

The Auditor-General
Audit Report No.52 2012–13
Performance Audit

Management of Debt Relief Arrangements

Australian Taxation Office

Australian National Audit Office

© Commonwealth of Australia 2013

ISSN 1036-7632

ISBN 0 642 81376 0 (Print)

ISBN 0 642 81377 9 (On-line)

Except for the content in this document supplied by third parties, the Australian National Audit Office logo, the Commonwealth Coat of Arms, and any material protected by a trade mark, this document is licensed by the Australian National Audit Office for use under the terms of a Creative Commons Attribution-NonCommercial-NoDerivatives 3.0 Australia licence.

To view a copy of this licence, visit

<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>

You are free to copy and communicate the document in its current form for non-commercial purposes, as long as you attribute the document to the Australian National Audit Office and abide by the other licence terms. You may not alter or adapt the work in any way.

Permission to use material for which the copyright is owned by a third party must be sought from the relevant copyright owner. As far as practicable, such material will be clearly labelled.

For terms of use of the Commonwealth Coat of Arms, visit It's an Honour at <http://www.itsanhonour.gov.au/coat-arms/index.cfm>.

Requests and inquiries concerning reproduction and rights should be addressed to:

Executive Director
Corporate Management Branch
Australian National Audit Office
19 National Circuit
BARTON ACT 2600

Or via email:

webmaster@anao.gov.au



Canberra ACT
25 June 2013

Dear Mr President
Dear Madam Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Australian Taxation Office with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit to the Parliament. The report is titled *Management of Debt Relief Arrangements*.

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

Yours sincerely



Ian McPhee
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.

For further information contact:
The Publications Manager
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Telephone: (02) 6203 7505
Fax: (02) 6203 7519
Email: webmaster@anao.gov.au

ANAO audit reports and information about the ANAO are available at our internet address:

<http://www.anao.gov.au>

Audit Team

Jane Whyte
Therese McCormick
Nathan Callaway
Andrew Morris

Contents

Abbreviations.....	7
Summary and Recommendations	9
Summary	10
Introduction	10
Audit objective and criteria	13
Overall conclusion.....	14
Key findings by chapter.....	15
Summary of agency response	20
Recommendations	22
Audit Findings	23
1. Background and Context	24
Introduction	24
Debt relief options	27
The ATO's arrangements for managing debt relief.....	32
Published reports relating to the ATO's management of debt	34
Audit objective, criteria and methodology	35
2. Engaging with Tax Debtors and Supporting Debt Staff	37
Introduction	37
Information and community engagement activities.....	38
Supporting ATO staff in the management of debt relief cases	41
Conclusion	46
3. Assessing Debt Relief Applications	48
Background	48
Assessment and decision making processes	48
Quality assurance processes.....	63
Conclusion	72
4. Automated Debt Relief Processes	75
Bulk non-pursuit process	78
Re-raising non-pursued debts.....	82
Standalone systems supporting the Debt Hardship Capability team.....	83
GIC remission	85
Conclusion	86
5. Reporting of Debt Relief Arrangements	88
Background	88
Management reporting of debt relief	89
External reporting of debt relief	96
Conclusion	97

Appendices	99
Appendix 1: Agency response	100
Index.....	101
Series Titles.....	102
Current Better Practice Guides	108

Tables

Table S.1	Waiver, release, and compromise applications received, finalised and granted in 2011–12	12
Table 1.1	Debt relief applications finalised and granted in 2011–12.....	31
Table 1.2	Report structure	36
Table 2.1	Number of courses completed relevant to debt relief, for the period March 2010 to March 2013	45
Table 3.1	Factors considered when assessing release applications	52
Table 3.2	Release applications processed from 1 July 2011 to 31 December 2012	53
Table 3.3	Debt values and delegations—release.....	56
Table 3.4	Value of compromised debts, 1 July 2009 to 31 December 2012	58
Table 3.5	Enterprise quality assurance re-design project, processes and outcomes	66
Table 3.6	Objections to debt release decisions for the period 2010–11 to 22 February 2013	70
Table 3.7	Debt release appeals to the Administrative Appeals Tribunal.....	72
Table 5.1	Reasons for non-pursuit of debt in 2011–12	92
Table 5.2	GIC reported in annual reports and ATO Finance reports, 2011–12.....	97

Figures

Figure 1.1	Age profile of collectable debt, 30 June 2012	26
Figure 1.2	Structure of the Debt business line as at 1 July 2012	33
Figure 4.1	Debt management process flow	78
Figure 4.2	Bulk non-pursuit process workflow in the legacy systems	80

Abbreviations

AAT	Administrative Appeals Tribunal
ANAO	Australian National Audit Office
ATO	Australian Taxation Office
BNP	Bulk non-pursuit
CAS	Client Account Services
Debt QMS	Debt Quality Management System
DBL	Debt business line
DBP	Debt Best Practice team
DHC	Debt Hardship Capability team
Finance	Department of Finance and Deregulation
FMA Act	<i>Financial Management and Accountability Act 1997</i>
GIC	General interest charge
ICP	Integrated Core Processing system
ICT	Information and Communication Technology
INP	Individually non-pursued
IQF	Integrated Quality Framework
L&D	Learning and development
ME&I	Micro Enterprises and Individuals business line
PAYG	Pay-as-you-go tax withholding
POCA	<i>Proceeds of Crime Act 2002</i>
PS LA	Practice Statement Law Administration
TAA	<i>Taxation Administration Act 1953</i>

