9,755,865	N/A	N/A	836,397	N/A	N/A	10,592,262	N/A	N/A
2010-11	9,857,377	101,512	1.0%	966,756	130,359	15.6%	10,824,133	231,871	2.2%
2011-12	10,291,468	434,091	4.4%	789,566	-177,190	-18.3%	11,081,034	256,901	2.4%
2012-13	10,446,617	155,149	1.5%	725,442	-64,124	-8.1%	11,172,059	91,025	0.8%

Source: ATO, Lodgment Program Evaluation Report 13–14, p4.

- 5.36 Table 16 highlights that for three years prior to the introduction of the Lodgment Program in 2011–12, the number of total income tax returns lodged by tax practitioners steadily increased by more than 2 per cent year-on-year. However, the rate of increase in total returns lodged from 2011–12 to 2012–13 dropped to 0.8 per cent.
- 5.37 The abovementioned bulk clean-up of client lists would have also contributed to an increase in the proportion of returns being lodged on-time as tax practitioners may have removed late lodgers from their client lists. As mentioned earlier, almost 630,000 clients were removed from agent lists, which represent at least 5.6 per cent of all tax returns lodged in 2012–13. This percentage may be greater as some clients may have needed to lodge multiple tax returns.

5.38 Table 16 above also shows that the number of late income tax returns has decreased, however, the rate of decrease in 2012-13 was less than half the rate of decrease in 2011-12. Similarly, the rate of increase of income tax returns lodged on time has decreased by more than half from 4.4 per cent in 2011-12 to 1.5 per cent in 2012-13.

5.39 The results for **Goal 2** are also noted in the ATO's 2013-14 Annual Report:

The number of agents achieving the performance target has increased by around 37 per cent compared to the benchmark year of 2012.<sup>330</sup>

5.40 Table 17 shows tax practitioners' performance with the 85% Lodgment Rule from the 2011-12 to 2013-14 income years.

**Table 17: Tax practitioner performance 2011-12, 2012-13 and 2013-14**

Performance	2011-12	%	2012-13	%	2013-14	%
≥85%	9,223	42%	12,229	51%	12,645	53%
65-84%	9,609	43%	8,697	36%	8,417	35%
41-64%	2,523	11%	2,255	9%	2,045	9%
≤40%	754	3%	706	3%	638	3%
<b>Total</b>	<b>22,109</b>	<b>100%</b>	<b>23,887</b>	<b>100%</b>	<b>23,745</b>	<b>100%</b>

Source: ATO, Lodgment Program Framework Evaluation Report 2013-14, p 7.

5.41 Table 17 reveals that in 2013-14, 53 per cent of all tax practitioners met the 85% Lodgment Rule, an increase of 2 percentage points from the previous year and an increase of 11 percentage points from the 2011-12 income tax year. The abovementioned ATO's bulk clean-up of client lists would have also contributed to more tax practitioners achieving the 85% Lodgment Rule. This may be one reason for the large increase in tax practitioners achieving the benchmark from 2011-12 to 2012-13, when the service was in place, and the lower increase from 2012-13 to 2013-14.<sup>331</sup>

5.42 In addition, Table 18 below shows the average performance for different tiered tax practices in 2013-14.

---

330 Above n 241, p 39.

331 Above n 329, p 2.

**Table 18: Average performance for different tiered tax practices (2013–14 Lodgment Program)**

Tier	Tier Description (a)	Number of agents	Tier average	Number of 'Returns due'
1	Big Four	97	82.30	149,005
2	Second	755	83.90	2,470,397
3	Medium	4,838	82.70	3,191,516
4	Small	4,136	81.30	797,541
5	High Bulk	2,190	85.50	6,318,102
6	Personal Tax focussed	1,946	84.60	1,663,672
7	Micro	9,783	78.00	377,497
<b>TOTALS</b>		<b>23,745</b>	<b>84.30</b>	<b>14,967,730</b>

(a) 'Big Four' tier is made up of four accounting firms, Deloitte, KPMG, Ernst & Young and PricewaterhouseCoopers; 'Second' tier is made up of large practices with more than 1,000 clients, including 50 or more business clients with net tax amounts greater than \$10 million; 'Medium' tier is made up of practices with more than 300 clients; 'Small' tier is made up of practices with between 100-300 clients; 'High Bulk' tier is made of practices that deal mainly with individual non-business clients and have more than 1,000 clients; 'Personal Tax Focussed' tier is made up of practices that deal mainly with individual clients and have between 500 and 1,000 clients; and 'Micro' tier is made up of practices with less than 100 clients.

Source: ATO.

- 5.43 Table 18 indicates that only Tier 5, that is tax practices that mainly deal with individual clients and have more than 1,000 clients, met the 85% Lodgment Rule on average for the 2013–14 income tax year.
- 5.44 The ATO results for **Goal 3** and **Goal 4** reveal that the number of tax practitioners lodging paper returns in 2012–13 was 3,451 (or 14.4 per cent of all tax practitioners) being a reduction of 10 per cent from the prior year (3,857 to 3,451). In 2013–14, the number of practitioners lodging paper returns reduced to 3,311 (or 13.9 per cent of all tax practitioners) which was a reduction of 4 per cent (3,451 to 3,311).
- 5.45 Furthermore, the number of paper income tax returns lodged by tax practitioners in 2011–12 was 107,653 (or 0.97 per cent of all income tax returns), which was a decrease of 16 per cent compared to the prior year (127,564 to 107,653). In 2013-14 there were 86,136 paper income tax returns (or 0.77 per cent of all income tax returns), which was a decrease of 25 per cent (107,653 to 86,136).<sup>332</sup>
- 5.46 During the review, the ATO announced on 15 February 2015 that it had undertaken a survey to gauge tax practitioners' overall perception and understanding of the Lodgment Program. However, the results of the survey are currently unavailable.<sup>333</sup>

<sup>332</sup> Above n 329, p 3.

<sup>333</sup> ATO, 'Lodgment Working Group (LWG) Minutes' (Internal ATO Document, 19 February 2015).

## Multiple outstanding returns and lodgment deferrals

5.47 Following the ATO's commitment to work with tax practitioners where they have clients with multiple outstanding returns, an updated deferral request was released during this review. It specifically asks whether the request is for a new or previous client with multiple years' income tax returns outstanding.<sup>334</sup>

5.48 The ATO's website also suggests the following course of action, set out in the following example, for tax practitioners who are approached by a new client with overdue current and prior year tax returns:

### Example

In January 2015, Stephen is approached by a new client with overdue prior year tax returns for the 2011, 2012 and 2013.

Stephen requests a deferral for lodgment of the 2014 income year tax return until 30 April 2015 to allow him time to complete and lodge the overdue prior year returns.

Stephen's client is still liable for any late lodgment penalties or interest that is applicable for his overdue 2011, 2012 and 2013 returns.

When Stephen's deferral is granted for the 2014 return, he is able to bring the client up to date, and lodge the current year return on time.<sup>335</sup>

5.49 In response to concerns raised by tax practitioners at the October LWG, about taking on new clients (or re-engaging with prior clients) with multiple outstanding prior year income tax returns, the ATO advised as follows:

The Chair noted that the ATO does not want the perception in the practitioner community that they should be turning away clients, because they are concerned about how this will impact their on-time performance. If the practitioner has the capacity to take on new clients (or re engaged clients) and bring them back into the tax system, the ATO will work with them.

Feedback received from practitioners is that they need time to lodge all the prior years' returns to then be in a position to lodge the current year return.<sup>336</sup>

5.50 Further, the ATO at the same LWG also resolved to undertake broader initiatives to:

- [reduce] the impact of past year returns [on a tax practitioners' on-time performance] through the use of lodgment deferrals for the current year's return, where an agent has the capacity to service the new or returning client.
- highlight the availability of ATO support through targeted communication and development of a handbook for tax agents. This includes updating the deferrals content on the ATO website.

---

334 Above n 322.

335 ATO, *Do prior year returns affect your lodgment performance* <<http://www.ato.gov.au>>.

336 Above n 219.



- re-iterating through communications that only current year income tax returns are included in the on-time performance measure.<sup>337</sup>

5.51 As stated earlier, the ATO has also sought to address confusion with certain specific communications by clarifying what and when treatments will be applied to tax practitioners who do not meet the 85% Lodgment Rule and softening the tone of its performance alerts.<sup>338</sup>

## IGT OBSERVATIONS

5.52 The removal of tax practitioner access to the Lodgment Program is a weighty action which causes them significant concern. It has the potential to substantially impact upon the viability of their business. It also creates an impression for affected tax practitioners that their services to their clients and the tax system are not adequately acknowledged but, instead, they are being punished for delays outside of their control, for example, client delays in providing the required evidence.

5.53 Although many stakeholders agree that action should be taken in relation to tax practitioners who are not managing lodgments appropriately, many insist that such action needs to be tempered by taking into account the circumstances of individual tax practitioners. Furthermore, they believe that the ATO's initial communication with them in relation to the enforcement of the 85% Lodgment Rule was confusing and threatening.

5.54 To the ATO's credit it has publicly acknowledged that the implementation of the 85% Lodgment Rule could have been handled better and that errors had been made particularly in relation to the communications associated with it. The ATO has now clarified the situation, namely, that tax practitioners would not lose access to the Lodgment Program for simply failing to meet the 85% Lodgment Rule but that there would be a graduated approach. This approach is now reflected in materials and communications demonstrating a more measured escalation of ATO actions which depends upon the percentage of the tax practitioner's total on-time lodgments.

