

Management of Small Business Tax Debt

Australian Taxation Office

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Canberra ACT
30 May 2019

Dear Mr President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Australian Taxation Office. The report is titled *Management of Small Business Tax Debt*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Summary and recommendations

Background

1. The Australian Taxation Office (ATO) administers the taxation system for the Australian Government, collecting \$397 billion of net tax in 2017–18. Under the self-assessment system of taxation, the vast majority of taxes are paid on time, without intervention by the ATO. In 2017–18, over 70 per cent of small business tax liabilities were paid on time. The ATO's compliance and dispute activities for small business are conducted on a relatively low proportion of these businesses¹, and generally involve undertaking audits of higher risk cases and seeking to resolve taxpayers' objections.
2. In 2017–18, 3.8 million small businesses (with an annual turnover of less than \$10 million) were registered in the tax system. Collectively, small businesses owe nearly two thirds of collectable tax debt and are almost twice as likely to have a debt with the ATO compared to other taxpayers. The ATO has introduced a range of educational and support material designed to inform small business about their tax liabilities and help prevent them acquiring a tax debt.
3. As with other types of taxpayers, a key challenge for the ATO with respect to small business is to target its resources to those areas of greatest compliance risk, while ensuring that debt collection policies and practices are equitable and uniformly enforced. This particularly relates to firmer and stronger debt actions, such as garnishee notices, director penalty notices, departure prohibition orders and company wind up processes initiated by the ATO.

Rationale for undertaking the audit

4. Tax debt owed by small businesses makes up 63 per cent of overall tax debt, with collectable debt for small businesses totalling \$15 billion in June 2018. Debt collection requires the deployment of strategies and actions by the ATO using the powers given to it under legislation. These strategies and actions were called into question in the media in April 2018. In response, the Commissioner of Taxation requested that the Australian National Audit Office (ANAO) undertake an audit into the effectiveness of the ATO's approaches to debt collection associated with compliance and dispute activities. Individual cases were not reviewed.

Audit objective and criteria

5. The objective of the audit was to assess the effectiveness of the ATO's management of small business tax debt arising from compliance activities. The high-level audit criteria were:
 - the ATO has effective arrangements for managing small business tax debt arising from compliance activities;
 - the ATO's processes provided for consistent management of small business tax debt arising from compliance activities; and

1 The ATO advised that in 2017–18, small businesses lodged around 5.4 million income tax returns and 12.2 million activity statements. These small businesses include related individuals, trusts, partnerships and companies. The ATO also advised that in 2017–18 it conducted 130,000 audits and reviews, amending 68,000 taxpayer assessments of which there were approximately 4,200 objection cases and 35 court decisions.

- the ATO effectively monitors and reports on the collection of small business tax debt arising from compliance activities.

Debt arising from compliance activities

6. In undertaking the audit, it was not possible for the ANAO to assess the ATO's management of small business tax debt arising from compliance activities separately from its overall management of small business tax debt. Consequently, the ANAO was unable to conclude on the effectiveness of the ATO's management of small business tax debt arising from compliance activities as a separate population. The ANAO has assessed the effectiveness of the ATO's management of small business tax debt in its entirety and formed a conclusion on that basis.

Conclusion

7. The ATO's management of small business tax debt has been largely effective.
8. The ATO's organisational structures and processes support the effective management of small business tax debt. The ATO has introduced a number of initiatives to improve coordination between small business compliance, dispute and debt activities, drawing on stakeholder views and international practices.
9. There are limitations on the effectiveness of the ATO's processes that support consistent management of small business tax debt. The ATO has largely effective automated processes for lower impact debt activities such as prompting debtors to pay. However, quality assurance processes over firmer and stronger debt actions do not provide sufficient visibility about the effectiveness of controls.
10. The ATO's framework for monitoring and reporting of its management of small business tax debt is largely effective. The ATO has extensive internal monitoring on characteristics of tax debts including for small business. A performance framework for debt management has been developed, which includes measures that are relevant and reliable but provide an incomplete view of the efficiency, effectiveness and consistency of the ATO's debt management.

Supporting findings

Organisational arrangements for managing small business tax debt

11. The ATO has comprehensive strategies and processes to support the effective management of small business tax debt. These include broad debt strategies, extensive debt policies and practice statements, training and support programs, and electronic allocation of work tied to staff capability. There are dedicated case management systems to support debt management, although ATO staff need to access different systems to action cases and obtain a complete view of taxpayer details in relation to registration, lodgement, payment, debt, compliance and dispute history.
12. The ATO has largely effective processes for coordination across small business compliance, dispute and debt activities, although further work remains to achieve desired levels of coordination across the three organisationally separate groups. Recent initiatives designed to improve coordination include: encouraging compliance staff to consider how tax debt will be paid when the liability is first raised; piloting independent pre-assessment reviews for small business

from 1 July 2018; and developing a risk matrix for triaging serious debt cases at early stages. A small proportion of disputed debt is subject to formal recovery activity (2.7 per cent as at 31 October 2018), but such cases have been subject to criticism, which the ATO is in the process of addressing.

13. The ATO has used international practice and stakeholder views to inform debt strategies and processes for small business, including: drawing on other tax administrations internationally; the Organisation for Economic Co-operation and Development; and various small business stakeholder forums that involve small business operators, intermediaries and representatives from federal and state agencies. More recently, the ATO has introduced a continuous improvement strategy based on analysis of complaints received.

Consistent management of small business debt

14. The ATO has largely effective automated processes that support ATO officers in providing tax debtors, including small business tax debtors, with prompts to pay, and progressing them towards firmer and stronger actions if debts are not paid. The processes include: risk-based guidance within relevant IT systems as to the debt pathways to use; delegation approvals to apply the debt processes; and technical aspects such as mandatory fields and audit logs. However, the ATO does not apply consistent approaches to debts relating to different taxes, and there are significant differences in the time taken to get to firmer and stronger actions under different debt management pathways, which the ATO should review.

15. The ATO has partially effective controls, including quality assurance processes over debt actions including firmer and stronger actions for small business tax debt.

16. The Service Delivery Quality Framework undertakes extensive assessments — in the order of 5,000 per month across all service delivery activities — which are used for coaching and quality assurance purposes. However, the Service Delivery Quality Framework has not produced results that readily or reliably indicate the extent to which administrative errors have impacted the taxpayer or tax revenue. There has also been no set tolerances for errors in important administrative actions such as firmer and stronger debt recovery actions, against which to measure actual performance. The redesign of the Service Delivery Quality Framework provides an opportunity for the ATO to enhance quality assurance arrangements for high-risk debt activities, including those involving small business.

17. The ATO has developed a corporate quality system, ATO Quality, to provide assurance that its actions meet community expectations and standards. More recently, this quality system has adopted a risk-based approach with a number of limitations, including that: the sampling methodology is not sufficiently robust to provide assurance over a representative body of ATO work; and ATO Quality reporting does not identify trends for critical errors in relation to firmer and stronger debt action.

Performance monitoring and reporting

18. The ATO is effective in its monitoring and internal reporting of small business tax debt, which mainly comprises data on the number, value and other characteristics of these debts. This data provides valuable insights that could be more fully included in external reporting to better

inform the Parliament and the public about debt trends. Reporting is not provided separately for debt arising from compliance activities.

19. The ATO has documented a performance framework for debt management, including a purpose, strategic priorities, initiatives and measures. The framework could be improved to support assessment of how the purpose will be achieved, including in ‘balancing support for clients trying to do the right thing with timely stronger action against those who don’t’. This would involve clearer articulation of the activities and improvements to performance measures, to enable better assessment and reporting of the effective, efficient and consistent recovery of small business tax debt. Performance measures for debt management are relevant and reliable, but are incomplete and would benefit from the inclusion of: an additional effectiveness measure—debt recovery rate (when ATO systems enable its calculation); a measure of the overall efficiency of debt management operations; and coverage of consistency (drawing on quality assurance results).

Recommendations

Recommendation no.1

Paragraph 3.50

In revising the Service Delivery Quality Framework and ATO Quality more broadly, the ATO ensures that quality assurance arrangements for debt activities include:

- (a) accurate identification of errors that result in an adverse outcome for the taxpayer, the ATO or both parties;
- (b) reporting on trends over time in assessed levels of conformance against specified tolerances for errors in important administrative actions such as firmer and stronger debt recovery actions; and
- (c) identification of systemic issues and improvements in relation to firmer and stronger debt recovery actions, including for small business.

Australian Taxation Office response: *Agreed.*

Recommendation no.2

Paragraph 4.35

The ATO refines its performance framework for debt management to establish a complete set of performance measures that supports accurate reporting of the effective, efficient and consistent management of tax debt, against the stated purpose for debt management.

Australian Taxation Office response: *Agreed.*

Summary of entity response

20. The proposed audit report was provided to the ATO, which provided a summary response that is set out below. The full response is reproduced at Appendix 1.

The ATO welcomes this review and considers the report supportive of our overall administrative approaches for small businesses.

The Commissioner requested that the ANAO undertake this review as we recognise the significant contribution small businesses make to the economy and the broader community. We are receptive

to feedback and scrutiny and use these sources of intelligence to help us make improvements by fostering positive engagement with the small business sector.

We focus on debt prevention by helping small businesses understand their obligations and pay their tax on time. We assist those experiencing short term cash flow issues by providing payment plans tailored to their specific circumstances. Where a small business does not engage with us we take action to prevent them gaining an unfair financial advantage over the majority that pay, ensuring a level playing field for all.

In finding the ATO's management of small business tax debt has been largely effective, the review also recognises a number of recent initiatives the ATO has introduced to further improve the management of small business debt.

The ATO agrees with the two recommendations contained in the report which will help us further improve our coordinated, client-first approach to debt management.

Key messages from this audit for all Australian Government entities

21. Below is a summary of key messages, including instances of good practice, which have been identified in this audit that may be relevant for the operations of other Australian Government entities.

Governance

- There is value in entities undertaking tailored projects to improve coordination among related activities undertaken in separate organisational areas, as the Australian Taxation Office is doing for its compliance, dispute resolution and debt management arrangements.
- Core quality assurance systems should have well-defined frameworks, with clear criteria, benchmarks and a reliable data collection methodology. In addition, the quality assurance system needs to identify and report critical errors and systemic issues.

Performance and impact measurement

- Performance measurement and reporting frameworks need well-defined objectives and outcomes linked to a strategic purpose as the reference for the development of relevant, reliable and complete performance indicators.

Audit findings

1. Background

The Australian Taxation Office's compliance, dispute and debt collection activities for small business

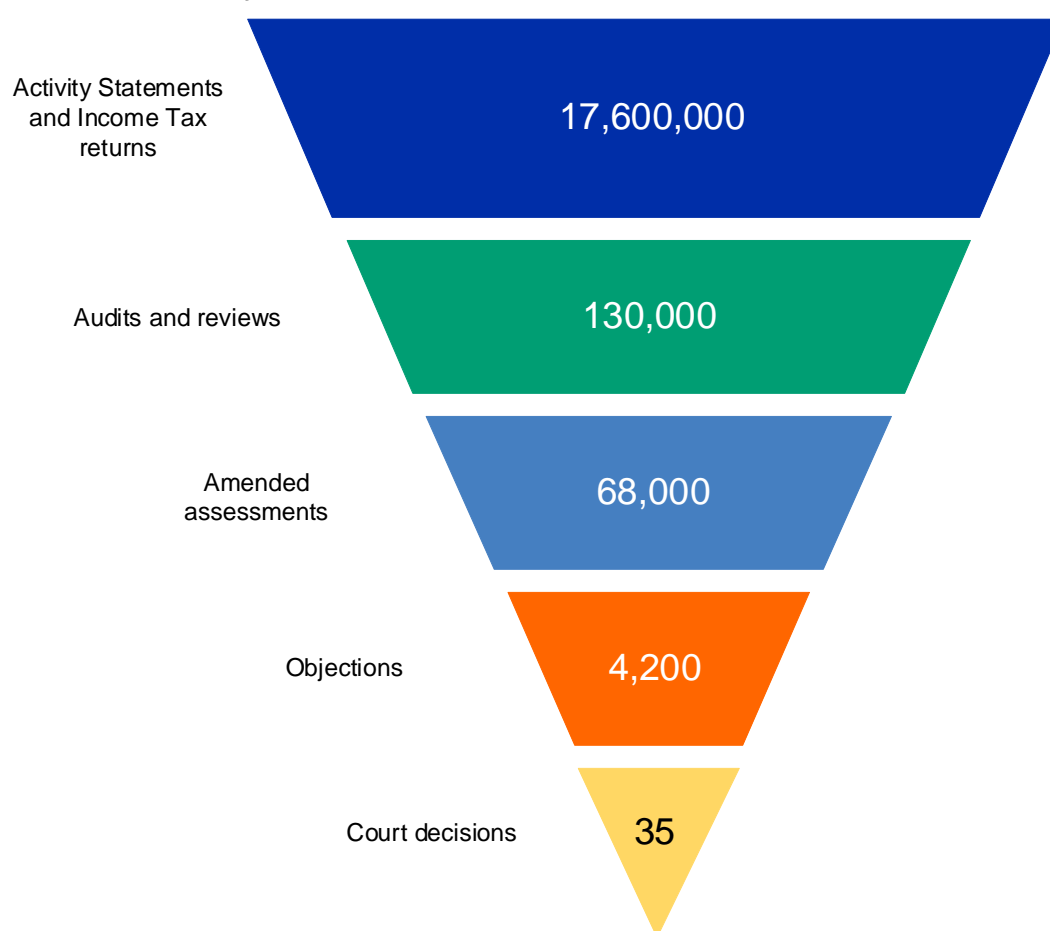
1.1 The Australian Taxation Office (ATO) is the Australian Government's principal revenue collection agency, collecting net tax of \$397 billion in 2017–18.² The ATO had an operating budget of \$3.3 billion employing 20,113 staff in 36 sites across Australia.

1.2 Under the self-assessment system of taxation in Australia, taxpayers are expected to lodge correct tax returns and statements by the due date, and also pay their taxation liabilities by the date they fall due for payment. In Australia, the vast majority of taxes are paid on time, without intervention by the ATO. In 2017–18, 89.5 per cent of tax liabilities were paid on time — 70.7 per cent paid on time by small business.

1.3 Figure 1.1 indicates the ATO's compliance and dispute activities are conducted on a relatively low proportion of small businesses³, and generally involve undertaking audits of higher risk cases, and seeking to resolve objections. In addition, the ATO undertakes debt recovery action when tax liabilities are not paid by the due date. In recent years, the ATO has also focused on providing targeted information and support (preventative strategies) to encourage small businesses to pay their tax liabilities on time.

2 In 2017–18, the ATO collected total gross tax of \$499 billion and refunded \$102 billion. ATO, *Commissioner of Taxation Annual Report 2017–18* [Internet], p. 73, available from <https://www.ato.gov.au/About-ATO/Commitments-and-reporting/Annual-report-and-other-reporting-to-Parliament/Annual-report/> [accessed 21 February 2019].

3 The ATO usually defines small businesses as those with annual turnover of \$10 million or less, but has also defined small business as having annual turnover of \$2 million or less, as discussed in paragraph 4.6.

Figure 1.1: ATO activity for small business, 2017–18

Note: The figure is not to scale.

The figure includes only those objections lodged in response to an audit or review. A total of approximately 8,000 objections were lodged in 2017–18 including those initiated by the taxpayer separately from an audit or review.

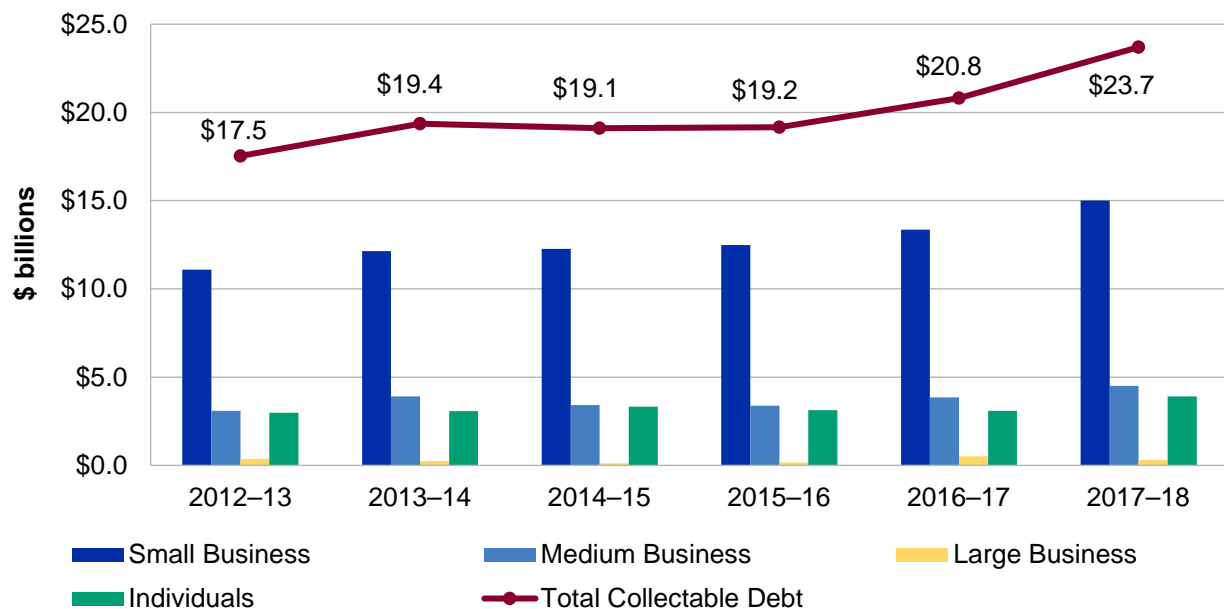
Source: ATO data.

1.4 Tax debt has grown considerably in Australia in recent years, increasing at a slightly higher rate than tax revenue.⁴ As Figure 1.2 shows, collectable debt (that is, debt that is not disputed or subject to some form of insolvency administration) increased from \$17.5 billion in 2012–13 to \$23.7 billion by 2017–18 (34.0 per cent).⁵ Over the same period net tax collections increased by 27.2 per cent.

4 The ATO aims to maintain a ratio of collectable debt to net tax collections at or below 5.5 per cent, although this ratio has been exceeded in recent years. In 2017–18, the ratio was 5.7 per cent.

5 In 2017–18, total debt was \$40.4 billion, consisting of \$9.7 billion in disputed debt and \$7.0 billion in insolvent debt, in addition to \$23.7 billion in collectable debt.

Figure 1.2: Trend in collectable debt by main market segment



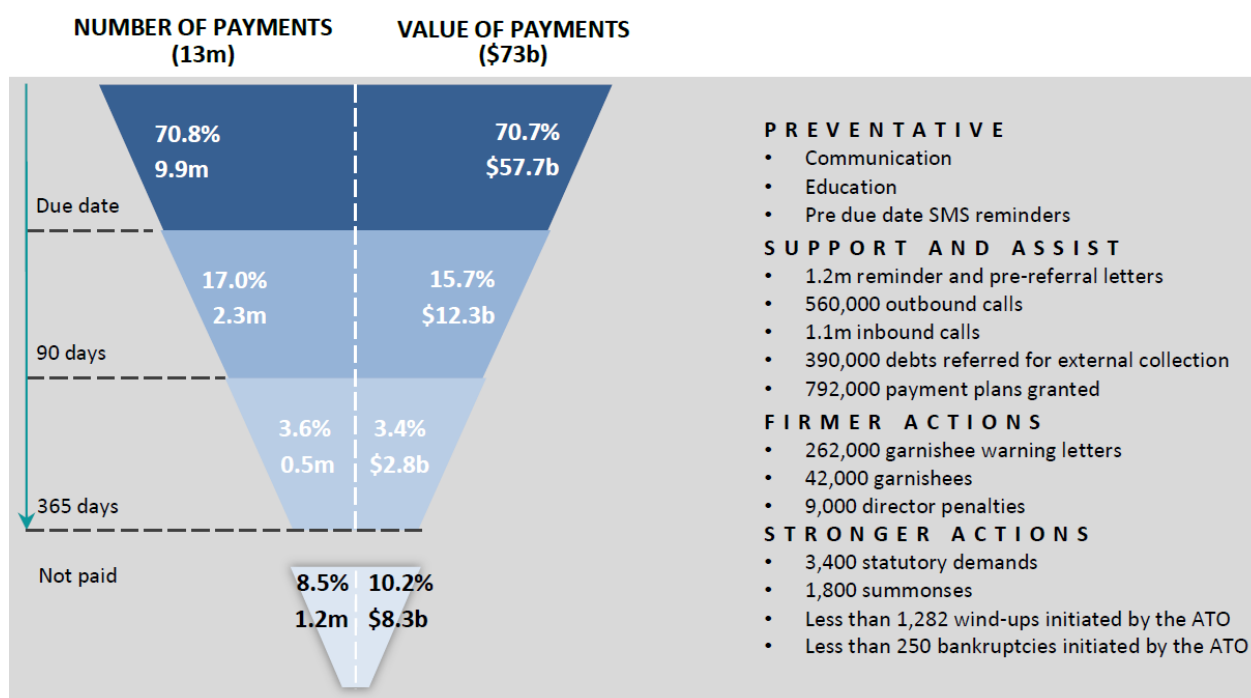
Source: Australian National Audit Office (ANAO) representation of ATO data.

