



17 April 2022

Australian National Audit Office
GPO Box 707
Canberra ACT 2601
AUSTRALIA

Dear Sir/Madam,

Australian Taxation Office's Engagement with Tax Practitioners

On behalf of the Institute of Public Accountants, we submit our comments for your consideration for the performance audit to assess the effectiveness of the Australian Taxation Office's engagement with tax practitioners in achieving efficient and effective tax and superannuation systems.

We appreciate the opportunity to provide our comments. We make this submission on behalf of our members. Our members are tax and BAS practitioners (tax practitioners) representing the tax affairs of individual and small business taxpayers and deal with the Australian Taxation Office (ATO) daily. The efficient and effective interactions with the ATO is the core tenet for our members as small business operators in providing the best possible representation for their clients as intermediaries with the ATO.

Our experience has been that the ATO recognises and values tax practitioners as a fundamental part of the tax and superannuation systems. A significant volume of outputs and activities are constantly being created to assist tax practitioners and keep them informed. The ATO endeavours to understand impacts on tax practitioners when rolling out any changes. Given that most taxpayers use the services of tax practitioners, this is an efficient and effective approach for the ATO to take in order to maximise the role of intermediaries in our tax and superannuation systems.

The ATO commits significant effort and resources to tax practitioner consultation. Tax practitioners are represented by their professional associations and selected practitioners on multiple stewardship and stakeholder groups. Public consultation processes provide the ability for the general tax practitioner population to engage. The structures and mechanisms are critical for the ATO to understand the administration impacts on intermediaries. Without these extensive avenues for consultation the ATO would be running blind and may not understand the practical implications of their role as the administrators of our tax and superannuation system.



We consider the existing ATO consultation groups to be critical for effective engagement with intermediaries so that informed positions are made.

Our members are not aware of any formal strategy that the ATO has adopted to deal with practitioners. Any active engagement by the ATO with practitioners has been through the ATO Open Forum mechanism – like a Town Hall meeting. The only formal document that practitioner’s reference is the Taxpayers’ Charter which sets out the taxpayers’ rights and obligations when dealing with the ATO in the administration of the tax and superannuation systems and the ATO’s annual report. However, this is not a tax practitioner centric document and is used on behalf of their clients when dealing with the ATO. We note that the ATO has updated its information on its Intermediary Engagement Strategy since the commencement of this performance review and progress has been made on communicating its existence to tax practitioners. While this is a step in the right direction, there is still more that needs to be done to inform tax practitioners of any formal strategy.

We receive regular communications from our members on the frustrations with the ATO systems and processes in administering the tax system. In general, these concerns stem from time-wasting and inefficiencies from routine dealings with the ATO. Our members have been under significant pressure with managing the impact of the pandemic on their clients. This has included dealing with the ATO as the government agency responsible for administering some of the pandemic incentive schemes. These pressures have not abated as there is still ongoing support required to return businesses to sustainable levels. We are aware of the burden this can place on our members and the potential impact on mental health. We have been an advocate in this important area and provide support for our members. Our members have specifically identified frustrations with the processes and interactions of the ATO as adding to their mental health concerns. This is partially due to the extra work undertaken to assist clients accessing both Federal and more recently State Based business support COVID initiatives. Tax practitioners are generally time poor and any inefficiencies in the current climate are not well received.

We, therefore, welcome the opportunity to provide insights for this audit and make the following comments for consideration.

1. Scheme for Compensation for Detriment caused by Defective Administration

Our members usually do not pass on any charges to their clients in relation to the extra time taken in dealing with ATO matters as the time taken is not commensurate with the value perceived by either the tax practitioner or their clients as taxpayers. Our members treat this time as a sunk cost of doing business.