5.55 The IGT also believes that the recent changes including the 'treatments' should be consistent across all ATO communication channels and clearly set out in performance alerts. It is also important that performance alerts provide tax practitioners with sufficient information to enable them to independently verify the accuracy of calculations. As a long term solution, this information could be made available online, such as the ATO Portals or in future SBR-enabled practice management software, to enable tax practitioners to self-monitor performance on a real-time basis.

---

<sup>337</sup> ATO, *Lodgment Working Group minutes October 2014* (6 January 2015) <<http://www.ato.gov.au>>.

<sup>338</sup> *Ibid.*

- 5.56 Furthermore, the IGT is of the view that the ATO should consider changing the name of the 85% Lodgment Rule particularly as the new ATO guidance indicated that there is no 'ATO treatment' unless a 65 per cent benchmark is breached and circumstances where a tax practitioner may be denied access to the Lodgment Program seem to be rare even if their lodgment levels fall below 40 per cent. The concern is that whilst it refers to an 85% lodgment requirement, tax practitioners may fear much worse 'treatment' than those that the guidance sets out.
- 5.57 Tax practitioners in submissions to this review also criticised the 85% Lodgment Rule for being too rigid or a very blunt instrument that applies to all tax practitioners equally.
- 5.58 The IGT appreciates that tax practitioners need to appropriately resource their practice for the particular business model they have adopted to address their clients' needs. The challenge is that not all individual practitioner circumstances are the same—their business models are not all the same, just as their client tax returns are not all the same (outside of the high bulk return case). Some offer a narrow range of tax compliance services such as high volume simple returns, while others also provide business advisory services as part of their tax compliance services. Many also deal with other forms of regulatory requirements such as those imposed by ASIC and APRA.
- 5.59 The projection of an 85% Lodgment Rule may be appropriate for tax practitioners focusing on 'high bulk practices that deal mainly with individual clients that have more than 1,000 clients' as these are the only group that meet that level on average.<sup>339</sup> However, the average for all other categories of tax practices fall below 85 per cent.
- 5.60 The IGT believes that before ATO action is taken in relation to tax practitioners whose on-time lodgment performance is below 65 per cent, the following additional circumstances should be taken into account:
- the tax practitioner's business model, 'whole of practice' workloads as a result of non-tax regulatory requirements and client profiles;
  - delays caused by factors outside the tax practitioner's control such as late or unresponsive clients and inaccurate work done by other tax practitioners;
  - issues with the ATO Portals and other ATO systems required to complete lodgments; and
  - changes occurring in the tax practitioner environment such as the transition to SBR and ATO Online during 2014–15 and 2015–16.

---

339 ATO, 'Lodgment program 2013-14 - Income tax return on-time performance information' (Internal ATO Document, 11 August 2014).

- 5.61 In relation to taking on clients with outstanding returns, during this review, the ATO agreed that tax practitioners should not turn away clients because they are concerned about the impacts on their lodgment performance. The ATO has advised that it will work with tax practitioners who have the capacity to take on new clients (or re-engage with previous clients) and bring them back into the tax system. The ATO has, in fact, introduced a new lodgment deferral request for tax practitioners who take on such taxpayers. In addition, during the review, the ATO has also proposed to suspend legal action in relation to the non-lodgment of multiple outstanding returns where those returns are being processed by tax practitioners.
- 5.62 The IGT believes that the above ATO initiative is a positive step for the tax system as it brings more taxpayers into the tax net whilst also addressing some of the concerns by tax practitioners mentioned earlier. These actions by the ATO assist in demonstrating its recognition, appreciation and support for tax practitioners, particularly those that encourage taxpayers to engage or re-engage with the system.

### RECOMMENDATION 5.1

*The IGT recommends that the ATO:*

- (a) ensure its communications to tax practitioners, regarding their lodgment performance, contain sufficient information to enable them to independently verify the accuracy of the ATO's calculation of their performance;*
- (b) consider re-naming the 85% Lodgment Rule to better reflect the consequences of any breach;*
- (c) assist and provide incentives to tax practitioners who take on taxpayers with multiple outstanding returns by, for example, suspending legal action against such taxpayers where those returns are being prepared by tax practitioners; and*
- (d) in applying the 85% Lodgment Rule, take into account additional tax practitioner circumstances such as their business model, non-tax regulatory workloads and delays caused by factors outside of their control.*

#### ATO response

In relation to 5.1 (a) – Agree

Recent changes to content have been co-designed by the Lodgment Working Group to ensure the provision of this additional information

In relation to 5.1 (b) – Disagree

The 85% on-time performance requirement is an element of the Lodgment Program framework. There is a high level of awareness amongst practitioners on this aspect of the program. In addition, there is extensive communication material available to practitioners around the consequences/treatments where their on-time performance is below this figure.

The ATO will continue to develop communications to the practitioner community which focuses on improving on-time performance across the profession and on addressing the gaps between perceptions of the program and the actual program.

In relation to 5.1 (c) - Agree

In October 2014 we introduced an initiative to make deferrals available for the current year income tax return to manage new or returning clients with multiple overdue returns (it is only the current year return that is part of the lodgement program). If the practitioner has the capacity to take on new clients (or re engaged clients) and bring them back into the tax system, the ATO will work with them.

Building on this we are proposing to make available 'suspension of lodgment compliance activities' on the prior year returns, as the tax agent seeks to bring the clients' obligations up to date. This is currently a work in progress.

In relation to 5.1 (d) – Agree

As it is presently communicated to practitioners, before applying a treatment/consequence, we will contact agents to discuss individual circumstances that may be affecting their lodgment performance.

To date the ATO has not penalised any tax agents for not achieving the 85% target. We have provided assistance, information and support.

We will take into account a tax agent's performance over a number of years and compliance history before applying any treatments. We acknowledge that there may be circumstances that can impact on an agents' ability to achieve the performance benchmark, which could include:

- illness and other extenuating factors
- starting up a new business, for example newly registered agents
- buying an existing client base or restructuring their practice and undergoing a whole of practice transfer of the client base. This could include taking on clients who may have outstanding obligations.

In these instances, we will work with agents to understand or assist them through any difficult period. The intention is to engage in open dialogue and to work with practitioners to ensure their clients' obligations are met in a timely manner.

# APPENDIX 1 – TERMS OF REFERENCE

## BACKGROUND

In 2012–13, over 8 million individual taxpayers (70 per cent of all individual taxpayers) and 2 million business taxpayers (90 per cent of all businesses) collectively engaged approximately 55,000 registered tax practitioners to assist them to comply with the tax laws and interact with the Australian Taxation Office (ATO) on their behalf.<sup>340</sup> It is, therefore, self-evident that tax practitioners play a crucial role in the Australian tax system.

The situation is similar in other countries. Indeed, the Organisation for Economic Co-operation and Development (OECD) has acknowledged that tax practitioners<sup>341</sup> ‘play a vital role in all tax systems’.<sup>342</sup> Not only do tax practitioners help taxpayers understand and comply with their tax obligations, they also assist revenue authorities to improve compliance strategies and better focus dialogue with taxpayers which results in reduced costs for all.<sup>343</sup> Importantly, the ATO appreciates that positive engagement with tax practitioners offers significant benefits to each party in this important tripartite relationship.<sup>344</sup>

The ATO currently supports tax practitioners in various ways including through the Tax and Business Activity Statement (BAS) Agent Portals (the ATO Portals), the ATO website, the Registered Agent Phone Line (the Phone Line), concessional lodgment due dates and consultation forums. Such support is an integral part of tax practitioners’ businesses as they provide access to important tax information which is needed to assist their clients fulfil their tax obligations.

The ATO has previously experienced challenges in maintaining some of its services and support, resulting in strained relationships amongst the ATO, tax practitioners and taxpayers.<sup>345</sup> In this respect, ATO surveys have shown that the level of tax practitioner satisfaction with ATO service has fallen from 72 per cent in 2007 to 62 per cent in 2012 (with a low of 51 per cent in 2011).<sup>346</sup> Furthermore, tax practitioners’ perceptions of overall ATO performance is substantially lower than those of others in the community.<sup>347</sup> As a result, the ATO developed an action plan in 2012 which was aimed at improving its tax practitioner support and engagement.<sup>348</sup>

---

340 Tax Practitioners Board, *Annual Report 2012-12* (2013) p ii; ATO, *Compliance in focus 2013-14, Tax professionals*, 19 December 2013 <<http://www.ato.gov.au/>>.

341 Also referred to as ‘tax intermediaries’. The term ‘tax practitioner’ in this IGT document broadly encompasses the range of individuals and groups whose profession or occupation involves working on taxation matters for clients, including tax agents, bookkeepers, lawyers and accountants.

342 OECD, *Study into the Role of Tax Intermediaries* (OECD Publishing, 2008) p 5.

343 *ibid*, pp 5 and 44.

344 *id*; ATO, *Tax Practitioner Action Plan 2011-15* (2012).

