IT IS THE COMMUNITY’S TAX SYSTEM

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I INTRODUCTION

Thank you for the opportunity to share with you the exciting challenges I see in my new role as Australia’s eleventh Commissioner of Taxation.

I am delighted to deliver my first formal address in my new role to the Australasian Tax Teachers Association (‘ATTA’). This organisation has provided me with a valuable forum for sharing perspectives and fostering a common interest in taxation over the past several years. I place tax teachers high on the hierarchy of strategic influencers in our society, and of the society we want to be. As taxation is the ‘price we pay for a civilised society’ 1 it is important that our citizens have the wherewithal to understand the choices available to them about taxation. These choices find voice in a policy context at the ballot box, and in a personal context in the propensity of taxpayers to voluntarily comply with their tax obligations. In short, if we as a society are to publicly fund roads, schools, hospitals and defence, and if we are to have a social safety net, then the community makes a contribution to that, in accordance with the law, through taxation. The shape and rate of taxation also impacts on social equity and the competitiveness of our economy. These are of course matters for Government and voters. The role of the Australian Taxation Office (‘ATO’) is to administer the tax laws fairly and efficiently.

The ATO can only play a minor role in shaping social norms about taxation. A greater responsibility rests on other community institutions including Parliament and politicians, academia, the judiciary, the tax profession, and the media. However, just as taxation is important in economic and social terms, the way the tax system is administered also reflects the nature of our society. For example, it could reflect public fiat over the rule of law or disengagement by the general public from the law and its administration. Fortunately, that is not the case in Australia.

In order to safeguard the community from administrative abuse and to nurture and foster a community that is law abiding it is important that taxpayers or their advisers have a clear understanding of their rights and obligations.

Tax teachers also have the onerous responsibility of influencing their students on these weighty matters. The importance of tax teachers to our society was driven home to me by the lifelong commitment of the late Justice Hill to the teaching of taxation. Not only was Justice Hill an inspiration to tax teachers in Australia, he also worked with other jurisdictions to promote the rule of law — all this in addition to the enormous contribution that Justice Hill made to our jurisprudence. I like many was deeply saddened by his passing. As Justice Edmonds observed today, ‘I doubt that we will see the likes of Graham Hill in the revenue law area again, however, if I am wrong, then it will be a long time before we do.’ 2

The theme of this conference is ‘Old Taxes in a New World’. There is some constancy in taxation — two things are certain, so the adage goes, death and taxes. There are also some enduring fundamentals to good tax administration. For example, throughout the 96 year

* BEc, LLB (ANU); Commissioner of Taxation, Australian Taxation Office. This is a revised version of the Commissioner’s speech prepared for the 18th Annual Australasian Tax Teachers Association Conference, held at the University of Melbourne, and delivered on 30 January 2006.

1 Justice Oliver Wendell Holmes, Compania General de Tabacos de Filipinas v Collector of Internal Revenue (1927) 275 US 87, 100.

history of the ATO, we have emphasised our dedication to assisting taxpayers. Indeed, Australia’s second Tax Commissioner, Robert Ewing, is best remembered for his credo that ‘[t]he principle rule of the Department is to assist taxpayers in every possible way.’\(^3\)

While we have come a long way from our beginnings with just a dozen employees based in the Department of the Treasury in Melbourne in 1910, the goal of assisting taxpayers in every possible way remains a source of inspiration for us.

II VISION FOR A WORLD CLASS TAX ADMINISTRATION

I am often asked how I am going to put my stamp on my new role, following in the footsteps of such a successful Commissioner as Michael Carmody. When I first thought about this, I reflected on my time working with Michael and of the things we, and the organisation, had achieved together. I worked with Michael for many years to make our tax administration one of the best in the world. Those are big shoes to fill.

The fundamentals of the ATO built on fairness in accordance with the law, integrity, accountability and administrative transparency, are sound. While I will have my own style and emphasis, these values remain the same. My starting point is that a good tax system and a good tax administration are vitally important to our economy and to our community. How well we administer the tax laws impacts on the economy and on the social fabric of our society. We are very fortunate in this country in that by and large we have a culture of doing the right thing and the great bulk of Australians voluntarily comply with their tax obligations. I believe it is critical for a tax administrator to instil high levels of community confidence in its administration. It must do this by:

- operating effectively and efficiently;
- providing excellent service;
- listening to the community and making the task of tax compliance as simple and convenient as possible;
- dealing with people with respect, professionalism and fairness; and
- supporting honest taxpayers that want to do the right thing by having effective deterrent strategies against those who do not.

