

## **Introduction**

1. The Australian Taxpayers' Alliance (ATA) welcomes the opportunity to make a submission to the committee on Australia's taxpayer engagement.
2. The ATA is a grassroots, free-market advocacy group, consisting of over 25,000 members nationally. The ATA stands for the principles of limited government, personal responsibility and removing the regulatory burdens upon individuals or businesses.
3. The ATA supports the principles of fairness, clarity and accountability in our taxation system and supports reducing the compliance burdens on taxpayers.

## **How do taxpayers currently engage?**

4. The ATA notes that the current taxation system is extremely complex and difficult for the average taxpayer to meaningfully engage with. There are over 14,000 pages of legislation alone<sup>1</sup>, which is far too much for anyone to be reasonably expected to understand and comprehend. The lack of clarity has flow on effects in other areas of the tax system. For example, as the ATA noted in response to the 2015-16 Annual Report of the Australian Taxpayer Office, there is already a significant backlog of draft rulings creating uncertainty for even tax professionals. This complexity and lack of clarity risks punishing taxpayers who attempt to honestly and sincerely engage with the tax system and attempt to meet their tax obligations.
5. Furthermore, almost three quarters of individuals (74.2% in 2013-14<sup>2</sup>) were using a tax agent to prepare their tax return. Whilst the use of e-tax/myTax has increased, it is still a small fraction of all people. Whilst some of this can be explained by risk averse behaviour compounded by high profile IT failures, the

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<sup>1</sup> The Government's Tax Agenda. Address to the Queensland Tax Forum. 2015. The Hon. Josh Frydenberg MP,

<sup>2</sup> Taxation statistics 2014-15. Australian Taxation Office

complexity of the system push taxpayers towards tax agents despite an average cost of almost \$400 for an individual to manage their tax affairs. This includes most people who have 'simple tax affairs'. In 2012-2013 of 8.3 million people who had simple tax affairs, 5.4 million used a tax agent or accountant.<sup>3</sup> The cost of compliance of taxes administered by the ATO is roughly \$40 billion in which almost half that compliance cost is borne by small businesses.<sup>4</sup>

6. Should the government wish to encourage people to better leverage new systems, a clear easy to understand tax system is required as well as addressing negative perceptions around compliance and the risks of being unintentionally non-compliant. Whilst part of this will be addressed by an easier to understand system, the ATA submits that taxpayers don't sufficiently understand how the ATO engages with taxpayers' in this area.
7. Whilst the ATA notes that there exists a taxpayers' charter, research conducted found that ordinary taxpayers are unlikely to be aware of it and that in audit practices the charter isn't always well adhered to.<sup>5</sup> The ATA recommends strengthening the charter and improving the education of taxpayers in regards to this, to further address concerns about perceptions of non-compliance.
8. The ATA highlights as an example, the onus that is placed on the taxpayer to prove their lack of guilt. Taxpayers are expected to produce evidence of the absence of fraud or evasion, rather than the Commissioner proving the existence of fraud or evasion. This onus can put taxpayers through costly and drawn out litigation and can result in falsely bankrupting taxpayers.
9. The case of Rod Douglass should be of concern to the committee as an example of how the complexities of the tax system and lack of meaningful protections hurt taxpayers and damage the legitimacy of the tax system in the eyes of taxpayers. Despite forming a husband and wife partnership based on the information from the ATO website and the basis of a 2005 ruling by the then Tax Commissioner around the nature of Husband and Wife partnerships, the ATO

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<sup>3</sup> Taxation statistics 2013-14. Australian Taxation Office

<sup>4</sup> Re:Think Tax Discussion Paper 2015. Australian Government

<sup>5</sup> Toward greater fairness in taxation – A Model Taxpayer Charter. 2015. Confederation Fiscale Europeene (CFE), Asia-Oceania Tax Consultants' Association (AOTCA), Society of Trust and Estate Practitioners (STEP)

challenged the partnership in regards to the existence of an employee relationship. Whilst section 170 of the Tax act limits the amendment of assessments to two years, the Tax Commissioner used an unsigned opinion that there had been tax evasion to bypass this section and hand down a tax bill backdated 10 years demanding over half a million dollars (despite the 2005 ruling that “tax avoidance schemes did not apply to a typical husband and wife partnership where there are no unusual features”). Based on an unsigned opinion, Mr Douglass found himself facing bankruptcy.<sup>6</sup> Whilst in the case of Mr Douglass, he has been fortunate to be able to get good legal assistance that enabled him to appeal his case to the Federal Court, most don’t have that option available to them let alone the ability or finances to take on legal assistance in such a case. Only after 2 long years of legal proceedings was Mr Douglass able to be vindicated when the Commissioner accepted the facts were “incorrectly formed” and the claims withdrawn. This case provides a clear warning to the committee about the importance of procedural fairness for taxpayers as well as the dangers of the complexity of the tax system to taxpayers who are attempting to honestly report and meet their tax obligations.<sup>7</sup>

### **How could taxpayers engage in the future?**

10. The ATA supports a clearer understanding of the tax system through simplification of tax law, such as with a flatter and fairer tax system.
11. The ATA believes that a clearer, simpler system will also make it easier for taxpayers to take advantage of new technologies and systems to manage their tax affairs. A clearer system also means reduced complexity in software and information systems needed by the ATO for self service, which provides for less problems and reduced costs.
12. The ATA also submits that a responsibility exists within the government to be as accountable for the use of money as the taxpayer is. If the government wishes taxpayers to engage in good faith, it is important to show them that the money being levied is being used effectively. The ATA calls upon the government to implement a tax expenditure transparency portal.

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<sup>6</sup> Chris Jordan’s last shot at righting a wayward ATO. 29<sup>th</sup> November 2016. Robert Gottliebsen. The Australian.

<sup>7</sup> Retooling Tax is part of the shift required to foster jobs growth. 30<sup>th</sup> November 2016. Robert Gottliebsen. The Australian

13. A tax expenditure transparency portal shows citizens how governments are using the money providing an improved mechanism for democratic accountability. Such systems have been implemented overseas such as for the US government and over 30 US state governments. It is also used by the European Union and on a more local level such as by the city of London. For example, such a system is used in Texas, USA and has enabled citizens to not only be better informed about how tax dollars are used but also identify waste in the system. This has provided savings of over US\$8.7 million in the first year, which is far more than the \$380,000 cost of implementing the system.<sup>8</sup>

14. The ATA believes that such a system is of high interest to taxpayers and would be proactively used by them. In the US State of Missouri, which has a population slightly less than New South Wales, their portal attracted 15 million hits in the first year of use.<sup>9</sup>

## **Recommendations**

15. The ATA urges the committee to examine and recommend the implementation of a public tax expenditure portal to provide accountability for the use of taxes raised by the government.

16. The ATA calls upon the committee to examine the role of simplified tax structures to improve the ability for taxpayers to engage with the tax system and properly understand and meet their tax obligations in a fair manner whilst reducing compliance costs.

17. The ATA highlights the need to review and strengthen protections for taxpayers.

18. The ATA cautions against the recommendation of any proposals that would increase the cost of compliance.

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<sup>8</sup> Memo prepared by the US Based Center for Fiscal Accountability

<sup>9</sup> Towards True Transparency. Tim Andrews. IPA Review.