1.5 At \$15.0 billion in 2017–18, small business tax debt accounted for nearly two thirds of collectable debt⁶, despite only contributing 16 per cent of income tax and 23 per cent of goods and services tax (GST) collected by the ATO. In 2017–18, there were 3.8 million small businesses registered in the tax system with an annual turnover of less than \$10 million. Typically, small businesses interact with the tax and superannuation systems to lodge a business activity statement and make payments for GST, Pay-As-You-Go income tax instalments, fringe benefits tax and other taxes. The 15 per cent of small businesses with employees also pay quarterly superannuation contributions. Small businesses vary greatly in their financial and tax management capabilities and processes. In 2016–17, 92 per cent lodged their income tax returns through a tax agent.

1.6 As with other types of taxpayer, a key challenge for the ATO with respect to small business is to target its resources to those areas of greatest compliance risk, while ensuring that debt collection policies and practices are equitable and uniformly enforced.

1.7 Figure 1.3 shows that the ATO's tax debt actions for small business progressively escalate from 'softer' actions such as reminder letters, through to 'firmer' and 'stronger' actions if the debts remain unpaid.

⁶ Total debt for small business was \$19.7 billion, consisting of \$1.0 billion in disputed debt and \$3.7 billion in insolvent debt, in addition to \$15.0 billion in collectable debt.

Figure 1.3: Small business tax debt and ATO actions, 2017–18

Note: Refer Appendix 2 for description of 'firmer' and 'stronger' actions.

Source: ATO.

1.8 Most small business debt is paid within the first month it is due — 81 per cent paid in first month in 2017–18, 84 per cent paid within two months and 86 per cent within three months. Increasingly, small businesses are paying their tax debts through payment plans negotiated with the ATO—\$4 billion was being paid through payment plans by small business in 2017–18, a significant increase from \$2.8 billion in 2015–16.

Reviews into the ATO's management of small business tax debt

1.9 An ABC *Four Corners* program, which aired on 9 April 2018, raised questions about the ATO's management of small business debt, including debt associated with compliance activities and being under dispute. The ATO's response to the issues raised by the *Four Corners* program is outlined in Appendix 3. Following the program, a number of reviews were undertaken, including by the:

- Inspector-General of Taxation, whose office investigated the ATO's use of garnishee notices;
- the Department of the Treasury, which called for submissions from the Inspector-General of Taxation, the Australian Small Business and Family Enterprise Ombudsman and the ATO; and
- the House of Representatives Standing Committee on Tax and Revenue, which considered issues raised by the *Four Corners* program in its inquiry into the *2016–17 Annual Report of the Australian Taxation Office*.

1.10 The Inspector-General of Taxation's report was released in March 2019, and concluded:

Problems did arise in certain localised pockets with the issuing of enduring garnishee notices for a limited period, particularly so at the ATO's Adelaide local site, but these problems were anticipated

and addressed by management once they became aware of them. In the IGTG's view, the allegations that there was an ATO direction for a 'cash grab' on small businesses or that debt staff's personal performance were set on amounts collected—are not sustained on the evidence.⁷

1.11 The Tax and Revenue Committee's report was released in February 2019. The Committee noted that:

... while the submissions to this review represent only a small proportion of taxpayers, there was a disturbing consistency in evidence provided—taxpayers felt strongly that they were not receiving impartial treatment, that the ATO's responses were not proportionate, ie calibrated to the degree of debt or risk associated with the taxpayer; and that mediation processes were not designed to assist the taxpayer get a fair resolution of their disputes.⁸

1.12 The Treasury report into the *Four Corners* allegations completed in May 2018, had not been publicly released as at April 2019.

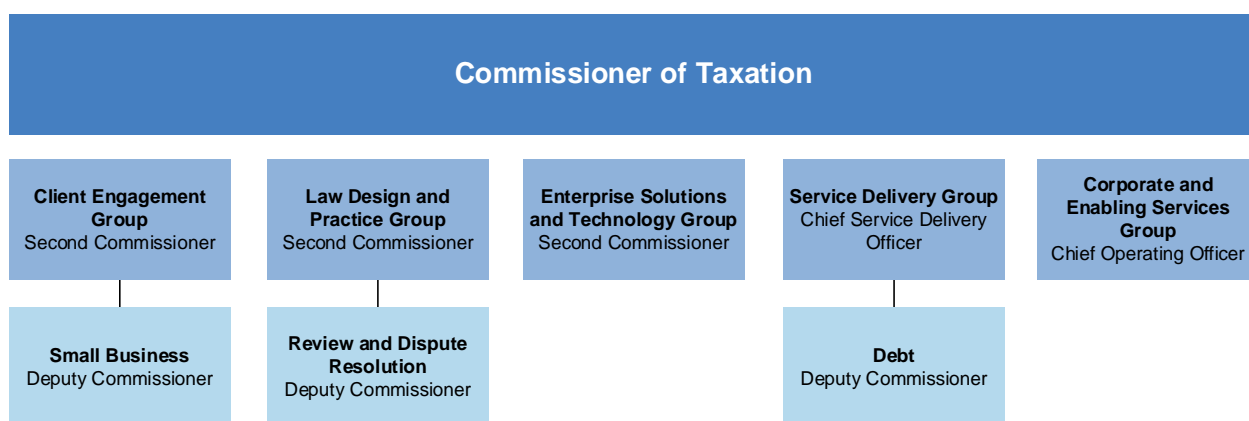
1.13 In addition to these reviews, in March 2019, at the request of the Minister for Small and Family Business, Skills and Vocational Education, the Australian Small Business and Family Enterprise Ombudsman will examine historical cases where a small business is disputing an assessment by the ATO and the ATO has commenced early action to recover the debt.

Compliance, dispute and debt collection

1.14 Figure 1.4 outlines the ATO's organisational structures for managing compliance, dispute resolution and debt recovery activities. These are separated into three different groups — Client Engagement Group (responsible for compliance activities), Law and Practice Group (responsible for dispute management and resolution) and Service Delivery Group (responsible for debt recovery).

7 Inspector-General of Taxation, *Review into the Australian Taxation Office's use of Garnishee Notices* [Internet], March 2019, p. v, available from <https://igt.gov.au/our-reviews/reports-of-reviews/> [accessed 11 April 2019].

8 House of Representatives, Standing Committee on Tax and Revenue, *2017 Annual Report of the Australian Taxation Office; Fairness, functions and frameworks – performance review* [Internet], February 2019, p. 85, available from https://www.aph.gov.au/Parliamentary_Business/Committees/House/Tax_and_Revenue/2016-17AnnualReport/Report [accessed 11 April 2019].

Figure 1.4: ATO's organisational structure (abridged)

Source: Adapted from the *Annual Report of the Australian Taxation Office, 2017–18*.

1.15 The ATO's systems and processes are principally transaction based, with limited capacity to gain an 'end-to-end' whole of client view as they move through the pipeline from an initial audit to an amended assessment (compliance), raising of a dispute and any subsequent debt and recovery action. Consequently, the ATO does not aggregate debt in relation to compliance and dispute activity.⁹ This has limited the ANAO's analysis of small business debt and dispute arising from compliance activity. As a result, the audit has generally addressed issues relating to the ATO's management of small business tax debt arising from compliance activities through analysis of debt processes that apply more broadly.

Rationale for undertaking the audit

1.16 Tax debt owed by small businesses makes up 63 per cent of overall tax debt, with collectable debt for small businesses totalling \$15 billion in June 2018. Debt collection requires the deployment of strategies and actions by the ATO using the powers given to it under legislation. These strategies and actions were called into question in the media in April 2018. In response, the Commissioner of Taxation requested that the ANAO undertake an audit into the effectiveness of the ATO's approaches to debt collection associated with compliance and dispute activities. Individual cases were not reviewed.

Audit approach

Audit objective, criteria and scope

1.17 The objective of the audit was to assess the effectiveness of the ATO's management of small business tax debt arising from compliance activities. The high-level audit criteria were:

- the ATO has effective arrangements for managing small business tax debt arising from compliance activities;
- the ATO's processes provided for consistent management of small business tax debt arising from compliance activities; and

⁹ While the ATO has visibility through its case management system (Siebel) as to whether a debt is potentially associated with a compliance activity, the ATO has not configured its systems to aggregate the data. To aggregate compliance related debt, the ATO would have to build this metric into the debt data cube.

- the ATO effectively monitors and reports on the collection of small business tax debt arising from compliance activities.

1.18 The scope of the audit is a review of frameworks, systems and processes for recovery of small business tax debt arising from compliance activities. The audit has examined whether the administrative processes and systems support consistent treatment of small business tax debt, particularly in relation to 'firmer' and 'stronger' debt recovery action. As discussed, due to an inability of the ATO's systems to provide separate aggregated reports on debt arising from compliance activities, the audit has generally focused on the effectiveness of the ATO's management of small business tax debt in its entirety.

Audit methodology

1.19 The audit methodology involved:

- reviewing documentation and interviewing the ATO's key personnel across functional business lines (covering compliance, dispute and debt);
- assessing the ATO's systems and processes for assigning treatment to small business debt cases, in terms of the adequacy of the controls in ensuring appropriate and equitable treatment; and
- consulting with key stakeholders, namely, the Inspector-General of Taxation, the Council of Small Business of Australia and the Australian Small Business and Family Enterprise Ombudsman.

1.20 The audit was conducted in accordance with the ANAO's auditing standards at a cost to the ANAO of approximately \$625,000. The team members for this audit were Marian Allen, David Hokin, Alicia Vaughan and Andrew Morris.

2. Organisational arrangements for managing small business tax debt

Areas examined

This chapter examines whether the ATO has effective organisational arrangements for managing small business tax debt, including debt arising from compliance activities.

Conclusion

The ATO's organisational structures and processes support the effective management of small business tax debt. The ATO has introduced a number of initiatives to improve coordination between small business compliance, dispute and debt activities, drawing on stakeholder views and international practices.

Areas for improvement

The chapter identifies two areas for improvement — accelerating a single view of the taxpayer with a joined-up approach to operational risk (paragraphs 2.10 to 2.12), and developing an implementation framework and evaluation strategy for *Payment Thinking* (paragraph 2.37).

Does the ATO have strategies and processes to support the effective management of small business debt?

The ATO has comprehensive strategies and processes to support the effective management of small business tax debt. These include broad debt strategies, extensive debt policies and practice statements, training and support programs, and electronic allocation of work tied to staff capability. There are dedicated case management systems to support debt management, although ATO staff need to access different systems to action cases and obtain a complete view of taxpayer details in relation to registration, lodgement, payment, debt, compliance and dispute history.

2.1 The ATO has introduced various strategies and processes over a number of years to improve its management of debt, including for small business. Some of these fall under the *Reinventing the ATO* program, which commenced in 2013–14 and focused on changing processes and culture to achieve the ATO's vision of being a contemporary service oriented organisation.¹⁰

Key strategies

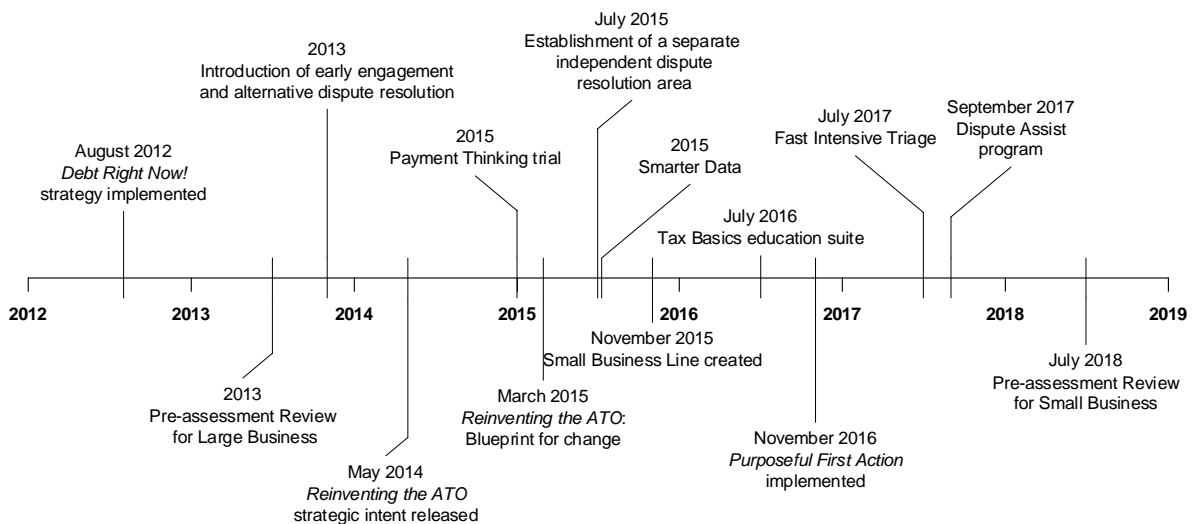
2.2 Figure 2.1 outlines key strategies introduced in recent years that affect small business. These include:

- *Debt Right Now!* and *Purposeful First Action* collection strategies designed to improve consistency and efficiency of debt recovery action through risk profiling debt cases (discussed in Chapter 3);

10 Auditor-General Report No. 15 (2017–18) *Costs and Benefits of the Reinventing the ATO program*.

- introduction of Fast Intensive Triage and Dispute Assist (discussed in paragraph 2.25), Alternative Dispute Resolution¹¹ and independent pre-assessment reviews¹², to improve the ATO's processing of disputes¹³;
- the Smarter Data program to improve decisions, services and compliance, through a whole-of-ATO approach to risk assessment, analytics, data management and technology;
- establishment of a separate Small Business Line (discussed in paragraph 2.20) and introduction of a *Tax Basics* education suite to help small businesses build acumen; and
- commencement of the *Payment Thinking* initiative to improve payment on time (discussed in paragraph 2.37).

Figure 2.1: Timeline of key ATO strategies impacting small business compliance, dispute and debt activities



Source: Australian National Audit Office (ANAO), from ATO information.

Processes and procedures

2.3 The ATO has comprehensive processes for compliance, dispute and debt management activities applying to small business, as outlined in Figure 2.2. The processes include information technology (IT) system rules and prompts to support decision making, and documented procedures

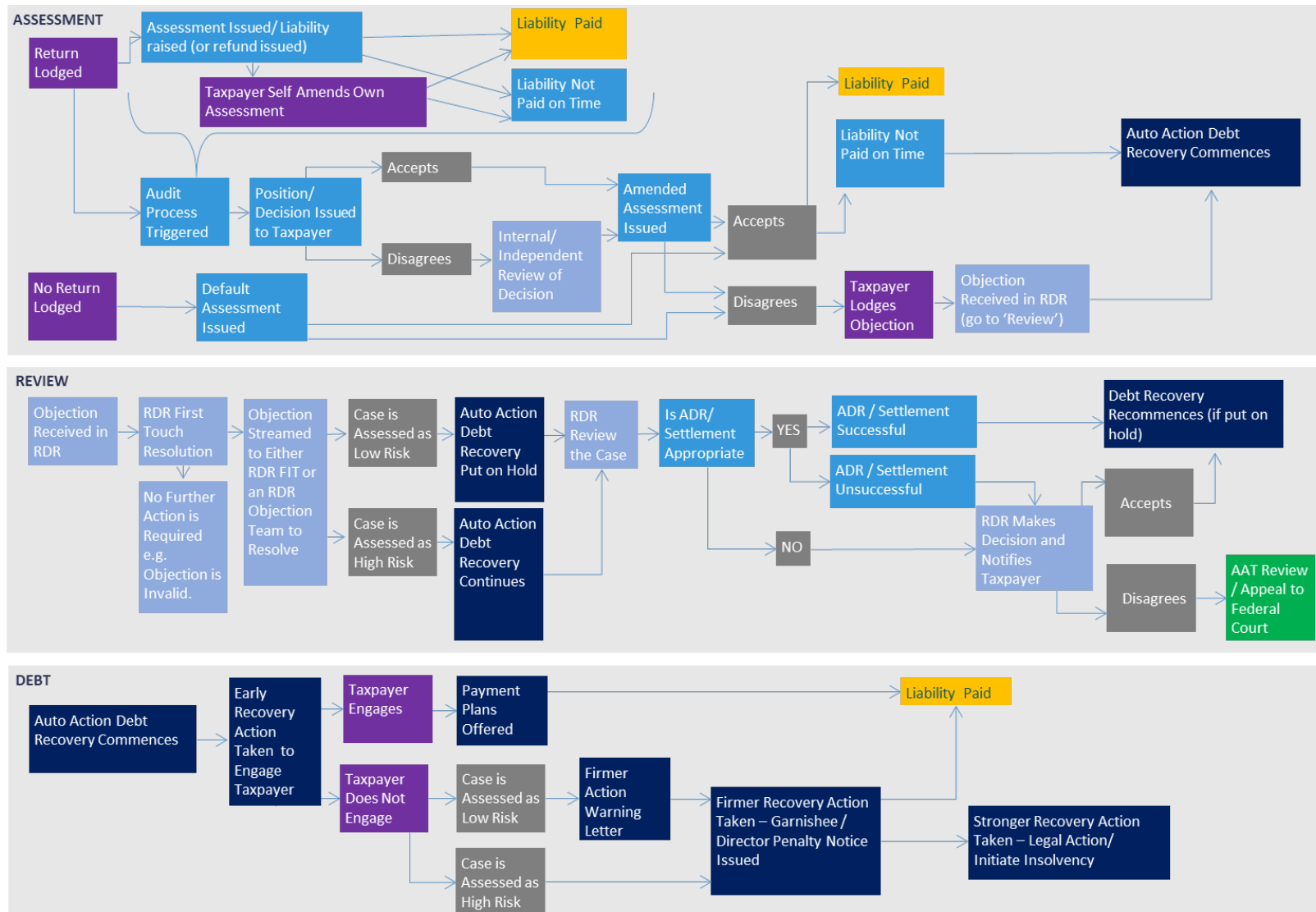
- Alternative Dispute Resolution includes processes other than judicial or tribunal determination, in which an impartial third party provides assistance to resolve or narrow disputed issues. Examples of Alternative Dispute Resolution processes used by the ATO include in-house facilitation, mediation, conciliation and early neutral evaluation. The ATO in-house facilitation service is primarily used to resolve less complex disputes involving individuals or small businesses.
- Pre-assessment reviews provide taxpayers with the opportunity to have their audit case independently reviewed by an objection officer in the Review and Dispute Resolution business line. The objection officer may propose that the audit decision be changed (or overturned) as part of the pre-assessment review, however the audit team in the Client Engagement Group remains the decision maker.
- An objection can be lodged if a taxpayer disagrees with an assessment. This can be about how the law is interpreted and applied or about the facts of a case. An objection must be lodged in writing and may be in relation to a range of decisions, including private rulings. If a taxpayer disagrees with an objection decision they can seek an external review by lodging an appeal with the Federal Court or Administrative Appeals Tribunal.

for ATO staff that are available on the intranet and in relevant IT systems.¹⁴ The processes and procedures have been developed and refined over time, and have been subject to ongoing assessment and review.¹⁵

14 The main relevant IT systems are Siebel and the Receivables Management System, as shown in in Figure 2.3.

15 Such as internal ATO review and audit, ANAO audit, Inspector-General of Taxation review and Senate Estimates hearings.

Figure 2.2: ATO processes for tax assessment, dispute resolution and debt recovery



Note: RDR is 'Review and Dispute Resolution'; FIT is 'Fast Intensive Triage'; ADR is 'Alternative Dispute Resolution'; AAT is 'Administrative Appeals Tribunal'.

Source: ATO.

2.4 As outlined in Figure 1.3 in Chapter 1, the treatment of debt cases consists of a series of actions that progressively escalate from 'softer' actions (focused on engagement, support and assistance), such as reminder letters, through to 'firmer' and 'stronger' actions, such as garnishee notices and company wind up processes. The 'softer' debt recovery actions are automatically generated through an IT system, whereas, the 'firmer and stronger' actions typically require more intervention/discretionary judgement by ATO officers. Work is allocated electronically according to the role (and level) of the debt officer and their identified skill and competency.