The complexity of our society is reflected in the laws that govern it, and tax laws are no exception. In the policy debate notions of equity often bring complexity as well. In a self-assessment system, it behoves the administration to help taxpayers or their agents understand their rights and obligations, and to do everything possible to make it easy for people to comply with the tax law.

Following the example of Robert Ewing, my credo is that we must be an externally focused and community driven organisation. By looking at our operations or the implementation of new tax laws from an external perspective, and genuinely listening to taxpayers and taking on board their suggestions, we can enhance the community’s trust in our administration and reduce deadweight compliance costs for taxpayers.

My vision is for the ATO to continue to develop as a tax administration that is recognised as world class and which works with the community in the care and management of the tax system. To achieve this, our guiding principles will be consultation, collaboration and co-design. These principles are as follows:

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• we will consult with the community and be responsive to evolving demands;
• we will actively engage the community in administrative design and work very closely with representative bodies to identify problems and to jointly develop solutions where possible; and
• we will play our part in driving improvements for the community through a collaborative approach to whole-of-government initiatives aimed at reducing red tape.

For example, we are currently working with Commonwealth and State agencies to better link our systems via the Australian Business Register so that businesses have a one-stop shop for changing their address and other details. This also opens the possibility for a single ‘authenticated’ entry point or portal for business to government.

Similarly, we are working with the information technology industry to build software products that help people manage their financial records in a way that reflects the underlying law. These natural systems should make is easier for taxpayers to comply with their tax obligations and further reduce their compliance costs.

We are taking a lead in working with government agencies including the Department of Family and Community Services, Centrelink and the Health Insurance Commission, to make it easier for people to claim their 30 per cent child care rebate and medical expenses and to dramatically ease their compliance burden by pre-populating tax returns with external data.

You will also see high levels of transparency and accountability from the ATO. We are funded by government and accountable to government and parliament in relation to the efficiency, effectiveness and fairness of our operations. This level of accountability is critically important to good tax administration. However, it is also vital that the ATO maintains its independence in the application of the tax law to a particular case. This requires a high level of integrity and courage where the proper application of the law produces an inconvenient result, complemented by advice to government (through Treasury) concerning needed changes to the tax law where such anomalies occur.

We also have the benefit of scrutiny by agencies such as the Australian National Audit Office, the Inspector General of Taxation and the Ombudsman. Constructive scrutiny is to be welcomed and plays a complementary role in improving tax administration.

III GUIDING PRINCIPLES

A Consultation, Collaboration and Co-design

Consultation and the engagement of stakeholders in the care and management of the tax system embeds trust and confidence and so should be the hallmark of a world class tax administration. In Australia, intermediaries such as tax agents have a symbiotic relationship with the tax administration. These intermediaries provide a key leverage point to influence taxpayer behaviour and to facilitate the increase of streamlined online dealings with the ATO.

At the strategic level, it is important that they are capable of carrying out this role and that they are well regulated.5

B The Right Mix of Help and Enforcement

The right mix of help and enforcement necessitates the existence of effective deterrence strategies to support those that try to comply with their tax obligations. We have engaged

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5 While the ATO was slow to respond to the mass marketed investment schemes of the 1990s, the emergence of these schemes was attributed in part to deficiencies in the capability and regulation of those that advised the participants.
with the community through our published Compliance Program by making public our analysis of risks to the tax system and encouraging feedback on the choices we have made.\(^6\)

\(\text{C Assistance for the Tax Profession}\)

Tax agents and the tax profession generally do an excellent job in helping people understand their rights and obligations under the tax law and making it easier for people to meet their tax responsibilities.

In terms of the ATO’s immediate priorities, we will seek to provide tax agents with excellent service including:

- a premium telephone service;
- continuing enhancements to the Tax Agent Portal which has revolutionised the practices of many agents and simplified their dealings with us; and
- collaborative and consultative working arrangements so tax agents (and other intermediaries) can provide the best possible services to their clients and continue to makes a positive and constructive contribution to the running of the tax system.

A further priority is continuing to support tax agents through Tax Time and we will keep promoting the benefits of online access and lodgement, eLink and tax agent broadcasts. We are encouraging tax agents to use digital certificates and the online access manager to provide greater security and control over use of the Tax Agent Portal. Significantly, we will continue to have the Tax Agent Portal available for registered tax agents 24 hours a day, seven days a week.

Into the future, we will engage constructively with the tax profession to co-design working arrangements with the ATO to best suit their needs, and explore ways of improving capabilities and the effective regulation of the profession. This includes ATO scrutiny of tax agents that operate outside industry norms.

