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*By email to: VulnerabilityConsultation@ato.gov.au*

# Draft ATO Vulnerability Framework

The Institute of Public Accountants (IPA) welcomes the opportunity to make a submission in relation to the ATO’s draft Vulnerability Framework (the Framework).

The IPA is one of the three professional accounting bodies in Australia, representing over 50,000 members and students in Australia and in over 100 countries. Approximately three-quarters of the IPA’s members work in or are advisers to small business and small to medium enterprises.

We commend and support the efforts made by the ATO in providing additional support for taxpayers in vulnerable positions and for undertaking the implementation of a Vulnerability Framework.

Overall we agree with the proposed content of the Framework. Some of the suggestions and recommendations contained in this submission may be relevant at the later stages of design and implementation of the specific support and services but we have included them herein to assist in informing the Framework.

We also acknowledge that the Framework, and subsequent design, may be informed by the findings and recommendations contained in the Tax Ombudsman’s recently released report titled *Identification and management of financial abuse within the tax system* (the Report) in relation to how the ATO addresses situations where a victim-survivor of financial abuse has a tax debt as a result of the abuse and is seeking assistance with respect to that liability.

## Core focus area: Support

Vulnerable taxpayers need to be made aware of the legal limitations of the support which the ATO may offer. Therefore, the Framework should ensure that taxpayers will be clearly advised of:

* areas where ATO officers may be able to offer flexible approaches or alternative solutions — for example, payment plans and administrative concessions (but not the ability to change a due date) and remission of interest charges
* areas in which ATO officers have no legislative power to make changes — for example, statutory deadlines, the quantum of a liability and shifting a particular liability to another taxpayer.

Taxpayers and their representatives require this clarity to enable planning, to seek relevant assistance from third parties and to ensure that their scarce resources are used appropriately.

In particular, we acknowledge that, depending on the circumstances, the ATO may have very limited powers under the law to abolish a taxpayer’s tax debt or to allocate it to another taxpayer. As noted throughout the Report, there may be matters which will require legislative change. Notwithstanding these limitations it is important for the ATO to commit to make best efforts to reduce, remove or reallocate a debt that has arisen as the result of financial abuse so that vulnerable taxpayers can have confidence that their concerns are addressed and an unfair debt.

Support needs to be tailored to the particular taxpayer. A taxpayer who is not fluent in English will have different support needs to a taxpayers who has left a domestic violence situation or one who has suffered sudden and unexpected health and financial crises.

Tailored support may include providing information in languages other than English and offering the use of an interpreter for phone and in-person services.

We welcome the draft ‘Easy Read’ version of the Framework. The ATO should consider adopting this approach more broadly so that ATO information becomes accessible to more taxpayers.

Intermediaries such as accountants, lawyers, tax advisers, financial advisers and planners, bankers and lenders, and others may deal with the vulnerable taxpayer in relation to their tax or financial affairs. In particular, tax and accounting professionals may unknowingly partake in the facilitation of financial abuse due to the work that they undertake in the interests of their client (i.e. the perpetrator of the purported abuse through coercive control to lodge fraudulent returns). Information products and learning resources should be made readily available — e.g. through industry groups — to educate intermediaries about financial abuse and other types of taxpayer vulnerabilities and to inform of assistance available.

We further encourage the ATO to produce material jointly or with the input of other agencies or regulatory bodies, such as the TPB, Services Australia, ASIC and professional bodies, given that many of the regulatory implications for intermediaries are within the remit of bodies other than the ATO and that the tax affairs of vulnerable taxpayers often impact the obligations and entitlements with other agencies.

The ATO’s investigations into a taxpayer’s tax affairs may reveal related issues with other agencies and regulators, such as ASIC (e.g. in the case of directorships) or Services Australia (e.g. in the case of child support). The ATO should commit to assist victims of financial abuse or other vulnerable taxpayers with liaising with other agencies, including clarifying the extent to which the agencies will share the taxpayer’s information and any secrecy and privacy laws which may apply. We note that the IGT’s Review made five recommendations in relation to improving how the ATO can work more effectively with other agencies in addressing financial abuse.