345 IGT, *Review into the Australian Taxation Office’s Change Program* (2011) chs 3 and 4.

346 ATO, *Action Plan*, above n 346; Note that the 2012 survey results are the latest results available.

347 Commissioner of Taxation, *Annual Report 2011-12* (2012) pp 19-21.

348 ATO, *Action Plan*, above n 346.

During recent consultations on the Inspector-General of Taxation's (IGT) 2014 work program, tax practitioners and their representative bodies have raised a number of areas of concern which are summarised as follows:

- **ATO-tax practitioner relationship** – Stakeholders believe that the relationship could be much improved if the objective and challenges of each party was fully appreciated by the other. For example, tax practitioners feel that the ATO does not appropriately differentiate between the various types of tax practitioners, their workloads or business models. As a result, they believe that mutually beneficial outcomes for the ATO, tax practitioners and their clients were not being realised.
- A number of other concerns have been raised in previous IGT reviews.<sup>349</sup> Some of these were examined in the *Review into improving the self-assessment system* where the IGT recommended that the ATO should consult with tax practitioners to achieve a more constructive relationship, particularly in relation to the ATO's use and application of the ATO's Tax Practitioners' Risk Differentiation Framework.<sup>350</sup>
- **ATO-tax practitioner engagement** – The ATO's current formal and informal means for tax practitioners to raise, discuss and resolve concerns were considered to be inadequate by stakeholders. In particular, they viewed the recent cessation of the Relationship Management Program and the Lodgment Working Group as diminishing the ATO's ability to understand operational issues faced by tax practitioners and to develop practical solutions to address such issues. Tax practitioners have called for greater involvement in the design of the ATO's engagement strategies, services and support as well as an improved means to resolve concerns with ATO services and support.
- Tax practitioners have also noted that certain ATO communications and inaccurate ATO information imposed significant unbillable work, damaged relationships with their clients and caused unnecessary delays. Examples included ATO letters sent to tax practitioners' clients without their knowledge.
- **ATO's tax practitioner services**<sup>351</sup> – Stakeholders have expressed concern that, at times, ATO services, such as the Portals, lacked full functionality and reliability which imposed irrecoverable costs on tax practitioners. Concern was also raised with the integration of ATO services with third party software as well as the ATO's plans to improve its services in future by migrating to automated regulatory reporting – Standard Business Reporting.<sup>352</sup> The accessibility to other ATO services, such as ATO delays in answering the Phone Line, as well as the consistency of advice given to tax practitioners were also raised as areas requiring improvement. In addition, some legal practitioners have called for improved access to the ATO's services for tax practitioners when assisting their clients.

---

349 Above n 347, Recommendations 2 – 6; IGT, *Review into improving the self assessment system* (2013) Recommendation 3.6; IGT, *Review into aspects of the Australian Taxation Office's use of compliance risk assessment tools* (2014) Recommendation 7.1.

350 IGT, *Self assessment system*, above n 10, Recommendation 3.6.

351 For example, the Tax and BAS Agent Portals, ATO website and the Registered Agent Phone Line.

352 Such as the transition from Electronic Lodgment Service to Standard Business Reporting; Geoff Leeper, 'Time for action: the ATO's electronic service strategy and Standard Business Reporting' (Speech delivered at the Advance Professional Solutions Annual Client Conference, Queenstown, New Zealand, 16 November 2013).

- **ATO's lodgment program** – Tax practitioners believe that the design and operation of the current lodgment program does not appropriately take into account factors such as work performed on other tax and non tax-related matters, correcting inaccurate ATO information and delays caused by factors outside tax practitioners' control. The 85 per cent on-time lodgment requirement has been specifically raised as a concern as it is perceived to be encouraging inappropriate behaviours such as turning away taxpayers with outstanding prior year returns and not providing sufficient time to ensure that the high quality of returns is not compromised. Furthermore, the ATO's response to tax practitioners who failed to fulfil the requirement was said to be inappropriate and disproportionate.

The IGT intends to further consider the above concerns and build on the work of previous reviews to identify improvements. This review will be conducted pursuant to subsection 8(1) of the *Inspector-General of Taxation Act 2003* (IGT Act). The following terms of reference and guidelines are provided to assist with the preparation of your submissions.

## TERMS OF REFERENCE

The IGT review into the ATO's services and support for tax practitioners will focus on:

### ATO-tax practitioner relationship

1. *The relationship between the ATO and tax practitioners including each parties' understanding of their respective objectives and challenges to achieve mutually beneficial outcomes for both parties as well as taxpayers.*
2. *The ATO's use and application of the Risk Differentiation Framework to tax practitioners.*

### ATO-tax practitioner engagement

3. *The adequacy of the ATO's formal and informal engagements (including those that have ceased, e.g. the Relationship Manager Program and the Lodgment Working Group) to:*
  - a. *provide input into the design of the ATO's services and support for tax practitioners; and*
  - b. *discuss and resolve tax practitioner concerns.*
4. *The appropriateness of ATO communications with tax practitioners and their clients.*

### ATO's tax practitioner services (e.g. the Portals, ATO website and the Phone Line)

5. *The functionality, reliability and accessibility of the ATO's tax practitioner services including the integration of those services with third party software.*
6. *The ATO's plans to improve its tax practitioner services in the future including the migration to automated regulatory reporting systems (e.g. Standard Business Reporting).*
7. *The accuracy of ATO information relied upon and the means to correct that information.*

## **ATO's lodgment program**

8. *The design, operation and impacts of the ATO's lodgment program, including:*
  - c. *how the ATO takes into account differences in tax practitioner circumstances and delays caused by factors outside of tax practitioners' control, such as disruptions with ATO electronic and online services;*
  - d. *the ATO's approach to tax practitioners who do not meet the on-time lodgment requirements; and*
  - e. *the program's effect on overall taxpayer compliance with lodgment and reporting obligations.*

*The IGT may also examine other relevant concerns or potential improvements identified and raised by stakeholders during the course of the review.*

## **SUBMISSION GUIDELINES**

The IGT envisages that your submission will set out your experiences and views on the ATO's services and support for tax practitioners.

It is important to provide detailed accounts of your experience and views of the ATO's services and support, particularly those that have had an impact on you as a tax practitioner or your business. We are seeking examples of ATO service and support that have contributed to positive outcomes as well as negative impacts.

In addition to your experiences, we are also seeking your views on potential improvements. The following questions are designed to assist you in your submission.

### **ATO-tax practitioner relationship**

1. *What do you believe is the role of tax practitioners in the tax system? How could the ATO and tax practitioners work together to improve the tax system?*
2. *Do you believe the ATO appropriately differentiates between different types of tax practitioners, their workloads or business models? Please explain your views.*
3. *What are your views on how the ATO determines a tax practitioner's risk profile (such as the ATO's use of the Risk Differentiation Framework)? Please explain your views.*

### **ATO-tax practitioner engagement**

4. *Do you consider the ATO's overall engagement with the tax profession is appropriate or effective? Please explain your views.*
5. *Have you had any experience with ATO relationship managers in the past? Did they play a valuable role? Should they be used in the future or replaced by an alternative?*
6. *Have you been involved with an ATO consultation forum? Please describe your experience. Have you noticed an increase or decrease in the number of these forums? If so, have you noticed a change in their effectiveness to resolve concerns? You may wish to refer to examples in explaining your views.*



7. *Have you raised any issues with the ATO through other channels? If so, describe your experience and explain why you consider your interactions were effective or otherwise.*
8. *What are your views on the ATO's communications with you and your clients? What aspects of these communications do you consider effective and what aspects do you consider could be improved? Please explain the reasons for your views and suggestions.*

**ATO's tax practitioner services (e.g. the Portals, ATO website and the Phone Line)**

9. *What are the key ATO services that you use to perform your work as a tax practitioner? What are the features or functions that make these ATO services important to your business?*
10. *What has been your experience in accessing and using these services? If you have not been able to access services, what effect did this have on your business and what action did you take? How did the ATO assist you in minimising disruption to your business?*
11. *What improvements could be made to the ATO's services to better assist you to perform your role and reduce your costs? Please explain your suggestions.*
12. *Are you aware of Standard Business Reporting? If so, what do you believe are the benefits or impacts in adopting such a system? Do you consider that improvements could be made? Please explain your views and suggestions.*
13. *What is the general quality of ATO information provided to you? If you have encountered inaccurate ATO information, please describe your experience in resolving these inaccuracies and the impacts on you, your business or your clients.*

**ATO's lodgment program**

14. *Do you understand how the ATO's lodgment program operates? If not, what information should the ATO make available?*
15. *Describe your experience in complying with the lodgment program requirements and any events or disruptions that have affected your ability to meet these requirements. Do you believe the ATO's lodgment program has improved your lodgment performance? What effect has it had on taxpayer lodgment performance?*
16. *If you did not meet the 85 per cent on-time lodgment requirement, please describe what caused this to happen and what were the consequences. How did the ATO seek to understand your circumstances and what options were made available to you?*
17. *How could the ATO improve or change its lodgment program to reduce adverse impacts and encourage taxpayer compliance? Please provide reasons for your suggestions.*

*Please outline any other areas of concerns you may have or any potential improvements with the ATO's services and support. You may wish to cite international experiences or comparisons which you believe would lead to improvements.*

## **Lodgment**

The closing date for submissions is 18 July 2014. Submissions can be sent by:

Post to:      Inspector-General of Taxation  
                 GPO Box 551  
                 SYDNEY NSW 2001

Email to:     taxpractitioners@igt.gov.au

## **Confidentiality**

Submissions provided to the IGT are maintained in strict confidence (unless you specify otherwise). This means that the identity of the taxpayer, the identity of the adviser and any information contained in such submissions will not be made available to any other person, including the ATO. Sections 23, 26 and 37 of the IGT Act safeguard the confidentiality and secrecy of such information provided to the IGT – for example, the IGT cannot disclose the information as a result of a Freedom of Information (FOI) request, or as a result of a court order generally. Furthermore, if such information is the subject of client legal privilege (also referred to as legal professional privilege), disclosing that information to the IGT will not result in a waiver of that privilege.