Also, we will continue working with software developers and tax agents to ensure updated legislative and administrative requirements for the new tax year continue to be incorporated into electronic lodgement service software products. It is important for any tax administration to minimise the compliance costs for business and the wider community, subject to the legislative requirements of that system. Where compliance costs outweigh or are disproportionately large relative to the policy intent of any measure, the tax administration can play a role in bringing this to the attention of the government.

\(\text{D Reducing Red Tape Using Technology}\)

The improvements that the ATO is delivering through the Easier, Cheaper, More Personalised program (‘the Change Program’) provide an opportunity to reduce red tape. We are investing $400 million in a major undertaking which will fundamentally change the way we deal with the community, improve our internal processes and update our information technology systems. We see this as a vital investment in running a world class tax administration. The prospect of delivering a greater range of online channels for people to deal with us — and preferably on a whole-of-government basis — is very exciting.

The ATO has introduced services so tax agents and businesses can register for tax, lodge statements and returns, and manage accounts online. We also continued to develop our ‘e-tax’ online lodgement facility and introduced new services like lodging tax returns over the phone.

\(^6\) Our annual Compliance Program is available from our website <http://www.ato.gov.au>.
The Change Program has already made strides in making it easier and cheaper for people to meet their obligations in a number of respects. The overwhelming majority of tax agents are now using the Tax Agent Portal, and, in a recent survey of agents who use it, 84 per cent said they use the Portal daily and 98 per cent rated it “useful” or “very useful”.

More than 1.3 million Australians are using e-tax to do their annual tax return, and nearly 40 per cent of business activity statements are being lodged electronically.

The ATO has also upgraded phone services and in 2006, we will be significantly improving the quality of our phone services through the roll out of a new Client Relationship Management System (‘CRM’).

The roll-out of CRM will take place in two stages. The first stage was implemented in 2005 and gave our call centre staff a single consolidated view of taxpayer information and their history, including phone calls and letters. The second stage, due to commence later in 2006, will provide the technology to automatically transfer details of the taxpayer’s enquiry with the call. This should end the frustration people experience when they have to repeat their details if they are transferred to another officer. Once all this technology is introduced, people will not have to go through their full history when they ring and they will not have to repeat their details if they are transferred. Instead, the potential exists for a faster and more efficient service, greater certainty and satisfaction from dealing with a tax officer who understands their situation.

Other major technological improvements we have delivered this year include a secure messaging function so people can send enquiries and requests for tax technical assistance and advice and receive a response via the portals; and a pilot of an electronic record keeping tool so people can load this stored information directly into e-tax.

In May 2006, building on CRM, correspondence will be imaged, tracked and sent electronically to all front-line staff. As well as providing a complete picture of a taxpayer’s client contact history for staff, our people will be able to advise taxpayers of the progress of enquiries and requests as we progressively introduce an organisation-wide case management system. This will enhance our ability to ensure consistent treatment and recording of all dealings with the ATO.

In future years, we will see real-time processing of an increasing number of forms lodged electronically. For example, people will be able to get real-time assessments for lodgements including income tax returns, fringe benefits tax returns, and activity statements. Importantly, people will get an immediate response when lodging these forms online with refunds deposited directly into their bank accounts.

Online forms will be increasingly pre-populated with information held by the ATO and other government and non-government organisations. Forms will also be tailored to a taxpayer’s circumstances. For example, where a taxpayer does not have a GST obligation, they will get a shorter form without the GST boxes.

IV TREATING TAXPAYERS WITH FAIRNESS, INTEGRITY AND HONESTY

Procedural fairness, courtesy and integrity underpin a world class tax administration. This is important because the success of any tax system is highly dependent on people’s propensity to voluntarily comply with their tax obligations.

7 In the November 2005 Tax Agent Portal survey conducted by independent researchers, TNS Social Research, 84 per cent of surveyed tax agents said they use the portal daily with 98 per cent rating it as ‘useful’ or ‘very useful’.

8 As at January 2006 more than 1.3 million ‘e-tax’ lodgements had been received by the ATO for 2004–05.

9 As at January 2006 the number of Activity Statement lodgements via the Business Portal, Electronic Lodgement Service or Electronic Commerce Interface had increased by 3.8 per cent compared to the same time last year to 39 per cent of all activity statement lodgements.
An important factor that shapes community attitudes and behaviour is the community’s belief that the Tax Office is fair, certain and legitimate.10 These perceptions of fairness include:

- the assistance people receive in relation to their responsibilities under the tax system;
- the ease with which people can deal with the Tax Office;
- issues of respect and natural justice; and
- the perceived effectiveness of deterrence strategies.