This means that the Scheme for Compensation for Detriment caused by Defective Administration (CDDA scheme) is not adequate for tax practitioners to make any claims

against the ATO for inefficiencies. As tax practitioners do not charge their clients for the lost time, there is no tangible loss or damage to claim against. The Scheme needs to be fit for purpose and support the ATO in maintaining the confidence and engagement of tax practitioners. It needs to be available to redress the impacts of rapidly evolving, technology-reliant and complex tax and superannuation systems when things go wrong.

The ATO's scope of defective administration is currently limited to administrative procedures and advice and does not appear to include services or systems. The potential for the ATO to cause detriment through its administration of the tax and superannuation systems is far greater due to its multi-faceted roles across service delivery, compliance, debt collection and regulatory enforcement. This may include delays in payments of refunds due to IT issues or significant, unforeseen digital systems failures such as those experienced in the past decade. Examples of these issues have been documented in this submission.

To prove detriment in the case of client-related affairs, costs need to be raised against the client before applying to the ATO for compensation. This is often something that is not in either party's best interests and nor is it efficient; a more streamlined and less bureaucratic approach is required. This is supported by the Inspector General of Taxation in its report on the Future of the Tax Profession where they reiterated the view that the CDDA scheme should be improved, or a separate scheme for tax administration with rights of review be created.

The increasing reliance of intermediaries on Government digital systems means that failures can have significant negative impacts on tax practitioners, potentially leading to economic loss and distress. Past ATO systems outages in December 2016 and February 2017, and the preceding Change Program resulted in no CDDA claims being accepted.

2. Communication with the ATO

a. Online system for Agents (OSfA) (previously known as the portal – or 'pothole')

Tax practitioners' main interaction with the ATO is via OSfA. OSfA is a big improvement on the previous outdated portal system which was far from best practice and long overdue in its replacement. It took a high level of advocacy to encourage the ATO to bring this new system (OSfA) into existence.

This system is not as reliable and on-line as tax practitioners require. There are scheduled downtimes communicated through weekly tax professional newsletters and web status pages – however, the amount of downtime and unscheduled downtime is unacceptable. Tax practitioners, even before the pandemic, do not keep traditional business hours and often work on weekends, and OSfA is not available when required. The perception is the downtime coincides with critical lodgement deadlines. There tends to be unscheduled

maintenance at these times as the ATO systems do not seem to cope with the volumes of transactions. Even when the unscheduled downtimes cannot be avoided, there is no communication to inform the practitioner that there is a problem with the system. Any prompt communication would assist the practitioner to manage workflow and delaying activities requiring OSfA data.

OSfA is a complicated system, and no training is offered by the ATO to navigate the system. There is no help button available which is common with other online systems. There are some web page explainers, but no elearn modules to assist. The only way to learn how to use the system is through on-the-job training by other tax practitioners. This is very inefficient and by default, many excellent features may not be used by tax practitioners because of a lack of education and knowledge.

Furthermore, even though the ATO send out the weekly Tax Professionals Newsletter on a routine basis, additional new features in OSfA, are not highlighted, and tax practitioners are left to accidentally stumble on new features. These new features are usually much needed and are communicated on an *ad hoc* basis through peer networks.

Other online portal systems such as accounting software programs used by tax practitioners, proactively request suggestions for improvements and wish lists of features. There is no similar mechanism to provide this input and this inclusion would likely be well received by tax practitioners to improve efficiency.

No demonstration (mock) system for OSfA exists. If one were to exist this would be immensely beneficial to tax practitioners for training purposes. Tax practitioners cannot use their own OSfA for privacy reasons. As a provider of quality Continuous Professional Development (CPD), we would welcome the opportunity to offer such learning sessions through our skilled network of quality presenters and facilitators.

Tax practitioners need OSfA to operate with robustness and sophistication similarly to say online banking services.

i. Layout

The dashboard layout can be optimised, however, few practitioners are aware that this is possible. The default dashboard is customised for ATO nudge tactics.