# APPENDIX 2 – LIST OF ATO SERVICES AND SUPPORT

Figure A2.1: List of ATO services and support

Information for registered practitioners	Professionals																																
<b>Services and support for registered tax practitioners</b>																																	
<p><b>OUR APPROACH</b></p> <p>The ATO provides a range of services and support programs for registered tax practitioners to support you to undertake your business and represent your clients.</p> <p>Our website, online services and publications are available all day every day. From sourcing general tax information through to updating client details and lodging returns, you can conveniently manage your practice in a way that is tailored to your needs.</p> <p>When you need more help or have questions you can't resolve online, you can contact our premium telephony service or seek advice from our experts through the 'professional to professional' program. You can also request a visit from us to discuss more complex or involved issues.</p> <p>We support you to manage your business by offering extended time for your clients to lodge, spreading your workload out over the year. We also offer deferrals for when due dates can't otherwise be met. And when you are affected by adverse circumstances we can help you get back on track through further lodgment extensions and relief from some compliance activities.</p>	<p><b>ONLINE SERVICES</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Tax and BAS agent portals</b></td> <td style="padding: 5px;">The ATO portals provide access to our online services via our website at any time. The portals provide easy and convenient access to information and allows you to conduct transactions with us in a secure online environment, including up to date client information and lodgment services.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Australian Business Register</b></td> <td style="padding: 5px;">The register allows you to register your clients for an ABN or a (non-individual) TFN, and to update some client details.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Electronic Lodgment Service</b></td> <td style="padding: 5px;">This electronic system enables you to send us information on behalf of your clients and to receive reports from us.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>ATO website</b></td> <td style="padding: 5px;">Our new website was launched in late June 2013 and provides you with access to extensive information to help you represent your clients, manage your practice and interact with us. The website design focuses on identifying key tasks and actions for tax practitioners and on helping you find what you are looking for through the online 'News and updates for tax professionals' which provides timely, accurate and accessible information in one place.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Regular publications</b></td> <td style="padding: 5px;">We keep you up to date through a variety of publications, including the 'Tax professionals newsletter' and other targeted broadcast services. In consultation with the tax profession, both in metro and regional areas, we undertook a review of ATO communications and developed a contemporary model for how communications will support tax practitioners.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Premium Telephony</b></td> <td style="padding: 5px;">Fast Key Codes assist you to access the information you need at the first point of contact through our premium phone line.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Professional to Professional</b></td> <td style="padding: 5px;">This service, available through our website, provides tax and legal practitioners access to senior ATO staff to provide guidance on technical issues and legislative requirements.</td> </tr> </table> <p><b>CONSULTATION</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Forums and consultation</b></td> <td style="padding: 5px;">This year we reviewed our external consultative arrangements and as a result have implemented our new ATO consultation framework with fewer, more focussed forums and an ATO consultation hub to coordinate matters raised for consultation. The ATO website allows you to raise matters for consultation, check what matters are under consultation and register to take part in consultations. These new arrangements were developed in consultation with forum members and professional associations. We also hosted three Open Regional Forums in the last year, with plans to continue these in the future.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Key agent program</b></td> <td style="padding: 5px;">We identified a group of 'key agents' – practices of significant size and low tax risk – to consult with on tax system issues, and to help us identify best practice approaches. Each practice has a Key Agent Manager to offer a more personal service.</td> </tr> </table> <p><b>SUPPORT</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Lodgment support</b></td> <td style="padding: 5px;">Agents are offered a concessional lodgment program, deferring due dates to spread them over the year for easier practice management. Agents can also access due date deferrals for their clients.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Lodgment assistance</b></td> <td style="padding: 5px;">If you are affected by circumstances beyond your control (eg illness), we can support you by providing tailored lodgment programs through our lodgment assistance service.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>New agents</b></td> <td style="padding: 5px;">We provide tax and BAS agent induction packages on our website to support new registrants in meeting their professional obligations and understand the products, services and support available to tax practitioners. We also call new registrants to establish the foundation for positive engagement and share key messages.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Support and assistance visits</b></td> <td style="padding: 5px;">Sometimes you may need a visit from us to answer questions or resolve issues. We also initiate visits if your practice falls into a group we believe may need specific support.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Natural disasters</b></td> <td style="padding: 5px;">If you or your clients are in an area impacted by a natural disaster we support you to focus on more immediate issues than tax. We will defer due dates and compliance activities in affected areas and will contact impacted agents. In 2012-13 we contacted 794 agents affected by natural disasters. 188 of these were in response to the bushfires in south eastern Tasmania in January 2013.</td> </tr> </table> <p><b>COMPLIANCE</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Compliance Activities</b></td> <td style="padding: 5px;">We will continue to work with the Tax Practitioners Board if we have concerns about a registered tax practitioner meeting their professional obligations. This work supports you by promoting a level playing field for your profession and giving your clients confidence in the advice they receive from you.</td> </tr> <tr> <td style="background-color: #e2e3e5; padding: 5px;"><b>Personal Obligations</b></td> <td style="padding: 5px;">We will continue to focus on tax practitioners whose personal standards in meeting their own obligations, such as paying their liabilities and lodging their returns, are below the levels their profession and the community expect.</td> </tr> </table>	<b>Tax and BAS agent portals</b>	The ATO portals provide access to our online services via our website at any time. The portals provide easy and convenient access to information and allows you to conduct transactions with us in a secure online environment, including up to date client information and lodgment services.	<b>Australian Business Register</b>	The register allows you to register your clients for an ABN or a (non-individual) TFN, and to update some client details.	<b>Electronic Lodgment Service</b>	This electronic system enables you to send us information on behalf of your clients and to receive reports from us.	<b>ATO website</b>	Our new website was launched in late June 2013 and provides you with access to extensive information to help you represent your clients, manage your practice and interact with us. The website design focuses on identifying key tasks and actions for tax practitioners and on helping you find what you are looking for through the online 'News and updates for tax professionals' which provides timely, accurate and accessible information in one place.	<b>Regular publications</b>	We keep you up to date through a variety of publications, including the 'Tax professionals newsletter' and other targeted broadcast services. In consultation with the tax profession, both in metro and regional areas, we undertook a review of ATO communications and developed a contemporary model for how communications will support tax practitioners.	<b>Premium Telephony</b>	Fast Key Codes assist you to access the information you need at the first point of contact through our premium phone line.	<b>Professional to Professional</b>	This service, available through our website, provides tax and legal practitioners access to senior ATO staff to provide guidance on technical issues and legislative requirements.	<b>Forums and consultation</b>	This year we reviewed our external consultative arrangements and as a result have implemented our new ATO consultation framework with fewer, more focussed forums and an ATO consultation hub to coordinate matters raised for consultation. The ATO website allows you to raise matters for consultation, check what matters are under consultation and register to take part in consultations. These new arrangements were developed in consultation with forum members and professional associations. We also hosted three Open Regional Forums in the last year, with plans to continue these in the future.	<b>Key agent program</b>	We identified a group of 'key agents' – practices of significant size and low tax risk – to consult with on tax system issues, and to help us identify best practice approaches. Each practice has a Key Agent Manager to offer a more personal service.	<b>Lodgment support</b>	Agents are offered a concessional lodgment program, deferring due dates to spread them over the year for easier practice management. Agents can also access due date deferrals for their clients.	<b>Lodgment assistance</b>	If you are affected by circumstances beyond your control (eg illness), we can support you by providing tailored lodgment programs through our lodgment assistance service.	<b>New agents</b>	We provide tax and BAS agent induction packages on our website to support new registrants in meeting their professional obligations and understand the products, services and support available to tax practitioners. We also call new registrants to establish the foundation for positive engagement and share key messages.	<b>Support and assistance visits</b>	Sometimes you may need a visit from us to answer questions or resolve issues. We also initiate visits if your practice falls into a group we believe may need specific support.	<b>Natural disasters</b>	If you or your clients are in an area impacted by a natural disaster we support you to focus on more immediate issues than tax. We will defer due dates and compliance activities in affected areas and will contact impacted agents. In 2012-13 we contacted 794 agents affected by natural disasters. 188 of these were in response to the bushfires in south eastern Tasmania in January 2013.	<b>Compliance Activities</b>	We will continue to work with the Tax Practitioners Board if we have concerns about a registered tax practitioner meeting their professional obligations. This work supports you by promoting a level playing field for your profession and giving your clients confidence in the advice they receive from you.	<b>Personal Obligations</b>	We will continue to focus on tax practitioners whose personal standards in meeting their own obligations, such as paying their liabilities and lodging their returns, are below the levels their profession and the community expect.
<b>Tax and BAS agent portals</b>	The ATO portals provide access to our online services via our website at any time. The portals provide easy and convenient access to information and allows you to conduct transactions with us in a secure online environment, including up to date client information and lodgment services.																																
<b>Australian Business Register</b>	The register allows you to register your clients for an ABN or a (non-individual) TFN, and to update some client details.																																
<b>Electronic Lodgment Service</b>	This electronic system enables you to send us information on behalf of your clients and to receive reports from us.																																
<b>ATO website</b>	Our new website was launched in late June 2013 and provides you with access to extensive information to help you represent your clients, manage your practice and interact with us. The website design focuses on identifying key tasks and actions for tax practitioners and on helping you find what you are looking for through the online 'News and updates for tax professionals' which provides timely, accurate and accessible information in one place.																																
<b>Regular publications</b>	We keep you up to date through a variety of publications, including the 'Tax professionals newsletter' and other targeted broadcast services. In consultation with the tax profession, both in metro and regional areas, we undertook a review of ATO communications and developed a contemporary model for how communications will support tax practitioners.																																
<b>Premium Telephony</b>	Fast Key Codes assist you to access the information you need at the first point of contact through our premium phone line.																																
<b>Professional to Professional</b>	This service, available through our website, provides tax and legal practitioners access to senior ATO staff to provide guidance on technical issues and legislative requirements.																																
<b>Forums and consultation</b>	This year we reviewed our external consultative arrangements and as a result have implemented our new ATO consultation framework with fewer, more focussed forums and an ATO consultation hub to coordinate matters raised for consultation. The ATO website allows you to raise matters for consultation, check what matters are under consultation and register to take part in consultations. These new arrangements were developed in consultation with forum members and professional associations. We also hosted three Open Regional Forums in the last year, with plans to continue these in the future.																																
<b>Key agent program</b>	We identified a group of 'key agents' – practices of significant size and low tax risk – to consult with on tax system issues, and to help us identify best practice approaches. Each practice has a Key Agent Manager to offer a more personal service.																																
<b>Lodgment support</b>	Agents are offered a concessional lodgment program, deferring due dates to spread them over the year for easier practice management. Agents can also access due date deferrals for their clients.																																
<b>Lodgment assistance</b>	If you are affected by circumstances beyond your control (eg illness), we can support you by providing tailored lodgment programs through our lodgment assistance service.																																
<b>New agents</b>	We provide tax and BAS agent induction packages on our website to support new registrants in meeting their professional obligations and understand the products, services and support available to tax practitioners. We also call new registrants to establish the foundation for positive engagement and share key messages.																																
<b>Support and assistance visits</b>	Sometimes you may need a visit from us to answer questions or resolve issues. We also initiate visits if your practice falls into a group we believe may need specific support.																																
<b>Natural disasters</b>	If you or your clients are in an area impacted by a natural disaster we support you to focus on more immediate issues than tax. We will defer due dates and compliance activities in affected areas and will contact impacted agents. In 2012-13 we contacted 794 agents affected by natural disasters. 188 of these were in response to the bushfires in south eastern Tasmania in January 2013.																																
<b>Compliance Activities</b>	We will continue to work with the Tax Practitioners Board if we have concerns about a registered tax practitioner meeting their professional obligations. This work supports you by promoting a level playing field for your profession and giving your clients confidence in the advice they receive from you.																																
<b>Personal Obligations</b>	We will continue to focus on tax practitioners whose personal standards in meeting their own obligations, such as paying their liabilities and lodging their returns, are below the levels their profession and the community expect.																																