The recurring themes of excellent service to taxpayers; efficient and effective management of risks to the tax system; making it easier for people to comply; and building community confidence in our tax administration remain our goals today as they were in the past.

Independent professionalism surveys conducted on our behalf suggest that 70 per cent of Australians think that the ATO is doing a good job.11 This is good, but it also suggests that a lot more work is necessary to acquire the confidence and trust in us of the remaining 30 per cent. The surveys suggest that taxpayers are most satisfied that our employees have respect for them, but many believe we need to be more accountable. To address these concerns, the ATO must listen to and respond to community concerns and be more transparent and accountable for our actions.

It is essential that tax officers are competent in their duties and exhibit the professional culture that underpins the Taxpayers’ Charter.12 A tax administration’s people can be its greatest asset. It is their professionalism and judgement that influences the views of those that interact with them.

Therefore, the ATO will continue to make a significant investment in our people’s capabilities and values, and in ensuring that they are well supported with up-to-date systems and well considered policies and procedures.

V PRIORITIES AND CHALLENGES

I see a number of key priorities as I commence in the role of Commissioner. The ATO’s first priority is continuing to deliver on our commitments to the government and the community. This includes effective implementation of new tax law, and maintaining high service standards and high levels of voluntary compliance.

Second, we will be putting a major emphasis on ensuring the effective and efficient delivery of the new service improvements supported by the Change Program. In the implementation stage, there will be some disruptions to our services, and we ask for patience from affected taxpayers and tax agents.

In terms of broad directions the major redevelopment of our technological systems promises an integrated and robust operational platform which should deliver improved levels of service and make taxpayer communication with the ATO easier, simpler and more personalised. It will allow a greater degree of differentiation in the way we deal with taxpayers and their agents.

Third, the work we are doing with the Australian Crime Commissioner, the Australian Federal Police and the Director of Public Prosecutions on tax evasion and abusive tax avoidance schemes, including those that make use of tax havens, should send a strong signal about the firm Commonwealth response that can be expected by the promoters and participants. We are currently working closely with law enforcement agencies on abuses of

11 Millward Brown, Community Perceptions Survey (Millward Brown, June 2005) 35.
12 ATO, above n 10.
the tax system that appear to be blatant, artificial and contrived. The effective resolution of that work through the courts will send a message that the community does not tolerate egregious tax behaviour. This should reinforce the courts’ disallowance of the inflated deductions claimed in mass marketed investment schemes, employee benefit arrangements and wealth optimiser facilities.\textsuperscript{13}

Another priority is continuing to demonstrate the highest standards of professionalism, probity and integrity in all our decision making and activities. We have a proud reputation for honesty and we want to keep it that way. I also want to emphasise our commitment to external scrutiny and the value we place on constructive suggestions or criticisms of our operation. We are happy to learn from our mistakes and to improve the quality of the tax administration we provide to the community. However, if we have one plea for external scrutineers, is it that the criticism is constructive, based on fact, linked to viable options for change, and that the excellent features of the administration be endorsed with the same vigour as any perceived shortcomings.

The ATO also faces a number of challenges as we seek to introduce major changes to make it easier for people to do business with us and to help us manage the risks to the tax system. Delivery of the Change Program is not without inherent risks and if we fail to implement it properly, we may limit further opportunities for innovative and value-adding change.

Key economic trends are also likely to influence, or be included by, laws. These include heightened market competition; much greater international mobility of labour, knowledge, and capital, facilitated in part by the continued growth of e-commerce; an ageing population; and increasing emphasis on environmental and energy support concerns.\textsuperscript{14}

In dealing with risks to the revenue through our compliance strategies (both help and active compliance strategies) it is crucial that we act in a way that continues to instil community confidence. That is why it is so important that we have a publicly articulated compliance strategy, and fair and transparent policies and processes that are a partial answer to the push-back that sometimes seems to follow even the most legitimate use of compliance activities. However, we need to guard against being too defensive and actively listen to the community and constructively address legitimate concerns. To this end, we are refreshing our ‘Listening to the Community’ program, by seeking to make the best possible use of the wide range of consultative forums that guide us in our operations.

**VI Conclusion**

I am very honoured to have the privilege of leading the administration of Australia’s taxation system. It has been said that I am ‘passionate about tax’. This is because taxation is a fundamental pillar of our society. While the shape of the tax system is a matter for government and for voters at the ballot box, it is the ATO’s responsibility to administer the tax laws in a way that instils community confidence. We have a vision of a world class tax administration that works with the community in the care and management of the community’s tax system.

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