For example, the dashboard only displays taxpayers' accounts where debt is owing. However, where any account is in credit, this amount is hidden from the dashboard requiring additional interactive investigation to locate this amount. Instances can arise where taxpayers mistakenly pay into the wrong account – quite common when every ATO account has different payee details, compounded by some accounts having multiple payee details.

This means that tax practitioners waste time instead of conveniently triggering refunds or correcting any payment errors by offsetting against other ATO accounts.

ii. Real-time reporting

The reporting systems within OSfA is deficient. Only two real-time reports can be run. These reports are limited to income tax return lodgement status and un-lodged activity statements. OSfA needs to be able to generate on-demand reports for any tax attributes needed by tax practitioners to manage their client's compliance activities. The only option for tax practitioners is to investigate on a client-by-client basis. This is very laborious and time-consuming, and susceptible to accidental omissions.

b. Telephone support

Tax practitioners have a dedicated telephone line with Fast Key Code that directs calls to specific departments or areas. Tax practitioners undertake this activity when a service is not available on OSfA (See examples under Section 3 Administrative Activities).

The issue is that the ATO personnel answering the calls are not skilled to deal with questions posed by tax practitioners that are highly knowledgeable in the workings of the tax system. Frequently the answers provided by ATO officers are simply following set flowcharts that mirror ATO website guidance, that the tax practitioner has already reviewed to attempt to solve the issue in question. This is not helpful and is a waste of time. When calling the ATO, tax practitioners need to be able to speak with knowledgeable staff.

In those instances where the Tax Practitioner has not received satisfactory information, tax practitioners have been able to establish that these ATO officers are contractors. To gain a satisfactory response, tax practitioners must call back until, by chance, a knowledgeable person has been identified and provide solutions.

The concern is the inconsistency of information and the resultant inability to action tasks to solve an issue. A negative response stating that something cannot be done can be easily overturned by a subsequent call with a knowledgeable ATO officer. This costs valuable time and is based on the chance of successfully speaking with a skilled ATO officer.

Out of frustration, tax practitioners, on occasions, refer to the Taxpayers' Charter. The responses from the ATO officers when referencing the rights and obligations on them based on this Charter are inconsistent and, at times, include a level of aggression as a result of the ATO Officer not being skilled in this aspect of their role.

Further to the previous comments on downtime with OSfA, it is not uncommon, when speaking with the ATO to be told their systems are down or are very slow in responding. The only conclusion is the IT infrastructure is not capable or scalable to cope with the current demands of the tax system.

Regardless of the messaging from ATO Assistant Commissioners that indicate their desire to assist tax practitioners, this approach is not filtering down to the call centre officers. The

ATO previously offered roles called Relationship Managers to provide support to tax practitioners. Our members have advocated for a return of the Relationship Managers.

i. Incoming calls

When calling the ATO on behalf of a client, the ATO requires qualifying questions to be answered, to confirm the identity of the tax practitioner (via Tax Agent Number) and client. All this information is available within OSfA when representing a client, so tax practitioners log in and provide this information as prompted by the ATO. This is time-consuming, when there should be a more efficient method, perhaps via two-factor authentication (2FA) with OSfA to confirm identity.

The additional burden on the tax practitioner is that these confirmation calls are from No Caller ID numbers and as such, answered with caution (being wary of scammers). Depending on the skill of the ATO officer, this can lead to uncomfortable qualifying discussions, as the tax practitioner determines that the caller is from the ATO.

c. ATO correspondence

The ATO correspond with taxpayers digitally through text, telephone, email and in hard copy, and either directly with the taxpayer or via the tax practitioner.

Our members have determined that three groups of communication that have different potential correspondence channels.

These are:

- Forms – such as activity statements;
- Specific Correspondence – directly relating to a taxpayer issue; and
- Campaign Correspondence – a bulk mail out to many taxpayers based on certain tax attributes.