Source: ATO.



## APPENDIX 3 – ATO APPROACHES AND ACTIVITIES INVOLVING TAX PRACTITIONERS

A3.1 The following table identifies ongoing ATO business line activity relating to tax practitioners.

**Table A3.1: Overview of existing ATO business line approaches and activities involving tax practitioners**

BSL	Approach	Current (planned) Activities
<b>Aggressive Tax Planning (ATP)</b>	<p>To build the understanding of promoters and advisors of aggressive tax planning and avoidance schemes and take action against those who promote or enable non-compliance.</p> <p>ATP amalgamation with SNC and PGH may result in some focus changes/shared treatments.</p>	<p>ATP has adopted a risk differentiation matrix approach to provide focus on entities who are potentially promoting tax avoidance:</p> <ul style="list-style-type: none"> <li>• undertake systemic risk and intelligence identification/collection to monitor shifts in lower (low and medium) risk candidates.</li> <li>• target marketing and education strategies to deter and deal with medium risk candidates.</li> <li>• undertake real time review and audit activity against higher risk candidates.</li> </ul> <p>A suite of services and compliance approaches are available to manage intermediary matters:</p> <ul style="list-style-type: none"> <li>• interpretative advice/taxpayer alerts</li> <li>• active compliance case products</li> <li>• communication products</li> <li>• access to promoter penalty treatment</li> <li>• Prosecution</li> </ul> <p>ATP engage with PGH's Big 4 visit program.</p>
<b>Debt</b>	<p>To build an understanding of intermediaries interacting across the Debt risk.</p>	<p>TPALS and Debt combined risk treatment pilot approach (Lodgment and Debt integration)</p> <p>New action to address 'agent own' personal debt management</p> <p>Multi-tiered engagement/visit program with a range of intermediaries (Big 4, associations, industry representatives, mid-tier practitioners)</p>
<b>Enterprise Solutions and Technology (EST)</b>	<p>To deliver online services and products to tax and superannuation professionals.</p>	<p>Online channel delivery (the ATO Portals, Electronic Lodgment Service, Electronic Commerce Interface, etc)</p>
<b>Indirect Tax (ITX)</b>	<p>Intermediaries are (direct/indirect) participants in the indirect tax system.</p>	<p>ITX operates a Big 4 visit program.</p> <p>Advice and education for intermediaries dealing with property and excise risk clients.</p> <p>Limited targeted compliance activity.</p>

BSL	Approach	Current (planned) Activities
<p><b>Private Groups and High Wealth Individuals (PGH)</b></p>	<p>To build a strong understanding of intermediaries across populations, industries and risks. Understand what a trusted advisor looks like in the PGH market. Focus on risk transparency and early engagement.</p> <p>PGH amalgamation with SNC and ATP may result in some focus changes/shared treatments.</p>	<p>PGH undertakes a whole of client engagement approach derived from its intelligence analysis. A new Enterprise Level 2 (EL2) working group is being established to consider a merged PGH (ATP and SNC) intermediary strategy work program.</p> <p>The 'Professional Firms' compliance risk addresses professions adopting complex structures (includes intermediary professions).</p> <p>PGH operates a Big 4 and professional association visit program.</p> <p>PGH Risk Managers consider intermediaries as part of their ongoing strategy development. Potential intermediary approach based on lifecycle/behavioural lens rather than a risk based lens under consideration.</p>
<p><b>Public Groups and International (PGI)</b></p>	<p>Primarily dealing with public groups and those with international dealings rather than through their registered agents. The use of in-house and 'buy in' advisors to manage specific issues and events is widespread.</p>	<p>PGI operates a Big 4 visit program.</p>
<p><b>Small Business / Individual Taxpayers (SBIT)</b></p>	<p>To build the understanding and compliance of registered tax agents dealing with individual taxpayers and take action against those who promote or enable non-compliance.</p>	<p>SBIT has over a number of years developed and operated a four tier compliance treatment approach for agents with individuals clients:</p> <ul style="list-style-type: none"> <li>• Tier 4 (Lowest risk): educational visits with a focus on regional areas.</li> <li>• Tier 3: agent review to understand business practices and identify ways to mitigate higher cost compliance intervention.</li> <li>• Tier 2: low volume compliance audits resulting from Tier 3 escalation or referrals.</li> <li>• Tier 1 (Highest risk): intensive audit action with further internal (Serious Non-Compliance) or external (Tax Practitioners Board) referral.</li> </ul>

BSL	Approach	Current (planned) Activities
<p><b>Small Business / Individual Taxpayers (SBIT) (continued)</b></p>		<p><b>(continued)</b></p> <p>In addition, SBIT provide a range of compliance and support treatments:</p> <ul style="list-style-type: none"> <li>• Help and educate.</li> <li>• webinars, speakers and seminars.</li> <li>• Tax Time communication (co-design).</li> <li>• Income Tax Refund Integrity review processes (off lining).</li> </ul> <p>A future focus area will address:</p> <ul style="list-style-type: none"> <li>• Online security and identity protection.</li> <li>• Offshoring/outsourcing and information security.</li> </ul>
<p><b>Service Delivery</b></p>	<p>To deliver services to tax and superannuation professionals.</p>	<p>Manage inbound telephony channels (premium practitioner queues and complaints call handling)</p> <ul style="list-style-type: none"> <li>• Around 13% of Customer Service and Solutions (CS&amp;S) inbound call volume (~1.2 million calls) are practitioner initiated.</li> </ul>
<p><b>Serious Non-Compliance (SNC)</b></p>	<p>To build the understanding of tax crime risk. Intermediaries are (direct/indirect) participants in the tax crime risk.</p> <p>SNC amalgamation with PGH and ATP may result in some focus changes/shared treatments.</p>	<p>SNC delivers a range of communication approaches through multi channels including governance visits to key intermediaries.</p> <p>SNC provides administrative prosecution service on behalf of ATO for summary offences (generally following internal referral)</p> <p>SNC is the gatekeeper for referral for criminal sanction for indictable offences.</p>
<p><b>Superannuation</b></p>	<p>To build the understanding and compliance of self-managed super fund (SMSF) tax agent and SMSF Auditor community, and take action against those who promote or enable non-compliance.</p>	<p>Super strategies affecting agents:</p> <ul style="list-style-type: none"> <li>• 1 Illegal Early Release (IER) promoter case</li> <li>• Up to 10 tax agent cases where data / Intel identified high risk behaviour</li> <li>• 150 approved SMSF auditor cases (many also agents)</li> <li>• Trial of 10 cases where it appears agents are misusing approved SMSF auditor details</li> </ul>