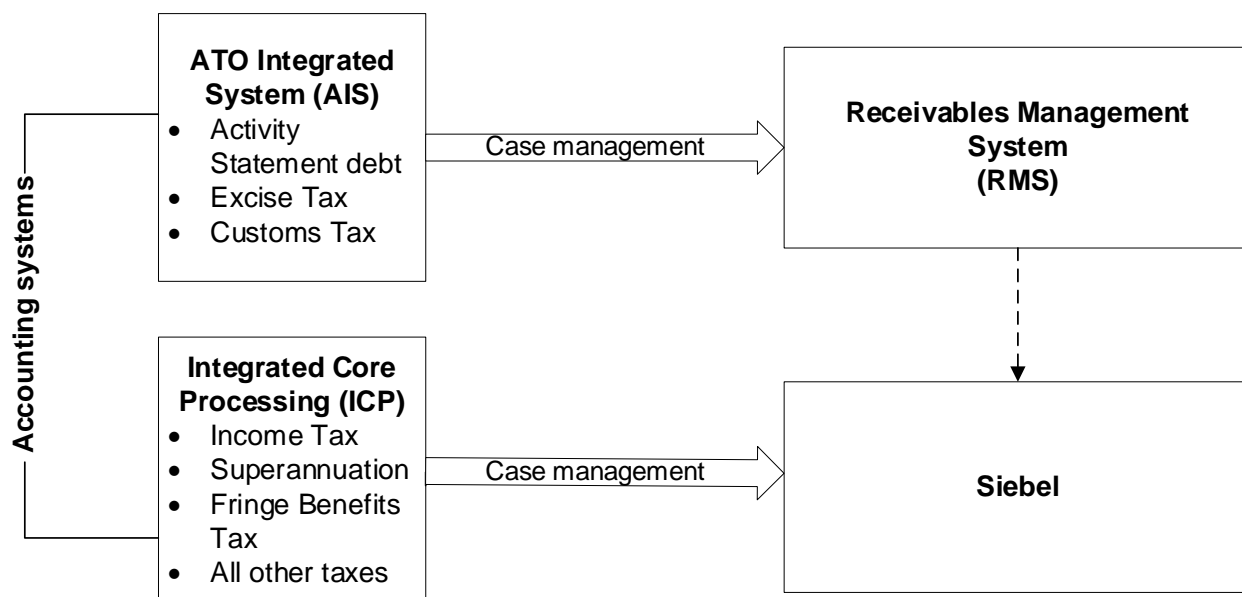
2.5 To illustrate the extent of guidance material available to ATO staff working on compliance, dispute or debt matters, ATO debt staff have electronic access to a range of material including:

- 24 debt practice statements (called Practice Statement Law Administration);
- at least 479 templates and procedural documents stored in the debt work resource library in SharePoint, including letter templates, procedures and associated guidelines;
- the Capability Toolbox on SharePoint that includes support tools and calculators, such as the Business Viability Assessment Tool to assist staff in assessing a taxpayer's viability and capacity to pay an outstanding tax debt. Debt staff also have access to the Debt Serviceability Tool to help assess an individual's capacity to pay; and
- Early Intervention links in SharePoint that provide additional information for staff undertaking early intervention debt work.

Information systems

2.6 When tax liabilities are not paid, the unpaid balances are drawn from two accounting systems, and the information transferred to two case management systems used for debt collection, as shown in Figure 2.3.

Figure 2.3: ATO accounting systems in support of case management



Source: ANAO, from ATO systems diagram provided September 2018.

2.7 The ATO Integrated System is a mainframe system that is proposed to be merged with the Integrated Core Processing system by December 2019 to produce a single accounting system (Integrated Core Processing) and single case management system (Siebel) for ATO debt management. The controls over the risks created by the existence of the two processing systems were assessed by the ANAO as sufficient for the transfer of data across systems. Information from both the ATO Integrated System and the Integrated Core Processing is automatically loaded into the ATO data warehouse with error monitoring processes that support its complete capture.

2.8 The Receivables Management System is a mainframe-based case management system. The ability for ATO staff to perform certain tasks within the Receivables Management System (for example, establishment of payment plans) is limited by delegation approval limits based on APS levels.¹⁶

2.9 The Siebel case management system was introduced in 2006 with a range of automated capabilities including: new case identification; case allocation; correspondence generation; case updating/monitoring; case closure; and management information. Siebel allows access to taxpayer data stored in other ATO systems including the Integrated Core Processing system, ATO Integrated System, Instalment Processing System, Receivables Management System and Deferral Suspension Input. Siebel access is controlled through System Access Roles, integrated with the Human Resources induction processes. Work in Siebel is managed via an in-tray workflow whereby staff members take their next case from a team in-tray. Work is distributed to the in-tray through an automated process.¹⁷

Access to integrated taxpayer information, covering compliance, dispute and debt

2.10 As discussed further in the next section, the Small Business Assurance Branch within the Small Business Line conducts compliance activities, the outcomes of which may be reviewed by the Review and Dispute Resolution line, while the Debt Business line (Debt) is responsible for debt collection. Each of these areas has access to the Siebel case management system. While Siebel provides case management and summary account information, ATO staff need to access different systems to obtain a complete view of taxpayer details in relation to registration, lodgement, payment, debt, compliance and dispute history.

2.11 A Risk Assessment Profiling Tool used by compliance staff has been rolled out to Debt staff. The tool is designed to provide information relating to a taxpayer's tax debts, lodgement and payment history and include relevant indicators, such as, risk rating, existence of a payment plan and dispute indicators. The major benefit to Debt staff is that it provides a simple summary of debt and lodgement history, and information on any payment plans and whether a dispute has been raised—this information would normally be sourced from multiple systems. While the Risk Assessment Profiling Tool is designed to assist with discussions and decision making, it does not

16 The Australian Public Service (APS) Work Level Standards describe the broad expectations for each classification level, and are available from the Australian Public Service Commission's website at <https://www.apsc.gov.au/work-level-standards-aps-level-and-executive-level-classifications>.

17 Data captured into the Receivables Management System and Siebel have a number of mandatory fields, including tax file numbers, case identifiers and a record of decisions made. There is an audit log of all actions performed both automatically and by users within the two systems.

replace case actioning processes in Siebel nor does it prevent the need to access both the ATO Integrated System and the Integrated Core Processing system to process debts.

2.12 The ATO is developing an Enterprise Client profile system (project commenced in March 2017) that seeks to provide ‘a whole-of-client view of personal, obligation and risk information’ and a more ‘coordinated and tailored approach to engagement (across all taxes and obligations) based on taxpayer choices, behaviour, circumstances and risk’.¹⁸ Technical support introduced in 2016–17 includes access to the taxpayer view of myTax and a standalone toolbar to enable staff to move between systems and channels when assisting taxpayers.¹⁹ While the Debt Business line was due to pilot the Enterprise Client Profile in relation to garnishees in 2018, this process has been delayed as some information is still stored in other systems.

Training and support

2.13 ATO staff can make decisions on the type of recovery action to take for which they have been authorised. There are specific delegations and authorisation limits that relate to some recovery actions. Overlaying these authorisations are the ATO’s capability requirements of its staff, which depend on the type of work they perform.²⁰

2.14 For staff undertaking ‘firmer action’ work, team leaders are to establish structures around the types of work that team members complete, and allocate work based on officers’ levels of expertise.²¹ Once an officer is deemed ‘proficient’, their work is no longer subject to checking and will be reviewed only through regular random checks within the quality assurance system (see Chapter 3). Staff have access to support mechanisms, such as coaching assistance and access to team leaders. In addition, staff can access: self-directed courses; online reference materials; Debt Technical Team information through Siebel or telephone; Debt Case Leadership through a referral form; and Operational Policy and Law Assurance (through a referral template). SharePoint also has a register of training courses and skilling packages available for debt staff.²²

2.15 The ‘new to skillset’ program introduced in 2016 identifies the skills acquired from a training program, which are logged in the workflow system and used to identify the type of work that can be allocated to individuals. This includes work automatically allocated from the ‘high volume/low risk’ cases through to debt cases requiring firmer or stronger action managed through Siebel.

18 Australian Taxation Office, *Commissioner of Taxation Annual Report 2016–17* [Internet], p. 74, available from <https://www.ato.gov.au/About-ATO/Annual-report-2016-17/> [accessed 21 February 2019].

19 *ibid.*

20 Some authorisations are based on dollar limits combined with employee level, while others are based on employee level only.

21 Once staff have been trained to undertake a particular debt action, they are provided this type of work to consolidate their training. During this period of consolidation, firmer action that is regarded as high risk (for example, departure prohibition orders) requires checking prior to any issuance. The required rate of checking is reduced as the consolidation period progresses.

22 The relevant areas within the training register are: Debt Early intervention; Debt Early Intervention Hardship; Significant Debt Management; Client Account Services Telephony; Service Delivery – Systems training; and Service Delivery – Work ready.

2.16 In 2017–18, 82 per cent of respondents from Debt reported in the annual Australian Public Service (APS) Census²³ that they were satisfied (or very satisfied) with access to training and support they received, which is five per cent higher than the ATO average, and 14 per cent higher than the APS average. In addition, 92 per cent of Debt staff considered that they had the appropriate skills, capabilities and knowledge to do their job — three per cent higher than both the ATO and APS average result for this census question.

Does the ATO have effective processes for coordination across small business compliance, dispute and debt activities?

The ATO has largely effective processes for coordination across small business compliance, dispute and debt activities, although further work remains to achieve desired levels of coordination across the three organisationally separate groups. Recent initiatives designed to improve coordination include: encouraging compliance staff to consider how tax debt will be paid when the liability is first raised; piloting independent pre-assessment reviews for small business from 1 July 2018; and developing a risk matrix for triaging serious debt cases at early stages. A small proportion of disputed debt is subject to formal recovery activity (2.7 per cent as at 31 October 2018), but such cases have been subject to criticism, which the ATO is in the process of addressing.

2.17 As discussed in Chapter 1, there have been a number of reviews into the ATO's management of small business debt following an ABC *Four Corners* program of 9 April 2018. Following the reviews, a number of changes have been made to improve small business access to independent review and appeal mechanisms. These changes include that:

- the ATO commenced a 12-month pilot of independent pre-assessment reviews for small business from 1 July 2018 (discussed further in paragraph 2.27);
- the Government announced that a 'concierge service' to advise small businesses without legal representation about Administrative Appeals Tribunal has been available from 1 March 2019 within the Australian Small Business and Family Enterprise Ombudsman's office²⁴; and
- the Government announced the establishment of a 'Small Business Taxation Division' within the Administrative Appeals Tribunal, with key features including a case manager supporting small business throughout the entire process, a standard application fee of \$500 and fast-tracked decisions to be made within 28 days of a hearing.²⁵

2.18 Figure 2.4 outlines the ATO's processes for managing small business debts associated with compliance activities and disputes. Compliance activities, dispute resolution and debt recovery respectively reside within the ATO's Client Engagement Group, Law Design and Practice Group and

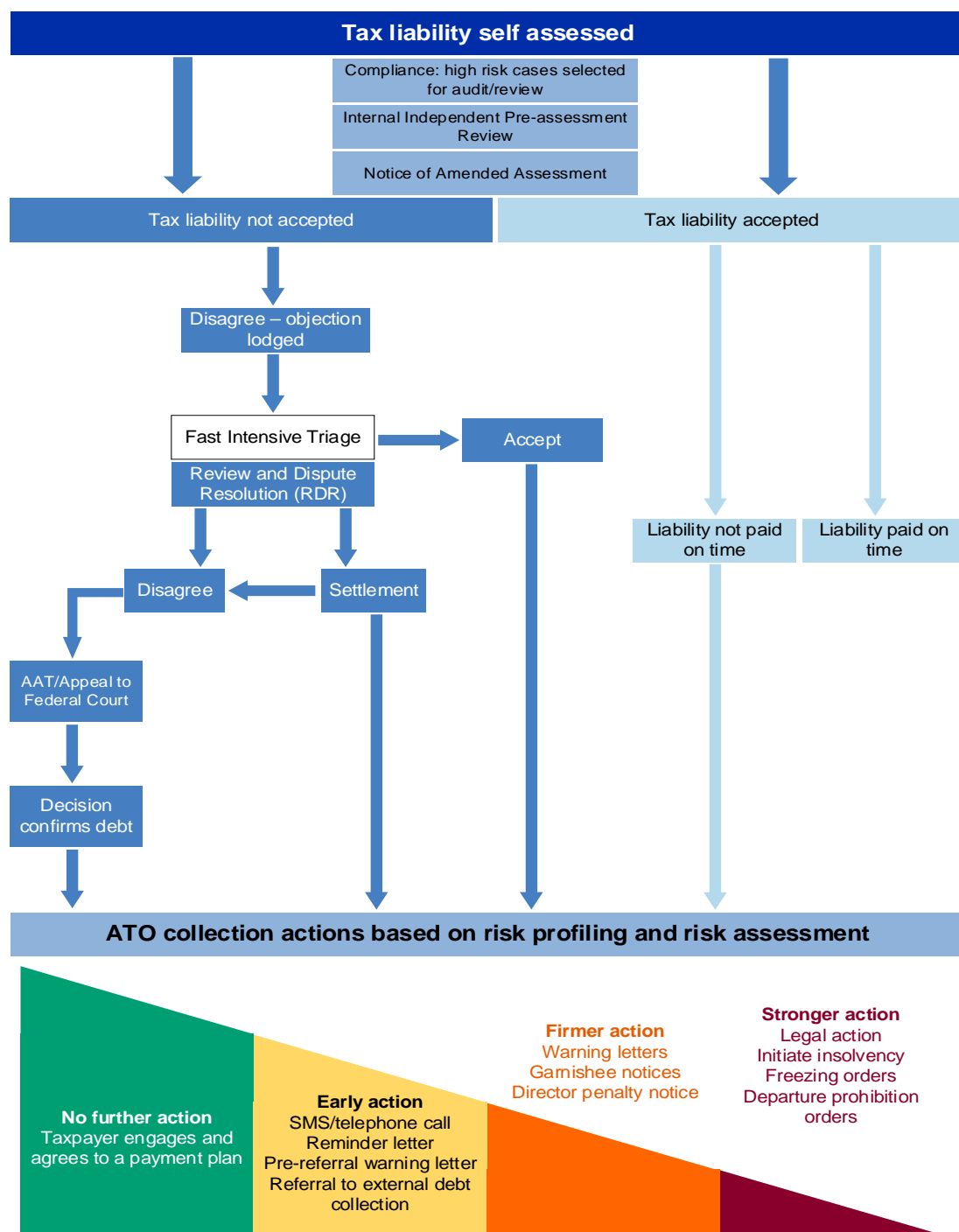
23 The Australian Public Service Commission conducts an annual survey on views and perceptions of staff working in their agency and the Australian Public Service more broadly. Results are reported in the annual State of the Service report by the Australian Public Service Commissioner. In addition, agency specific reports are provided to APS agencies with de-identified agency results benchmarked against the APS average.

24 The Hon Stuart Robert MP, (Assistant Treasurer), 'Backing small business – easier, cheaper and quicker access to resolve tax disputes', media release, Canberra, 29 November 2018.

25 The Hon Stuart Robert MP, (Assistant Treasurer), 'Backing small business – simplifying and resolving tax disputes', media release, Canberra, 12 February 2019.

Service Delivery Group as previously shown in Figure 1.4. Effective coordination across the three groups is required to support the experience of the taxpayer and payment of tax debts.

Figure 2.4: The ATO's processes for managing small business debts associated with compliance activities and disputes



Note: The representation of the collection actions is not to scale. The ATO advised that just over 1 per cent of debt cases are subject to firmer action while less than 1 per cent are subject to stronger action.

Source: ANAO, based on ATO processes.

Small Business Assurance (compliance)

2.19 The ATO's Client Engagement Group structure includes business lines that are responsible for managing certain tax matters and compliance activities for different market segments. Compliance activities include an audit of the taxpayer's records to determine whether correct amounts were calculated and reported by the taxpayer. Alternatively, the ATO may conduct a more narrow review to verify a line item on an income tax return — such as a specific income amount, deduction, or credit. As part of its compliance activities, the ATO may compare information from third parties to determine whether taxpayers accurately reported income. The ATO also has data analytic models to detect and target groups of taxpayers operating outside the taxation system or individuals not fully disclosing their income. The ATO's selection models are systems-based, informed by data matching using ATO held data and governed by risk factors. These risk factors include discrepancies and errors in reporting, whether the taxpayer is in a high-risk industry, non-lodgement and unexplained wealth. The ATO advised that it has also been able to detect non-compliance using real time data from single touch payroll and superannuation reporting.²⁶

2.20 Within the ATO's Client Engagement Group, a separate Small Business line was established in November 2015 to focus on the small business market. The Small Business line included the Small Business Integrity and Cash and Hidden Economy branches. The Small Business line undertakes compliance activities for small business (defined as turnover of up to \$10 million) and includes providing advice, taxpayer education and support, and auditing high-risk cases. It is also responsible for Employer Assurance²⁷ for all businesses.

2.21 The transfer of knowledge and case information from the Small Business line to the debt and dispute areas of the ATO enables a more tailored approach to debt and dispute management. The ATO advised that when high risk cases are identified for audit, if a debt is considered likely Debt staff are engaged. In a similar way, when an objection is lodged the case is handed over to Review and Dispute Resolution (RDR). Early and effective engagement with Debt and RDR by the Small Business Assurance Group is important to avoid delays in recovering debts, while balancing taxpayers' rights to fair dispute processes. There have been recent improvements in processes to better integrate compliance, dispute and debt processes, including:

- commencing *Payment Thinking* (refer paragraph 2.37);
- developing a risk matrix for triaging serious debt cases (paragraph 2.34);
- updating guidance material to support closer collaboration between Debt and Compliance areas (paragraph 2.40); and
- trialling independent pre-assessment reviews for small business (paragraph 2.27).

2.22 The Small Business Experience Forum organised by the Small Business line is attended by ATO staff from business lines that contribute to the Small Business Experience, including Debt and RDR. In addition, the Small Business line regularly meets with RDR staff to discuss compliance cases that have resulted in dispute, issues that have been identified and likely workload impacts for RDR

26 Single touch payroll software enables employers to send their employees' tax and super information to the ATO each time they run the payroll and pay their employees.

27 Employer Assurance monitors and enforces employers' obligations to their employees and contractors.

from compliance activity. ATO staff advised that the level of communication and collaboration across the three groups (Compliance, Debt/Service Delivery and Review and Dispute Resolution) has improved in recent years.²⁸

Law and Design Practice Group (dispute)

2.23 In July 2015, pre-assessment reviews, objections, litigation, and use of Alternative Dispute Resolution processes were consolidated and separated from the Client Engagement Group (formerly known as 'Compliance') into the Law Design and Practice Group headed by a Second Commissioner. The Second Commissioner Law Design and Practice is separate and independent from Client Engagement Group with different accountabilities. The role covers three main business lines of which RDR is one. This revised structure provided an opportunity to clarify and consolidate roles and responsibilities of the Law Design and Practice Group and provided capacity for a more structurally independent review by RDR staff, who are the case owners and decision-makers for objection and litigation matters. Case ownership for audit matters only remains with the business lines within the Client Engagement Group where RDR staff undertake a pre-assessment independent review as opposed to a post-assessment review²⁹

2.24 The expansion of the Law Design and Practice Group in 2015 along with Alternative Dispute Resolution processes in 2013, have allowed some disputes to be resolved at an earlier point in the dispute process. As a result, fewer cases are going to litigation, with the number of objections resulting in litigation falling from 36.0 per thousand in 2013–14 to 15.8 per thousand in 2017–18.³⁰

2.25 In 2017, the ATO introduced two additional dispute resolution initiatives designed to improve the taxpayer experience by promoting fairness and resolving a dispute as early as possible:

- Fast Intensive Triage was established to process clearly allowable disputes as early as possible, and otherwise promptly triage the objection to the ultimate decision maker. The performance target is to complete or triage within ten working days of allocation. In 2017–18, 54 per cent of cases were triaged or resolved within 10 days.

28 Two process improvements were identified by ATO staff resulting from cross-business line collaboration. Firstly, the 'non-lodgement process', where the ATO phones a client rather than sending a letter advising of a potential default assessment, and doesn't send a default assessment unless a phone conversation has taken place. This change was based on advice from RDR that noted a spike in objections lodged when default assessments were issued. Secondly, the ATO re-opening a case within 30 days if the client provides new information, rather than the client having to lodge an objection to provide the information. Currently this procedure is applied to selected audits and products but the ATO is looking at rolling this out more widely within the Client Engagement Group.

29 The establishment of an independent review mechanism was in response to recommendations from the House of Representatives Standing Committee on Tax and Revenue and Inspector-General of Taxation in 2015. House of Representatives, Standing Committee on Tax and Revenue, *Tax disputes* [Internet], p. 108, available from https://www.aph.gov.au/Parliamentary_Business/Committees/House/Tax_and_Revenue/Inquiry_into_Tax_Disputes/Report [accessed 11 April 2019].

Inspector-General of Taxation, *The Management of Tax Disputes* [Internet], January 2015, p. 120, available from https://cdn.tspace.gov.au/uploads/sites/16/2015/04/management_tax_disputes.pdf [accessed 11 April 2019].

30 Objections cases are counted on a correspondence basis (for example, if a taxpayer lodges three separate objection applications, each for a different year of return, it will be counted as three objections).

- Dispute Assist is a service provided by RDR staff to support and help unrepresented small business or individual taxpayers navigate the dispute process, including debt. In 2017–18, the ATO supported 250 taxpayers.

2.26 As Table 2.1 shows, over the past three years a significant number of disputes are being resolved at an earlier stage through the intervention of Fast Intensive Triage with fewer objections recorded in 2017–18.

Table 2.1: Number of small businesses using ATO dispute resolution services

| | 2015–16 | 2016–17 | 2017–18 |
|--|---------|---------|---------|
| Objections | 9,660 | 9,210 | 8,204 |
| Resolved by <i>Fast Intensive Triage</i> | — | 3,617 | 4,859 |
| Settlements occurring at objection | 48 | 43 | 32 |
| Administrative Appeals Tribunal applications | 175 | 144 | 143 |
| Administrative Appeals Tribunal decisions | 33 | 35 | 24 |

Source: ATO.

2.27 Independent pre-assessment reviews have been extended from large corporates to small business from 1 July 2018 on a trial basis as outlined in paragraph 2.17. An ATO interim evaluation resulted in the trial being expanded nationally in October 2018 to businesses with a turnover of less than \$10 million. As at 15 October 2018, there had been 12 requests for an independent pre-assessment review from these businesses.

2.28 Reports on objections raised by small business are provided to the Client Experience Group by RDR on a quarterly basis. These reports provide an analysis of the number, impact and outcome of objections over time. The reports also identify the number and impact of objections arising from ATO audit or compliance activity through the use of a project code that can link objections to the initial audit adjustment and can track on a case by case basis when a dispute is resolved. This provides the basis for feedback to the compliance officer on the sustainability of the audit decision. In addition, debt officers are advised of the outcome of the dispute by RDR at the conclusion of the dispute/objection process.

