

30 September 2020

Ms Karen Payne
Inspector-General of Taxation and Taxation Ombudsman
GPO Box 551
Sydney NSW 2001

By email: atocommsreview@igt.gov.au

Dear Karen

Investigation into the effectiveness of ATO written communications of taxpayers' rights to complain, review and appeal

CPA Australia represents the diverse interests of more than 166,000 members working in over 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

The dispute process

The administration of tax law inevitably gives rise to disputes that need to be adjudicated and resolved in a timely and cost-effective manner. We acknowledge the ATO's efforts to provide internal objection, facilitation and complaints-handling processes to support taxpayers and reduce litigation.

The complexity in tax law and the often-unfamiliar dispute processes mean that there is significant risk, stress and cost in challenging ATO audit decisions, particularly for individuals and small businesses. While not specifically in the scope of this investigation, we note the importance of ATO officers seeking to resolve issues at the earliest possible stage and to clearly communicate with the taxpayer and their advisers. This requires an approach that recognises the power imbalance between the taxpayer and the ATO, as well as the difference in the level of tax expertise.

Taxpayers are often first informed of their rights to complain, review and appeal at the conclusion of an audit. It is therefore very important that the communications help the taxpayer understand the options available to them. Ultimately, the decision to challenge will usually be based on an assessment of the likelihood of success against the cost and stress of the process.

Many taxpayers will also have sought assistance from their tax agent throughout the audit process and are likely to seek their advice on whether to dispute an ATO decision. Given that many tax agents have limited engagement with the ATO in relation to compliance activities, it is also important that tax agents are enabled to efficiently navigate the complaints, review and appeals processes.

Direct written communication from the ATO to taxpayers, advisers and agents

Written communication from the ATO, in particular formal letters, is generally clear on the taxpayer's right to object and includes information on the available avenues. It is usually contained in the same correspondence as the reasons for the decision.

An issue which arises in tax more generally is communicating specialised concepts in plain English as well as making correspondence accessible to all taxpayers. When informing taxpayers of their rights, the language is rightly specific but may not be fully understood by the recipient. We therefore recommend that to complement written communication, ATO officers discuss the decision, and the available options, verbally with taxpayers and/or their tax agents.

The Inspector-General of Taxation and Taxation Ombudsman survey for this investigation asks "*how could the effectiveness (clear expression and complete information) ... be improved? [D]oes the ATO provide you with all the information you need to consider your options and exercise any rights to question, challenge or appeal the decision?*"

This is a difficult question to answer as there is often a significant volume of complicated information needed to make an informed decision as to how to progress. Many taxpayers will consult their tax agent and may seek additional legal advice to

understand their options and identify any challenge or complaint. The information provided in the ATO's letters is sufficient when communicating with tax professionals who are familiar with the complaints, review and appeals processes.

For taxpayers seeking to represent themselves, there is a greater requirement to provide them with support and guidance. We note that the ATO website information complements and expands on the limited detail generally contained in direct written communications (*see next section - General information produced by the ATO*).

General information produced by the ATO

The ATO's dispute [information](#) is clear and comprehensive. In particular, the ATO disputes policy is detailed and presents the range of options available to the taxpayer. Although the ATO website links to relevant external sites such as the Administrative Appeals Tribunal, we suggest that the ATO [site](#) could make direct reference to the AAT Small Business Tax division.

However, for a taxpayer who is unfamiliar with the disputes process, this same information can also be overwhelming or difficult to interpret. It is often at this point that they seek professional advice, with some taxpayers even engaging new representatives. The ATO should consider further support for those with limited access to professional advice and identify new opportunities to assist taxpayers assert their rights. This may include follow-up discussions, provision of information on taxpayer's rights throughout the process or streamlined referral processes to external departments.

If you have any queries about this submission, contact Elinor Kasapidis, Tax Policy Adviser, CPA Australia, on 03 9606 9666 or elinor.kasapidis@cpaaustralia.com.au.

Yours sincerely,

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