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Ms Ruth Owen CBE
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Workplan Refresh
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31 October 2025

Dear Ms Owen,

Taxation Ombudsman: 2026 Refreshed work plan

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 175,000 members in over 100 countries and regions. We make this submission in response to the inquiry into the Taxation Ombudsman (TO)'s **2026 Refreshed work plan** on behalf of our members and in the broader public interest.

The Taxation Ombudsman's 2026 Refreshed Work Plan demonstrates a strong understanding of the practical and emerging challenges faced by taxpayers, advisers, and small businesses in navigating Australia's tax and regulatory systems. Our submission supports the proposed reviews and highlights several priority areas where improved administration, guidance, and engagement would deliver fairer and more efficient outcomes.

Following our earlier **submission** back in May of the TO's 2025/2026 draft work plan, we agree and support the TO's 2026 Refreshed work plan.

We strongly support a review of the ATO's administration of deceased estates, as our members continue to report significant delays, communication gaps, and administrative rigidity, particularly when probate is not required. These issues often leave families in distressing situations, with unresolved tax obligations and withheld refunds. Simple improvements, such as clearer guidance and a dedicated support channel for tax agents, would ease the compliance burden and provide much-needed compassion in sensitive circumstances.

CPA Australia also supports a review into the ATO's use of Director Penalty Notices (DPNs). Feedback from members indicates these notices are sometimes issued for very small debts, without adequate explanation or access to specialist support, causing unnecessary stress for small business owners. The review should consider whether current DPN practices strike the right balance between recovery and fairness.

We commend the proposed assurance review into Payday Super readiness, noting this reform is one of the most significant changes to Australia's superannuation framework in decades. Its success depends on the ATO's capacity to provide clear, practical guidance, coordinate across systems and stakeholders, and support small businesses through the transition.

CPA Australia also welcomes the review of the TPB's management of significant breach reports. A review by the TO could help reinvigorate engagement with external stakeholders and ensure TPB guidance is practical, consistent, and proportionate.

Finally, we strongly endorse a review of the ATO's administration of family trust elections. These provisions are highly complex, and errors can lead to punitive outcomes that far exceed any benefit derived. While legislative reform remains the preferred solution to prevent disproportionate liabilities that risk bankrupting family businesses, administrative improvements would provide immediate relief by improving clarity, consistency, and digital accessibility.

Collectively, these reviews present an important opportunity to reduce red tape, improve fairness, and strengthen trust in the tax and regulatory systems that underpin Australia's business community.

Please refer to the Appendix for our detailed discussions on the response to the three work plan questions. We are also happy to organise a discussion with you and our members to discuss these issues further.

If you have any queries, please contact Jenny Wong, Tax Policy Lead on jenny.wong@cpaaustralia.com.au or Bill Leung on bill.leung@cpaaustralia.com.au

Yours sincerely,

Jenny Wong
Tax Policy Lead

Appendix

Work plan questions

We agree and support the Taxation Ombudsman's 2026 Refreshed workplan. It again shows TO's great understanding of current and emerging issues with the tax system.

1. **Whether there are any new or emerging areas of tax administration that may warrant our review during this financial year?**

Issues review: The ATO's administration of deceased estates
We recommend the TO conduct a review of the ATO's administration of deceased estates. Our members have reported a number of issues with the ATO's administration of deceased estates. For example, they feel that assistance should be readily available when a deceased estate arises within a family group. This would include allowing additional time to navigate estate administration matters without incurring interest and penalties. Additionally, a dedicated tax agent line for dealing with these sensitive issues would also be beneficial.

Our members have raised concerns about the difficulties in accessing or finalising pre-deceased tax affairs in the absence of probate (which in some cases, is not required), which can be costly and time-consuming to obtain. This can delay the payment of pre-death tax obligations or the refund of amounts owed to the deceased's estate. The *Tax Administration Act 1953* (Cth) requires the ATO to directly deal with a party that has either a grant of probate, or letters of administration. We understand the ATO will only deal with case-by-case based scenarios. However, we understand that the deceased's legal personal representative needs to reach senior ATO personnel before any decision to be made.

Where there is no probate, we understand the **steps** is to send the ATO:

- a copy of the will (if there is one),
- a copy of the death certificate, and
- a short letter explaining:
  - why probate cannot be granted (e.g. no assets)
  - that you're the executor and managing the estate
  - that you're requesting release of the refund.

The ATO will then assess whether we can release the refund without formal probate.

The problem is our members have reported that they have followed the above steps a few times with no response. Their only option instead is to reach out to the ATO's complaints team for resolution.

2. **Your views on the proposal to defer the review of ATO's management of compromised accounts and the delayed commencement of the review of the ATO's engagement with First Nations taxpayers?**

Review of ATO's management of compromised accounts

The deferral of the review of ATO's management of compromised accounts appears to be reasonable given the announcement by the Australian National Audit Office of their potential **performance audit** of the ATO's Client Identity Support Centre.