2.29 More recently, the ATO has taken steps to measure perceptions of fairness through taxpayer surveys.³¹ The 2018–19 survey included questions as to whether: the taxpayer’s individual circumstances were taken into account; the ATO makes unbiased decisions; and timeframes for requesting information were reasonable. The ATO has advised there may be scope for specific

31 In its 2017–18 Annual Report, the ATO reported that 54 per cent of survey participants considered that the disputes process was fair and 66 per cent believed that the process was fair for audits, advice or private rulings. Results for fairness of debt processes were not reported for 2017–18, however 72 per cent of respondents in 2016–17 considered that the debt process was fair.
Australian Taxation Office, *Commissioner of Taxation Annual Report 2017–18* [Internet], p. 196.

survey results to be linked to debt interactions or dispute, and to disaggregate results by client experience populations.³²

Recovering disputed debt

2.30 Unlike commercial debts, the law permits the ATO to recover tax debts arising from disputed assessments before those disputes are resolved and appeal rights exhausted.³³ The ATO's approach to recovering disputed debts is based on the risk of non-payment of the debt. Where the ATO considers the dispute 'genuine' with a lower non-payment risk, the ATO's policy is to not pursue the debt until the dispute is resolved. The ATO can request or offer the taxpayer a '50/50 arrangement', and the taxpayer can also voluntarily enter into this arrangement to minimise exposure to the General Interest Charge. Under a 50/50 arrangement taxpayers are required to pay all undisputed amounts and 50 per cent of the disputed debt excluding penalties. Where a taxpayer chooses not to enter into a 50/50 arrangement and there is an unacceptable level of risk associated with the case, the ATO may commence recovery action.

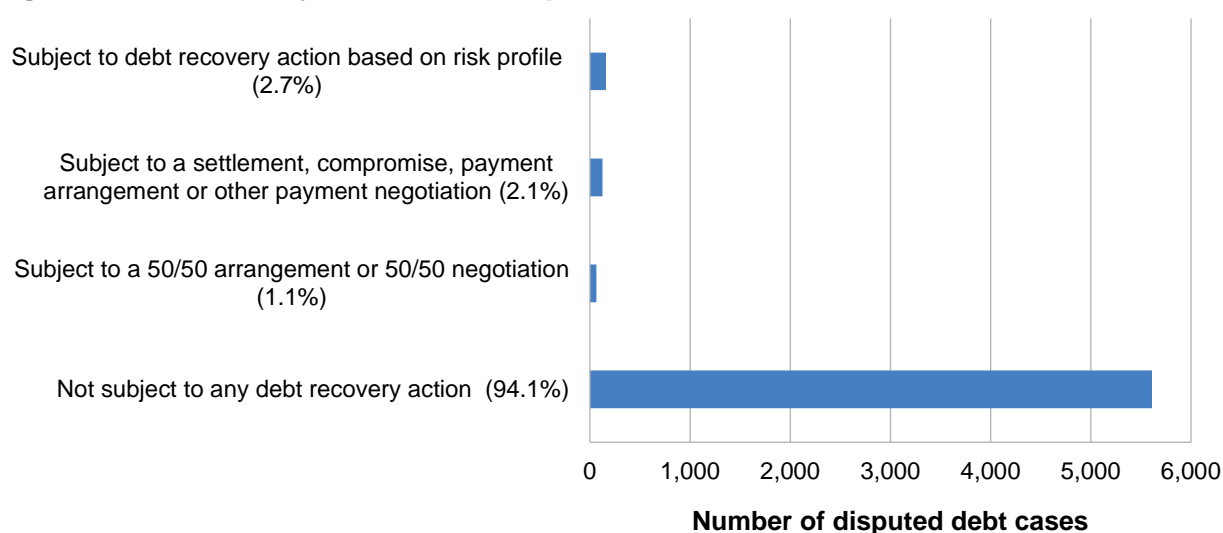
2.31 Figure 2.5 shows that in the vast majority of cases, debt recovery action is suspended when there is a dispute — only 2.7 per cent was subject to formal recovery action. This data relates to all debt cases, as at 31 October 2018, and the ATO could not separately identify small business cases. Despite the low incidence of recovery action on disputed debt, the Australian Small Business and Family Enterprise Ombudsman included this issue as one of four overarching issues for small business in her submission to the Treasury review. It was also the source of questions at recent Senate Estimates.³⁴ In this respect, submissions by the Australian Small Business and Family Enterprise Ombudsman as part of the Treasury review focused on the inappropriate use of garnishee powers following an audit or dispute.

32 The survey methodology has evolved since 2015 and underwent significant changes in 2017–18 and 2018–19, leading to some difficulties in trend analysis. In 2017–18, 3,154 telephone interviews were conducted, of which 910 represented micro-businesses and 674 represented small and medium enterprises.

33 Australian Taxation Office, Practice Statement Law Administration (PS LA) 2011/4 *Collection and recovery of disputed debts*, paragraph 11, available from <https://www.ato.gov.au/Law/#Law>, [accessed 26 March 2019].

34 Commonwealth, *Proof Committee Hansard - Estimates*, p. 77, Senate Economics Legislation Committee, 5 April 2019, Senator D Spender. See also Committee Hansard for 20 February 2019, 24 October 2018 and 30 May 2018.

Figure 2.5: Recovery of debt from disputed cases, as at 31 October 2018



Source: ATO.

2.32 The decision to put the debt on hold requires a dispute indicator to be manually activated on the account so that the automated debt recovery action does not proceed. Before raising the dispute indicator, the RDR officer needs to consider whether the dispute is a valid objection and to evaluate the risks associated with the case.³⁵ It is difficult to determine the magnitude of any delay as the ATO is not able to report on the time taken to place a debt on hold. The ATO advised that it has identified opportunities for process improvements, including to expedite the implementation of dispute indicators across multiple assessments.

2.33 More broadly, the ATO advised that as part of improving the small business taxpayer experience, it is looking at ways to better support taxpayers who choose to exercise their right to object. This includes examining coordination across the ATO to ensure debt activities and review rights work seamlessly.

Firmer and stronger action

2.34 The ATO's Review and Dispute Resolution branch becomes involved in Debt's recovery measures when the ATO uses the legal system to pursue firmer and stronger action measures — for example, freezing orders, injunctions, insolvency, reviews of decisions and complex security arrangements. Significant Debt Management's Formal/Legal Recovery teams have proposed a risk-based matrix for triaging serious debt cases that may require legal action allowing for more appropriate and timely intervention. This process will allow formal/legal recovery teams to review, classify risk and triage cases delivered from the debt systems (Siebel and Receivables Management System) to assess the next best action.

Service Delivery Group (debt recovery)

2.35 The ATO's debt management strategies have evolved since the establishment of the Debt Business line in the early 2000s to manage debt collection and seek to apply appropriate approaches across debt types. The consolidation of debt management activities in a single business line was

³⁵ While a dispute indicator is applied through an automated process for income tax (through a twice-weekly system run), it is applied through a manual process for other taxes. The two processes exist because tax liabilities are not maintained in one system, as outlined in Figure 2.3.

intended to increase the consistency of applying debt recovery treatments across the ATO. Prior to the establishment of this business line, debt was managed in various business lines dealing with particular types of taxpayers or types of taxes.

2.36 The Debt Business line initially had five units — Early Collections, Firmer Action and Strategic Recovery and two enabling/operational support branches. In 2014, the Debt Business line restructured into four areas of work — Early Intervention, Significant Debt Management, Relationship and Stakeholder Management and Strategy Implementation. This new structure sought to focus more effort on prevention, early engagement and evidence based strategy reflecting the tenets of ‘Reinventing the ATO’.

2.37 *Payment Thinking* is a key initiative designed to ensure that the knowledge and insight gained from the compliance audit process is used in recovering the debt as efficiently as possible. The ATO’s *Corporate Plan 2018–19* identifies *Payment Thinking* as a strategic initiative to ‘make payment an easy and natural part of activities across all stages of tax and superannuation.’ *Payment Thinking* approaches have been trialled by the ATO for several years, including through training delivered to the ATO’s compliance areas (within the Client Engagement Group). While work on the *Payment Thinking* initiative is still in the discovery phase with trials conducted as early as 2015, the ATO has not established an implementation plan or monitoring framework to evaluate the initiative’s impact.

2.38 The ATO has recognised that a cultural shift is required to embed *Payment Thinking* in compliance processes across the ATO. Training on payment conversations has been provided to over 800 active compliance officers. These staff are trained to use the same procedures and decision-making tools as Service Delivery staff. Payment arrangements that are input by compliance officers are monitored through monthly reporting.

2.39 The ATO advised the ANAO that *Payment Thinking* has improved collaboration between the Compliance and Debt units. In the past, when a tax debt was raised it was handed over by compliance staff with little consideration of how the debt was to be paid. In 2017–18, compliance staff negotiated 4756 payment plans worth \$153.8 million — over a tenfold increase to 2015–16 when 437 payment plans worth \$14.3 million were negotiated.

2.40 Guidance material has been updated to support closer collaboration between Debt and Compliance particularly in relation to firmer and stronger debt cases. Electronic versions of procedures are available on the intranet or through Script Manager and Reference Tool scripting. The procedures note that ‘Active Compliance officers are expected to have a payment conversation with taxpayers about the payment of liabilities raised through active compliance activity and where appropriate, provide Debt with information and intelligence collected during the audit that can assist with collection. Debt is then responsible for taking collection action where payment is not received or cannot be negotiated.’

2.41 A final report of the Future Approach Project³⁶ identified the importance of developing a more coordinated and connected approach with recommendations to:

36 The Future Approach Project was established to investigate the work types, workforces and work processes across the Client Engagement and Service Delivery Groups with a view to improving efficiency and effectiveness. The report, finalised in October 2018, identified 19 recommendations for potential improvement.

- accelerate a single view of the client with a joined-up approach to operational risk;
- establish a common understanding of the value chain of operations across the ATO; and
- establish clear accountabilities and agreed service commitments between business lines.

2.42 More generally, there is a recognition within the ATO Executive that further work is needed to strengthen coordination across the three groups (compliance, debt and dispute). In April 2018, the Client Engagement Resources and Investment Committee noted the importance of ‘working with Service Delivery to better connect planning in an end to end way because of the link between Client Engagement activities and the impact different strategies can have on debt’.³⁷

Does the ATO use international practice, stakeholder views and continuous improvement to inform changes to debt strategies and processes for small business?

The ATO has used international practice and stakeholder views to inform debt strategies and processes for small business, including: drawing on other tax administrations internationally; the Organisation for Economic Co-operation and Development; and various small business stakeholder forums that involve small business operators, intermediaries and representatives from federal and state agencies. More recently, the ATO has introduced a continuous improvement strategy based on analysis of complaints received.

2.43 The ATO liaises regularly with other tax administrations internationally, and engages in forums such as the International Debt Management Committee. This committee includes representatives from the United Kingdom, United States, Canada, New Zealand and Australia, and meets quarterly to discuss common issues and share better practices.

2.44 The ATO participates in an Organisation for Economic Co-operation and Development (OECD) Tax Debt Management Network that involves a bi-monthly telephone hook-up. The ATO provides information on its organisation, processes and performance for the OECD’s *Tax Administration Series* publications that provide comparable information on the fundamental elements of tax administration systems, since the OECD published the first edition in 2004.³⁸

2.45 The ATO also conducts research and environmental scans to identify better practices, including through its Debt International Relations team. This has resulted in the implementation of several key initiatives affecting small business debt collection including:

- **Payment Thinking:** Discussed earlier, *Payment Thinking* was adopted from Sweden and formally introduced at the ATO as a corporate initiative in 2018.
- **Behavioural Insights:** The ATO applies behavioural insights principles across a range of activities including debt collection – for example, SMS messages to prompt payment and

37 Improved coordination across the ATO has been the subject of various recommendations, including in the House of Representatives, Standing Committee on Tax and Revenue, *2017 Annual Report of the Australian Taxation Office: Fairness, functions and frameworks – performance review* [Internet], February 2019, p. 179.

38 *Tax Administration Series 2017* is part of an OECD comparative series that collates and publishes comparable data to help tax administrations increase the efficiency, effectiveness and fairness of tax administrations and reduce the costs of compliance. Fifty-five tax administrations participated in *Tax Administration Series 2017*. OECD, *Tax Administration 2017: Comparative Information on OECD and Other Advanced and Emerging Economies* [Internet], available from https://doi.org/10.1787/tax_admin-2017-en [accessed 1 March 2019].

targeted letter design. The ATO established a Behavioural Insights unit in 2016 through collaboration with the equivalent area in the UK tax administration.

- Research into drivers of small business debt: In January 2014, the ATO commenced a project on 'Attitudinal and Behavioural Research on the Prevention of Aged Debt', which is based on similar work conducted by New Zealand's Inland Revenue Department (IRD) in 2011. The research was designed to better understand the drivers for the accumulation of tax debt by small businesses and identify compliance strategies to encourage timely payment of taxation liabilities, thereby, preventing the accumulation of debt.

Consultation with stakeholders

2.46 The ATO undertakes consultation with the community through a network of consultative forums, which it uses to engage with stakeholders, including industry representatives, tax professionals, software developers and business representatives.

2.47 The ATO has established nine ongoing stewardship groups to represent each of ATO's market or product segment with one of the stewardship group dedicated to small business. The Small Business Stewardship Group aims to provide insight into issues that small business faces and identify opportunities to improve the tax and super system so that it is easier for small business to pay their tax liabilities. The Australian Small Business and Family Enterprise Ombudsman and the Chief Executive Officer of the Council of Small Business of Australia advised the ANAO that this group 'works well' and that the ATO is generally responsive to feedback and issues raised by the group members.

2.48 In addition, in 2014 the ATO invited small businesses to join a Small Business Consultation Panel to participate in workshops, research sessions and focus groups and provide the ATO with feedback on various initiatives, processes and documentation from a small business perspective. Panel members have assisted the ATO in developing tailored communication initiatives for small businesses. Members of the Small Business Consultation Panel have been asked to join the Small Business Fix-it Squads. The Fix-it Squads are 'rapid-design projects' where small business owners, representatives from federal and state government agencies, and intermediaries work together to examine a problem from the small business perspective. They are led by the ATO but are a cross-agency and business operator initiative to improve the small business experience.

Information and support for small business

2.49 The ATO provides information and support to small business through a range of services including the *Small Business Newsroom* — a regular email subscription with links to articles on the ATO's website, to provide 'small businesses the right information at the right time'. Research commissioned by the ATO in 2017 indicated that the service was valued by subscribers with 77 per cent of users surveyed satisfied or very satisfied with the service. There is also the *New to Business Essential* series of quarterly emails for new businesses that link small business to whole-of-government information on the Department of Industry, Innovation and Science's website. This series was developed by the ATO's Small Business Fix-it Squad and co-designed with the Department of Industry, Innovation and Science and the Australian Securities and Investments Commission.

Complaints

2.50 The ATO uses insights from complaints to identify issues and administer improvements. The ATO receives complaints directly, or through the Inspector-General of Taxation, across a range of topics, including audit, lodgement and penalties, and debt and payments. In 2017–18, 'Debt and payments' was the sixth largest complaints topic (out of 12 analysed by the ATO), with 1,488 issues raised in this category.

2.51 The ATO has a central contact centre for the receipt and management of complaints. The contact centre identifies the issues raised by the complaint and sends it to the relevant business line for resolution. Data mining processes capture information on the key issues raised and the ATO maintains an 'issues tree' to monitor these and identify systemic issues.

2.52 Within the Service Delivery Group, an Analytics, Insights and Delivery team generates reports containing analysis of complaints and provides these to the relevant business areas. In July 2018, the Service Delivery Group developed a 'Continuous Business Improvement Strategy' to identify improvement opportunities based on complaints reporting. The strategy details complaints received since mid-2017 and associated actions taken. Most complaints were about the timing or method of payments and refunds, often due to: the taxpayer being unaware of their obligations or of ATO policies and procedures; and administrative errors resulting in the ATO acting inconsistently with its own advice. In most cases, complaints were addressed via updates to the ATO's website, procedures or scripting to ensure clearer communication with taxpayers. In 2017–18, debt and payment complaints as a proportion of debt cases were 0.03 per cent.

3. Consistent management of small business debt

Areas examined

This chapter examines whether the ATO's processes support the consistent management of small business tax debt, including debt arising from the ATO's compliance activities and subsequent disputes, within broader debt management arrangements.

Conclusion

There are limitations on the effectiveness of the ATO's processes that support consistent management of small business tax debt. The ATO has largely effective automated processes for lower impact debt activities such as prompting debtors to pay. However, quality assurance processes over firmer and stronger debt actions do not provide sufficient visibility about the effectiveness of controls.

Areas for improvement

The chapter recommends that the ATO strengthens quality assurance arrangements that apply to firmer debt actions (paragraph 3.50). There are also suggestions that the ATO: reviews the time taken to progress to firmer and stronger actions under different automated pathways (paragraph 3.12); and refines the methodology used when reviewing the *Service Delivery Assurance Program* (paragraph 3.38).

Does the ATO have processes that support consistency in progressing debt towards firmer and stronger action?

The ATO has largely effective automated processes that support ATO officers in providing tax debtors, including small business tax debtors, with prompts to pay, and progressing them towards firmer and stronger actions if debts are not paid. The processes include: risk-based guidance within relevant IT systems as to the debt pathways to use; delegation approvals to apply the debt processes; and technical aspects such as mandatory fields and audit logs. However, the ATO does not apply consistent approaches to debts relating to different taxes, and there are significant differences in the time taken to get to firmer and stronger actions under different debt management pathways, which the ATO should review.

3.1 The Debt Business line within the Service Delivery Group is responsible for the overall management of tax debts payable to the ATO. The Debt Business line was created in March 2001 to centralise all tax debt collection and so provide the capacity to build a consistent approach to debt action. Prior to that date, tax debt was separately managed in each of the various lines dealing with particular types of taxpayers or types of taxes.

3.2 Debts arising from compliance activities are not differentiated from other debt populations, but are similarly subjected to automated processing (mainly prompts regarding letters and phone calls) as high-volume low-risk cases, or manual firmer and stronger actions. Aggregate volumes and values of compliance related debts are unknown as the ATO cannot differentiate them from other debts.

Debt Right Now!

3.3 To improve the effectiveness of debt collection processes, in August 2012 the ATO introduced the *Debt Right Now!* strategy, which aimed to implement a risk-based collection model for debt case selection and treatment. The Inspector-General of Taxation's July 2015 report, *Debt Collection*, noted that prior to 2011–12, the ATO's approach to debt collection was 'random and ad hoc'.³⁹

3.4 The *Debt Right Now!* collection model involves a risk assessment based on taxpayers' 'capacity to pay' and 'propensity to pay'.⁴⁰ A case's risk assessment would identify the entry point into that linear series of treatments.⁴¹ Following entry into the flow, the treatment of debt cases consists of a consequential series of actions (refer to Figure 3.1) that progressively escalates from 'softer' automatic actions, such as reminder letters, through to 'stronger' actions, such as garnishee notices, Director Penalty Notices and, if the debts remained unpaid, wind-up or creditor's petitions.

Figure 3.1: *Debt Right Now!* Flow Timeline of Actions



Note: The time taken to progress from stage to stage varies so that, if a case commenced with a 'Blue Letter' (an automated overdue notice requesting payment), it may take from 176 days (with no referral to a private collection agency) to 262 days (with referral) to issue a Firmer Action Warning Letter.

Source: Australian National Audit Office (ANAO) summary of ATO documentation.

3.5 This debt collection model, while intended to provide an improvement in end-to-end efficiency⁴², was found by the Debt Business line (Debt) to produce bottlenecks with cases taking a 'very long time' to move through to stronger actions. The *Debt Right Now!* pathway is a partly tailored approach as taxpayers are treated the same once they reach the same stage on the path. While this process supports consistent treatment of debts — as debtors go through largely similar processes — it is not always the most effective or efficient way to collect debt as it does not differentiate based on risk once the debt has entered the pathway.

Purposeful First Action

3.6 Debt designed a new *Payment Experience* strategy expected to be delivered in two phases by December 2016, which involved implementing new automated debt treatment pathways known as *Purposeful First Action* and *Next Best Action*. Advanced analytical techniques incorporating taxpayer characteristics and behaviours would be used to predict the optimal points of intervention for debt collection. The *Purposeful First Action* approach was first deployed in November 2016 and

39 Inspector-General of Taxation, *Debt Collection*, July 2015, p. 37. Available from <http://igt.gov.au/publications/reports-of-reviews/atos-approach-to-debt-collection/> [accessed 28 February 2019].

40 The 'capacity to pay' model uses taxpayers' financial data from income tax returns and activity statements, amongst others things, to identify taxpayers at risk of insolvency; and the 'propensity to pay' model uses taxpayers' data such as the age and amount of debts, as well as prior behaviour, to identify taxpayers likely to repay their debts in full.

41 Cases with a higher risk assessment are to commence with treatments at a higher stage of intensity, such as an outbound call requesting a payment arrangement.

42 As reported by the Inspector-General of Taxation, *Debt Collection*, July 2015, p. 39.

amended after July 2018. *Next Best Action* remains in the prototype stage and a date for finalisation has not been set.

