

Senate Standing Committees on Economics
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Re: Performance of the Inspector-General of Taxation

The Institute of Public Accountants (IPA) welcomes the opportunity to offer our brief submission to the Senate Standing Committee on Economics inquiry into the performance of the Inspector-General of Taxation (IGoT).

About the IPA

The IPA is one of the three professional accounting bodies in Australia, representing more than 37,000 members and students throughout Australia and internationally. The IPA prides itself, in not only representing the interests of accountants, but also small business and their advisors.

General Comments

The role IGoT plays, is a vital component in improving the administration of taxation laws for the benefit of all taxpayers, tax practitioners and the wider community. In our view, IGoT has done, and continues to perform, this vital role. It provides assurance (to individual taxpayers, agencies and the community in general) through its investigative, review and reporting activities, helping ensure that Australian taxation administration laws are operating effectively and consistent with the laws and community expectations. Since its inception in 2003, IGoT has undertaken as many as 49 reviews. In all those reviews, IGoT has shown it has been independent in the performance of its duties.

From 1 May 2015, the investigative powers of the Commonwealth Ombudsman in relation to individual tax matters were transferred to the IGoT, which most professional associations expressed as entirely appropriate. Issues surrounding taxation laws can be quite complex and specialised and channeling complaints through one dedicated body to investigate made sense. The IGoT can better undertake its primary role as it can perform timely reviews based on complaints data.

Funding of IGoT

For the IGoT to effectively carry out these functions, it must be properly resourced. Given its size relative to the ATO, the office of the IGoT has proven its worth through quality reviews that have improved the ATO's operations and the position of taxpayers. It is worth noting that the House of Representatives Standing Committee report into the external scrutiny of the ATO in April 2016 was of the view that the cost of external scrutiny (which included IGoT) provides a good return on investment for Australia which flows directly to the ATO and indirectly to Government, the Parliament, Australian businesses and individuals.

The ATO is a key agency that interacts with all businesses both small and large and individual taxpayers. It is critical that the ATO's main scrutineer is appropriately resourced.

The ATO has been provided with even more resourcing (with the Australian Federal Budget 2019-2020 announcing an additional \$1b of funding for the ATO over 4 years). Furthermore, greater demands are being placed on the IGoT. For example, the proposed Tax Debt Transparency measures contained in the Treasury Laws Amendment (2019 Tax Integrity and Other Measures No 1) Bill 2019 and the Draft Taxation Administration (Tax Debt Information Disclosure) Declaration 2019.

IGoT's funding should be revisited having regard to the additional key role and responsibility that has been placed on the agency and the number of complaints it is dealing with. As awareness of this function becomes more wide spread, we expect complaints to rise especially amongst tax practitioners who are not taking full advantage of this complaints option to pursue disputes. Given that tax practitioners are used predominantly for tax compliance for the community at large, only a small percentage of complaints come from practitioners.

Independence of IGoT

Both the ATO and IGoT report to the Assistant Treasurer as part of the Treasury portfolio. Whilst there is no indication that this leads in practice to any inherent conflict or potentially undue influence of one agency over the other, it is worth noting that the Australian National Audit Office (ANAO) reports to Parliament. There may be an in-principle case for independence but based on what we have observed, we do not see a strong case for changing the existing reporting line. In fact, we see the advantages in some respects of having the principal scrutineer of the ATO namely IGoT, also having the same reporting line as the agency it oversees.

Any change needs to be weighed up against the fact that IGoT's role is almost wholly as an ATO scrutineer, whereas the ANAO have a wider remit.

Whistleblower protection

We believe there is merit that the IGoT should be made an “eligible recipient” for the purpose of the new whistleblower protection legislation, which applies from 1 July 2019. It warrants investigation to extend the regime to include the IGoT so that this agency can provide protection to people making public interest disclosures.

Extending protection to serving and former ATO officials whilst problematic due to other interactions with *Public Interest Disclosure Act 2013* (PID Act) should also be a matter for further discussion and exploration.

Power to direct the ATO

An important part of the external scrutiny is that the scrutineer and the agency engage in a full and frank exchange of views before, during and after a review. This allows informed decisions about which reviews to commence, allows expectations to be realistic, enables the review to be conducted efficiently, and maximises its effectiveness. Based on the number of reviews undertaken by IGoT, the ATO have agreed to a great majority of the recommendations either in full or in part. When IGoT office was formed, this was the legislative intent since inception, in that

recommendations are not binding. Apart from the power to compel disclosure of information, the IGoT has no power to direct the ATO or its employees. On this point, the Senate Economics Legislation Committee reported in 2003 that:

“The Committee has no desire to see the power of the Inspector-General increased to the extent that he or she can direct the Commissioner of Taxation to follow a recommendation. It believes that the investigative process itself coupled with the ability of the Inspector-General to report publicly on the administration of taxation laws is sufficient incentive for the Commissioner of Taxation to take appropriate action if required...”

The reviews have led to improvements in tax administration and we do not see any pressing need for binding powers being warranted as the existing model is working as intended. All reviews and recommendations are on the public record, and therefore there is full transparency around every matter raised and each party’s respective position is there for all to see. IGoT has also conducted a review at the request of the ATO (Review of the Future of Tax Profession) .

When it comes to the investigation of complaints, IGoT can only recommend a course of action. Whilst the recommendation carries great weight and is usually adopted, we believe the power to direct the ATO in the investigation of complaints warrants merit, including awarding compensation if there has been loss or damage.

If you have any queries or wish to discuss our submission in greater detail, then please do not hesitate to contact Tony Greco: (tony.greco@publicaccountants.org.au or telephone +613 8665 3134).

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Greco', with a large, stylized flourish above the name.

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