Then the official correspondence channel list, as defined by the ATO, is:

- myGov
- Email
- SMS
- Paper
- Agent Digital
- ATO Online

Many tax practitioners want all ATO communication to be sent through them, to act as a gatekeeper for their clients. Others just want specific types of communication to come directly to them. The reason for this preference is to ensure all correspondence is acted on appropriately, filtered into understandable terms for clients, manage any fear or uncertainty of the tax system and just ensure that clients are not potentially subject to scams or phishing.

These documents must not get lost in the system. Taxpayers need to know if they have missed a lodgement or payment before being escalated to debt collection and garnishees.

i. Preferencing

The ATO has attempted to address this in the form of 'Preferencing', however, the system and the capabilities are extremely unworkable. This is evident by the combination of different factors described above.

Preferences are managed through OSfA. Firstly, the tax practitioner needs to understand the default mechanism of communication, and then change it to the preferred preference, to suit the client and tax practitioner.

Even when the preferences have been set, there is inconsistency in the execution of the channel of communication.

Tax practitioners are frustrated that important ATO correspondence is not being received by them, the taxpayer or not at all. The result is that practitioners are then not able to effectively manage their clients' preferences as the intermediary between the ATO and the taxpayer.

An example of the process to manage preferencing has been outlined in Appendix 1.

ii. MyGov override

MyGov adds a further layer of complexity. MyGov is the central application for communicating with all government departments. Taxpayers can connect MyGov to Medicare, My Aged Care, Child Support, My Health Record as well as the ATO.

When a taxpayer links the ATO through MyGov, the system overrides any preferencing that has been set up. This is executed automatically without any confirmation sent to either the taxpayer or their tax practitioner. This defaults all ATO correspondence to MyGov with the taxpayer and their tax practitioner unaware any correspondence is pending.

MyGov does permit push notifications. However, this option is for all government departments linked to MyGov and most taxpayers turn this notification service off as it can occur frequently and become intrusive.

This means that important ATO documents are not received by the taxpayer or practitioner. These documents will remain unactioned until escalated by the ATO with further correspondence, usually a telephone call. This may have detrimental consequences on the taxpayer requiring significant tax practitioner time to deal with this issue with the ATO as well to manage their clients' angst.

With the pandemic, most taxpayers used MyGov to obtain their vaccine certificate, so it was very common for taxpayers to override any ATO preferencing.

When this override occurs and is subsequently identified, the tax practitioner requires written consent from the client to change preferences back to the tax practitioner as instructed by the ATO as they are aware that this issue exists.

iii. ATO direct to client

Even if all the preferencing is working as planned, the ATO still send text messages to clients directly. The result of this is to undermine all the work the tax practitioner is undertaking on behalf of the ATO to effectively manage the taxpayers' tax obligations.

For example, the ATO routinely sends text messages to taxpayers that a Business Activity Statement (BAS) is due/overdue. Firstly, the ATO would be aware that the taxpayer uses a practitioner, and practitioners are granted a lodgement extension. This means that the BAS is overdue if lodged directly by the taxpayers, but not yet due if using a practitioner. The tax practitioners then receive a call from the client asking two questions: "Is this really from the ATO?" (i.e., is it a scam?) and "Did you forget to lodge my BAS on time?" Both concerns undermine the tax practitioner and do not assist tax practitioners in dealing with the tax system on their clients' behalf.

iv. Campaign Correspondence

The ATO regularly undertake campaigns to nudge specific behaviours using data matching with other government bodies. These are awareness warnings and do not directly mean that the taxpayers have not met any of their obligations. Mostly, these are pre-emptive warnings that will be dealt with at tax time by the tax practitioner. When this correspondence is received, it is normally not directly addressed to the specific taxpayer, and/or is very generic. This correspondence also is not logged as official ATO correspondence in communication history accessed via OSfA. This is a major source of confusion.