Summary and Recommendations

Summary

Introduction

1. The Australian Taxation Office (ATO) is responsible for administering Australia's tax and superannuation legislation, and seeks to build confidence in its administration through helping people to understand their rights and obligations, improve ease of compliance and access to benefits, and manage non-compliance with the law. The effective management of debt is also a key factor in maintaining community confidence in the fairness and equity of Australia's tax and superannuation systems.
2. A debt arises when a tax, duty or charge becomes legally due and payable.¹ The ATO expects tax debtors to pay their debts as and when they fall due for payment. However, if the debt is not paid by the due date, the ATO can take appropriate action to recover it. The ATO's policy is to adopt a 'community first' approach when deciding the recovery options it will take, and differentiates between taxpayers who are trying to do the right thing and meet their obligations, and those who are not.² Accordingly, the ATO takes into account the compliance history of taxpayers and their capacity to pay a tax debt.
3. The ATO encourages people to contact them as soon as practicable if they are experiencing difficulties in meeting their tax or superannuation obligations, and will assist them to manage their obligations and prevent their debt from escalating. Information relating to financial hardship is available on the ATO's website, and the ATO also conducts a range of community engagement activities to communicate its messages to taxpayers. While the ATO has measures in place to identify and support taxpayers who may be experiencing financial difficulties, the onus is on taxpayers or their representatives to contact the ATO and discuss their financial circumstances and debt payment arrangements.
4. Debt recovery options available to the ATO include negotiating a payment arrangement to allow taxpayers to pay their debt over an agreed period of time, using garnishee powers to collect the debt directly from a

¹ This report refers to these debts broadly as taxation debt.

² Commissioner of Taxation, *Annual Report 2011–12*, p. 44.

taxpayer's bank account or salary, or as a last resort seeking payment of the debt through court action. The ATO may also decide not to pursue the liability, or to reduce or cancel the amount of debt the taxpayer owes. These options are referred to collectively in this report as 'debt relief' arrangements.

5. Debt relief options include: the *waiver*³ of debt; full or partial *release* from tax liabilities where payment may cause serious hardship to taxpayers⁴; and acceptance of a *compromised* amount of revenue against the full value of the debt where it has assessed that the entire balance is unlikely to be paid. The ATO may also decide *not to pursue* a debt where it is uneconomical to do so or irrecoverable at law, including through automated bulk processes for lower value and aged debts that have been in the system for some time.⁵

6. In addition to their primary debt, taxpayers may be liable for general interest and penalty charges.⁶ In certain circumstances, the ATO may agree to a *remission* of the general interest and penalty charges, meaning that all or part of the general interest charge that has accrued, including for the late payment of a debt, is cancelled.⁷ Each debt relief option is governed by specific legislation, delegations and criteria, subject to the type of tax for which the debt arises.

7. Debt relief options can only be applied to collectable debt—that is, debt that is not subject to objection or appeal or any form of insolvency administration. The ATO was managing \$31.7 billion in total debt holdings as at 30 June 2012⁸, of which \$16.6 billion was collectable debt and \$15.1 billion was impeded debt.⁹ The age of the collectable debt varies, with around \$7.0 billion being outstanding for more than two years, including over \$1.5 billion for more than five years; aged debt being generally more difficult to recover. Activity statement debt (particularly relating to the goods and services tax) and income tax debt accounted for the bulk of the collectable debt:

³ A debt due to the Commonwealth can only be waived—that is, expunged and not subsequently recovered or re-raised—by the Finance Minister or appointed delegate.

⁴ Serious hardship is where an individual is 'deprived of necessities according to normal community standards': ATO, Practice Statement Law Administration, PS LA 2011/17: *Debt relief*.

⁵ Debts that the ATO decides not to pursue may be re-raised at a later date if changes to a taxpayer's circumstances would support collection of the debt.

⁶ The ATO applies a range of interest charges where taxpayers have not paid the full amount of the tax debt, or not paid by the due date, in order to compensate the Government for the time value of money. Penalties are imposed where taxpayers have failed to meet their tax obligations, such as to lodge a tax return.

⁷ ATO policy states that it is inappropriate to remit the general interest charge as an inducement to finalise a debt. ATO, Practice Statement Law Administration, PS LA 2011/12.

⁸ Commissioner of Taxation, *Annual Report 2011–12*, p. 58.

⁹ Impeded debt is subject to legal requirements, such as the taxpayer undergoing insolvency proceedings or disputing the debt owed to the ATO. There are no available debt relief options for impeded debt.

\$9.1 billion in activity statement debt, and \$7.1 billion in income tax debt.¹⁰ All collectable debt is subject to the ATO's debt management and recovery processes, including where taxpayers are eligible for some form of debt relief.

