



Australian Government

Australian Government response to the
House Committee on Tax and Revenue report:
2017 Annual Report of the Australian Taxation Office:
Fairness, functions and frameworks - performance
review

May 2024

Response to the recommendations

Recommendation 1

The Committee recommends the Inspector-General of Taxation should conduct a review of the role of outsourcing in the transformation of the ATO's performance and culture. This could include a costs versus benefits review of outsourcing in terms of the Reinvention of the ATO's service culture in particular, and consider: the effectiveness of measures for assessment of the value and risks in terms of the Reinvention of the ATO's service culture. adherence to ATO values in provision of advice, such as required under the Taxpayers' Charter, and for staffing standards, including staff diversity, training and conditions for outsourced staff; and the appropriate balance of ATO permanent versus contract staff and adequacy of resourcing under a self-assessment system.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 2

The Committee recommends that the ATO provide to the Committee a clear explanation of its methodology for measurement of digital availability and report the information in a clear tabular format showing actual periods of down time (separately outages and maintenance in hours) versus availability for key services. The Committee further recommends that the ATO should review and report on its measurement thresholds for priority incidents to improve accountability to stakeholders and to Government.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 3

The Committee recommends that the ATO should review its ICT contacting and procurement frameworks to include requirements for a contractor to benchmark service functionality levels and report to the ATO on a regular basis. Such information should be used by the ATO to monitor and report on system performance in its Annual Report and to direct systemic refinements identified by ATO business lines and internal ICT design and capability functions.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 4

In this context, the Committee also recommends that the ATO should report to the Committee on standards and implementation plans for ATO Systems Report recommendation 3.3:

Recommendation 3.3—Improve the analytics function of the ATO’s centralised logging capability...to balance of performance, stability, resilience and cost factors: – early detection, fault finding and proactive problem management – resolution approaches, including active monitoring, analysing issue trends and response evaluation.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 5

The Committee recommends that the Taxpayers’ Charter better reflect the higher level goals and objectives of the Reinvention Program including by: establishing standards consistent with the Reinvention Program’s evolving focus on improving taxpayer confidence through provision of fairer and better integrated digital and people-based supports; containing benchmarks that are calibrated to chart actual performance against these standards as the Reinvention continues over time.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 6

The Committee recommends that the ATO review the case law and practice notes governing the Commissioner’s discretion on fraud or evasion to ensure that fairness is preserved under the self-assessment system, and that the basis of the Commissioner’s determinations are both clear and accountable to the taxpayer.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 7

The Committee further recommends that the ATO should publish in its annual report the number of taxpayers by taxpayer segment who are deemed to have engaged in fraud or evasion as a figure and as a percentage of the total audited, and how many of these receive additional penalties.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 8

The Committee recommends that Taxpayer Alerts should provide updates on changes to law and rulings that might impact on particular taxpayer segments, and that any important changes be promptly cited and identified on the ATO website and promulgated to tax professionals. The Committee also considers that the ATO should establish a dedicated helpline or webchat feature to assist affected taxpayers with clear understandable information about relevant tax law changes and options for resolution of any tax effects.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 9

The Committee recommends that the ATO should update and provide clear, succinct and accurate advice on the objections and dispute resolution process to all taxpayers subject to audit and assessment. This should include: timelines indicating the steps in each process, including in relation to the timing and reasons for issuing of garnishees; a clear explanation of ATO obligations to the taxpayer and what the taxpayer can expect from the ATO in the process; and information on and contact details for the Inspector-General of Taxation, the Australian Small Business and Family Enterprise Ombudsman and other relevant supports. The Committee also recommends that this information should be made available on the website in an easily accessible tab, in a publication format, and that the same advice be promulgated to all relevant ATO staff.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 10

The Committee further recommends that the annual report should include disaggregated data on the issuing of garnishees during the dispute resolution process, with annual comparisons.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 11

The Committee recommends that the ATO report on the anticipated timeframes for expansion of independent review and pre-assessment process for small business, and potentially to all taxpayers, and present budget estimates for that process to the Committee.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 12

The Committee recommends that the ATO review its in-house service model for mediation and dispute assist services to improve their independence and transparency, and to ensure ATO staff and taxpayers are fully aware of their mutual rights and obligations under the process.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 13

The Committee recommends that the ATO improve the web access and presentation of information on the administration of the CDDA, its decisionmaking and review process and any information on planned review of that process.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 14

The Committee recommends the Government should review and publicly consult on proposals to establish a new and dedicated scheme for consideration of compensation claims against defective tax administration to reduce perceptions of conflicts of interest and improve taxpayer confidence in the fairness and probity of decisions made.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 15

The Committee recommends that the ATO differentiate between large, small and micro-business debt and report on the quanta of tax debt, the age of debts and on comparative trends in both collectable and uncollectable debt for each business segment.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 16

The Committee recommends that to improve transparency and support taxpayer confidence in the fairness of ATO dispute resolution processes annual reports should provide comparative data showing: the total number of appeal applications lodged to the AAT and the total number of litigated cases for each taxpayer segment; the total number of taxpayers using dispute resolution services by segment; and the point at which disputes are resolved, with the proportion of affected taxpayers reported for each taxpayer segment.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 17

The Committee recommends that the ATO retain the current differentiation of settlement data for small and micro-businesses to ensure transparency in outcomes for each group. The ATO should otherwise explain the reasons for the shift in methodology, including projected benefits.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 18

The Committee recommends that the ATO review and report to the Committee on its litigation decision-making processes, including the role of its test case litigation program, and that the Government dedicate more funding to the ATO for this purpose and to improve capacity for test case litigation.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 19