## Core focus area: Services

We acknowledge the critical importance of ensuring that taxpayers’ representatives are appropriately authorised to liaise with the ATO, for the safety and privacy of taxpayers and the security of their data. Within this context, the Framework should acknowledge that vulnerable taxpayers may require some flexibility in relation to authorisation as they may be more likely to enlist representatives other than registered intermediaries such as agents, accountants and lawyers; i.e. family or friends, at very short notice. Further, there will also be situations where the taxpayer is able to speak for themselves but require a support person and situations where the representative will be required to speak on the taxpayer’s behalf.

Clear guidance should be provided as to how authority may be given for others to speak on the taxpayer’s behalf, in what situations an explicit authority is required and not required, and any restrictions as to information that may be able to be shared.

The ATO should also consider efficient pathways for authorising third party intermediaries who already work with and advocate for vulnerable taxpayers in relation to non-tax matters, such as social workers, family lawyers and family violence support services.

Guidelines should also cover the process to be undertaken should a taxpayer wish to provide their own interpreter instead of relying on the ATO’s Translating and Interpreting Service.

## Core focus area: Design

We note that the ATO already produces resources in languages other than English. This commendable initiative should be continued and expanded to ensure that more taxpayers have direct access to correct information and combat the dissemination of misinformation within migrant communities. Information should be available in print form as well as digitally.

Information about the existence of additional support and services, including key contact channels, should be distributed widely throughout the community. Suitable locations may include:

* community centres and council offices
* social services and disability services clinics
* local libraries
* legal aid centres
* asylum seeker and refugee services
* local ethnic or cultural centres
* migrant centres
* aged care homes and retirement villages
* medical centres and hospitals
* psychology and psychiatry clinics
* major transport hubs
* higher education institutions
* tax clinics
* banks and financial institutions.

Information about privacy and data security policies should also be readily available to reassure vulnerable taxpayers and their support persons and representatives.

The should be dedicated touchpoints and contact channels for the public, including a phone line, email address and/or website contact page, and ATO information pages which are easy to find and navigate.

Where a taxpayer uses a digital channel to engage with the ATO there should be means to connect to a human operator for additional assistance.

## Core focus area: Staff

ATO employees and contractors who have frontline contact with taxpayers or who are in a position to influence decisions in relation to a taxpayer’s tax affairs should undertake compulsory training which is tailored and appropriate to the role.

Staff who have direct contact with taxpayers should be able to direct and advise taxpayers who specifically ask for assistance in relation to their vulnerabilities. Staff also need to be able to recognise cues and signs of vulnerabilities to proactively offer assistance to taxpayers. In addition, staff should be trained to deal sensitively and appropriately with taxpayers who may have disengaged with the tax system, completed their obligations incorrectly or fallen behind on their obligations, where this is not due to a deliberate, malicious approach to their responsibilities but rather as a result of their vulnerabilities and circumstances.

We note that the key focus of the Tax Ombudsman’s review was on the ATO’s frontline services as the frontline teams are often the first point of contact with a victim-survivor of financial abuse. The recommendations in relation to equipping ATO staff to identify potential financial abuse may be able to be applied more widely to other forms of taxpayer vulnerability.

The ATO should also ensure that, once the Framework is finalised, relevant Law Administration Practice Statements are updated to incorporate the relevant elements of the Framework. Decision makers and those who influence decision making should be subject to ATO-wide policies and guidelines — by way of Practice Statements and otherwise — to ensure that decisions in relation to all taxpayers, including those who are subject to particular vulnerabilities, are always fair, consistent and in line with ATO policies.

If you have any queries or require further information, please don’t hesitate to contact Tony Greco, General Manager, Technical Policy, either at tony.greco@publicaccountants.org.au or mobile: 0419 369 038.

Yours sincerely



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