3.7 *Purposeful First Action* applies only to new Business Activity Statement debt where there was previously a nil or credit balance. *Debt Right Now!* is still being used in relation to income tax and Superannuation Guarantee debt. As such, there is a lack of consistency in the treatment of debtors in similar circumstances but with different types of debt. A debtor will generally move more quickly to firmer and stronger action for a new Business Activity Statement debt than an income tax debt. The ATO plans to apply *Purposeful First Action* to income tax debt by December 2019.

3.8 *Purposeful First Action* assesses taxpayers as they enter into debt and assigns them to a treatment pathway based on their individual compliance history and past behaviour. It determines the first appropriate action in the treatment pathway, as early as eight days after the liability due date. If a taxpayer has not been in debt before, they will be allocated the pathway associated with the lowest level of risk (Pathway 1). Where there is an existing Business Activity Statement debt, increases in debt will be streamed under *Purposeful First Action* to whatever treatment that original debt is currently at, and then follow the *Debt Right Now!* sequence of treatments.

3.9 From July 2018, *Purposeful First Action* treatment pathways were altered to allow increased attempts to contact taxpayers where a new debt exists.⁴³ The changes reduced the number of treatment pathways (from seven to six) and 'ensure every client treated by *Purposeful First Action* receives a letter and phone call (where possible) prior to taking firmer and stronger actions'. It had been identified that some cases were progressing to firmer action too quickly:

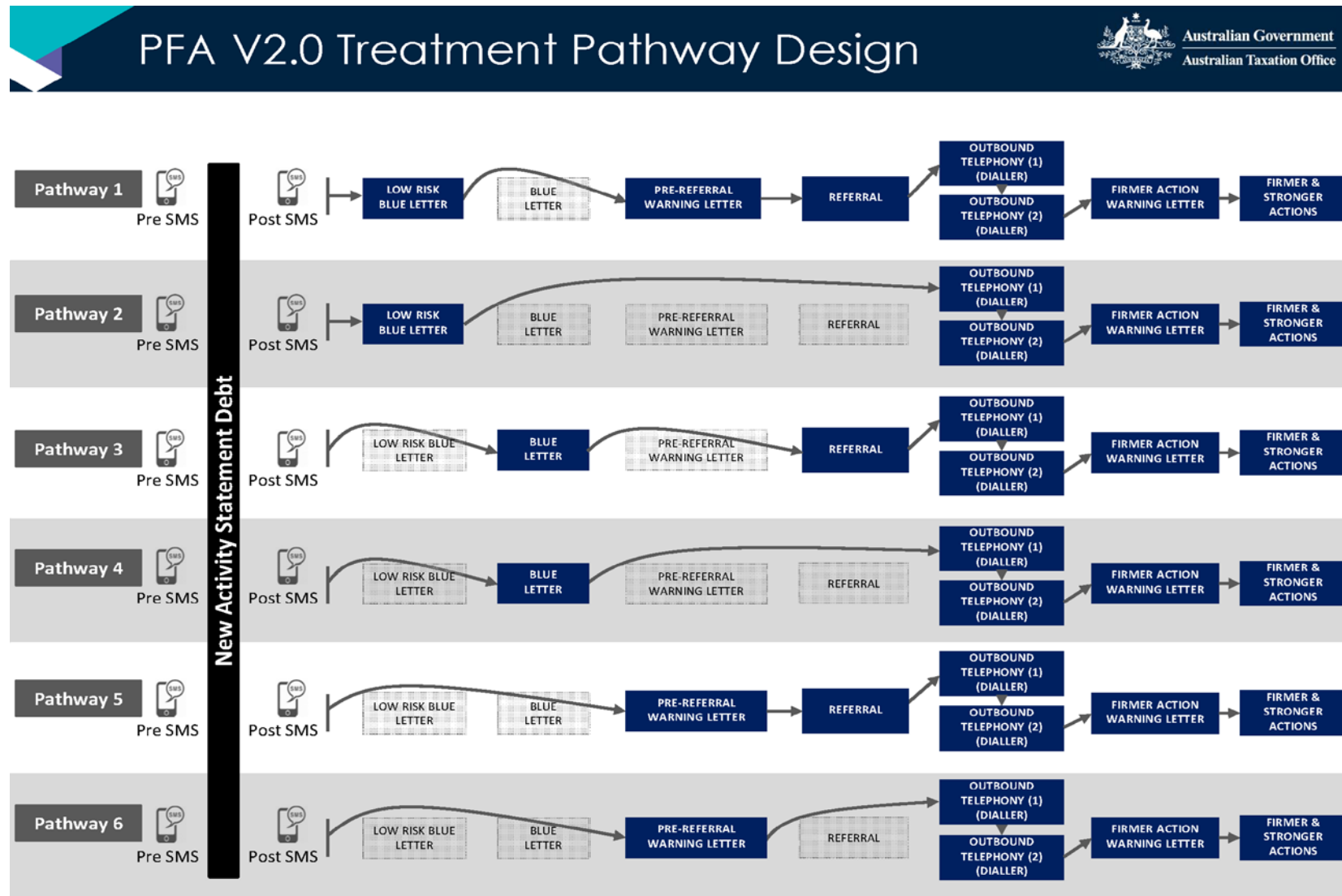
... which may not be in line with community expectations. There is a concern that clients were not fully aware of their outstanding debts and that we should make every effort to speak to clients prior to taking firmer action.⁴⁴

3.10 Figure 3.2 shows the six different pathways possible, as revised in July 2018. This revised version addresses payment compliance ahead of a liability event by identifying taxpayers who are not likely to pay on time and prompts them with pre-due date SMS messages before allocation to a treatment pathway. A post-due date SMS message may also be sent to taxpayers, within one week after the liability falls due and ahead of the *Purposeful First Action* treatment, to help remind taxpayers of their recent debt.

43 The ATO advised that common reasons for taxpayers not being aware of their debts include correspondence being sent to tax agents who do not pass it on to their client or no longer represent that client, and taxpayers not accessing correspondence provided through their myGov account.

44 ATO, Executive summary, *Enhancing Purposeful First Action (PFA) to improve its effectiveness*, 25 July 2018.

Figure 3.2: Purposeful First Action treatment pathways



* Not all candidates will receive an SMS.

Source: ATO, *Enhancing Purposeful First Action to improve its effectiveness*, 25 July 2018.

3.11 The pathways provide a variety of ways for warning taxpayers to pay their debts, in terms of the mix of prompts, and also varies the time taken to get to firmer and stronger action (from 149 days to 579 days)⁴⁵, during which time the taxpayer accumulates interest. For example, taxpayers deemed a low risk to the ATO would be allocated to Pathway 1 and receive a 'low risk blue letter' as the first treatment. Taxpayers who represent the highest risk to the ATO, as indicated by analytics, are allocated to Pathway 6. This taxpayer group is often late to lodge and pay, and has significant numbers of outstanding lodgements.

3.12 Key issues for the consistency of automated debt processes are not so much the sequence of warning prompts, but the time taken to reach firmer and stronger action for debtors with a similar debt nature and history profile, and then the application of those actions. With respect to timing, the ATO could examine whether the difference in time to firmer and stronger action in the six pathways is warranted.

3.13 The debt management pathways, including the timing, are determined by predictive analytics in line with the ATO's tailored approach to debt. Different pathways have consequences in the timeliness of the ATO taking firmer and stronger actions. The automated process controls, as discussed below, help to ensure that the processing to firmer and stronger action through *Debt Right Now!* or *Purposeful First Action* is sound.

Next Best Action

3.14 A further initiative of the *Payment Experience*, originally planned to be implemented from December 2016, *Next Best Action* is still at the prototype stage as the ATO develops the required analytics. It aims to scan and analyse the entire debt population to determine the best 'next' action to use in any given circumstance—picking up from *Purposeful First Action* by looking for event triggers, such as escalating debt or defaulted payment plans, that highlight the need to change from the original treatment pathway to a re-assessed pathway. The model is intended to increase the likelihood of debt resolution by determining a customised treatment path for every case, tailored for the taxpayer based on risk.

Automated process controls

3.15 Automated risk-based rules are applied to data from the data warehouse⁴⁶ to determine at which point to commence action for each case:

- Operational Analytics supports *Debt Right Now!* (refer Figure 3.1), outlining to the user the suggested stage or action within this pathway for the management of income tax and other debts via Siebel; and
- Online Analytics applies automated rules to determine which *Purposeful First Action* pathway to apply to a case, based on taxpayer profiles. These pathways (refer Figure 3.2)

45 The ATO advised that the difference in time to firmer and stronger action in the six pathways is due to a case being referred to an external collection agency which adds around three months to the timeframe. The time taken to action a case can also be influenced by a number of factors such as resourcing availability, processing times, staff capability and client engagement levels.

46 Chapter 2 discusses the ATO's information systems used for the management of tax debt.

represent the initial stages of the debt management cycle in the Receivables Management System for Business Activity Statement debts.

3.16 While these initial stages are largely automated⁴⁷, when a debt case arrives at the firmer and stronger action stage, a work type such as a Director Penalty Notice is delivered to a debt officer for actioning. Debt collection officers are required to consider the circumstances of each case and make a decision to proceed or choose an alternative action. This means that cases that progress to firmer and stronger actions do so on the basis of the officer's judgement.

3.17 The presence of various controls in both the Receivables Management System and Siebel supports consistent application of the automated stages. For example, data captured into these systems have a number of mandatory fields to support consistent administration, including tax file numbers, case identifiers and a record of decisions made. There are also audit logs of all actions performed both automatically and by users within the two systems.

3.18 In addition, there are access controls in both systems. In the Receivables Management System, access controls and delegation approval limits restrict debt cases to staff with appropriate expertise. Within Siebel, staff are subject to system access controls, however they are not subject to delegation approval limits.⁴⁸ Supervisory approval is not required by either system (as a mandatory field), notwithstanding that ATO procedures state that approvals are to be recorded in Siebel.

3.19 The Receivables Management System and Siebel allow significant discretionary decision making by debt officers. Given this system design, quality assurance is a critical control to provide confidence that these decisions are correct.

Does the ATO have effective controls to ensure consistent firmer and stronger debt action for small business tax debt?

The ATO has partially effective controls, including quality assurance processes, over debt actions including firmer and stronger actions for small business tax debt.

The Service Delivery Quality Framework undertakes extensive assessments — in the order of 5,000 per month across all service delivery activities — which are used for coaching and quality assurance purposes. However, the Service Delivery Quality Framework has not produced results that readily or reliably indicate the extent to which administrative errors have impacted the taxpayer or tax revenue. There has also been no set tolerances for errors in important administrative actions such as firmer and stronger debt recovery actions, against which to measure actual performance. The redesign of the Service Delivery Quality Framework provides an opportunity for the ATO to enhance quality assurance arrangements for high-risk debt activities, including those involving small business.

The ATO has developed a corporate quality system, ATO Quality, to provide assurance that its actions meet community expectations and standards. More recently, this quality system has

47 The automated pathways are designed so that manual intervention is possible, to allow for alternative actions where appropriate.

48 Team leaders distribute work in Siebel through an automated process that takes into consideration the level of experience and the capability of staff to undertake the management of a given case, although it can be manually overridden.

adopted a risk-based approach with a number of limitations, including that: the sampling methodology is not sufficiently robust to provide assurance over a representative body of ATO work; and ATO Quality reporting does not identify trends for critical errors in relation to firmer and stronger debt action.

3.20 Controls over decisions made by ATO operators, such as authorisation and oversight should provide confidence that decisions are correct. ATO governance practices should also include quality assurance processes for the management and oversight of risk and controls that identify opportunities for systemic improvements.

3.21 The *Service Delivery Quality Framework* was deployed across Service Delivery in December 2014 and consists of two components: Service Delivery Quality and Coaching and the Service Delivery Assurance Program. Service Delivery Quality and Coaching replaced the previous quality assurance processes that separately existed in the three Service Delivery business lines.⁴⁹ In addition, Service Delivery as a Group participates in the corporate ATO Quality Framework along with other ATO Groups.

Service Delivery Quality and Coaching

3.22 The intent of the *Service Delivery Quality and Coaching* framework is to provide front line staff with 'useful feedback and to identify the coaching needs of these staff members.'⁵⁰ The *Service Delivery Quality and Coaching* framework has five 'critical' criteria and three 'non-critical' criteria.⁵¹ Critical criteria are those that affect the ultimate outcome while non-critical criteria do not impact the overall assessment. At the time of the audit, the ATO was revising the *Service Delivery Quality Framework* and considering reducing the criteria from eight to three (professionalism, integrity and resolution) following consultation with staff. The ATO advised that a revised framework commenced in January 2019.

3.23 *Service Delivery Quality and Coaching* focuses on single activities rather than end-to-end case management. The majority of assessments for debt cases are for low-risk, high-volume activities (such as telephony), although the assessments also include firmer and stronger debt actions that involve judgement and discretionary decisions by debt case officers. Samples for assessment are selected from a pool of activities uploaded into the Quality Assurance Management System database that comprises one random activity or phone interaction from each staff member every day.⁵² Quality assessors work within the business line and must be accredited to undertake this work. Feedback (both positive and negative) is to be provided to the assessed staff member within 48 hours if considered necessary. Ongoing and non-ongoing staff with sustained performance generally receive one assessment per month from this pool of activities; casual staff

49 These were Debt, Customer Service and Solutions, and Client Account Services. The Service Delivery Group now comprises Debt, Client Account Services, Strategy and Support, and Business Reporting and Registration.

50 ATO, *Service Delivery – Quality Assessor User Guide*, 26 September 2018, p. 5.

51 'Critical' criteria are: proof of record of ownership, privacy and secrecy; ATO values, behaviours and Code of Conduct; system use; interaction handled efficiently/effectively; and correct/effective resolution. 'Non-critical' criteria are: correct interpretation; communication style; and protocols, guidelines and procedures.

52 The ATO has advised that under the revised Service Delivery Quality Framework (discussed in paragraph 3.21), the sample size and frequency of quality assurance for each operative will be determined by proficiency in delivery quality outcomes and the level of risk to the client and the ATO.

receive two assessments; and staff with below standard performance (as determined by previous quality assessments) receive three assessments. Team leaders can request additional assessments for coaching purposes.

3.24 Approximately 5,000 assessments are completed across all of Service Delivery every month. Assessment targets, however, are not always met.⁵³ A separate team provides assurance over quality assessments through a ‘check the checkers’ process that takes a random sample of assessments each month and re-performs the assessment.⁵⁴

Reporting

3.25 Until January 2018, monthly reports were provided to the Debt Executive with details of assessment results for the Quality and Coaching Framework. Subsequently, reporting has been suspended pending implementation of a revised *Service Delivery Quality Framework*. As at December 2018, statistical summaries are still provided through dashboard reporting.

3.26 The ATO cannot target assessments towards activities related specifically to the small business market, or produce reports summarising outcomes of assessments by market segment. Assessments are categorised by an operator’s business area (such as Debt Early Intervention or Significant Debt Management) and location, or by the nature of the work type (telephony or non-telephony).

Service Delivery Assurance Program

3.27 In 2015, the ATO established the *Service Delivery Assurance Program* as an assurance program for ‘high-risk products’ that uses the results of the *Service Delivery Quality and Coaching* framework. Reporting of eight debt-related ‘high-risk products’⁵⁵ is staggered across a quarterly reporting timeframe using the same criteria as for the coaching framework.

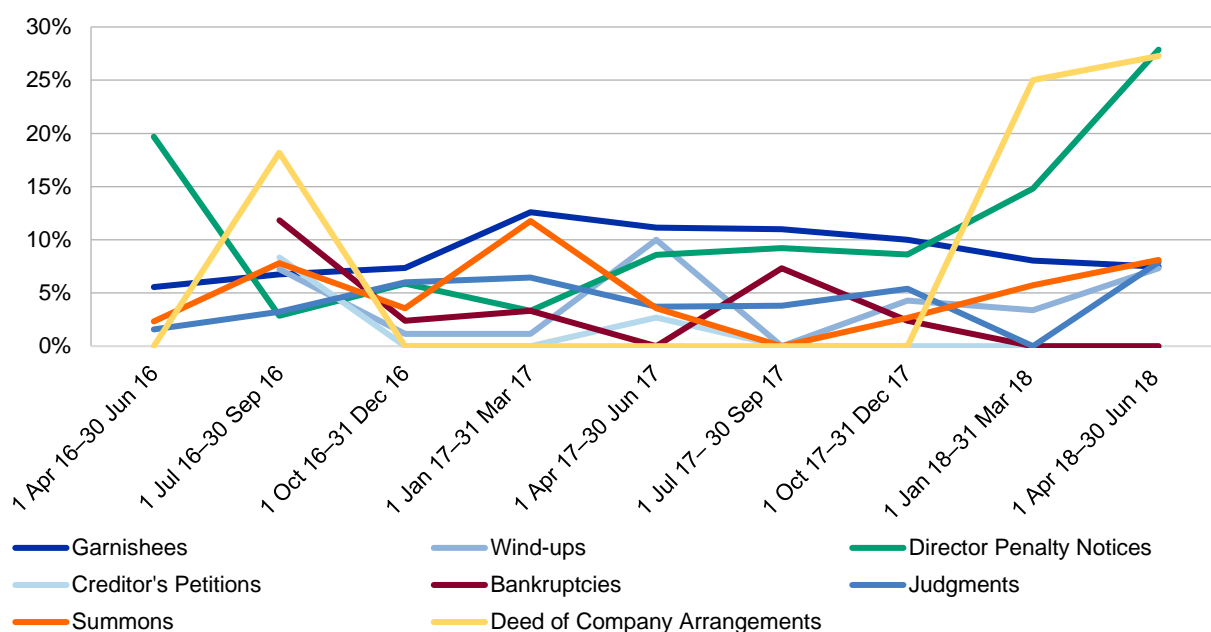
Results

3.28 Results from the *Service Delivery Assurance Program* are based on the individual coaching assessments, and include an overall assessment of whether the standard was met, or not, for each assessment. Figure 3.3 shows, for the eight high-risk debt activities, the proportion of sampled activities that Service Delivery determined did not meet the standard overall. While there was significant variation over time and between activity types, around seven per cent of the cases selected for assessment were found to have not met the standard as defined by the *Service Delivery Quality Framework*. Issues leading to a ‘standard not met’ assessment can range from minor administrative errors (for example, poor note keeping) to actions with a more direct impact on the taxpayer or the ATO’s revenue.

53 From July 2017 to December 2018, the average completion rate of assessments compared to the targets was 75 per cent.

54 Service Delivery aims to check at least one assessment for every assessor each month. As an indication, of 710 assessments carried out within Debt in January 2018, it was reported that 25 (3.5 per cent) were reviewed through the ‘check the checker’ process.

55 These eight products (or activities) are: garnishees; director penalty notices; judgments; summons; deed of company arrangements; bankruptcies; creditor’s petitions; and wind-up applications. Debt identified these activities when introducing the program, as part of a group of 13 potential high-risk activities. Five high-risk debt activities were excluded largely due to the perceived strength of existing controls—freezing orders, securities, departure prohibition orders, release and compromise, and non-pursuit.

Figure 3.3: High-risk debt activities — ‘standard not met’, April 2016 to June 2018

Notes: Due to the overlapping reporting periods, results are reported in the quarter in which the majority of assessments were undertaken.

Deeds of company arrangement are relatively few in number and are not assessed in every quarter, resulting in a reading of 0 per cent in the above figure.

The ATO advised that the increase in the ‘standard not met’ ratings for Director Penalty Notices was due to increased quality assurance assessments, undertaken to support evaluation of system and process changes.

Source: ANAO, from ATO Service Delivery High Risk Product Reports.

3.29 In response to the ANAO’s analysis shown in Figure 3.3, the ATO advised that the results do not necessarily imply the taxpayer was adversely impacted.⁵⁶ This highlighted weaknesses in the *Service Delivery Assurance Program*, as it did not produce results that readily or reliably indicated the extent to which administrative errors impacted the taxpayer or the ATO, as intended under the program. The criteria used by assessors to determine ‘standard not met’, and the resulting assessments, covered a broad range of errors.⁵⁷ It is important that the revised Service Delivery Quality Framework ensure that criteria clearly distinguish errors that result in an adverse outcome for the taxpayer, the ATO or both parties.

3.30 It is also important that the revised framework include tolerances for errors in important administrative actions such as firmer and stronger debt recovery actions. The level of tolerance is an important parameter in the design of quality assurance arrangements, as these arrangements would be more extensive the lower the tolerance. Another consideration in setting tolerances is the ease with which the ATO can correct errors, which is often not straightforward in firmer and

56 The ATO advised the ANAO that it analysed a sample of 1,482 debt cases from January 2018 to June 2018 and found that of the 5.9 per cent that received a ‘standard not met’ assessment, approximately 43 per cent (or 2.5 per cent of the total cases assessed) had an impact on the taxpayer. The ATO did not determine whether this was a negative or neutral impact, noting that this would require substantial manual effort.

57 Under the Service Delivery Quality Framework, ‘standard not met’ is defined as: ‘Expectations were not met and the incorrect outcome was achieved for the client and the ATO’. For a ‘standard not met’ assessment to be made, any one of the five critical criteria must be graded as not meeting the standard, or there are four identified instances of ‘standard met with feedback’. A ‘met with feedback’ assessment can be made for a number of reasons, such as: the incorrect naming convention was included in the notice; the notice did not include the financial institution’s account number; or a copy of the notice was not attached to Siebel.

stronger debt actions affecting the taxpayer. The ATO has advised that under the revised Service Delivery Quality Framework, it will be setting acceptable tolerance levels for critical errors.