Review of the ATO's engagement with First Nations taxpayers

The delayed commencement of the review of the ATO's engagement with First Nations taxpayers appears to be reasonable, as it is important to ensure their specific needs and diversity of experiences are included in the

Tax Ombudsman's review. We agree the approach will allow the TO more time to develop an engagement and consultation approach with First Nations communities and the agencies and organisations that support them.

3. **Whether any of the additional topics that have been raised, or re-raised with us for consideration, as listed below, should be added to the work plan in place of the reviews that have not yet commenced.**

Issues review: The ATO's use of Director Penalty Notices (DPN)

CPA Australia supports the inclusion of a review into the ATO's use of Director Penalty Notices (DPNs) to ensure their application is appropriate, proportionate, and consistent with principles of good administrative practice.

Our members have raised significant ethical and procedural concerns regarding the way DPNs are being issued and administered. In particular, concerns have been expressed about the issuance of DPNs for relatively small outstanding amounts, the lack of timely and informed support for affected taxpayers, and inconsistencies in communication between ATO staff and small business owners.

One member noted:

"Issuing small businesses with a DPN for amounts as low as $1,800 seems excessive and can cause unnecessary distress and mental health impacts. If the ATO proceeds with issuing DPNs, there should at least be a dedicated contact point for affected taxpayers, rather than referring them to the general hotline where staff may not be adequately informed about individual cases.

Affected small business owners should also be provided with clear, accurate explanations of the legal consequences of a DPN, including the importance of acting promptly and the insolvency options available. Miscommunication or delays that result in DPNs expiring, thereby transferring liability to individuals, can turn a corporate insolvency issue into a personal bankruptcy matter, which should be avoided wherever possible."

We therefore support the TO's consideration of this topic to assess whether current DPN practices strike the right balance between debt recovery objectives and fair treatment of small business taxpayers.

Assurance review: Payday Super readiness

We welcome the opportunity to provide feedback on the proposed assurance review into the ATO's readiness for the implementation of Payday Super from 1 July 2026. This reform represents a significant shift in the superannuation guarantee (SG) framework administered by the ATO and will require coordinated efforts across government, the superannuation, payroll and related sectors, and employers to ensure a smooth transition.

We raise the following points for your consideration:

ATO readiness and support for employers

Payday Super imposes a number of duties on the ATO as the regulator. In addition to enforcement, the role of the ATO in the provision of guidance and advice to stakeholders – including employers – will be of paramount importance.

The successful implementation of Payday Super hinges on the ATO's ability to communicate clearly and proactively with employers, especially small businesses; provide timely, practical guidance through its Public Advice and Guidance (PAG) framework; and ensure systems and processes are robust, scalable, and integrated with payroll and clearing house platforms.

We strongly support the proposed assurance review examining:

- The effectiveness of ATO communication strategies, particularly for small businesses. We are aware that there are a number of businesses in particular which use the Small Business Superannuation Clearing House (SBSCH) who may not even be aware of its impending closure.
- The readiness of ATO systems, including real-time SG matching and compliance assessment. The stated need of the Payday Super policy is to improve the ability to enforce compliance with SG requirements, meaning that the ATO's systems must also be fit for purpose.
- The collaboration between the ATO and key stakeholders, such as employers, payroll software providers and superannuation funds. There are multiple parts needed to be developed to make Payday Super work and the ATO is at the heart of all these components.

Importance of Public Advice and Guidance (PAG)

Given the complexity and scope of the Payday Super reforms, it is essential that the ATO:

- Publishes new and reviews existing binding and non-binding public guidance under the PAG framework to clarify employer obligations, compliance expectations, and enforcement thresholds.
- Provides safe harbour protections for employers acting in good faith, particularly those falling within the "low-risk" category as outlined in the ATO's draft **PCG 2025/D5**.
- Clarifies the operation of the SG charge regime, including the treatment of shortfalls arising from administrative errors or delays outside the employer's control.

We welcome the commencement of consultation in relation to this important part of the ATO's response to the policy.

The absence of binding rulings under the *Superannuation Guarantee (Administration) Act 1992* (SGAA) to reflect the changes made under the new regime creates uncertainty for employers. We recommend that the ATO's guidance be made administratively binding and that employers relying on ATO advice should be protected from penalties if that advice is later revised.

Small business considerations

Small businesses face unique challenges in transitioning to Payday Super. The closure of the Small Business Superannuation Clearing House (SBSCH) removes a free, trusted service. Businesses will need to source, and then rely on, commercial third-party clearing houses, which may introduce cost and complexity. Finally, we consider that the proposed decommissioning of the Bulk Electronic Clearing System (BECS) by 2030 adds further risk, especially in the event of outages in the New Payments Platform (NPP).

CPA Australia does not support the closure of the SBSCH, and has commented at length about the risks and costs to small businesses that sourcing and implementing new third-party solutions may entail.