BSL	Approach	Current (planned) Activities
<p><b>Superannuation (continued)</b></p>		<p><b>(continued)</b></p> <p>Superannuation is considering their approach to agents. Potential future strategies are:</p> <ul style="list-style-type: none"> <li>• Excess contributions caps where an agent is involved</li> <li>• Leveraging trustee compliance by treating agents who have many high risk clients</li> <li>• SMSF agent and SMSF Auditor targeted mail outs as well as audits and reviews</li> </ul>
<p><b>Tax Practitioner and Lodgment Strategy (TPALS)</b></p>	<p>To build the understanding of registered tax and BAS agents (and other intermediaries) and take action against those who promote or enable non-compliance.</p>	<p>Provide a range of services and compliance/support treatments on behalf of ATO and TPALS including:</p> <ul style="list-style-type: none"> <li>• Practitioner communications</li> <li>• Forums and consultation (ATPAG, BASAG)</li> <li>• Tax Practitioner Board Gatekeeper</li> <li>• Tax Practitioner Services (contact centre - role transitioning to Client Account Services)</li> <li>• Lodgment Program Framework including associated treatment matrix (deferrals, lodgment assistance)</li> <li>• Systems support and maintenance (communicating and liaising on Portal/channel outages)</li> <li>• Higher Risk Agent Program</li> <li>• Key Agents Program</li> <li>• Agent induction</li> <li>• Support and assistance program</li> <li>• Incident management</li> <li>• ELS to SBR transition project</li> <li>• Professional to Professional (tax agent and legal professionals)</li> </ul>

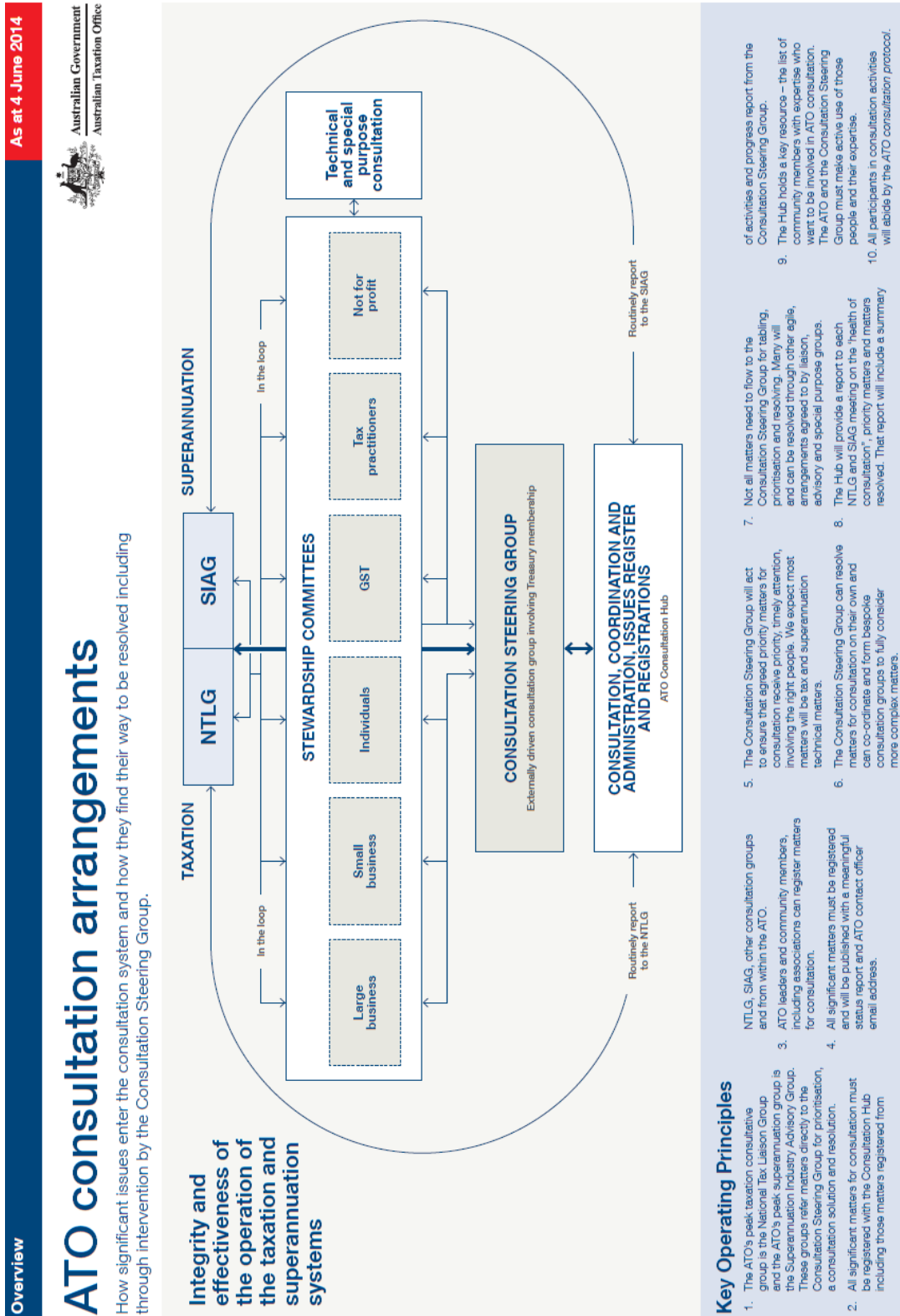
Source: ATO, *Intermediaries approach - Blueprint outlining our approach to management of intermediary engagement, compliance and support* (June 2014), pp 21-24.



# APPENDIX 4 – ATO CONSULTATION ARRANGEMENTS

A4.1 The ATO diagram below illustrates how significant issues enter the consultation system and are resolved.

Figure A4.1: ATO consultation arrangements



Source: ATO.



## APPENDIX 5 – LIST OF SBR, ATO PORTAL AND ELS FUNCTIONS

**Table A5.1: List of SBR, ATO Portal and ELS functions**

Function	SBR	ELS	Portal
Income tax returns			
Individual return		X	
Amendment for individual		X	
Partnership return	X	X	
Amendment of partnership return	X	X	X (Mail)
Company return	X	X	
Amendment of company return	X	X	X
Trust return	X	X	
Amendment of trust return	X	X	X
Standalone family trust election	X	X	
Standalone interposed entity election	X	X	
Notification of member joining/leaving consolidated group		X	
Various other schedules attached to return forms – for example, eligible termination payment (ETP), capital gains tax (CGT)	X	X	
Electronic funds transfer		X	
Advise further returns not necessary		X	X
Advise return not necessary for year		X	X
View the income tax lodgment status for a client			X
Fringe benefits tax return			
Fringe benefits tax return	X	X	
Amendment of fringe benefits return	X	X	
Superannuation			
Superannuation fund return	X	X	
Amendment of superannuation fund return	X	X	X
Self-managed superannuation fund return	X	X	
Amendment of self-managed superannuation fund return	X	X	
Member contribution statement		X	
Super member data assessment variation advice data		X	
Activity statements			
Business activity statement (BAS)	X	X	X
Instalment activity statement (IAS)	X	X	X
Annual goods and services tax (GST) return	X	X	X
Annual instalment activity statement	X	X	X
Claim fuel tax credits for clients via the business activity statement	X	X	X

**Table A5.1: List of SBR, ATO Portal and ELS functions (continued)**

Function	SBR	ELS	Portal
Revise activity statement	X	X	X
Vary an instalment amount	X	X	X
View lodged and not lodged activity statements	X		X
View activity statement payment options and methods	X		X
Receive instant confirmation that the activity statement has been lodged and whether it has been processed	X		X
Receive email notification that an activity statement is available			X
View activity statement account list – statements due or overdue	X		X
Other			
Access data from government agencies and financial institutions to help you complete your individual clients' tax returns via pre-filing reports			X
Product stewardship oil scheme		X	
Application for private ruling			X
Updating client lists			
Add a client		X	X
Delete a client		X	X
For ELS functions, refer to Client lists and how ELS can help.			
For portal functions, refer to Add a client – Tax Agent Portal and Remove a client – Tax Agent Portal.			
Client registration details			
Update client details:		X	X
main trading name		X	X
postal address		X	X
business address		X	X
email address		X	X
contact details		X	
financial institution details			
registrations			
some associated tax types			
Advise that a client is deceased (individual)		X	X
View client registration details			X
View registration details for some tax types:			
GST			X
income tax withholding (ITW)			
Register for GST and ITW			X
Update ITW registration details			X
Cancel GST and ITW registrations			X

**Table A5.1: List of SBR, ATO Portal and ELS functions (continued)**

Function	SBR	ELS	Portal
Client mail			
Set up/update correspondence preferences			
For more information about how to manage your clients' mail, refer to Interaction management – a better way to manage client mail.		X	
Client activity statements			
Receive clients' activity statements		X	X
Change receiving clients' activity statements – paper to ELS or ELS to paper			X
Request to start receiving clients' activity statements via the ELS		X	
Request to cease receiving clients' activity statements via the ELS			
For more information, refer to Managing activity statement – ELS.		X	
<b>Client accounts</b>			
View client account details:			
income tax account			
fringe benefits tax account			
activity statement accounts			X
excise accounts			
some superannuation accounts			
View client account lists			X
View an itemised account by ATO-processed date or by income year			X
View tax type summary			X
Request refunds and credit transfers on behalf of clients			X
View calculation details on general interest charge (GIC)			X
<b>Income tax reports</b>			
Income tax client list – solicited report		X	
Due lodgment report – unsolicited report		X	
Income tax lodgment status report – on demand			X
Pre-filling report – pre-generated			X
Pay as you go (PAYG) income tax instalment report – pre-generated			X
<b>Activity statement reports</b>			
Client list for activity statement purposes – solicited report		X	
Activity statement lodgment report – unsolicited report		X	
Activity statement summary report – unsolicited report		X	
Business activity statement (BAS) and instalment activity statement (IAS) reports – Outgoing activity statements – unsolicited report		X	