Reporting

3.31 Service Delivery issues quarterly quality assurance reports in relation to the eight high-risk debt activities detailed in Figure 3.3. These reports include the recommended sample size, number of completed assessments, analysis of findings against each of the eight criteria and an overview against these findings. The reports also summarise the corrective actions taken in that quarter, main issues and recommendations.

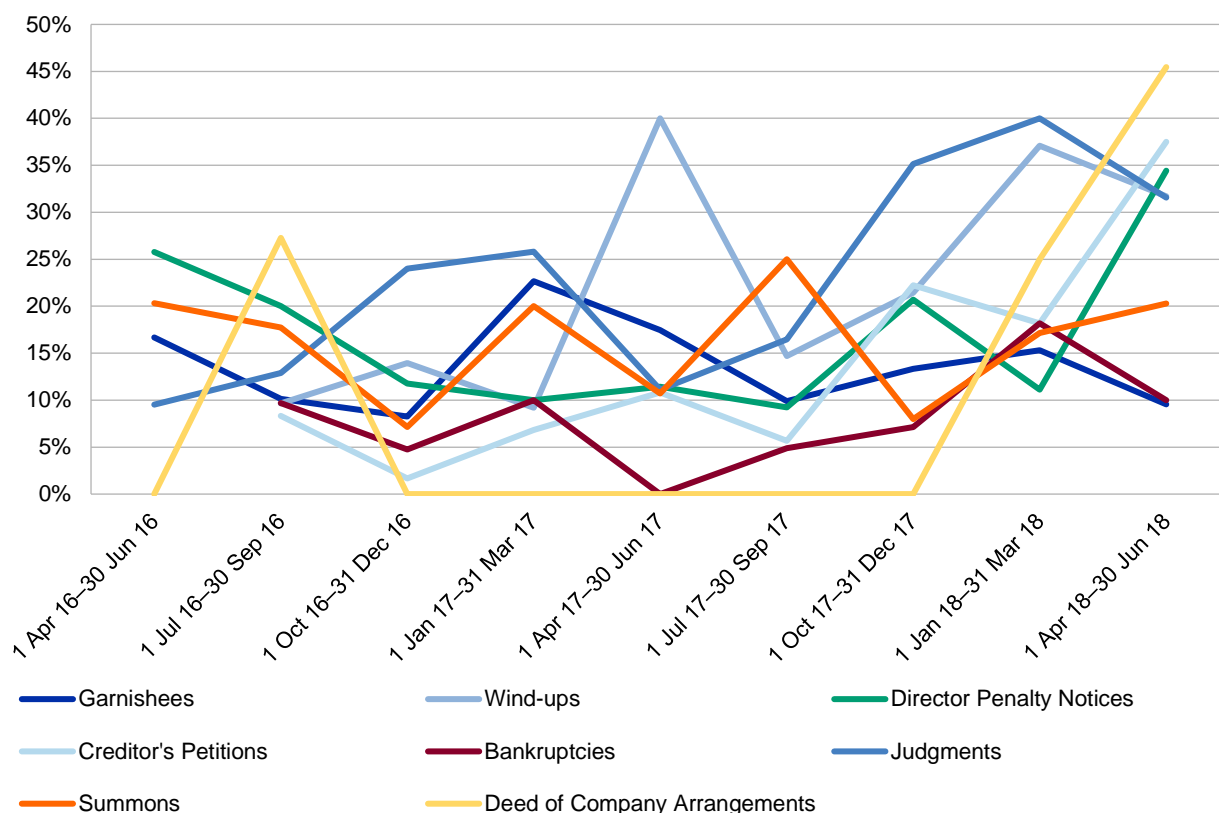
3.32 As well as a breakdown of corrective actions identified, the reports include the number and percentage of assessments requiring corrective action each quarter. The requirement for corrective actions may or may not affect the taxpayer experience. For example, the ATO has advised that the majority of corrective actions for garnishees are in relation to updating system details to accurately reflect the status of the debt collection case.

3.33 Figure 3.4 details the results for the eight high-risk activities assessed. Similar to the findings for 'standard not met' overall shown in Figure 3.3, there was considerable variation between activity types, with an average for all activities of 16 per cent of cases that were found to require some corrective action.⁵⁸ However, given that over half of these cases were still found to meet the required standard, the corrective actions identified by quality assessors were largely considered to be relatively minor.⁵⁹

58 Corrective action is defined by the Service Delivery Quality Framework as: 'When incorrect information or incorrect action has been taken that is detrimental to the client or ATO and needs to be rectified'. Examples of corrective action taken include systems being updated to reflect the action taken by the debt officer or updating taxpayer details in the system.

59 The ATO advised that in its sampled assessments (outlined in footnote 56), only 3.4 per cent may have had a direct impact on the client.

Figure 3.4: High risk debt activities—percentage of assessments requiring corrective action, April 2016 to June 2018



Notes: Due to the overlapping reporting periods, results have been plotted in the quarter in which the majority of assessments were undertaken.

Deed of company arrangements are relatively few in number and are not assessed in every quarter, resulting in a reading of 0 per cent in the above figure.

Source: ANAO, from ATO Service Delivery High Risk Product Reports.

3.34 The ATO advised that a new *Service Delivery Quality Framework* deployed in January 2019 will build an assurance process to ensure corrective actions have been taken to resolve the issue in a timely manner. This will include processes to: share intelligence relating to business improvement opportunities; work with various business to identify improvement strategies; identify whether problems are anomalous or broader issues; and check the success of the strategies implemented.

Framework, criteria and methodology

3.35 The ATO implemented the *Service Delivery Assurance Program* in response to an Internal Audit report in 2015 that identified an opportunity to transition *Service Delivery Quality and Coaching* to become 'more risk based so that the assessment effort is more targeted and aligned to business risks'.

3.36 Service Delivery adopted the existing coaching framework rather than developing a separate framework for the quality assurance component. While this had the advantage of drawing from an existing process, there were shortcomings from an assurance perspective, particularly whether the methodology sufficiently aligned to business risks. The ATO did not separately define a purpose and objective for the *Service Delivery Assurance Program*, or document how the coaching-based assessments aligned to business risks.

Sampling

3.37 For quality assurance purposes, Service Delivery bases the suggested number of samples for each product on the total number of activities for each product each quarter.⁶⁰ Sample sizes for coaching purposes, however, are determined on the basis of staffing numbers and the nature of work each operator undertakes. This leads to a mismatch between the suggested sample size for the Assurance Program and the available samples for testing from the *Service Delivery Quality and Coaching* assessments. Debt, in planning this approach to assurance, intended that any shortfall would be made up with additional assessments. Table 3.1 provides analysis of the sample sizes used by Service Delivery in relation to high-risk debt activities for the period under review. The ANAO found that the number of assessments tested each quarter did not always meet the suggested sample size.⁶¹ As a consequence, assurance taken by the ATO from the work done in relation to the Service Delivery Assurance Program does not have a sound statistical basis.

Table 3.1: Service Delivery Assurance Program sampling, April 2016 to July 2018

| High-risk product | Period of reporting | Total activities in period | Suggested sample size ¹ | Sample tested | Percentage of each product sampled |
|-------------------------|---------------------|----------------------------|------------------------------------|---------------|------------------------------------|
| Garnishee | 1/4/16 to 30/6/18 | 80,643 | 890 | 1,748 | 2.2% |
| Director Penalty Notice | 1/4/16 to 30/6/18 | 16,676 | 825 | 394 | 2.4% |
| Summons | 1/5/16 to 31/7/18 | 16,126 | 796 | 731 | 4.5% |
| Wind-up | 1/6/16 to 31/5/18 | 5,673 | 701 | 551 | 9.7% |
| Judgement | 1/5/16 to 31/7/18 | 5,538 | 740 | 412 | 7.4% |
| Bankruptcy | 1/6/16 to 31/5/18 | 5,405 | 617 | 341 | 6.3% |
| Creditor's Petition | 1/6/16 to 31/5/18 | 2,368 | 617 | 288 | 12.2% |

Note: Sample size at 95 per cent confidence level calculated using the National Statistical Service Calculator.

Source: ANAO, from Service Delivery High Risk Product Reports.

3.38 In revising the *Service Delivery Quality Framework*, the ANAO suggests that the ATO refines the methodology in relation to sampling, ensures alignment to business risks and considers the implications of the tolerances set for errors in key activities.

60 At a confidence level of 95 per cent using the National Statistical Service Calculator.

61 Across 59 product reports where a sample size was suggested, 45 did not meet the suggested sample size.

ATO Quality

3.39 The ATO Quality team within ATO Corporate provides oversight of quality for the whole ATO.⁶² Quality is defined within the *ATO Quality Framework*⁶³ as ‘assurance that the products and services we deliver conform to the standards we set for ourselves and community expectations’, and is assessed against four measures — service, accountability, accuracy and performance. Each measure is supported by a series of indicators used for quality assessment. The measures, standards and indicators are described at Appendix 4. ATO Quality uses a four point scale to grade performance against these measures.⁶⁴

3.40 A July 2016 ATO Internal Audit report into the work of ATO Quality found that:

Sampling is not based on the risk associated with that work type; rather it is based on historical volumes. This can result in lower coverage of high risk work types. This was highlighted by some business lines who are finding that sometimes the samples concentrate on low risk areas and simple, minimum-complexity processes.

3.41 The initial response to the Internal Audit report was to develop a ‘risk focus’ based on the level of human intervention or ‘touch’ required, as an indicator of the complexity or ‘risk’ of the activity. The samples were then distributed to quality assessors in the appropriate business areas for assessment and grading against the *ATO Quality Framework*. This identification of ‘risk’, based on complexity of human intervention, aligns quality assurance testing with staff capability and coaching but fails to recognise the need to consider ‘risk’ in light of consequences to the taxpayer and the accuracy of tax collected.⁶⁵

3.42 From 1 July 2017 to 1 July 2018 there was a transition to a different concept of ‘risk’ by allowing business areas (risk owners) a choice between a standard random assurance sample as before; or a shift to targeted samples based on ‘risk’ as determined by the business area; or a combination of both.⁶⁶ The Service Delivery area commenced risk-based sampling for ATO Quality purposes from 1 July 2017.

3.43 The recent change in sampling approach from a statistically valid random sample has resulted in an inability to gain assurance over the quality of a representative body of ATO work, or to track trends over time, but rather has left the ATO with a focus on business improvement. The ATO Quality report for Quarter 4 2017–18 states that:

62 ATO Quality covers a broad range of business areas. Of relevance to this audit are activities in relation to ‘revenue assurance’ that includes debt collection, reviews, audits, investigations and prosecutions; and ‘dispute resolution’ that includes objections, debt litigation and settlements.

63 The current enterprise-wide *ATO Quality Framework* has been in operation since July 2014. It was developed as part of the ‘Reinventing the ATO’ strategy to replace the previous *Integrated Quality Framework*.

64 These grades are: ‘Exceeded’; ‘Achieved’; ‘Room for Improvement’; and ‘Considerable Room for Improvement’. ‘Room for Improvement’ means that the ATO fell short of client expectations and/or ATO standards, but the right outcome was achieved. ‘Considerable Room for Improvement’ means that the ATO failed to meet client expectations and ATO standards, and the wrong outcome was achieved.

65 Samples used in relation to the *Service Delivery Quality Framework* are excluded from the sample tested for ATO Quality assurance. The results of testing under the *Service Delivery Quality Framework* do not feed into the results of the ATO Quality testing.

66 The ATO advised that it was difficult to get agreement to completely revise the selection model due to a reticence to walk away from monitoring trends over time. Hence business areas were offered a choice. Assessment of ‘risk’ was at the discretion of business areas and based on factors such as whether a new initiative had recently been introduced.

Due to the change of methodology for selecting work for assessment, the overall quality results are no longer representative of quality performance across the areas of in-scope work. Trends across quarters will no longer be determined due to variations in the composite of the samples from quarter to quarter and the increase in risk based sampling resulting in a decline in the quality results compared to earlier periods where assessments were randomly selected and included low risk/complexity work. Therefore, reporting has begun to shift from tracking and reporting on the quality results as a representative sample of work across the ATO to reporting on quality improvement activities and results in focus areas.

3.44 The ATO Quality Model is being refined in consultation with business areas. For example, in order to better identify instances where technical decisions made by the ATO (considering the available evidence) were wrong, from instances where the decision made was technically correct (though the client experience could have been improved), assessment themes or ‘tags’ available to assessors have been amended to provide more meaningful detail and greater insights from quality assessment data. These theme changes are reflected in reports from Quarter 1, 2018-19. Early feedback from business areas to ATO Quality, as reported to the Audit and Risk Committee, is that the new themes provide greater actionable insights and assist assessors (particularly new assessors) in identifying the measure to use when determining an area for improvement.⁶⁷

Reporting

3.45 ATO Quality prepares a quarterly report for the Audit and Risk Committee, which provides a snapshot of the quality assessment results, and a high-level summary of the main areas requiring improvement. Reporting on areas for improvement and improvement outcomes has become the focus of assessments, rather than tracking and reporting on the quality results as a representative sample of work across the ATO.⁶⁸

3.46 The report does not identify results by business line or product or activity type. Rather, it summarises the total number and/or percentage of quality assessments that identified areas for improvement, by measure or theme.⁶⁹ For the assessments where corrective action can be undertaken, each business area has its own process to correct those errors. ATO Quality advises that it is working with the business areas to understand those processes and to ‘assure that the errors are being addressed’. Similar to the *Service Delivery Assurance Program*, there are no benchmarks or targets in ATO Quality to indicate tolerances for errors in important administrative actions such as firmer and stronger debt recovery actions.

3.47 The July 2016 ATO Internal Audit report into ATO Quality found that the ATO Quality team did not provide quality performance reporting to business lines, although the Protecht system did give access to quality results in real-time at the enterprise, group and line levels, as well as the ATO Plan activity level. This is still the case. Although an active distribution of more detailed results at the group and business line level was contemplated in 2017–18, ATO Quality has advised the ANAO:

To clarify, the more detailed results at the group and business line level were available via Protecht, as they continue to be at the end of every quarter. At the time, we briefly contemplated

67 The four measures are service, accountability, accuracy and performance.

68 The ATO advised that quarterly reports on ATO Quality have not been provided to the ATO Executive since 2016–17, however a detailed analysis of ATO quality and complaints data was provided to the ATO Executive in February 2019.

69 Examples of themes are: timely completion of work; record keeping; conformance with processes and procedures; keeping clients informed; and active work management.

an active quarterly distribution of the more detailed results. However, as these results would simply reflect the data that is available in Protecht which Groups and business lines access for their own reporting purposes, further discussion with business areas suggested that 'playing back' those same results would provide negligible value-add. As a result, we didn't proceed with an active distribution of detailed reports and continue to facilitate 'self-serve' via Protecht.

3.48 Consequently, historic detailed results are not available and there is no record of the access to or use of such detailed information by the business lines or groups.

3.49 ATO Quality does not report specifically in relation to Debt matters, or in relation to market segments such as small business. In Quarter 1, 2018–19 random assessments indicated that 23 per cent of the work assessed (across Client Engagement and Review and Dispute Resolution) had at least one area for improvement (down from 26 per cent in the previous quarter); while focused assessments (which also included Service Delivery) indicated that 48 per cent of the work assessed had at least one area for improvement (up from 40 per cent in the previous quarter). Areas for improvement included delays in case allocation, and incorrect or incomplete record keeping. The ATO advised that the 'area for improvement' finding did not necessarily have an adverse impact on the taxpayer, but may have identified areas for improving internal ATO processes.

Recommendation no.1

3.50 In revising the Service Delivery Quality Framework and ATO Quality more broadly, the ATO ensures that quality assurance arrangements for debt activities include:

- (a) accurate identification of errors that result in an adverse outcome for the taxpayer, the ATO or both parties;
- (b) reporting on trends over time in assessed levels of conformance against specified tolerances for errors in important administrative actions such as firmer and stronger debt recovery actions; and
- (c) identification of systemic issues and improvements in relation to firmer and stronger debt recovery actions, including for small business.

Australian Taxation Office response: *Agreed.*

4. Performance monitoring and reporting

Areas examined

The chapter examines whether the ATO effectively monitors and reports on the management of small business tax debt, including debt arising from compliance activities.

Conclusion

The ATO's framework for monitoring and reporting of its management of small business tax debt is largely effective. The ATO has extensive internal monitoring on characteristics of tax debts including for small business. A performance framework for debt management has been developed, which includes measures that are relevant and reliable but provide an incomplete view of the efficiency, effectiveness and consistency of the ATO's debt management.

Areas for improvement

The chapter makes one recommendation aimed at improving the ATO's performance framework for debt management (paragraph 4.35). The chapter also suggests that the ATO define and consistently apply the term 'small business' (paragraph 4.6).

Is there effective monitoring and reporting of small business tax debt, including tax debt arising from compliance activities?

The ATO is effective in its monitoring and internal reporting of small business tax debt, which mainly comprises data on the number, value and other characteristics of these debts. This data provides valuable insights that could be more fully included in external reporting to better inform the Parliament and the public about debt trends. Reporting is not provided separately for debt arising from compliance activities.

4.1 Within the Debt Business line (Debt), comprehensive processes are in place for monitoring and reporting of overall tax debt as well as small business debt. As discussed in Chapter 1, while the ATO does not disaggregate data to monitor the levels and treatment of compliance-raised tax debts, this information is included in broader debt reporting.

4.2 Table 4.1 outlines the various debt reports that the Debt Executive and other areas of the ATO regularly receive, or have access to. These enable the ATO to monitor trends in debts, payments and Debt Business line operations. In addition, the ATO Executive receives biannual Debt updates. Such information circulated internally provides valuable insights on taxpayer behaviour. To better inform the Parliament and the public, some of these details could be included in external reporting.

Table 4.1: Key internal debt reports prepared by the ATO

| Report | Details |
|----------------------------|--|
| Updates on Debt Holdings | <p>Purpose: To provide visibility of the current debt holdings as they relate to client experience, market segments and revenue products. The updates were developed following a number of data requests from ATO staff, and were enhanced over time in response to further requests from the Debt Executive.</p> <p>Recipients/Users: Updates are emailed to the Deputy Commissioner of the Debt Business line as well as contacts in the Small Business line.</p> <p>Reporting period: From June 2017</p> <p>Frequency: Monthly</p> <p>Source: Various sources, including data from the ATO's Enterprise Data Warehouse.</p> <p>Key information: For each taxpayer demographic (for example, small business) statistics include: payment on time, payment over time (90 days), debt holdings (collectable, disputed and insolvent), debt levels, industry (top five industries by total debt), payment plans (active or defaulted) and revenue product (for example, activity statement or income tax). The report also highlights key changes from the previous month, for example in August 2018 – 'Small Business [market segment (subset of client experience)] increased by 5.9% (\$674.2 million) from July'.</p> |
| Debt Quarterly Review | <p>Purpose: To provide visibility of performance against Debt's work plan and budget, as well as a forecast of the impact of Debt's actions against the level of collectable debt.</p> <p>Recipients/Users: Debt Executive</p> <p>Reporting period: Replaced previous monthly reports in Quarter 1 2018–19</p> <p>Frequency: Quarterly</p> <p>Source: Various, including ATO data cubes.</p> <p>Key information: The number of cases delivered to staff for review (for example wind-up cases) and the number actioned; the number of payment plans entered and the percentage of existing payment plans upheld; actual FTE for a particular work type (for example, Director Penalty Notices), number and value of significant debt cases; and forecast of the impact of Debt's actions against collectable debt.</p> |
| Debt and Payment dashboard | <p>Purpose: To present an executive view of key corporate metrics that provide business insight into the current financial year performance with regards to administration of payment and debt collection in the ATO.</p> <p>Recipients/Users: Various - selected staff who have access to the ATO reporting portal can manually capture and report information as required.</p> <p>Reporting period: Dashboard was released February 2016. Data is limited to a fixed period of time leading up to the date the report is generated, ranging from 24 hours to three years prior.</p> <p>Frequency: As required – users can generate reports on demand or schedule reports to be run daily, weekly or monthly as required. Data is refreshed daily.</p> <p>Source: The dashboard sources data from a range of data cubes and manually input data.</p> <p>Key information: The dashboard contains five standard reports: payment compliance, debt holdings, debt intake, debt resolution and debt work categorisation. 'Debt intake' represents the increase in the debt book, while 'debt resolved' is the sum of total collections, total reductions and 'undetermined'.^a 'Debt work categorisation' shows the value or number of debts in each work category.</p> |

| Report | Details |
|---|--|
| Debt Collection Management Cube | <p>Purpose: The Cube is used to inform operational planning, by providing a current view of the management of debt and where it is sitting within the work process flow.</p> <p>Recipients/Users: Self-service – selected staff who have access to the ATO reporting portal can manually capture and report information as required.</p> <p>Reporting period: Cube was released March 2018. Data is available for a rolling 12-month period.</p> <p>Frequency: Refreshed daily from the Enterprise Data Warehouse. While there are currently no formal reporting arrangements established for this Cube, the ATO has informal reporting in place within the Debt Business line, until sufficient historic data is retained to provide trending.</p> <p>Source: ATO's Enterprise Data Warehouse.</p> <p>Key information: Users can select from a number of different fields, to analyse data within the prior 12 months (from date of extraction), including: account debt type (collectable, disputed or insolvent); client experience and/or market segment (for example, small business); and interactions within the prior 365 days (for example, blue letter, negotiation, freezing order or legal action), including subcategories.</p> |
| Debt Client Engagement Interaction Cube | <p>Purpose: To provide historical information and subsequent results that help to determine: the number and types of interactions with taxpayers; which interactions have a higher return on investment; and whether certain interaction types drive re-engagement with a taxpayer.</p> <p>Recipients/Users: Self-service – selected staff who have access to the ATO reporting portal can manually capture and report information as required.</p> <p>Reporting period: Cube was released in mid-2016. Data is available for the financial year in which the data is accessed and the two prior financial years.</p> <p>Frequency: Refreshed daily.</p> <p>Source: ATO's Enterprise Data Warehouse.</p> <p>Key information: Users can select from a number of fields, including: the number of taxpayer interactions where there has been a subsequent reduction of the taxpayer's debt; and the sum of combined reductions on a taxpayer's accounts following an interaction.</p> |
| Other debt reports | <p>The Debt Business line prepares and circulates multiple other reports within the ATO on a regular basis. These include:</p> <ul style="list-style-type: none"> • Monthly Debt Snapshots that aggregate information presented in the monthly Debt Holdings Updates, with a prior year comparison and additional insights and commentary on the variance. • Goods and services tax (GST) debt reports that present statistics for payment timeliness and levels of collectable debt, itemised by business line allocation, debt level and top five industries. Also included is an update on relevant Government policy measures and Debt activities. • Monthly performance reports against three corporate plan measures – proportion of liabilities paid on time by value, preliminary ratio of collectable debt to net tax collections, and ratio of debt uneconomical to pursue to net cash collections. • A quarterly Debt Initiatives Update that outlines activities (planned, underway or completed) under each of strategic priorities presented in the <i>Debt Overview</i>. <p>Recipients vary from ATO Corporate to sections of the Client Engagement Group (such as the Small Business line), the Service Delivery Governance and Assurance team and the Debt Executive.</p> |

Note a: The ATO has advised that it is unable to monitor total collections as this is dependent on systems improvements to provide reliable 'debt resolved' data.