In our response to the ATO's consultation on the draft PCG 2025/D5 and elsewhere, we recommended that the ATO:

- Implement a tiered compliance approach, with first-time error relief and administrative penalty waivers for small businesses, and
- Extend the grace period for late payments due to system failures, fund rejections, or incorrect employee data.

Enforcement and compliance framework

The ATO's enforcement approach must be proportionate and transparent, and we welcome the consultation on draft PCG 2025/D5, which outlines up to 1 year of facilitated compliance for low-risk employers who are making efforts to comply.

The trigger for assessments as discussed in the draft PCG 2025/D5 ("we obtain information that an employer has an SG shortfall") should ideally be accompanied by extending a right of reply to the affected employer prior to assessment. Employers in the "low-risk" zone (as defined in the draft PCG) should also be protected from enforcement action if shortfalls are promptly corrected, and a graduated enforcement regime should be introduced, incorporating metrics such as employer size, compliance history, and risk profile.

We recommend that the ATO:

- Introduces a *de minimis* threshold to SG shortfalls for notional earnings components (e.g., <$50).
- Provides real-time visibility of the successful processing of SG contribution data to employers via a secure portal.
- Consults and collaborates with APRA to develop a policy around mandating refunds to employers to ensure that overpayments are able to be reversed where they arise.

Timing and Implementation

The proposed start date of 1 July 2026 is, we consider, ambitious. Stakeholders require sufficient lead time to upgrade systems and train staff, clear legislative certainty to justify investment in compliance infrastructure and ideally, an implementation schedule involving phased implementation, starting with large employers, followed by small businesses.

We note that the legislation to implement this is still before Parliament, and is unlikely to receive royal assent until the new year. This makes implementation difficult, particularly in the case of APRA-regulated superannuation funds which are legally prevented from major expenditure on new systems unless able to be satisfied that such expenditure is in members' best financial interests.

In our submission to Treasury on the exposure draft legislation, we recommended a minimum 12-month deferral of the start date, a grace period during the first year of implementation and tiered rollout, similar to that which occurred during the rollout of Single Touch Payroll.

Concluding remarks

We commend the Tax Ombudsman for considering an assurance review into Payday Super readiness. This reform has the potential to significantly improve SG compliance and employee outcomes, but only if implemented with fairness, clarity, and adequate support.

We urge the ATO to prioritise:

- Public advice and guidance through the PAG framework.
- Support for small businesses, including transitional relief and system integration.
- Proportionate enforcement, recognising genuine efforts and mitigating circumstances.

We look forward to engaging further on this important reform.

Assurance review: The Tax Practitioners Board (TPB)'s management of significant breach reports

We agree with the TO's assurance review in relation to the TPB's management of significant breach reports. External members recently tabled a paper at a consultative meeting identifying significant shortcomings in **TPB(I) 43/2024** and proposing practical solutions to address these issues. Due to time constraints, the paper was not discussed in detail. CPA Australia considers that the inclusion of this topic in the TO's proposed work plan could provide valuable impetus for renewed engagement by the TPB on these issues. A review by the TO may also help ensure that TPB guidance is clear, practical, and responsive to stakeholder feedback, thereby supporting a more consistent and fair regulatory environment for tax practitioners.

Assurance review: The ATO's administration of family trust elections (FTEs)

CPA Australia supports a review of the ATO's administration of family trust elections. Family trusts are a longstanding and significant feature of Australia's tax landscape, yet the provisions governing family trust and interposed entity elections are among the most complex in the tax system. The consequences of an error, whether made by taxpayers or their advisers, can be severe and disproportionate to the nature of the mistake. Feedback from our members indicates that aspects of the ATO's administration, including the process for making valid elections, the availability, timeliness and clarity of guidance, and the evidentiary expectations during compliance reviews, contribute to unnecessary uncertainty and compliance costs. Anecdotally, we understand that (until recently) the ATO has not focused on family trust elections and has taken a more pragmatic approach in the past. The more recent “black letter” law approach, together with an unlimited period of review and limited options to correct errors, appears to be a change in approach that is concerning to many of our members. It would be useful to consider this aspect as part of your review.

We also believe an assurance review would help identify opportunities to improve the ATO’s guidance, simplify administrative processes, and ensure a more balanced and consistent compliance approach.

While legislative reform remains the preferred and necessary path (refer to CPA Australia’s **submission** to the Treasury in July) to addressing the underlying issues, particularly where the current provisions can give rise to tax liabilities that are grossly disproportionate to any distributions or benefits received, CPA Australia welcomes the TO’s decision to review the administrative aspects of these provisions. Without reform, there is a real risk that the operation of the existing rules could lead to inequitable outcomes and, in some cases, place family businesses in financial distress. Administrative improvements, however, would be an important interim step in alleviating compliance burdens and mitigating unintended consequences until broader legislative change is achieved.