8. The value of debts subject to some form of debt relief in 2011–12 was \$4.6 billion. Of this amount: \$2.4 billion was not pursued¹¹ either because the debts were uneconomic to pursue or irrecoverable at law¹²; \$1.6 billion was for remission of general interest charges; \$391 million was for remission of penalty charges; \$184.2 million was compromised; \$60.6 million was released; and around \$200 000 was waived. The number and value of applications received and granted waiver, release, and compromise from debt in 2011–12 are set out in Table S1. The table indicates that 62 per cent of the applications finalised were granted full or partial relief of their debt.

Table S.1

Waiver, release, and compromise applications received, finalised and granted in 2011–12

Debt relief	Number of applications received	Number of applications finalised ¹	Value of applications finalised (\$ million)	Number and per cent of finalised applications granted release	Value of debt not collected (\$ million)
Release	6165	3863	198.9	2439 (63%)	60.6
Compromise	27	23	Not Available	16 (70%)	184.2
Waiver	59	51	7.1	4 (8%)	0.2
Total	6251	3937	Not Available	2459 (62%)	245.0

Source: ATO.

Note 1: Applications may not be finalised in the year that they are received. The difference between the number of release applications received and finalised in 2011–12 was mainly due to a high number of applications being received late in the financial year, and 1573 applications 'finalised without decision', where taxpayers failed to bring all lodgements up to date or did not provide the required information.

¹⁰ The remaining \$0.3 billion mainly related to superannuation guarantee charge debt.

¹¹ The ATO's financial statements allow for the non-collection of revenue amounts (including debt subject to relief arrangements) by providing for the impairment of taxation receivables. In 2011–12, the ATO's financial statements disclose in Note 19 total taxation receivable (gross) of \$31.7 billion and an allowance for impairment of \$11.5 billion. While debts that are not pursued because they are uneconomical to do so are impaired in the financial statements, they can be re-raised (as outlined in footnote 5).

¹² This figure includes around \$462 million not pursued in 2011–12 as a result of automated bulk non-pursuit processes in the legacy systems that identified large volumes of lower value and aged debts and some that were irrecoverable at law. The ICP system has identified almost \$50 million of lower value and aged debts for non-pursuit since its inception in September 2010.

9. Of those cases granted full or partial relief of their debts through release, compromise or waiver in 2011–12, most (69 per cent) involved relief of between \$2500 and \$50 000, while 81 per cent of the total value of relief was granted to cases where the relief exceeded \$100 000.¹³

Administration of taxation debt

10. The ATO's Debt business line has primary responsibility for the management and reporting of debt, including debt relief. Guidance material, staff training and appropriate delegations support the assessment of debt relief applications. The ATO also applies a quality assurance regime to its debt relief processes and practices, and taxpayers have various rights of review of the decisions the ATO has made about their application for debt relief.

11. In managing debt cases, the ATO relies on two information and communications technology (ICT) systems—a new integrated core processing system established in 2010 that operates in parallel with a number of legacy systems.¹⁴ Taxpayers may have several accounts in these two systems, and while this situation has little impact on individual taxpayers it creates additional work for ATO staff to assess and manage debt relief cases as they must use information from both systems.

Audit objective and criteria

12. The objective of the audit was to assess the effectiveness of the ATO's administration of debt relief arrangements. The audit assessed whether:

- information was readily available on debt relief options to people in serious hardship;
- those cases being considered for debt relief were effectively assessed;
- debt cases that were not pursued and re-raised or cancelled at a later date were being appropriately managed; and
- debt relief outcomes were accurately reported.

The ATO's communication with taxpayers and key stakeholders was also examined.

¹³ The ATO did not maintain statistics on the age of debt relief cases.

¹⁴ The ICP system processes, among other things, income tax and fringe benefits tax. The legacy systems process taxes that include goods and services tax, pay-as-you-go (PAYG) tax installments, excise, and superannuation guarantee.

Overall conclusion

13. In managing taxation debt, the ATO must balance support for taxpayers experiencing financial hardship with its responsibilities to collect revenue. The decision to reduce or cancel a debt represents a loss of revenue for the Commonwealth, and may also advantage one taxpayer over another if debt relief decisions are not consistently applied. In 2011-12, the ATO collected \$301 billion in taxation revenue, had collectable debt holdings of \$16.6 billion and granted \$4.6 billion in debt relief.¹⁵

14. The ATO's management of debt relief arrangements is generally effective, given the volume of transactions and the extent of the need to have regard to taxpayers' personal circumstances. The ATO promotes early engagement by taxpayers if they are unable to meet their tax obligations and provides considerable information about debt management and relief. It also has effective arrangements for identifying, assessing and managing applications from taxpayers experiencing financial hardship, and recently improved its debt reporting arrangements. There is scope, however, to improve the quality assurance processes for general interest charge remission to help ensure these decisions are consistently applied. Assessing the extent to which debt release decisions have supported taxpayers in meeting their tax obligations in the longer term, would also inform debt relief strategies and improve the quality of decision making.

15. Debt relief applications are mainly assessed and managed by the Debt Hardship Capability team within the Debt business line. The team has specialist debt knowledge and the capability to consider taxpayers' financial circumstances. Formal guidance material supports the assessment of debt relief cases, and staff training, supervision and delegations aim to provide consistency across assessments, recognising that debt relief decisions are complex and require judgements about taxpayers' financial hardship and their capacity to pay. The ANAO analysed a sample of 629 cases across all major categories of debt relief (waiver, release, compromise, individual non-pursuit and remission of general interest charges), and did not identify any notable non-compliance with ATO processes and record keeping obligations.