Source: Australian National Audit Office (ANAO) summary of: ATO documentation, including functional report specifications; the ATO Reporting Portal; and direct advice from the ATO.

4.3 In addition to four key external performance measures for debt (discussed in the next section), the ATO also reports a range of debt statistics in its annual report, which vary from year to year. For 2017–18, these included the:

- number of debt related complaints;
- value of collectable debt;
- value of debt subject to objection or appeal;
- value of insolvency debt;
- value of debt uneconomical to pursue; and
- value of debt irrecoverable at law.

4.4 Historical data was provided for 2015–16 and 2016–17 to enable trend analysis.

Small business debt

4.5 In Australia, small business debt comprises around half of all debt and almost two-thirds of collectable debt. As shown in Table 4.1, the ATO monitors the proportion and composition of small business debt, including payment on and over time, and distribution across industries and revenue products. The ATO could disaggregate debt statistics in its external reporting to explicitly report for small business. This would be consistent with a Tax and Revenue Committee recommendation in 2019 that the ATO ‘differentiate between large, small and micro-business debt and report on the quanta of tax debt, the age of debts and on comparative trends in both collectable and uncollectable debt for each business segment’, in its annual report.⁷⁰ As discussed previously, the ATO cannot currently report on small business debt arising from compliance activities.

Definition of small business

4.6 Comparison of small business debt has been complicated by changes over time in the definition of small business. In 2015–16, the small business market segment was defined as ‘those businesses with a turnover of less than \$2 million’. In 2016–17, the Government increased the threshold for small business concessions to \$10 million turnover.⁷¹ Despite this change, the ATO’s *Annual Report 2016–17* defined small businesses as those with a turnover of less than \$2 million, while the *Annual Report 2017–18* did not include a definition of small business. In 2017–18, the ATO adopted a ‘client experience’ measurement approach, whereby the small business population expanded to include sole traders and other individuals linked to a small business (with a turnover of less than \$10 million’).⁷² The ATO continues to report small business

70 House of Representatives, Standing Committee on Tax and Revenue, *2017 Annual Report of the Australian Taxation Office; Fairness, functions and frameworks – performance review* [Internet], February 2019, p. 106.

71 ATO, *Increase the small business entity turnover threshold* [Internet], 26 June 2017, available from <https://www.ato.gov.au/General/New-legislation/In-detail/Direct-taxes/Income-tax-for-businesses/Increase-the-small-business-entity-turnover-threshold/> [accessed 1 April 2019].

72 In January 2018, taxpayers with similar characteristics were grouped into client experience populations in an effort to provide a more cohesive and integrated experience for taxpayers. The small business market segment is a subset of the small business client experience population.

data using various parameters.⁷³ To support improved data analysis, the ATO should clearly define and consistently apply the term ‘small business’.

Compliance-raised debt

4.7 To help assess the effectiveness, efficiency and consistency of its end-to-end debt management processes, the ATO could consider additional reporting for debts arising out of compliance activities. The ATO does not have visibility of its performance in recovering such debts, due to the inability of its systems to identify these in aggregate. In the absence of such data, the ATO cannot identify trends to inform its management of this pool of debts.

4.8 Further, the ATO has cited a year-on-year increase in audit-raised liabilities in recent annual reports, to help explain the rising trend in the ratio of collectable debt to net tax collections.⁷⁴ The UK Revenue Tax Commission makes the observation that compliance raised debt is more costly and harder to recover. Segregating results for compliance-raised debts, and those arising through natural processes, would indicate the extent to which increased compliance activity is influencing total debt levels.

4.9 The ATO has advised that it ‘does not segment the debt on an account down to the proportion of which is audit raised vs the portion that is raised through self-assessment’, noting that ‘this would not be a feasible approach to debt recovery’.

Does the ATO have a sound performance framework in relation to the effective, efficient and consistent recovery of small business tax debt, including debt arising from compliance activities?

The ATO has documented a performance framework for debt management, including a purpose, strategic priorities, initiatives and measures. The framework could be improved to support assessment of how the purpose will be achieved, including in ‘balancing support for clients trying to do the right thing with timely stronger action against those who don’t’. This would involve clearer articulation of the activities and improvements to performance measures, to enable better assessment and reporting of the effective, efficient and consistent recovery of small business tax debt. Performance measures for debt management are relevant and reliable, but are incomplete and would benefit from the inclusion of: an additional effectiveness measure—debt recovery rate (when ATO systems enable its calculation); a measure of the overall efficiency of debt management operations; and coverage of consistency (drawing on quality assurance results).

4.10 Table 4.2 summarises the Debt Business line plan (*Debt Overview 2018/19 – Our Priorities*). The plan sets out the ATO’s approach to debt management as a whole, which encompasses debts owed by small businesses and those arising from compliance activities. Improvements could be made to the line of sight between the Debt’s purpose, strategic priorities, initiatives and measures, as presented in the plan.

73 For example, in the ATO’s most recent community perceptions survey (2017–18), specific results are provided for: small and medium-sized enterprises; and micro businesses, which are not defined, rather than by ‘small business’.

74 Australian Taxation Office, *Commissioner of Taxation Annual Report 2017–18* [Internet], pp. 18 and 63.

Table 4.2: Summary of *Debt Overview 2018/19 – Our Priorities*

| Our contributions | |
|-------------------|---|
| Purpose | We take a purposeful approach to improving payment on time, balancing support for clients trying to do the right thing with timely stronger action against those who don't engage to prevent them gaining an unfair financial advantage. |
| | Strategic priority: <i>Payment thinking</i> — Delivering Debt and ATO outcomes |
| | <ul style="list-style-type: none"> • Make payment an easy and natural part of activities across all stages of tax and super. • Identify opportunities to prevent debt from occurring and increase payment on time. • Expand our use of behavioural insights and build a capability across the ATO. |
| Initiatives | Strategic priority: <i>Optimise the experience for clients and staff</i> |
| | <ul style="list-style-type: none"> • Empower staff to exercise professional judgement and apply natural conversations — understanding the circumstances of our clients to make the right decisions. • Implement and manage Debt staff experience of the Single Client Accounting system. • Share and leverage insights from complaints to re-engage clients into the Tax system. |
| | Strategic priority: <i>Maximise the use of data and analytics</i> — Optimise productivity and effectiveness using data |
| Measures | <ul style="list-style-type: none"> • Use resources effectively – automate where we can; remove unnecessary manual effort. • Continue to develop and pilot our suite of analytic models. |
| | Strategic priority: <i>Intermediaries and the community</i> — Optimise relationships with our external partners |
| | <ul style="list-style-type: none"> • Leverage relationships with intermediaries to improve payment compliance. • Work with international partners including collections through mutual assistance. |
| | Strategic priority: <i>Delivering our commitments to government and corporate priorities</i> — Legislative Design and Implementation |
| | <ul style="list-style-type: none"> • Deliver on new Superannuation Guarantee integrity and amnesty measures. • Target SG debt and support the corporate focus areas, including Small Business. • Allocate resources and deliver GST voluntary compliance outcomes. |
| | <ul style="list-style-type: none"> • Payment on time – proportion of liabilities paid on time by value • Debt – Ratio of collectable debt to net tax collections • Provision for bad and doubtful debts as a proportion of total tax receivables • Ratio of debt uneconomical to pursue to net tax collections • Portion of complaints resolved within 15 days or within the date negotiated with the client |

Source: ANAO summary of ATO's *Debt Overview 2018/19*. Strategic priorities and initiatives have been abridged.

4.11 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) defines the purposes of an entity as its 'objectives, functions or role'. The Department of Finance (Finance) notes that a 'well-expressed purpose states the outcome that an entity seeks to achieve for clients, stakeholders and the public.'⁷⁵ Debt's purpose is articulated in the overview under the heading 'Our

⁷⁵ Department of Finance, *Resource Management Guide 131 – Developing Good Performance Information* [Internet], April 2015, p. 15, available from <https://www.finance.gov.au/resource-management/index/rmg/> [accessed 11 April 2019].

Contributions', as shown in Table 4.2. It is clear from this statement that Debt's intended outcome is to improve payment timeliness, through differentiated treatment of cooperative and uncooperative taxpayers.⁷⁶

4.12 Within the Debt Business line plan, the purpose statement is accompanied by an outline of the business line's 'initiatives' that describe the activities the line intends to undertake. Finance guidance states that an entity's activities should align with its purposes, and therefore represent a focus for performance measurement and reporting.⁷⁷ Taken collectively, the initiatives presented in the Debt Business line plan partially address the purpose. For example, *Payment Thinking* initiatives exhibit a direct link to 'improving payment on time'. However, there is an absence of initiatives articulated in the plan to demonstrate how Debt will achieve its aim of 'balancing support for clients trying to do the right thing with timely stronger action against those who don't engage', as articulated in the purpose. The initiatives presented in the plan should collectively address the whole purpose.

4.13 For greater alignment with the purpose, the activity descriptions could also be improved to focus on how the difference will be achieved, in line with Finance guidance.⁷⁸ While some initiatives in the Debt Business line plan identify specific actions and outcomes, these are quite broad and appear to extend beyond 2018–19. For example, 'identifying opportunities to prevent debt from occurring and increase payment on time'. Articulating the specific actions to undertake and results to achieve, including relevant timeframes, will assist the ATO in determining how it will meet its purpose for debt management.

Performance measures in relation to tax debt

4.14 Finance notes that the new Commonwealth performance framework under the PGPA Act is designed to address the historically poor use of key performance indicators (KPIs) and their inability 'to provide a comprehensive picture of what was achieved with public resources'. This has included:

- the absence of a link between an entity's KPIs and what the entity sought to achieve;
- the tendency for KPIs to be vague, ambiguous or open to interpretation; and
- a focus on measuring resources (inputs) or delivery of outputs, without providing a picture of whether the purposes aimed for were being achieved.⁷⁹

4.15 As discussed below, while the ATO has extensive monitoring and reporting of its debt holdings and operational performance, it could better harness its rich data collections to strengthen reporting of its overall performance in managing debt.

4.16 In recent years, the Debt Business line has decreased the number of measures included in its line plan — from 17 measures in the *Debt Risk Strategy Delivery Plan 2015–16* to five in the *Debt Overview 2018/19*. As outlined in Table 4.2, only one of these measures

76 In addition to recovering outstanding liabilities, the Debt Business line has an important role in upholding the integrity of the tax and super system by taking action against some cases that will have a very low debt recovery yield, yet will have an impact in the community.

77 Department of Finance, *Resource Management Guide 131 – Developing Good Performance Information*, April 2015, p. 15.

78 *ibid.*

79 *ibid.*, p. 22.

is additional to those already included in the ATO's external key performance measures — 'ratio of debt uneconomical to pursue to net tax collections'.⁸⁰ However, as previously discussed, key statistics on tax payments, debt holdings and operational performance continue to be monitored through various reporting mechanisms.

4.17 Further details of the five key performance measures in Debt's business line plan are set out in Table 4.3. Results for all of these measures were reported publicly in 2017–18. Variants of the first three measures—'Payment on time', 'Ratio of collectable debt' and 'Bad and doubtful debts' — have been reported in ATO Annual Reports for almost a decade.⁸¹

Table 4.3: Debt Business line performance measures presented in *Debt Overview* 2018/19

| Performance measure ^a | Rationale and methodology |
|---|---|
| Payment – Proportion of liabilities paid on time by value Target: Above 88% Source: 2018–19 Corporate Plan and PBS | This is a quantitative measure that shows the percentage of taxes paid on time, and therefore do not become debts. A liability is deemed to be paid on time if 99 per cent is paid within seven days of the due date. The measure over time provides some insight into the effectiveness of the ATO's debt prevention activities, such as education and targeted communications. Data is obtained manually through a reconciliation process and only primary liabilities are included in the assessment, meaning that interest and penalties are not counted. |
| Debt – Ratio of collectable debt to net tax collections Target: Below 5.5% Source: 2018–19 Corporate Plan and PBS | This is a quantitative measure that assesses the amount of debt deemed to be collectable (that is, not disputed, insolvent or written off). Collectable debt levels are reported as a proportion of net tax collections, to account for broader economic effects. This measure provides some indication of the ATO's impact in terms of collecting debt. However, the ATO notes that the ratio 'is driven by external factors' and 'cannot be used in isolation'. |
| Bad and doubtful debts – Provision for bad and doubtful debts as a proportion of total tax receivables Target: Below 35% Source: 2018–19 Corporate Plan and PBS | This is a quantitative measure that identifies debts unlikely to be collected and may therefore be written off in the ATO's debt book in future. The ATO estimates the amount it does not expect to recover, using a series of detailed methodologies, involving actuarial processes and manual review. While the level of bad and doubtful debt is largely based on debtor, rather than ATO, performance, the ATO would seek to reduce this level by maximising the recovery of debts before they reach this stage. |

⁸⁰ Finance states that, as a general principle, performance measures should provide sufficient evidence to show whether an activity is progressing towards the desired outcome.

Department of Finance, *Resource Management Guide 131 – Developing Good Performance Information*, April 2015, p. 24.

This principle lends itself to a cascading reporting structure, wherein high level measures presented in the corporate plan are supplemented by measures at the business line level to assess progress of activities.

⁸¹ 'Payment on time' has been reported for total liabilities since 2012–13 and was previously reported for income tax and GST. 'Collectable debt' was presented as a ratio of net tax collections from 2009–10, and previously reported on its own. 'Bad and doubtful debt' was reported from 2009–10 and previously factored into the impairment allowance in the financial statements.

| Performance measure ^a | Rationale and methodology |
|--|---|
| Ratio of debt uneconomical to pursue to net tax collections Target: Below 1% Source: <i>Debt Overview 2018/19</i> | This is a quantitative measure that assesses the value of debts that are uneconomical to actively pursue through collection activities. Identification of debts uneconomical to pursue may include consideration of: whether the anticipated costs of future recovery are likely to exceed the amount of debt; the age of the debt; and the type of tax involved. However, the ATO notes that all considerations deemed to be relevant to a taxpayer's circumstances should be considered. ⁸² A decrease in the proportion of debt that is uneconomical to pursue may indicate improved debt collection. |
| Portion of complaints resolved within 15 days or within the date negotiated with the client Target: 85% Source: <i>ATO Service Commitments</i> (reported on the ATO website) | This is a quantitative measure that assesses the timeliness of complaints resolution by the Service Delivery Group. The ATO has advised that only 21 per cent of these complaints relate specifically to debt, however this measure is managed by the Debt Business line on behalf of the broader Service Delivery Group. |

Note a: Targets were not included in the Debt Overview 2018/19, however, they are available in other ATO documentation.

Source: ANAO review of ATO publications and internal records.

4.18 The ANAO assessed Debt's key performance measures for relevance, reliability and completeness. The basis for this assessment are the characteristics of 'good' performance information as defined by the Department of Finance.⁸³ It is consistent with the ANAO's assessment approach used in the Annual Performance Statements audit series.⁸⁴ In assessing whether Debt's performance measures are relevant, reliable and complete, the ANAO drew on the performance information presented in Debt's business line plan as well as other ATO performance measures specific to Debt or ATO-wide.⁸⁵ The assessment examined whether the measures are relevant, reliable and complete for internal measurement and reporting purposes.

Relevance, reliability and completeness of measures

4.19 Overall, Debt's key performance measures are relevant and reliable, but are not complete.

82 ATO, Practice Statement Law Administration PS LA 2011/17 *Debt relief, waiver and write off* [Internet], paragraph 14, p. 6, available from <https://www.ato.gov.au/Law/#Law> [accessed 4 March 2019].

83 Department of Finance, *Quick reference guide — Resource Management Guide 131: Developing Good Performance Information* [Internet], available from <https://www.finance.gov.au/sites/default/files/Quick-Reference-Guide-RMG-131-Developing-Good-Performance-Information.pdf> [accessed 11 April 2019].

The Department of Finance's guidance states that, along with improving the quality of public reporting, 'entities may also find this guide useful in driving improved performance information development within their own organisations'.

Department of Finance, *Resource Management Guide 131 – Developing Good Performance Information*, April 2015, p. 3.

84 Auditor-General Report No. 17 2017–18 *Implementation of the Annual Performance Statements Requirements 2017–18*.

85 The ANAO examined additional performance measures presented in the ATO's 2018–19 *Corporate Plan* as well as metrics included in other internal reporting documents presented in Table 4.1. However, the ATO did not examine in detail the measure of 'complaints resolved' that is more relevant to the Service Delivery Group as a whole, with only a small proportion specific to Debt.

4.20 All four measures are relevant. That is, they indicate the benefit delivered, demonstrate a focus on Debt's purpose and are understandable. For these measures, there is a line of sight to the purpose through Debt's strategic priorities and initiatives. The beneficiaries are implied to be the Australian Government and taxpayers, through increased revenue collection. While all the measures are understandable for internal users, those presented also in the corporate plan could be improved by defining key terms, to ensure they are clear to external stakeholders.

4.21 Debt's key performance measures are reliable — that is, they are measurable and free from bias. These measures are underpinned by detailed methodologies that are documented internally. The ATO has also established controls and assurance processes to reduce the risk of inaccurate or biased reporting. To demonstrate the reliability of these measures to external audiences, the ATO could consider including a plain English summary of these methodologies and controls in its corporate plan.

4.22 Finance guidance indicates that the inclusion of targets in measurement methodologies provides a clear indication of the standard expected and an unambiguous result, regarding whether this standard was achieved.⁸⁶ This can include establishing baseline results, and using benchmarks and trends in performance from prior periods or activities.⁸⁷ While targets for the ATO's debt measures are not presented in the Debt Business line plan, they are available publicly, for example in the ATO's *Corporate Plan 2018–19*⁸⁸, or in other internal documentation alongside the previous year's results.

4.23 Complete performance measures should reflect a balance of measurement types (including, effectiveness and efficiency), bases (quantitative and qualitative) and timeframes, and should collectively address the purpose.⁸⁹ On this basis, and given the ATO cannot report debt inflow and outflow (as discussed in paragraph 4.30) the ATO's debt measures are incomplete. In particular, they are not sufficient to provide internal and external stakeholders, including the ATO Executive, Parliament and the public, with adequate insight into the effectiveness, efficiency and consistency of the ATO's debt management, as discussed below. The completeness of the measures is primarily impacted by the absence of a measure of debt recovery (effectiveness) and overall efficiency, and the lack of measures to demonstrate achievement of the latter part of the purpose — 'balancing support for clients trying to do the right thing with timely stronger action against those who don't engage' — which requires consistent debt collection processes and treatments.

86 Department of Finance, *Resource Management Guide 131 – Developing Good Performance Information* [Internet], April 2015, p. 29.

87 *ibid.*

88 Australian Taxation Office, *ATO Corporate Plan 2018–19* [Internet], August 2018, available from <https://www.ato.gov.au/About-ATO/About/corporate-plan/> [accessed 11 April 2019].

89 Department of Finance, *Quick reference guide — Resource Management Guide 131: Developing Good Performance Information* [Internet].

Auditor-General Report No. 17 2017–18 *Implementation of the Annual Performance Statements Requirements 2017–18*, p. 89.

Measures of effectiveness, efficiency and consistency

4.24 The PGPA Act requires entities to assess effectiveness and efficiency in achieving their purposes.⁹⁰ Assessments of consistency help determine whether activities undertaken against purposes comply with relevant standards. As discussed earlier, the ATO's purpose in relation to debt management is presented in the Debt Business line plan and reproduced in Table 4.2.