An example of this is cryptocurrency transactions, small businesses meeting super guarantee obligations and the recent Director Identification Number (DIN) and Director Penalty Notices (DPN). (Refer to Appendix 2 for a detailed explanation of DPN correspondence.)

v. Tax File Number communication

Tax File Numbers (TFN) are not permitted to be transmitted electronically. However, ATO documentation has the TFN in multiple places such as income tax documents, Notice of Assessments, and payslips. To manage this issue, tax practitioners either have to set up a secure portal for clients or manually remove the TFN from all such documents. This is extremely difficult for payslips, as the payment reference numbers include the TFN. Both safeguards incur additional cost to the practitioner that is not directly passed onto the client.

Compare this with tax preparation software, where this problem is overcome by tax return documents stating 'TFN recorded' where the TFN should be displayed, thus enabling electronic transmission.

vi. Forms – Quarterly PAYG Instalment Notice

Quarterly PAYG Instalment Notices are official ATO forms that indicate the amount of prepaid income tax to be paid every quarter. Recipients include individuals that have income not subject to PAYGW such as beneficiaries of discretionary trusts; and sole trader businesses operating on an ABN that are not required to lodge a Business Activity Statement (BAS). In most cases, these taxpayers have only a few touchpoints with the tax system throughout the year.

The amounts on these forms may be varied due to several factors such as a change of income. The ability to vary the amount has been identified and amended in the latest Budget measures enacted through the *Treasury Laws Amendment (Cost of Living Support and Other Measures) Bill 2022*.

These forms are issued at the end of a quarter, with payment due 28th of the following month. Tax practitioners are not granted any deferral on these payments. When the amount is not varied, the forms are automatically lodged by the ATO approximately one week after the payment due date. Once lodged, the amount is debited and cannot be subsequently amended or varied.

On 25 November 2020, after the tax rate change, the ATO sent out a bulk mailout informing taxpayers that the PAYGI amount had been reduced. Tax practitioners received this correspondence through their preferred channel for their client, usually hard copy mail. After this correspondence, the December quarter PAYGI Notices were not received by the same channel. Tax practitioners were expecting to receive the usual paper copies. These would have normally been received in early January with payment due on 28th February (as an extra month is granted due to the summer shutdown period). Tax practitioners did not receive the forms at all.

Tax practitioners were not made aware of any changes until the Tax professionals newsletter dated 27 January 2021 was received with the **third** item listed as:

Accessing activity statements

We no longer issue activity statement notification emails to registered agents. You can check when activity statements are due with on demand reports available through the practitioner lodgment service and Online services for agents. Learn more about [accessing activity statements](#).

This caused huge concern for our members. The timing, coinciding with the summer and school holidays, did not assist with the confusion. This communication was not timely, as it was received after the process change. Tax practitioners were not aware of the change to the communication channel. The on-demand report was not accurate as it did not have the

complete list of clients. The on-demand report only lists unlodged forms, so if automatically lodged, there was no report available. Once automatically lodged, the debt is due and payable and cannot be varied. Taxpayers were not aware of the debt as they did not receive any notification and subsequently had an outstanding debt with the ATO. Taxpayers were not permitted to vary the amount and the only option was to request a payment plan to manage the tax debt.

Furthermore, there is no on-demand report for tax debts by client. This would assist with determining the number of clients of the tax practitioner impacted by this change.

Based on all the issues, under pressure from the accounting associations, the ATO reverted to the old system with a grace period of six months. However, even during this period, our members were still informing us that some clients' forms were missing. The system did not seem to completely revert.

Currently, there is still ongoing confusion as to the channel used for these forms, and the on-demand reports are not operating as consistently or accurately as required.

d. ATO website www.ato.gov.au

The ATO provides a plethora of very useful information through their website targeted at taxpayers as well as tax practitioners. Tax practitioners rely heavily on the information contained within the website as a primary source of guidance, before contacting the ATO directly via the telephone.