¹⁵ Total taxation revenue was reported in the *Commissioner of Taxation, Annual Report 2011–12*, p. 58. Collectable debt holdings relate to multiple previous years and was valued at \$16.6 as at 30 June 2012. In addition, there was \$15.1 billion in impeded debt that was not subject to debt relief arrangements, over the same period.

16. To support compliance with its debt relief processes and procedures, the Debt business line has specific quality assurance mechanisms in place, including controls over automated processes. These mechanisms do not, however, adequately cover the decisions to remit general interest charges that can be made by staff in other business lines, who are often at relatively low classification levels. There would be benefit in the ATO's quality assurance reviews giving particular attention to providing assurance that these decisions are being made in accordance with relevant policies and procedures.

17. Reporting on debt relief arrangements within the ATO was limited prior to early 2013, covering only combined figures for non-pursued debt and the remission of general interest and penalty charges. In April 2013, the ATO implemented a new reporting framework that is intended to provide more accurate and detailed information on all aspects of debt management, including debt reductions by category of debt relief.¹⁶

18. The ANAO has made two recommendations aimed at: enhancing assurance processes for the remission of general interest charges; and improving the ATO's ongoing administration of debt relief arrangements by assessing the extent to which debt release decisions have assisted taxpayers to meet their tax obligations in the longer term.

Key findings by chapter

Engaging with tax debtors and supporting debt staff (Chapter 2)

19. To encourage and support taxpayers' compliance with their tax obligations, the ATO provides a range of information relating to debt management on its website to assist taxpayers in meeting their payment obligations, and also provides advice in writing and by telephone.

20. While online information about debt relief is available, it does not fully cover all aspects of debt relief and is difficult to locate. A new website is being developed to improve accessibility and the clarity of messages as part of the ATO's strategy to deliver more services online. As the ATO expands its online service delivery, consideration will need to be afforded to those taxpayers who are less comfortable with, or whose personal circumstances may limit their access to, these services.

¹⁶ The new reporting framework will provide a weekly summary report of the value of debt holdings at the start and end of the week, and debt in-flow and out-flow, including debts resolved by collection or reduction (debt relief).

21. The ATO conducts community engagement activities that allow communication of specific messages to taxpayers, including in relation to debt relief, and to obtain feedback on the standard of services being provided. Results from a survey of 54 financial counsellors completed for this audit indicated that the ATO performed reasonably well in responding to taxpayers in hardship and in engaging with counsellors.¹⁷ The results also provided useful information for management about opportunities to improve the negotiation of debt hardship arrangements. The ATO could also consider including questions relating to taxpayers' engagement with the ATO about the management of their debts in its annual surveys, as these do not currently cover debt management issues.¹⁸

22. The processing of debt cases is supported by guidance material that sets out policies and procedures to be followed by staff when assessing applications for relief. Training courses are also delivered to ATO staff in order to provide them with the necessary skills to engage taxpayers and work through debt management options. Debt business line staff have access to 15 courses that most directly relate to debt management and debt relief arrangements, with ATO records indicating a significant increase in staff attendance since July 2011. The results from the survey of financial counsellors may be useful to the ATO when reviewing its annual learning and development plan.

Assessing debt relief applications (Chapter 3)

23. Assessing a taxpayer's circumstances and eligibility for some form of debt relief involves an understanding of the relevant legislation and the ATO's policies and procedures. ATO staff are required to assess taxpayers' circumstances against factors that, by their nature, require a degree of judgement, including that the decision to grant debt release will allow taxpayers to gain control of their finances. The ANAO's analysis of the administration of a sample of applications for waiver and release of a debt¹⁹ indicated general compliance with ATO processes and record keeping

¹⁷ In March 2013, Financial Counselling Australia surveyed 54 financial counsellors from across Australia (excluding New South Wales and Tasmania) about their experiences in dealing with the ATO, specifically the Debt Hardship Capability team, to negotiate a debt hardship arrangement for their clients.

¹⁸ Two annual surveys—the ATO professionalism survey and the Community Perceptions survey—are commissioned by the ATO but neither includes any questions relating to debt management or relief.

¹⁹ The ANAO analysed all 77 applications for waiver of a debt finalised during the 18 month period 1 July 2011 to 31 December 2012, and 460 of around the 9499 applications for release of debt actioned between 1 July 2011 and 30 June 2012.

obligations. However, in respect of compromise, the ATO could strengthen its record keeping for the relatively small number of cases it manages each year.²⁰

24. In examining decision-making processes for the non-pursuit of individual debts and the remission of general interest charges, this audit drew on the findings of the ANAO's 2010–11 and 2011–12 audits of the ATO's financial statements. These audits indicated that the ATO had appropriate approvals and recording of remittal values. The audits also noted that there was generally less oversight of the decisions to remit general interest charges than other forms of debt relief. This is despite decisions to remit these charges being made across the ATO and often by officers at relatively low classification levels.²¹

25. The ATO commissions external consultants to conduct annual independent reviews of its debt release decisions. As these reviews have a relatively narrow focus, examining only the assessment of 'serious hardship' and if taxpayers were kept informed of the progress of their application, there would be benefit in the ATO reviewing the ongoing value of these reviews. The ATO does not assess the outcomes of debt release decisions, including the extent to which they have supported taxpayers to meet their taxation payment obligations in the longer term. Such analysis would provide a better understanding of the factors involved in assessing taxpayers' financial hardship and the quality of debt release decisions, as well as informing debt relief strategies.

