

Submission: Exposure Draft – Commissioner's Ability to Retain Refunds Pending Verification Checks

While it is important for the ATO to protect the integrity of the tax system and revenue, there must be balance for the taxpayer. I have seen many instances where the ATO have undertaken GST audits (and income tax audits) that have taken far too long. The Government (and the ATO) must consider the importance of cashflow in business. It is the lifeblood of the business and the economy. Businesses, especially small business often will rely on their legitimate GST refunds for cashflow purposes. To have that put at risk by the commissioner's discretion alone will be a concern to most business owners.

I have two proposals:

1. That there be tests that the commissioner must apply. For example, if the client has a good lodgement & payment history, then the refund must be paid. The commissioner can still go on to audit the client, but the refund is paid. These OBJECTIVE tests are first applied to see if the client qualifies for an immediate payment. If they pass those objective tests, then the refund is made and the commissioner can choose to do an audit or not. If the taxpayer does not pass those objective tests, then the commissioner's discretion (either way) is then applied. Some examples of tests are; No outstanding returns; no late returns in the past two years; payment history within reasonable limits; etc etc (keep in mind these are just examples).
2. There must be far stricter time frames placed on audits. I know of two cases, one a GST audit and one an income tax return audit that have taken far too long. In the case of the Income tax audit, the client lodged their return in August and was to receive a refund, the ATO requested information for the audit but the audit was not actually started until late January. This is a ridiculous time frame – the letter from the ATO states that the audit will take a MINIMUM of 100 days. This is just not good enough. In relation to GST audits, the ATO can do checks that can speed up the number of “semi-audits” that take place. For example – often times a GST audit is sparked when a taxpayer lodges a BAS and is getting a refund where that taxpayer normally pays. Often times its because the taxpayer has purchased some high-value equipment in that BAS period which has caused the refund. Where this BAS's are lodged by Tax Agents – it could be a simple phone call from the ATO to the Tax Agent where the Tax Agent can explain the reason for the BAS refund, and in most cases provide the relevant documentation to support the transaction almost immediately. The whole thing could take an hour. Bottom line – the ATO must, must, must have stricter timeframes in relation to GST audits.

Kind regards,



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