Effectiveness

4.25 Measures of effectiveness assess the extent to which the purposes of a program or entity are achieved. Specific effectiveness measures outlined in the *Debt Overview 2018/19* are: 'ratio of collectable debt to net tax collections' and 'proportion of liabilities paid on time by value'. These debt measures are largely consistent with indicators used by other countries, as reported by the Organisation for Economic Co-operation and Development (OECD)⁹¹, which listed seven strategic indicators used by most tax debt collection functions involved in a 2014 study.⁹² The ATO uses each of these indicators in the context of either debt collection or overall tax collections, except for recovery rate (the proportion of debt collected).

4.26 The ATO has previously monitored the value or rate of debt collections, for example the 'debt inventory turnover ratio'⁹³, 'new debt resolved in the year established', 'value of debt resolved' and debt 'roll rate'⁹⁴. However, since 2014–15, there has been no direct measure of the ATO's total debt collections or debt collection rate.⁹⁵ While the ATO closely monitors the size of its debt book (collectable, disputed and insolvent debt), it can only estimate the overall amount of debt recovered from this debt book⁹⁶, due to limitations arising from a change to reporting systems in June 2015.⁹⁷ This could be improved with debt flow reporting, which the ATO has advised will be possible to investigate with the amalgamation of its two accounting systems in December 2019.

4.27 Other measures removed from the ATO's debt reporting have included 'debt collections attributable to the ATO's debt collection activities', 'effectiveness of behavioural interventions over

90 Under the PGPA Act, an accountable authority is required to govern their entity in a way that promotes the proper use and management of public resources — defined to mean efficient, effective, economical and ethical — and to measure and assess the performance of the entity in achieving its purposes.

91 Organization for Economic Co-operation and Development (2014), *Working Smarter in Tax Debt Management* [Internet], OECD Publishing, Paris, <https://doi.org/10.1787/9789264223257-en>, pp. 82-84.

92 The seven measures are: size of the debt book; ratio of collectable debt to net tax collections; proportion paid on time; recovery rate; costs of collection; write off; paid against forecast.

93 The 'debt inventory turnover ratio' was measured as the value of debt resolved over the average of the opening and closing inventory.

94 The debt 'roll rate' provides an indication of how well the ATO stops debt from aging and growing. Inspector-General of Taxation, *Debt collection* [Internet], 2015, p. 75.

95 The ATO has visibility of its debt collections for the majority of work types. For example, the ATO determines the 'average 7 day balance reduction per garnishee notice', based on any payments made by the taxpayer within seven days of the ATO issuing a garnishee notice. The ATO also reports its 'debt inventory turnover' to the International Debt Management Committee, based on personal income tax and company income tax.

96 In separate advice to the ANAO, the ATO identified a recovery rate of 57 per cent for collectable income tax debt in 2017–18. Overall figures (income tax debt, activity statements tax debt and other tax debt combined) were not available.

97 The change in systems resulted in the inability to: merge data from two different systems (activity statements debt and income tax debt); and differentiate between payments of debts and payments of liabilities.

time' and 'aged debt reduction'⁹⁸, all of which may indicate the effectiveness of the ATO's ability to recover debt. In addition to tracking overall debt and payment statistics, the ATO could re-introduce such measures to determine the extent to which its initiatives and collection activities are influencing debt outcomes. In recent years, the ATO has collected some information on the impact of selected initiatives, such as *Purposeful First Action* and behavioural insights, on payment timeliness. However, monitoring and review of these initiatives has been ad hoc and not integrated into the debt performance framework through key performance measures. Developing and monitoring such measures would also be consistent with a recommendation by the Inspector-General of Taxation (IGT) in 2015 that the ATO:

... undertake further statistical analysis to develop improved metrics, which are reported publicly, to better describe the effectiveness of its debt strategies in relation to such issues as improving payment on time, payment behaviour over the longer term and the benefit to the economy.

Efficiency

4.28 Efficiency relates to the minimisation of inputs employed to deliver intended outputs in terms of quality, quantity and timing.⁹⁹ The Debt Business line has a number of operational efficiency measures, including for each work type (such as wind-ups): average handling time and conversion rate (proportion of cases delivered to staff for actioning that are actioned as planned). The ATO also monitors the average cost per interaction for a limited number of work types, however there is no regular reporting of the costs and success rates of each of its debt recovery activities.

4.29 Debt could draw more fully on its operational efficiency measures to develop a measure of overall efficiency in debt collection activities that better reflects performance than the existing measure. This would contribute to reporting against the ATO's strategic objectives to 'deliver efficient and effective tax and superannuation systems' and 'achieve efficiency and quality outcomes'¹⁰⁰, in the context of increased debt levels and a declining budget.¹⁰¹ It would help address a previous Auditor-General's recommendation from 2006–07 that the ATO 'devise more relevant performance measures relating to efficiency and effectiveness in light of its business needs, such as measure relating to the timeliness and cost of case processing and results of ATO debt collection intervention, as system capacities improve.'

4.30 The ATO advised that measurement of its effectiveness and efficiency in managing debt is dependent on its ability to obtain reliable inflow and outflow data — that is, the amount of debt raised and collected. This data, which is currently unavailable, would provide greater visibility of debt flow and allow the business line to target its collection resources, increase its productivity and improve payment compliance. It would also allow the ATO to develop more relevant and reliable measures of resource efficiency based on staff activity and investment.

98 'Aged debt' refers to debts aged two years or more. Recovery of such debts is likely to require more ATO resources and intervention, suggesting greater attribution to the activities of the Debt Business line in the event of recovery.

99 ANAO, *Insights from reports tabled July to September 2018* [Internet], available from <https://www.anao.gov.au/work/audit-insights/insights-reports-tabled-july-september-2018> [accessed 18 February 2019].

100 Australian Taxation Office, *ATO Corporate Plan 2018–19* [Internet], August 2018, p. 2.

101 ATO records show that the budget allocated to the Debt Business line decreased from \$195 million to \$144 million (26.1 per cent), between 2012–13 and 2017–18.

Consistency

4.31 Assessments of effectiveness and efficiency should take into account the consistency of activities and outputs. Quality assurance controls are important for identifying error rates, particularly for firmer and stronger actions, and addressing systemic issues to improve the level of consistency.

4.32 As discussed in Chapter 3, the consistency of the ATO's debt management activities in adhering to requirements is monitored through the Service Delivery Assurance Program and ATO Quality. To help address Debt's purpose of 'balancing support for clients trying to do the right thing with timely stronger action against those who don't engage', key performance measures linked to quality assurance results could be included in Debt's performance framework. For example, the ATO publicly reports on the consistency of some of its decisions, to provide assurance that ATO collection practices are justified and defensible against applicable standards.¹⁰² Such information could be incorporated into Debt's performance framework through key performance measures.

4.33 In addition, the ATO could establish further assessments to measure the consistency of debt operatives' decision-making against expected standards, in relation to other firmer and stronger actions. For example, the ATO has previously documented a performance measure to assess the 'quality of case management and decision making' within the Significant Debt Management branch. The ATO has access to a rich source of information and statistics through its Enterprise Data Warehouse, which could be drawn on to analyse the quality and consistency of debt recovery actions.

4.34 The ATO Taxpayer's Charter states that the ATO uses its 'judgement to achieve a sensible, consistent and equitable outcome within the law'¹⁰³ and outlines practices to ensure taxpayers are treated as 'being honest'. Systematic reporting against Charter requirements in relation to debt management could support increased monitoring of consistency. The IGT (2016) and a Tax and Revenue Committee report (2019) have recommended that reporting against Charter requirements be enhanced.¹⁰⁴ As discussed in paragraph 2.29, the ATO measures perceptions of fairness through taxpayer surveys.

102 ATO reporting of decisions to enforce insolvency:

Indigenous Professional Services, *2018 Insolvency Review: Overarching Report Final – Australian Taxation Office* [Internet], June 2018, available from https://www.ato.gov.au/uploadedFiles/Content/CAS/downloads/Review_of%20ATO_decisions_to_enforce_insolvency%20_June_2018.pdf [accessed 24 March 2019].

ATO reporting of decisions to grant release from payment:

Australian Taxation Office, *Internal Review of ATO Release Decisions* [Internet], October 2017, available from <https://www.ato.gov.au/misc/downloads/pdf/qc53506.pdf> [accessed 29 March 2019].

103 Australian Taxation Office, *Taxpayers' Charter – what you need to know* [Internet], available from <https://www.ato.gov.au/About-ATO/Commitments-and-reporting/Taxpayers--Charter/Taxpayers--Charter---what-you-need-to-know/> [accessed 26 February 2019].

104 House of Representatives, Standing Committee on Tax and Revenue, *2017 Annual Report of the Australian Taxation Office*, February 2019, p. 140.

Inspector-General of Taxation, *Review into the Taxpayers' Charter and taxpayer protections* [Internet], December 2016, p. 67, available from <http://igt.gov.au/publications/reports-of-reviews/> [accessed 11 April 2019].

Recommendation no.2

4.35 The ATO refine its performance framework for debt management to establish a complete set of performance measures that supports accurate reporting of the effective, efficient and consistent management of tax debt, against the stated purpose for debt management.

Australian Taxation Office response: *Agreed.*



Grant Hehir
Auditor-General

Canberra ACT
30 May 2019

Appendices

Appendix 1 Australian Taxation Office response

PO Box 900, CIVIC SQUARE, ACT, 2608, AUSTRALIA



Australian Government
Australian Taxation Office

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Grant

AUSTRALIAN NATIONAL AUDIT OFFICE PERFORMANCE AUDIT ON THE
MANAGEMENT OF SMALL BUSINESS TAX DEBT ARISING FROM COMPLIANCE
ACTIVITIES.

Thank you for your letter dated 8 April 2019 and for the opportunity to provide comments on the proposed report on the Management of Small Business Tax Debt Arising from Compliance Activities.

As you are aware, we asked the ANAO to conduct this audit after serious allegations were made about the ATO's approach to debt collection associated with compliance and dispute activities.

We appreciate the ANAO's acknowledgement in the report that the ATO's management of small business tax debt has been largely effective and that our organisational structure and processes support the effective management of small business tax debt. We also appreciate that the report recognises a number of recent innovations the ATO has introduced.

The ATO agrees with the two recommendations as presented in the section 19 report.

Attached is the ATO summary of our comments to be included in the report (Annexure 1) and ATO response to the two recommendations (Annexure 2).

I would like to thank the Australian National Audit Office audit team for the cooperative and professional manner they have adopted in working with us on this matter. I look forward to continuing the good working relationship developed in this performance audit.

If you require further information on this matter, please contact Assistant Commissioner, Michael Zeithofer on (02) 6216 1825.

Yours sincerely

A handwritten signature in black ink, appearing to be 'MS' or similar initials, written in a cursive style.

Melinda Smith
Chief Service Delivery Officer
Australian Taxation Office

13 May 2019

Appendix 2 ATO firmer and stronger actions

1. The ATO Debt Business line implements firmer and stronger debt collection actions that include:

- **Creditor's petition** — A creditor's petition is an application to the Federal Court or Federal Magistrates Court for a sequestration order to declare a debtor bankrupt. A creditor's petition can be filed if the debtor has committed an 'act of bankruptcy' (such as failing to comply with a bankruptcy notice) within the preceding six months.
- **Deeds of company arrangement** — Part 5.3A of the *Corporations Act 2001* provides an opportunity for insolvent companies to reach an arrangement with their creditors which addresses the creditors' debts and enables the company to continue trading. As it is not always possible for the company to continue, Part 5.3A also seeks to provide for the business, property and affairs of an insolvent company to be administered in a way that results in a greater return for the company's creditors and members than would result from the liquidation of the company.
- **Departure Prohibition Orders** — A Departure Prohibition Order is an administrative instrument issued under Part IVA of the *Taxation Administration Act 1953*. It aims to ensure that Australian tax liabilities are paid by preventing a person from leaving Australia for a foreign country until their tax liability is paid in full or suitable arrangements for payment of their tax liability are made. ATO staff have online access to 'Departure Prohibition Orders Guidelines' and are required to consult ATO's legal services before issuing. This enables the ATO to pursue other recovery alternatives against the tax debtor or the tax debtor's assets to secure payment or receive acceptable security.
- **Director Penalty Notices** — Under the *Taxation Administration Act 1953*, company directors may incur a personal liability for unpaid PAYG Withholding and Superannuation Guarantee Charge liabilities of their company, including estimates of those liabilities. Where such a penalty is incurred by a director, the Commissioner will issue a Director Penalty Notice. ATO staff at or above the APS 3 level have authorisation to issue Director Penalty Notices.
- **Freezing Orders** (or Mareva injunctions) — A Freezing Order is a court order which restrains a debtor or their agents from accessing and dealing with their assets so as to frustrate a creditor (such as the ATO) seeking to recover a liability from the debtor. Freezing Orders require legal oversight, and approval by an SES officer.
- **Garnishee Notices** — Garnishee notices are written notices issued by the Commissioner under section 260-5 of Schedule 1 to the *Taxation Administration Act 1953* requiring a third party to pay money to the Commissioner, to meet the tax debt of another. The third party receiving the notice is required to pay to the Commissioner such monies that may be held for, owed to, or accruing to, the tax debtor, as are required to satisfy the tax-related liability. These third parties may include an employer, a contractor, a financial institution or someone holding money for or on behalf of the tax debtor.
- **Insolvency Action (wind-up and bankruptcy)** — Insolvency action is taken when a person or company is unable to pay all their debts as and when they become due and payable. A person who is insolvent may become bankrupt. A company that is insolvent may be wound

up in insolvency. Under the bankruptcy and liquidation laws, the tax debtor's affairs are placed into the hands of a trustee in bankruptcy or a liquidator who will take steps to dispose of the tax debtor's assets to raise funds to meet the proven debts of all creditors.

- **Judgment** — A decree or order, whether final or interlocutory; or a sentence; and includes a conviction.¹⁰⁵
- **Statutory demand** — A creditor's formal, written request requiring a company to pay a debt within 21 days of service (pursuant to 2459 of the *Corporations Act 2001*).
- **Summons** — If the debtor doesn't work with the ATO to pay their debt, the ATO may file a claim or summons with the relevant court. Once the court has recognised that the debt is owed, the ATO may execute on the judgment debt in a number of ways, including by filing and serving a bankruptcy notice.

105 *Corporation Act 2001* section 9, *Federal Court of Australia Act 1976* section 4

Appendix 3 Issues raised by the ABC *Four Corners* investigation

| Issue | ATO response |
|--|---|
| The ATO views small business as an easy target for revenue raising | Our approach is to focus on helping small businesses so they can meet their obligations as easily as possible and we are committed to assisting viable small businesses to thrive. This includes delivering new tools to make things easier, and providing customised support for small business when they need it. |
| Large businesses have greater review rights than small businesses | All taxpayers have the same legislative objection and review rights. To address a particular perceived issue an alternative dispute resolution process being a pre-assessment independent review for large market business was introduced in 2013. |
| The ATO's debt collection practices are heavy-handed and target-focused. | We only use stronger recovery actions like freezing orders and bankruptcy proceedings when taxpayers refuse to engage with us and don't deal with their tax debt over a period of time. We instigate less than 8 per cent of all insolvencies in Australia – this is both bankruptcies and wind-ups. Each year our insolvency cases are subject to independent external review. The review in 2017 concluded that our collection practices do not prematurely lead to viable taxpayers being made insolvent. |
| The ATO charges excessive and arbitrary penalties on debt. | The ATO has a statutory obligation to impose interest on debts which can be remitted. |
| The ATO's powers are excessive and unreasonable. | <p>The ATO's powers are comparable to other revenue authorities in member countries of the Organisation for Economic Cooperation and Development (OECD) and we only use stronger actions when taxpayers refuse to engage with us within a reasonable period of time. Effective regulators have tools from light touch help and support right through the spectrum to enforcement action as a last resort.</p> <p>The ATO has powers to access or to require the production of information. We can usually obtain the information we need for tax purposes without accessing premises. The formal access powers are rarely used. Last financial year we only needed to access premises 27 times with notice, and 10 times without notice. Our powers in this regard are the same as other comparable OECD tax authorities.</p> |
| ATO has the power to freeze and seize the assets of taxpayers. | The ATO has none of these powers in its own right. Only courts can make orders of this nature, on application from any creditors (including the ATO) of a debtor. |
| Scrutiny of the ATO's administration and operation is insufficient | <p>The Inspector-General of Taxation, Australian National Audit Office, the Commonwealth Ombudsman, the Small Business and Family Enterprise Ombudsman, the Australian Information Commissioner, courts and the Administrative Appeals Tribunal also have a role in examining ATO activity.</p> <p>There is also Parliamentary oversight through a range of committees and inquiries. In 2017–18, the ATO has provided written submissions to eight committees and inquiries and has appeared at nine hearings.</p> |

| Issue | ATO response |
|---|---|
| The ATO cancels ABNs without warning or explanation. | <p>We recognise the impact a decision to cancel an ABN could have on an individual. If ABNs are cancelled we will seek to involve ABN holders and their contracting partner's principals to provide them with an opportunity for input into our deliberations, keep them informed and work together to minimise impacts if ABNs are cancelled. Where a business has misclassified their workers, we will work with them to transition their workers to more suitable arrangements.</p> <p>ABN holders that have failed to demonstrate they are entitled to an ABN and have their ABN cancelled are informed of their objection rights.</p> |
| Taxpayers who claim R&D incentives are at higher risk of being audited. | <p>The R&D tax incentive is a program co-administered by the Department of Industry Innovation and Science (DIIS) and the ATO which provides approximately \$3 billion each year in R&D tax offsets.</p> <p>The ATO undertakes targeted audits and reviews of R&D claims. The ATO will only deny an R&D claim if the taxpayer is unable to substantiate it. Taxpayers have the right to have this decision reviewed, in the first instance by way of objection, but ultimately it can be done through the courts.</p> |
| The ATO has not conducted itself as a model litigant. | <p>Conducting ourselves as a 'model litigant' is both a mandatory requirement of Commonwealth agencies and a natural extension of the ATO's dispute resolution approaches. Being a model litigant requires the ATO to act with complete propriety, fairly, and in accordance with the highest professional standards in handling claims and litigation brought by or against it.</p> <p>Incidence of alleged model litigant breaches by the ATO is very small with the actual number of confirmed findings against the ATO even smaller. In 2016-17 the Commissioner of Taxation was a party to over 5,000 legal proceedings including 456 tax or administrative law appeals. Fourteen alleged breaches of the model litigant obligation were investigated and finalised, with two confirmed findings of model litigant breaches by the ATO. In both cases these were procedural issues and did not impact on the outcome for the taxpayer.</p> |
| The ATO does not offer adequate compensation for their administrative errors. | <p>There is a well-established process to consider applications for compensation under the Commonwealth's Scheme for Compensation for Detriment caused by Defective Administration (CDDA). The CDDA Scheme is an avenue for compensation where a person has suffered detriment due to the defective actions or inaction of the Commonwealth Government for which there would not be legal liability.</p> <p>The ATO's General Counsel area makes ATO decisions under the scheme, applying whole-of-Commonwealth Resource Management Guidelines issued by the Department of Finance. General Counsel make decisions independently of the area within the ATO which handled the case.</p> |
| The ATO raided the home of an employee after he spoke to the media. | <p>The AFP executed a search warrant was issued on 4 April 2018 to secure information which we believe was obtained contrary to our secrecy obligations. We have issued a statement on the matter and will not be commenting further while investigations are ongoing.</p> |

Appendix 4 ATO Quality measures and indicators

| | Service | Accountability | Accuracy | Performance |
|---------------------|---|--|---|--|
| Standard | We are client-focused, fair and professional | We comply with governance principles and our work is able to withstand scrutiny | We provide certainty by meeting all legal and other requirements to achieve the right outcome | We are productive and make the best use of resources to achieve timely outcomes |
| Statement of intent | <p>This means:</p> <ul style="list-style-type: none"> We are focussed on the client's needs and put them at the centre of our work We use a contemporary service ethic at all times We are professional, fair and respectful when interacting with the client We use clear and simple communications so the client can understand the outcome and take appropriate action We use tailored and sensible approaches that reflect the client's behaviours and circumstances | <p>This means:</p> <ul style="list-style-type: none"> Our expectations as well as our client's are clear and everyone understands what they need to do We are pragmatic in our decision-making, ensuring we are sensible, realistic and practical We take sensible informed risks to get the right outcome— if we get it wrong, we take responsibility and correct it Our decisions are clearly documented and work can withstand scrutiny at the highest level A colleague can pick up and progress the work using the records that have been kept | <p>This means:</p> <ul style="list-style-type: none"> We ask the right questions and gather all the relevant information to enable a decision to be made We take reasonable actions to understand the client's circumstances and situation We use professional judgment to make a fair and technically accurate decision for the client We give the right answer, at the right time and in the right way (i.e. the way the client expects to receive the information) | <p>This means:</p> <ul style="list-style-type: none"> We complete our work in a timeframe which is reasonably expected by the client We actively manage our work and take reasonable steps to complete the work, including following-up where necessary Our approach is the most efficient and effective use of everyone's resources Our processes and practices are flexible and agile and support the best outcomes for the client |
| Indicators | <ol style="list-style-type: none"> Contemporary service ethic Fair and respectful Clear and simple communications | <ol style="list-style-type: none"> Accountable and responsible Tailored and sensible risk management Withstands scrutiny | <ol style="list-style-type: none"> Professional judgment Reasonable decisions and actions | <ol style="list-style-type: none"> Timely and responsive Efficient and effective delivery |