26. As previously noted, taxpayers are expected to meet their debt obligations where they have the capacity to pay. Decisions to reduce or cancel debts represent a loss of revenue for the Commonwealth, and if not consistently applied may advantage one taxpayer over another. The ATO has several mechanisms to assess the quality and consistency of its administration and decision making. In particular, the Integrated Quality Framework²² (IQF) processes aim to provide assurance that there are no systemic issues in the administration of the tax and superannuation systems, and the Debt Quality Management System is used to assess the quality of the work of individual staff members in the Debt business line.

²⁰ The ANAO examined the case management records for 42 of the 98 compromise cases finalised between 1 July 2009 and 31 December 2012.

²¹ The ATO remitted general interest charges valued at \$1.9 billion in 2010–11 and \$1.6 billion in 2011–12.

²² The Integrated Quality Framework is the principal means of improving and assuring the quality of work across the ATO. It aims to identify systemic issues concerning processes and procedures at the corporate and team level.

27. While the Debt Quality Management System assessment processes are generally sound, the ATO is redesigning the IQF to provide a greater level of assurance on the work being undertaken. The new IQF processes are to be implemented in 2013–14. There would be benefit in increasing the quality assurance review for the remission of general interest charges to provide greater assurance that decisions are being applied consistently and staff are following the appropriate procedures, including not to remit these charges as an inducement to finalise a debt.

28. Taxpayers can request the ATO to review a decision not to grant relief from their debt. However, information provided by the ATO about the main options for review is not clear in all instances. Notably, the ATO website advises taxpayers that they cannot dispute or disagree with a general interest charge decision through the objections process, only advising taxpayers that they can contact the ATO to discuss the matter. Further, it does not advise that complaints and objections regarding release decisions are dealt with differently by the ATO.²³ While the ATO's processes for managing taxpayers' objections are sound, it would be helpful if the ATO better communicated the processes for disputing or disagreeing with their decisions. There have been relatively few objections and reviews of the ATO's debt release decisions upheld in recent years. Only four of 209 objections finalised in 2011–12 were upheld (less than 2 per cent), and similarly one of 12 appeals to the Administrative Appeals Tribunal was upheld.

Automated debt relief processes (Chapter 4)

29. The ATO initiated the Change Program in 2002 to establish an up-to-date ICT capability and replace the agency's multiple ICT systems with a single business system. In June 2010, the ATO announced that the implementation of the Change Program was formally completed. However, a range of legislative changes, combined with changes in project scope and a series of delays and extensions, resulted in the full functionality of the original program specifications not being achieved. As a result, the ATO continues to use two ICT systems to administer tax and superannuation (the integrated core processing (ICP) system and the legacy systems).

²³ Complaints are initially managed within the Debt team that made the original decision, whereas objections follow a more formal process and are reviewed by another business line to provide an independent assessment.

30. While these ICT arrangements have no direct impact on taxpayers, they limit the ATO's capacity to administer certain business operations without intervention. For debt management, this means using systems separate from the main ICT systems to support the management of taxpayers' applications for release, waiver and compromise, and to report on the movement of debt cases and the different categories of debt relief. While the ATO recognises the risks and challenges of maintaining two complex, parallel ICT systems, it noted that there are multiple demands for system upgrades and enhancements that have to be prioritised across the ATO.

31. The ATO applies processes in both ICT systems to allow the bulk non-pursuit of debts that have been outstanding for some time and are considered uneconomical to follow up or are irrecoverable at law. In the legacy systems, just over \$462 million of debt was not pursued during 2011–12. This bulk process is safeguarded by two key controls—executive review and approval of bulk non-pursuit parameters and a sampling review of the output of the process—that provide reasonable assurance of the integrity of the process.

32. There is, however, only a limited, interim bulk non-pursuit capacity in the ICP system as full functionality is not yet available. Since September 2010, debts in this system totalling just under \$50 million were not pursued, covering debts that are potentially uneconomical to pursue, but none that are potentially irrecoverable at law. There is a potential backlog of cases that will not be processed until the full bulk non-pursuit capability is available in the ICP system, scheduled for September 2013.

33. Debts that the ATO has assessed as uneconomical to pursue through the bulk non-pursuit and individual non-pursuit processes can be re-raised at a later date, subject to changes in the taxpayer's circumstances, using either ICT system. Analysis of the ATO's systems for re-raising non-pursued debt found that the five relevant business rules are being properly implemented in the relevant systems. The ATO's internal procedures to impose general interest and penalty charges and to run monthly bulk processes to deal with very low value automatic remissions are also sound, and ANAO testing has found no material mistakes in the process.