**Table A5.1: List of SBR, ATO Portal and ELS functions (continued)**

Function	SBR	ELS	Portal
Outstanding activity statements – on demand			X
Year-to-date excise revenue product summary report – pre-generated			X
Year-to-date interest summary report – pre-generated			X
Year-to-date revenue product summary report – pre-generated			X
<b>Other reports</b>			
Client statistics report – solicited report		X	
Electronic funds transfer (EFT) reconciliation report – unsolicited report		X	
Client account running balance report – pre-generated			X
Correspondence preference report – pre-generated			X
Mass marketed scheme investor lists as at a certain date – pre-generated			X
Senior Australians tax offset – pre-generated			X
Family trust elections and interposed entity elections report – pre-generated			X
<b>Online forms</b>			
Lodge a request for a private ruling			X
Lodge an objection			X
Submit further information for a private ruling application or an objection			X
Auditor actuary contravention report			X
ELS password reset form			X
Portal feedback form			X
Tax practitioner services referral form			X
Request for replacement cheque			X
Request a refund – via Client accounts			X
Request amounts to be transferred between accounts – via Client accounts			X
Lodgment deferral form			X
<b>Mail</b>			
Send a message to us on a range of topics			X
Attach up to six files to messages, such as supporting documentation			X
Set a preference to be notified via email when a response has been sent			X
Receive a response from us to messages sent. Responses may include rejected file messages for private rulings, objections and other information – for example, if one or more attachments have been rejected			X

**Table A5.1: List of SBR, ATO Portal and ELS functions (continued)**

Function	SBR	ELS	Portal
View message history			X
View sent messages including messages sent by the user under message topics, refund requests, transfer requests, online forms including submitted private ruling applications, objections and further information, and portal feedback forms			X
Delete messages			X
Move mail items to different mailboxes within the practice, for example, to delegate work to staff			X
<b>Other</b>			
Downloadable payment slips for:			
individual income tax			
company income tax			
superannuation income tax			
TFN activity statements			X
ABN activity statements			
self-managed super fund receipts			
superannuation contribution surcharge receipts			
fringe benefits tax			
Store frequently used pages as favourites, including frequently used portal pages and other website pages such as the Australian Business Register (ABR)			X
View information about your practice			X

Source: ATO website.





## APPENDIX 6 – STAKEHOLDER SUGGESTED ATO PORTAL IMPROVEMENTS

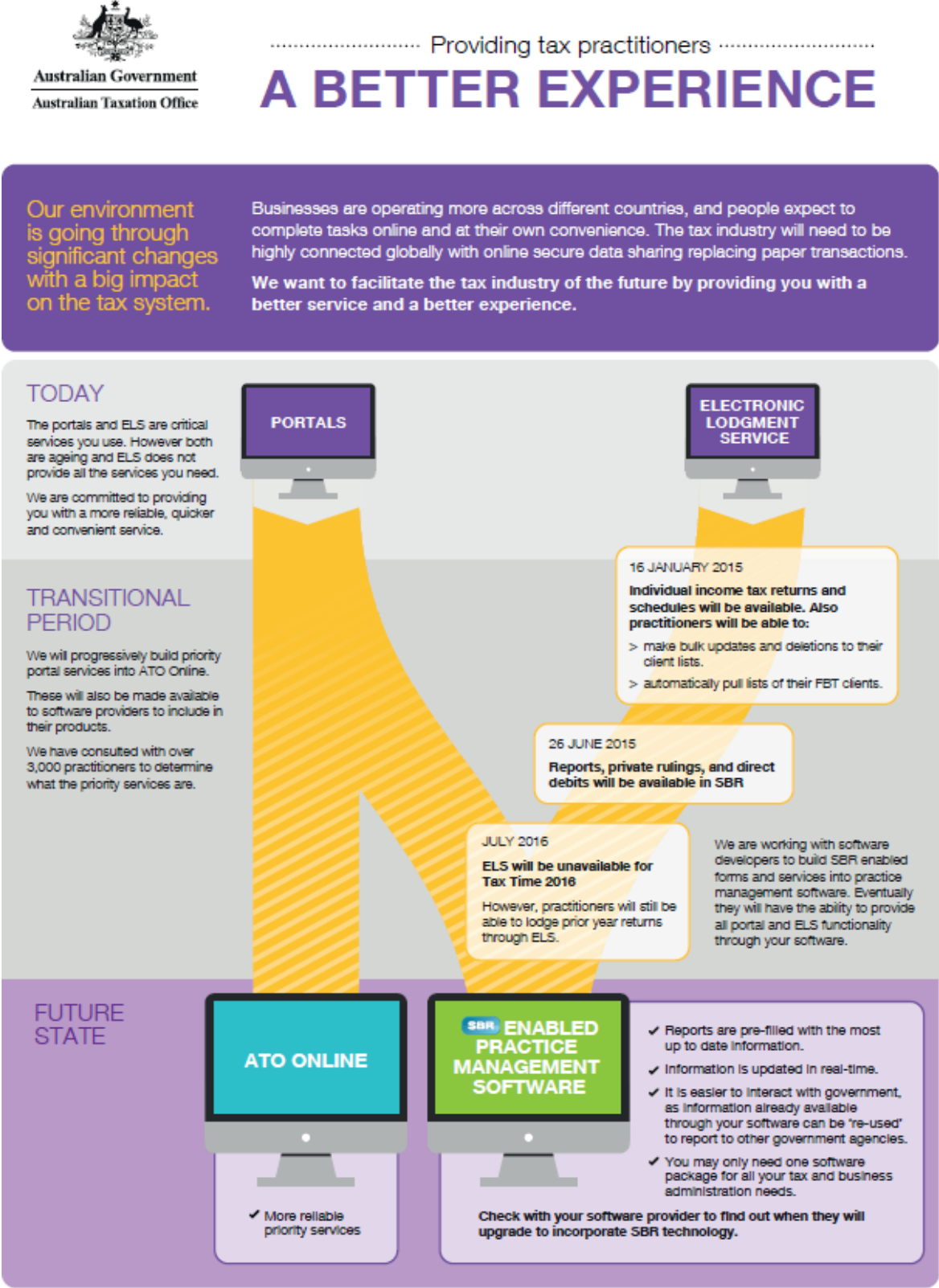
A6.1 The below are a list of suggestions made by stakeholders to the IGT to improve the ATO Portals:

- The ATO should provide prefilled information for entities other than individual taxpayers, such as companies, superannuation funds and trusts.
- The ATO Portals should improve its navigational efficiency as common Portal features, such as downloading pre-filled information can require navigating across a number of pages, most of which, in their view, were unnecessary.
- The ATO Portals should provide notification when clients have changed tax practitioners. This would assist tax practitioners in managing their client lists (such as removing them from the tax agent’s newsletter list, archiving of taxpayer records, managing their 85 per cent requirement, etc.).
- The ATO Portals should provide automatic and early warning notices to tax practitioners as soon as compliance obligations have not been met. Tax practitioners indicated that many clients do not receive any notice until there are multiple instances of non-compliance.
- The ATO Portals should provide regular weekly status updates on lodgments and amendment requests. Tax practitioners indicated that the current process for checking the status of lodgment and amendment requests is to call the ATO, which wastes both tax practitioner and ATO resources.
- The extended due date that applies to electronic lodgments should be shown on the BAS Agent Portal, rather than the earlier paper lodgment due date. They noted that because the earlier paper lodgment date is set in the system, the lodgment is considered overdue when the first date elapses, which also results in the ATO sending overdue reminder letters to clients, notwithstanding that such lodgments were made on time.
- If there is a late lodgment, the ATO Portals should allow the tax practitioner to report the reason, in particular one that indicates that access to the electronic lodgment service was not available, or the taxpayer was unavailable (for example, in hospital or overseas).
- The ATO Portals should allow tax practitioners to download assessment notices (including for companies and superannuation funds).
- The ATO Portals’ secure messaging facility should be used to request a name change. The current practice was seen as time consuming as it requires tax practitioners to contact the ATO by telephone and then provide the required evidence to prove the identity of the taxpayer. The ATO then contacts the tax practitioner to confirm that this change in the client’s name has been implemented.