ATO website pages use a unique identifier called a QC number accompanied by the date. However, any updates to specific QC numbers are simply superseded with an updated date. There is no history available on the changes and updates. These changes are not tracked which means that when a tax practitioner relies on the guidance detailed on these pages, a manual copy (usually via pdf) is required to be kept, as evidence that ATO guidance current at the time was followed.

An example of this occurring was the COVID-19 JobKeeper and cashflow boost stimulus packages administered through the ATO. Guidance was updated daily and, without unique document control tracking, caused much confusion for tax practitioners. To address this deficiency, the ATO prepared a timeline of documents and webpages, as a log to assist practitioners. However, the core issue of version control and the tracking of changes has yet to be implemented as a permanent solution, even though the issue has been previously identified.

e. ATO forums/committees

The ATO offers several liaison committees to gain information from the profession and gain insight and input into best practices. We are a member of many of these committees. However, when dealing with contentious issues, such as Professional Firm Profit Allocation and s100A trust distribution stripping, these forums were confidential and prohibited

participants from communicating back to the members that they represented. In addition, input into the draft guidance did not in many cases reflect concerns raised by members of the confidential committees which could have circumvented many of the issues raised when the draft guidance became open to public consultation.

3. Administrative activities

a. Deferral requests

Deferral requests can be submitted via OSfA using three different MS Excel forms (with macros) depending on the requirements, by uploading the MS Excel file as an attachment. This is a very common occurrence for tax practitioners to request from the ATO for their consideration.

Firstly, the file extension .xlsx cannot be used, so the tax practitioner must downgrade the file to an .xls format. It is also a very mechanical form to fill out requiring manual intervention to manipulate with any corrections causing form errors. The form does not behave as a standard spreadsheet that practitioners are familiar with and use regularly.

Furthermore, some of these forms are 'automatic' practitioner assessed deferrals, and these require the same cumbersome submission process. These are automatically approved after ATO intervention within a few weeks.

When requesting a deferral for onboarding a new client, the practitioner assessed (automatic) deferral form is again required. A radio button selection when adding a new client to OSfA would be an efficient manner to select a deferral in this situation.

This is very time consuming and laborious. A pre-filled, on-line form, with all the tax practitioner and taxpayer details, should be easily adopted to streamline the process to make it more efficient. The ATO has undertaken a self-initiated review of the lodgement program including deferral requests, but this issue needs to be addressed urgently.

b. Business Activity Statements (BAS)

BAS cannot be amended through online systems with a PAYGI field once the year has been completed and finalised. This is a common request especially for the June quarter when undertaking GST reconciliations. This is despite not changing to the PAYGI amount. Amendments are permitted by tax legislation for up to four years, however, this process needs to be undertaken by telephoning the ATO. This is another time-consuming process that should be available on-line, requiring no tax practitioner / ATO direct interaction (See Appendix 3).

When compared with Income Tax Returns, there is no identifier as to the source of lodger of the BAS. Income Tax Returns state the TAN of the lodger. BAS do not have any practitioner or self-lodger identifier. This would greatly assist when an amendment occurs. Amendments can trigger questions from the ATO, and this identifier would save time in these discussions and even prevent calls.

c. Super Guarantee Charge (SGC) Statements

As a result of the implementation of Single Touch Payroll (STP) and the conclusion of the Super Guarantee amnesty, the ATO has been diligent in following up super guarantee non-payments based on the additional data available.

The process is to lodge a Charge Statement with the ATO via OSfA to calculate and acknowledge the late payment. This Charge Statement needs to be processed by the ATO. Once processed, a new SGC ATO account is created for the taxpayer, and payment of the liability is made into this account. Any delay in payment will incur interest.

The ATO is not processing these SGC promptly, well over the delivery standards, and results in late payment of the liability and interest charged.

The only workaround is to call the ATO and request the BPay details for this new SGC account on lodgement of the SGC form to permit payments. Payments need to be made into the correct ATO account to prevent interest charges. Furthermore, these SGC accounts do not permit transfers from other ATO accounts to clear any outstanding amounts.