Reporting debt relief (Chapter 5)

34. The ATO developed a new debt reporting framework in 2012–13, primarily to meet the reporting requirements associated with the additional

program funding allocated in the 2012–13 Budget. The framework provides the Debt business line with improved management information on the value and ‘flow’ of debts, including for the categories of debt relief. Previously, the focus of reporting had been on debt collection, with the ATO advising that reporting of debt relief had traditionally been regarded as a lower priority and undertaken on an ad hoc basis.

35. The first full report under the new framework, the debt flow weekly summary report, was produced in April 2013. The ATO now produces four reports that provide information on debt relief—the other reports being the non-pursuit report, the hardship capability report, and a report on the value of general interest and penalty charges imposed and remitted each month. These three reports provide high-level data on some but not all aspects of debt relief, and will complement the more detailed information provided in the new report. Refinements to the four debt reports depend on the ATO further developing its ICT systems. These changes would address issues that currently constrain the debt reporting capability, including that data must be sourced from the standalone systems used by the Debt Hardship Capability team.

36. There is limited public reporting of debt relief arrangements in the Commissioner of Taxation’s annual reports and accompanying financial statements.²⁴ Reporting would be strengthened by the consolidated presentation of all debt relief arrangements, broken down by category, and by the ATO ceasing to use the terms ‘non-pursuit’ and ‘write-off’ interchangeably. These terms do not accurately distinguish between those debts the ATO has chosen not to pursue but can re-raise at a later date (non-pursuit) and those it had decided not to recover (write-off).

Summary of agency response

37. The ATO provided the following summary comment to the audit report:

The ATO welcomes this audit and considers the report supportive of our overall approach to managing the debt relief arrangements. The audit recognises that the ATO’s management of debt relief arrangements are generally effective given the volume of transactions and the need to have regard to taxpayers’ personal circumstances. The report also acknowledges the

²⁴ Debt relief information can also be provided in response to a request for information at Senate Estimate committees or to support ATO funding proposals.

ATO has effective arrangements for identifying, assessing and managing applications from taxpayers experiencing financial hardship.

The ATO recognises the audit highlights several opportunities to strengthen and further improve the management of debt relief. In particular, ensuring the objective of debt release strategies, in supporting taxpayers to gain control of their financial circumstances and meet taxation obligations in the longer term. We also acknowledge the benefit of an increased focus on the assurance of the quality and consistency of general interest charge remission decisions. The ATO agrees with the two recommendations contained in the review.

38. The ATO's full response is included at Appendix 1.

Recommendations

Recommendation No. 1
Para 3.87

To inform debt release strategies, the ANAO recommends that the Australian Taxation Office assesses (through a sampling approach) the extent to which it has achieved its objective of supporting taxpayers to gain control of their financial circumstances and meet taxation payment obligations in the longer term.

ATO response: *Agreed*

Recommendation No. 2
Para 3.90

To provide increased assurance of the quality and consistency of decisions to remit general interest charges, the ANAO recommends that the Australian Taxation Office undertakes specific quality assurance assessments on general interest charge remission decisions and includes a focus on these decisions in the IQF summary reports.

ATO response: *Agreed*

Audit Findings

1. Background and Context

Introduction

1.1 The Australian Taxation Office (ATO) is responsible for administering Australia's tax and superannuation legislation, and seeks to build confidence in its administration through helping people to understand their rights and obligations, improve ease of compliance and access to benefits, and manage non-compliance with the law. The effective management of debt is a key factor in maintaining community confidence in the fairness and equity of Australia's tax and superannuation systems.

1.2 A debt arises when a tax, duty or charge becomes due and payable—that is, deemed by law to be due to the Commonwealth and payable to the Commissioner of Taxation (the Commissioner).²⁵ The ATO expects tax debtors to pay their debts as and when they fall due for payment because the agency:

is not a lending institution or credit provider; expects tax debtors to organise their affairs to ensure payment of tax debts on time, and to give their tax debts equal priority with other debts.²⁶

If a debt is not paid by the due date (and the taxpayer does not contact the ATO), the Commissioner can take appropriate action to recover it.

1.3 The ATO encourages people to contact them if they are experiencing difficulties in meeting their tax or superannuation obligations, and can assist them in managing their obligations and further escalation of their debt. Information relating to assistance with financial hardship is available on the ATO's website, and the ATO also conducts a range of community engagement activities to communicate specific messages to taxpayers. While the ATO has measures in place to identify and support taxpayers who may be experiencing financial difficulties, the onus is on taxpayers or their representatives to contact the ATO and discuss their financial circumstances.

1.4 The ATO must balance its responsibility to collect revenue with support for taxpayers experiencing serious financial hardship. The ATO's policy is to adopt a 'community first' approach when deciding the most appropriate debt recovery action, and differentiates between taxpayers who

²⁵ This report refers to these debts broadly as taxation debts.

²⁶ ATO, Practice Statement Law Administration PS LA 2011/14: *General debt collection powers and principles*.

are trying to do the right thing and meet their obligations, and those who are not. When the ATO engages with taxpayers about the payment of their debt, the taxpayers' individual circumstances and the merits of each case are taken into account. Accordingly, the agency takes into account the compliance history of taxpayers, including both payment and lodgment records, and their capacity to pay a tax debt.

