



## Submission by the Commonwealth Ombudsman

**TAX FORUM, 4-5 OCTOBER 2011**

# BACKGROUND

## *Commonwealth Ombudsman's role*

The office of the Commonwealth Ombudsman exists to safeguard the community in its dealings with government agencies, and to ensure that administrative action by Australian Government agencies is fair and accountable. The Ombudsman has three major statutory roles:

- *Complaint investigation*: investigating and reviewing the administrative actions of Australian Government officials and agencies, upon receipt of complaints from members of the public, groups and organisations
- *Own motion investigation*: investigating on the initiative or 'own motion' of the Ombudsman, the administrative actions of Australian Government agencies – often arising from insights gained from handling individual complaints
- *Compliance auditing*: inspecting the records of agencies such as the Australian Federal Police and Australian Crime Commission, to ensure compliance with legislative requirements applying to selected law enforcement and regulatory activities.

The complaint and own motion investigation roles of the ombudsman are the more traditional ombudsman roles and make up most of the work of the office. The guiding principle in an ombudsman investigation is to examine whether the administrative action under investigation is unlawful, unreasonable, unjust, oppressive, improperly discriminatory, factually deficient, or otherwise wrong. At the conclusion of the investigation, the Ombudsman can recommend that corrective action be taken by an agency. This may occur either specifically in an individual case or more generally by a change to relevant legislation, administrative policies or procedures.

A key objective of the Ombudsman is to foster good public administration within Australian Government agencies, ensuring that the principles and practices of public administration are sensitive, responsive and adaptive to the interests of members of the public.

The Ombudsman is impartial and independent and is not an advocate for complainants or for agencies.

The Commonwealth Ombudsman can consider complaints about almost all Australian Government departments and agencies, and most contractors delivering services to the community for, or on behalf of, the Australian Government. In addition the *Ombudsman Act 1976* confers specialist roles on the Ombudsman, which include:

- Defence Force Ombudsman
- Immigration Ombudsman
- Law Enforcement Ombudsman
- Postal Industry Ombudsman
- Taxation Ombudsman
- Overseas Students Ombudsman
- Australian Capital Territory Ombudsman

## *Taxation Ombudsman role*

The Taxation Ombudsman role was created at the suggestion of the Joint Committee of Public Accounts in 1995 in recognition of the unequal position of the Australian Taxation Office and taxpayers and aimed to give a greater focus to the investigation of complaints about the Tax Office. The Taxation Ombudsman also appears at the biannual hearings of the Joint Committee of Public Accounts and gives information on the Tax Office's performance.

The Taxation Ombudsman focuses on investigating complaints from taxpayers and tax professionals about the administrative actions of the Tax Office. In addition to resolving individual complaints, the Taxation Ombudsman uses information from complaints to identify potential systemic problems in tax administration. Through project work, including own motion investigations and less formal reviews, we review the effectiveness of specific area of tax administration and consider areas for improvement. We also liaise regularly with the Inspector-General of Taxation.

The Taxation Ombudsman role also includes addressing complaints about the Tax Practitioners Board which was established on 1 March 2010 (*Tax Agent Services Act 2009*). As it set in place its strategic and operational arrangements, we worked with the Board to help it establish an effective complaints management policy. In particular, we are pleased to see that the Board has aligned its complaints handling policy and practices with our *Better practice guide to complaint handling*<sup>1</sup>.

## **COMMENTS**

Investigating complaints provides the Taxation Ombudsman with a unique insight into the delivery of services and administrative practices of the tax and transfer system.

In relation to the tax and transfer system, complainants tell us the following.

- They often do not understand the actions of the Tax Office or what has happened to them.
- They sometimes have to provide documents a number of times as some Tax Office systems do not have the capability to share documents.
- The resolution of a problem can often involve multiple interactions, with a taxpayer having to navigate to a number of different areas within the Tax Office as well as other agencies in order to resolve each aspect, for example income tax return processing, family tax benefits and debts.
- They find it difficult to find the necessary information to manage their tax affairs and in the event they find the information, they struggle to understand and interpret the language used.

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<sup>1</sup>Commonwealth Ombudsman, '*Better practice guide to complaint handling*', Latest Version April 2009. Available from the Commonwealth Ombudsman's website at [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

- Delay by an agency in completing an administrative action can cause significant financial, social and emotional impacts. For example, the delay in the assessment for family support or the completion of a business audit can cause significant hardship.
- Correspondence they receive can sometimes be vague, not clearly explain what action needs to be done, or contain jargon they cannot understand.

Based on our experiences with complaints and reviews of government administration, areas within the tax and transfer system which should be considered for attention include:

- Simplifying the tax and transfer system by reducing the number of interactions required by citizens and improving information sharing, both amongst agencies and across government.
- Citizens reliant on income support can be the most vulnerable government clients and therefore particular care needs to be taken to ensure they have the capacity to access and engage with the tax system.
- Complexity needs to be reduced so that citizens can better understand the system, engage more positively and minimise negative consequences such as incurring debt.
- Agencies delivering services in the tax and transfer system should improve the language they use and the way they communicate with the public.
- Consideration should be given to the establishment of a whole-of-government service delivery citizen portal to improve accessibility for citizens and improve administrative efficiency.

Simplifying and streamlining the oversight of the Tax Office will avoid duplication and confusion. It will also create an opportunity for a more a co-ordinated approach to improving tax administration. More appropriate resourcing of oversight agencies is also required.