The Committee recommends the ATO further refine its measurable criteria for fairness across ATO programs based on operations and outcomes, with targeted measures developed for staff involved in audit, compliance and dispute resolution processes.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 20

The Committee also recommends that fairness survey outcomes at different decision-making points for the two main stakeholder groups—taxpayers and tax professionals, be reported in the annual report, and not just top level data.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 21

The Committee recommends that the ATO should develop a high level leadership and communication strategy to ensure agency commitments to fairness and respect to all taxpayers, including during compliance activities, are fully and clearly promulgated and endorsed by ATO leaders and staff all levels.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 22

The Committee also recommends the ATO should conduct a review of its communications material in hard copy and on its website to ensure that it is communicating taxpayers rights and obligations clearly, simply and meaningfully, including by : refining and updating guidance on determination of fraud or evasion so that taxpayers are fully cognisant of their mutual obligations and commitments under the law; articulating ATO commitments to fairness during the audit and objections process, with further investment in-house training for audit staff to raise standards; and ensuring performance benchmarks for fairness are clearly articulated in the Taxpayers' Charter and corporate documents, and measured in the Annual Report.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 23

The Committee recommends that the ATO report publicly on its commitments to Model Litigant Obligations—including on measures to ensure staff 'act honestly and fairly in handling claims' and to reduce costs and delays in litigation.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 24

The Committee recommends that the Taxpayers' Charter be published in a single consolidated publication version which has consecutively numbered pages and appendices for extraneous or supplementary material, and that: the Charter's date of last formal revision will be specified at the front of the publication and it will receive a unique ATO publication identifier; and previous versions of the Charter at applicable dates will be available on the web and to the public on request.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 25

The Committee recommends that the ATO considers and formulates appropriate benchmarking performance indicators to assess its performance against the Taxpayers' Charter commitments; providing both quantitative and qualitative assessments.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 26

The Committee recommends that at the conclusion of every formal complaints investigation undertaken by the Inspector-General of Taxation, that the IGT's Office should document ATO and taxpayer engagement interactions against their Charter obligations and report data aggregates on these in the IGT's annual report.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 27

The Committee recommends the ATO adopt a reframed 'Australian Taxation Office Charter' which not only provides that taxpayers be fair, honest and timely in engagement with the ATO and the tax system but also sets equivalently high service obligations for ATO staff and policy makers in tax administration.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 28

The Committee recommends that the ATO's Charter should articulate a clear regulatory philosophy which underpins the values set out above, in addition to advice on the ATO's interpretation of and enforcement of taxation law. This regulatory approach should reflect the existing Cooperative Compliance Model (CCM) compliance and enforcement dynamic; and elements of the Reinvention program blueprint taxpayer risk model.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 29

The Committee recommends that the Charter include a pledge to provide taxpayers with robust internal controls to: ameliorate the impacts of conflicts of interest on the Australian tax system and on specific taxpayers; ensure ATO structures and processes provide early detection and interception of any fraudulent behaviour or system breaches; and prevent impairing independent decision making, particularly at review or appeals stages.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 30

The Committee recommends that the ATO should ensure that community satisfaction performance measures are reported consistently over time and benchmarked against commensurate commitments to rights, values and principles as enunciated in the Taxpayers' Charter, in addition to the strategic objectives set in the corporate plan.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 31

The Committee recommends that the Government consider the mechanics of establishing an advisory board to the ATO to advise the Commissioner of Taxation on the general organisation and management of the ATO.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 32

The Committee recommends that an autonomous appeals group, headed by an independent Second Commissioner, is established to focus solely on tax dispute processes. During this restructure the business debt line should also be transferred out of Service Delivery Group to the compliance (Client Engagement Group).

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 33

The Committee recommends that the merit-based independent review program continues to be offered to small business and individual taxpayers who are being audited and that the ATO is adequately resourced to permanently fulfil this obligation under the principles of the Charter into the future.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 34

The Committee recommends that the Government establish a fully independent low cost external support mechanism which provides vulnerable taxpayers (who meet transparent criteria) the ability to provide funded, or part funded legal representation. The design and operation of the US Low Income Taxpayer Clinics program could be considered as a model for an Australian initiative.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 35

The Committee recommends that the Inspector-General of Taxation is renamed the Taxation Ombudsman to reflect an expanded and fully operational complaints assistance role in addition to the position's independent review remit, and that: the Office should be promoted more effectively, particularly through the ATO website and material of the Commonwealth Ombudsman and Australian Small Business and Family Enterprise Ombudsman, and the Office should also be adequately resourced to provide ongoing effective assistance to Australian taxpayers as the promotion of the function demands greater volumes of assistance.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 36

The Committee recommends that the IGT, in procedural fairness investigations, reports quantitatively on the proportion of complaint investigations undertaken in a reporting period where the IGT formed a different view to the ATO's original decision. Additionally, that: the IGT, where possible, report any subsequent action taken by the ATO to vary its position to align with the IGT's; and the ATO should also annually quantitatively report on its actions in response to IGT complaint review findings as agreed, or partially agreed.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.

Recommendation 37

The Committee recommends that where vulnerable, low resourced taxpayers have utilised IGT support through the complaint and investigation mechanisms, and: where the IGT findings conflict with the final decision of the ATO, these taxpayers will be offered funded participation through an adjudicated appeals process; that all disputes which proceed through this adjudication channel will be reported in the annual reports of both the ATO and the IGT, specifying the final adjudicated decision.

Australian Government response

The Government **notes** this recommendation. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate.