1.5 The ATO's total debt holdings cover both impeded and collectable debt:

- impeded debt may be subject to particular legal requirements—the taxpayer may be undergoing insolvency proceedings or disputing the debt owed to the ATO. These types of debts require specialist attention by ATO staff and there is a high risk that they may not be collected; and
- collectable debt is not subject to objection or appeal or any form of insolvency administration, and provides the highest possible return on ATO resources taking action to recover the debt.²⁷

1.6 As at 30 June 2012, the ATO was managing \$31.7 billion in total debt holdings, comprising \$15.1 billion in impeded debt and \$16.6 billion in collectable debt.²⁸ Activity statement debt (particularly relating to the goods and services tax) and income tax debt accounted for the bulk of the collectable debt: \$9.1 billion in activity statement debt, and \$7.1 billion in income tax debt. The remaining \$0.3 billion mainly related to superannuation guarantee charge debt.²⁹ Overall, around two-thirds of total collectable debt relates to the micro-enterprise market segment.³⁰ The ratio of collectable debt to total cash collections is an indicator of the ATO's performance in managing debt.³¹

1.7 While a portion of the value of collectable debt accrued in 2011–12, the age of the debt varied. As indicated in Figure 1.1, as at 30 June 2012 around \$7.0 billion of the debt had been outstanding for more than two years,

²⁷ ATO, *Collectable v Impeded Debt*, 16 August 2011.

²⁸ Commissioner of Taxation, *Annual Report 2011–12*, p. 58.

²⁹ *ibid.*

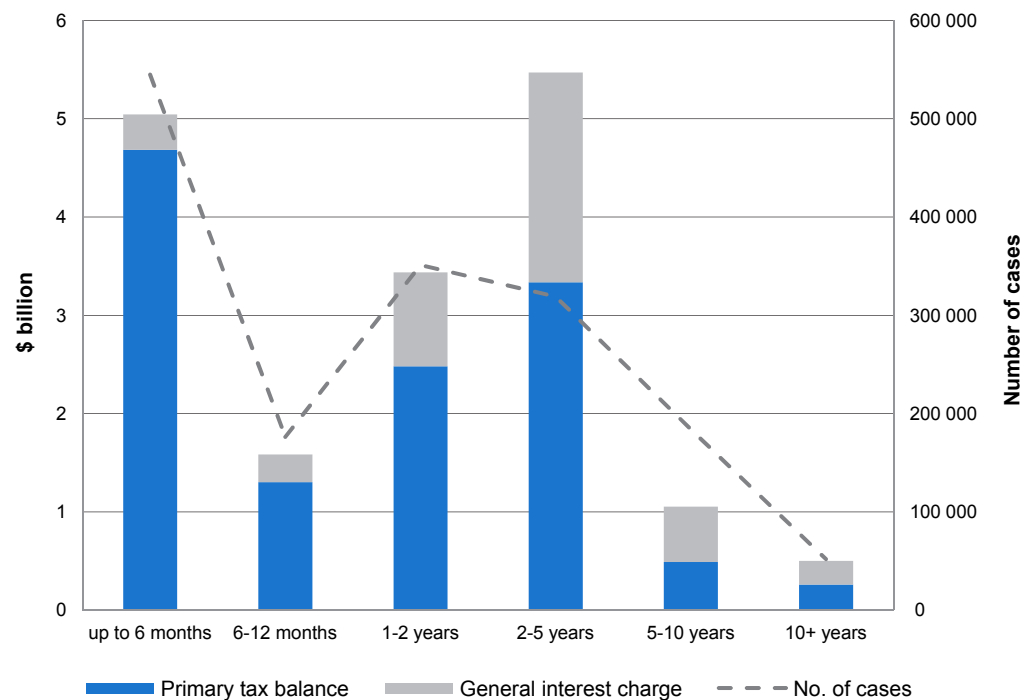
³⁰ The micro enterprise market segment consists of businesses with an annual turnover of less than \$2 million.

³¹ The key performance indicator for collectable debt included in the ATO's *Annual Plan 2010–11* was 'maintaining the ratio of collectable debt to receipts at under 5 per cent'; in 2011–12 was to 'reduce the stock of aged debt and maintain the ratio of collectable debt to receipts at approximately 5 per cent'; and in 2012–13 was 'the trend in the ratio of total collectable debt to total cash collection'. In this regard, the ATO *Annual Report, 2011–12* reported a 'ratio' of 5.2 per cent in 2010–11 and 5.5 per cent in 2011–12.

including over \$1.5 billion for more than five years; aged debt being generally more difficult to recover.

Figure 1.1

Age profile of collectable debt, 30 June 2012



Source: Data provided by the ATO.