- The ATO Portals should provide more information on FBT on taxpayers as it currently has very limited FBT information.
- The ATO Portals should provide access to electronic payment slips for all accounts (including Superannuation Guarantee Charge, Higher Education Loan Program and Student Financial Supplement Scheme). Payment slip pdfs should be easily available on the ATO Portals. At present, users are required to navigate through different pages before they can download the payment slips.
- Reduce duplicate work when completing forms on the ATO Portals. For instance, tax agents are required to upload a paper form to the ATO Portals which contains questions that have already been answered electronically.
- Reduce instances where the ATO Portals refer tax practitioners to forms on the ATO website that did not exist, such as the lodgment deferral form.
- The ATO Portals should improve reporting of statuses on a live basis. The ATO Portals was batch updated and therefore did not provide information in real time.
- The ATO Portals should allow users to print a client directory.
- The ATO Portals should allow users to quickly obtain an outstanding lodgment report.
- The ATO Portals should allow users to obtain the status of lodgment of the Payment Summary reports.
- The ATO Portals should provide access to clients' debts owing to assist tax agents manage their financial affairs.
- The ATO Portals should allow users to print directly rather than having to enter into a printer friendly format.
- The ATO Portals should allow users to easily change and review details of authorised contact persons.
- The ATO Portals should provide a succinct report for tax agents on the details of the authorised contact person.
- The ATO Portals should be able to show all relevant details about an entity or taxpayer in the one report and allow users to print this information.
- The ATO Portals should provide as much information and details about the tax practitioner and their client as possible so that any inaccuracies can be quickly identified and addressed.

# APPENDIX 7 – TRANSITION OF ATO PORTALS AND ELS TO ATO ONLINE AND SBR

Figure A7.1: Transition of ATO Portals and ELS to ATO Online and SBR

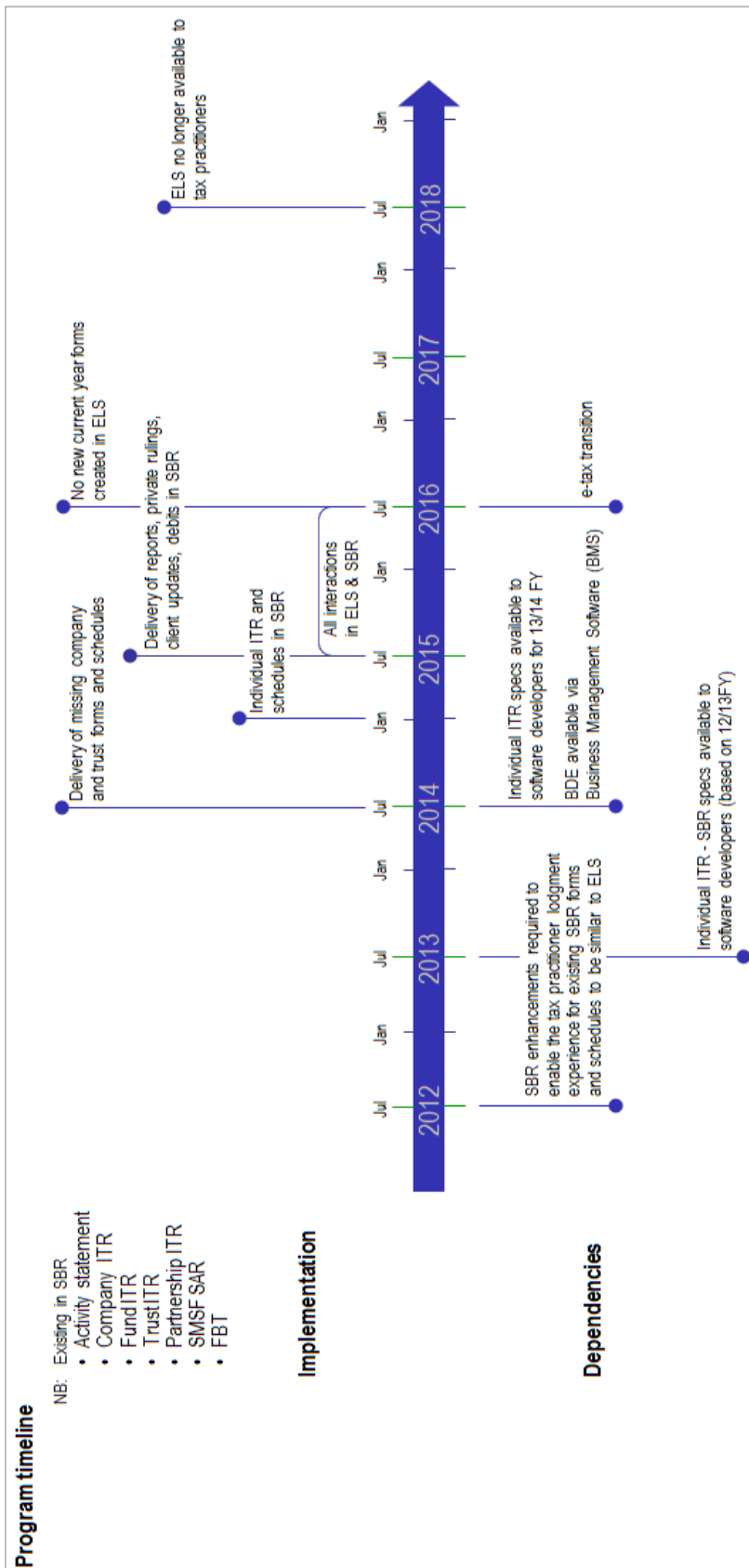


Source: ATO.



# APPENDIX 8 – TIMELINE OF ELS TO SBR MIGRATION

Figure A8.1: Timeline of ELS to SBR migration



Source: ATO.



# APPENDIX 9 – ATO RESPONSE



Australian Government  
Australian Taxation Office

Second Commissioner of Taxation

Mr Ali Noroozi  
Inspector-General of Taxation  
GPO Box 551  
SYDNEY NSW 2001

Dear Ali

## **Review into the ATO's services and support for tax practitioners**

Thank you for the opportunity to comment on the final draft of your review into the ATO's services and support for tax practitioners.

The ATO takes the role of supporting tax practitioners very seriously. We acknowledge the importance of tax practitioners as partners in the tax and superannuation system, responding through engagement and the provision of services and support to better enable them to advise and represent their clients.

The ATO agrees with 18 sub-recommendations, disagrees with 5 sub-recommendations, agrees in part with 3 sub-recommendations and agrees in principle with 2. The recommendations on which we do not agree are:


- Sub-recommendation 2.1 (b) - The ATO has already published a comprehensive document on our website from a whole of ATO perspective on how risk is applied with regard to tax practitioners in response to a previous recommendation of the IGT. We acknowledge the IGT recommendation but we believe the website content provides the appropriate level of detail and practical information.
- Sub-recommendation 4.2 (d) – We agree with the intent of ensuring an effective means for tax practitioners to deal with system issues but we do not agree this would be supported by publishing the responsibilities of software developers and the ATO. We will look at ways to improve the quality of the guidance to ensure tax professionals know what to do when they experience system issues when using their software..
- Sub-recommendation 4.2 (e) – The ATO is currently committed to completing the transition to SBR by 1 July 2016, but we will continue to review contingency arrangements as the project proceeds.
- Sub-recommendation 4.3 (b) - The ATO has invested heavily in the search functionality and improving web content. The feedback about the changes has been very positive. The current research will explore if further work is required since the time these changes were made.
- Sub-recommendation 5.1(b) – There is a high level of awareness amongst practitioners on this aspect of the program.

Our detailed response to your recommendations is attached at Annexure 1.

Finally, I would like to acknowledge the professional manner in which your officers undertook this review.

If you require further information on our response, please contact Colin Walker  
Assistant Commissioner Practitioner Risk and Strategy.

Yours sincerely



Neil Olesen  
Second Commissioner  
7 July 2015

---

[To minimise space, the annexure to the ATO's response has not been reproduced here, but has been inserted into the text of this report underneath each of the recommendations to which that text relates.]



## SHORTENED FORMS

ANAO	Australian National Audit Office
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
The ATO Portals	Tax Agent and Business Activity Statement Agent Portals
ATPAG	ATO Tax Practitioner Advisory Group
ATPF	ATO Tax Practitioner Forum
BAS	Business Activity Statement
BASAAG	BAS Agent Association Group
CAANZ	Chartered Accountants Australia and New Zealand
The Code	Code of Professional Conduct
Commissioner	Commissioner of Taxation
CS&S	Customer Service and Solutions
CSR	Client Service Representatives
ELS	Electronic Lodgment Services
EST	Enterprise Solutions and Technology
Fax	Facsimile
FKC	Fast Key Codes
FRNN	Further Return Not Necessary
FTP	The Future of the Tax Profession Working Group
GST	Goods and Services Tax
The Guide	Risk assessment processes guide
IAS	Instalment Activity Statements
ICAA	Institute of Chartered Accountants in Australia
ICP	Integrated Core Processing
IGT	Inspector-General of Taxation
LWG	Lodgment Working Group

NPE	Non-phone escalation
NTLG	National Tax Liaison Group
OECD	Organisation for Economic Co-operation and Development
PAYG	Pay As You Go
POI	Proof of Identity
PSSG	People, Systems and Services Group
RDF	Risk Differentiation Framework
RTPWG	Regional Tax Practitioner Working Groups
SBIT	Small Business / Individual Taxpayers
SBR	Standard Business Reporting
SISC	Service Improvement Steering Committee
SMART	Script Manager and Reference Tool
SMS	Short message service
SQM	Skilling & Quality Manager
TAS Act 2009	<i>Tax Agent Services Act 2009</i>
Tax practitioners	Tax and BAS Agents
TFN	Tax File Number
TPALS	Tax Practitioner and Lodgment Strategy
TPB	Tax Practitioners Board
TPLSCS	Tax Practitioner, Lodgment Strategy and Compliance Support
TPS	Tax Practitioner Services