These forms should automatically lodge, automatically generating accounts and liability. Again, these forms are in an antiquated MS Excel Spreadsheet, akin to the comments concerning Deferral Request (See Section 3a)

d. TFN Reporting for closely held trusts

The ATO requires taxpayers with closely held trusts to comply with TFN reporting requirements and recently sent a communication reminding taxpayers and tax practitioners of this responsibility. Tax practitioners were of the view that this information was disclosed in the Trust tax return and that was sufficient.

On further investigation, a report that lists all the beneficiaries TFN reporting status cannot be run from OSfA. These reports are also not available on request from the ATO. The ATO response was to only undertake this reporting when requested by the Commissioner. However, the ATO website states: "You must lodge a TFN report for a quarter in which a beneficiary quotes their TFN to you."

Tax practitioners that are trying to adhere to the ATO directives and requirements are wasting time with poor ATO administrative processes.

e. Functionality enhancements

Our members repeatedly request more reporting functionality from OSfA to assist with compliance work, for example, client summary reports by tax type. The ATO response on many occasions is that any changes requested will be dependent on resourcing capacity. It would be beneficial if the ATO could provide tax practitioners with a roadmap of future changes so that tax practitioners can help priorities enhancements.

3.0 Tax Practitioner Board (TPB) and ATO relationship

Tax practitioners are confused about the relationship between the TPB and the ATO. Even though the TPB is an independent statutory body, the TPB are perceived by tax practitioners to act as an extension of the ATO. Tax practitioners report complaints concerning unregistered practitioners and other issues of misconduct to maintain professional standards, however, there is little recourse by the TPB in remedying these rogue elements. There seems to be little protection of the profession by the TPB in these circumstances.

However, when the ATO refer tax practitioners to the TPB these reviews take priority with more aggressive outcomes. The recently released TA 2022/1 at point 29 confirms this stance:

29. Penalties may apply to participants in, and promoters of, this type of arrangement. This includes serious penalties under Subdivision 290-B of Schedule 1 to the *Taxation Administration Act 1953* for promoters. Registered tax agents involved in the promotion of this type of arrangement may be referred to the Tax Practitioners Board to consider whether there has been a breach of the *Tax Agent Services Act 2009*.

The ATO also undertakes reviews of tax practitioners. These reviews are to help identify good compliance indicators and detect concerning behaviour. The ATO draws on a range of data and information about a practice and their client base to select practices for a review. After this review the ATO determines a risk rating based on its findings. Practices that have been reviewed do not receive any formal notification of their risk status.

The ATO webpage (<https://www.ato.gov.au/Tax-professionals/Your-practice/Tax-and-BAS-agents/Working-with-you-to-manage-risk/Risk-assessment-processes/>) provides the following commentary:

'Our internal risk assessments do not carry rights of objection or review under legal review processes.

Risk assessments are preliminary views we derive from information available at points in time and can change as we gather new information. These views help to inform our decision on whether to interact with you and your clients. Where we choose to engage, we will share our risk view with you and talk to you about our concerns. In doing so:

- we want to better understand your client's specific circumstances
- you and your client have the right to dispute our underlying assumptions.'

Given the interconnectedness of the ATO, the TPB and tax practitioners, it is imperative that they take collective and well-coordinated action which can only be achieved through a strong and collegiate working relationship. In our view it would be more beneficial if these reviews were done collaboratively between the ATO, the TPB and tax practitioners. The TPB is the regulator for tax practitioners and has ultimately the final responsibility for ensuring practitioners are adhering to professional standards as required under the Tax Agent Services Act.

As a final comment, the ATO's effective engagement with and support of tax practitioners is critical to maintaining and ensuring the proper application of tax laws and successfully implementing new policies and programs. This requires an ongoing relationship between the ATO and tax practitioners that centres around building trust, mutual respect and open communication. During COVID-19 the ATO was tasked to deliver economic response packages. The tax practitioner community worked closely with the ATO during this time. Without the cooperation of tax practitioners, the ATO would have been challenged trying to implement and administer the rollout of COVID-19 support measures as efficiently as it did. The consultation and communication processes with tax practitioners proved highly effective as there were ongoing and timely discussions which enabled quick decision making. This highlights and demonstrates the mutual benefits of successful engagement.



If you would like to discuss our comments, please do not hesitate to contact me.

Yours sincerely

Tony Greco
General Manager, Technical Policy
Institute of Public Accountants

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Appendix 1

Preferencing – OSfA Screen Shots

1. A report is run in communication history but only for last 30 days

Communication history

All fields marked with * are mandatory.

All Clients

Time period

Last 30 days

Channel *

myGov

Email

SMS

Paper

Agent Digital

ATO Online

2. The resultant report indicates communication channel

Subject	Channel	Issue Date *
Statement of account - Possible refund	Agent Digital	07/01/2021
Notice of assessment - Individual or Trust - EFT refund / Payment due	myGov	07/01/2021
Statement of account - Payment slip	Paper	07/01/2021
Notice of assessment - Superannuation guarantee charge - EFT refund	Paper	07/01/2021
Statement of account - Possible refund	myGov	24/12/2020
Notice of assessment - Individual or Trust - EFT refund / Payment due	myGov	24/12/2020
Income tax - Individual - Tax receipt	myGov	24/12/2020
Notice of assessment - Individual or Trust - EFT refund / Payment due	Paper	24/12/2020
Income tax - Individual - Tax receipt	Paper	24/12/2020
Statement of account - Possible refund	Paper	24/12/2020

However, where MyGov is the channel, correspondence still was sent to the tax practitioner.

3. To go back further than 30 days, then it is on a client-by-client basis

Communication history			Down
Subject	Channel	Issue Date	
Superannuation remittance advice - ATO transfer	Paper	27/08/2020	
Superannuation remittance advice - ATO transfer	Paper	03/08/2020	
New PAYG instalment - Introduction	Paper	23/07/2020	
Statement of account - Superannuation - EFT refund / payment due	Paper	27/06/2019	
Superannuation remittance advice - ATO transfer	Paper	27/06/2019	
Statement of account - Possible refund	Paper	13/06/2019	

4. Preferences have been set to tax practitioner, however, the reports states MyGov

Communication history			Down
Subject	Channel	Issue Date	
Statement of account - Possible refund	myGov	21/12/2020	
Notice of assessment - Individual or Trust - EFT refund / Payment due	myGov	21/12/2020	
Income tax - Individual - Tax receipt	myGov	21/12/2020	
New PAYG instalment - Individual / Consolidated group member	myGov	24/11/2020	
New PAYG instalment - Individual / Consolidated group member	Paper	27/02/2020	

set

Appendix 2

ATO correspondence, communication log and preferencing:

- Important letter made from a campaign – debt not overdue – just a nudge
 - Content needs explaining by tax practitioner
- Postal address is the tax practitioner address
- Sent directly to client as mail
- No Practitioner digital copy was received despite being the preference.
- Not logged in Communication History in OSfA

Letter extract:

28 March 2022

Warning of possible director penalty notice (DPN) for an unpaid company debt

Extract: Communication history under the same client in OSfA.
Clearly the directory penalty notice is NOT in the list as ever being sent.

Debt - additional paymnt overdue	Agent Digital	31/03/2022
New PAYG instalment - Introduction	Paper	23/02/2022
Debt - Overdue reminder	Paper	23/02/2022

This also occurs with debt reminder letters for this client.

Appendix 3

BAS Screen shots

Business activity statement summary

⊖ **A revision cannot be completed online.**
[Contact us](#) for further information about the revision.

Statement

Role type

Goods and services tax (GST)

1A

PAYG tax withheld

4

PAYG income tax instalment

5A

Sub totals

8A