1.8 Debt recovery options available to the ATO include negotiating a payment arrangement to allow taxpayers to pay the debt over an agreed period of time, using the Commissioner’s garnishee powers to collect the debt directly from a taxpayer’s bank account or salary and, in the case of a company, applying a director penalty notice.³² As a last resort, the ATO may also seek payment through court action. In managing debts, the ATO can also decide not to pursue the liability, or to reduce or cancel the amount of debt the taxpayer owes—referred to collectively in this report as ‘debt relief’. Provisions

³² A financial penalty can be applied to the director of a company, under the director penalty regime, if the company does not meet certain tax obligations.

for debt relief only apply to collectable debt, not impeded debt.³³ The ATO cannot reduce or cancel a debt that is in dispute, but may negotiate a settlement with the taxpayer that is less than the full value of the liability.³⁴

Debt relief options

1.9 The term ‘debt relief’ encompasses the options available to the ATO for the treatment of collectable debt, with each being governed by specific legislation, delegations and criteria, subject to the type of tax for which the debt arises. The main options are: the *waiver* of debt; full or partial *release* from tax liabilities; or the ATO may decide *not to pursue* a debt. In some circumstances the ATO may accept a *compromised* amount of revenue against the full value of the debt, where an assessment indicates that the entire balance is unlikely to be paid.³⁵ In addition to their primary debt, taxpayers may be liable for general interest charges (GICs) and penalty charges that have been imposed on the primary debt.³⁶ In certain circumstances, the Commissioner may agree to a *remission* of the GIC, meaning that all or part of the GIC that has accrued is cancelled. Taxpayers may also be granted remission of a penalty.³⁷

Waiver of tax debts

1.10 A debt due to the Commonwealth can only be waived—that is, the debt is expunged and cannot be recovered or re-raised at a later date—by the Finance Minister or the appointed delegate in the Department of Finance and Deregulation (Finance). The Finance Minister’s legal ability to waive a debt is provided by the *Financial Management and Accountability Act 1997* (FMA Act).³⁸ The debt may be waived because of a moral, rather than a legal obligation on the Commonwealth to extinguish the debt due to equity or ongoing financial hardship considerations, where normal ATO provisions for debt relief would not apply.

³³ Particular provisions apply to the calculation of the general interest charge in disputed debt, where a taxpayer has paid 50 per cent of the disputed amount. PS LA 2011/12.

³⁴ ATO, *Code of Settlement Practice*.

³⁵ Waiver and release provisions are explained in the ATO’s Practice Statement Law Administration PS LA 2011/17 pertaining to debt relief. The compromise provisions are set out in PS LA 2011/3: *Compromise of taxation debts*.

³⁶ The ATO applies a range of interest charges and penalties, where taxpayers have failed to meet their tax obligations, for example, a penalty for failure to lodge a tax return; and an interest charge for failure to pay the full amount of the tax debt, or not paying by the due date.

³⁷ ATO, Practice Statement Law Administration, PS LA 2011/12: *Administration of general interest charge (GIC) imposed for late payment or underestimation of liability*.

³⁸ FMA Act, Section 34(1)(a), states that ‘the Finance Minister may, on behalf of the Commonwealth waive the Commonwealth’s rights to payment of an amount owing to the Commonwealth’.

1.11 The Commissioner also has powers to waive a debt where the liability is subject to provisions of the *Proceeds of Crime Act 2002* (POCA).³⁹ In some instances, where the liability arises from criminal offences, the ATO's standard debt recovery arrangements may not be as effective as action taken by the Commonwealth Director of Public Prosecutions under the POCA. Where appropriate, provision in the *Taxation Administration Act 1953* (TAA) allows the Commissioner to waive the right to payment of a tax-related liability to facilitate POCA proceedings. In making a decision about a waiver under this provision the Commissioner considers the net amount likely to be received by the Commonwealth, if the tax debt is waived and POCA proceedings are undertaken.⁴⁰ The waiver of tax debt by the ATO in favour of POCA action is infrequently pursued, and for the period 1 July 2010 to 31 December 2012 only occurred on three occasions.⁴¹

Release from payment of tax debts

1.12 Individual taxpayers (and trustees of the estate of deceased individuals) may be granted release from certain tax liabilities on the grounds that payment of the liability will be likely to cause serious financial hardship.⁴² Several tests are applied to determine if a taxpayer's circumstances reflect 'serious hardship', and the Commissioner (or his delegate) may allow a full or partial release from the debt. The legal basis for this type of debt relief is provided under the TAA.⁴³

Accepting a compromised amount of debt

1.13 Under certain circumstances the ATO may assess that the entire balance of an undisputed, or collectable, debt is unlikely to be paid and accept a lesser amount in full satisfaction of the liability. This is referred to as accepting a compromised amount of the full value of the debt, and aims to secure the highest net return to the Commonwealth, given the circumstances of the case.⁴⁴ There is no specific legislation which allows the Commissioner to

³⁹ ATO, Practice Statement Law Administration, *PS LA 2011/10: Waiver of taxation debts in proceeds of crime matters*.

⁴⁰ *Taxation Administration Act 1953*, schedule 1, division 342.

⁴¹ Debts waived under POCA provisions are not within the scope of this audit.

⁴² Serious hardship is defined by the ATO as a situation where an individual is 'deprived of necessities according to normal community standards'. Necessities include reasonable amounts of food, clothing, medical supplies, accommodation, education for children and other basic requirements.

⁴³ *Taxation Administration Act 1953*, division 340-5, p.402.

⁴⁴ ATO, Practice Statement Law Administration, *PS LA 2011/3: Compromise of taxation debts*, p. 4.

accept a compromised amount, but it is regarded as prudent financial management under the relevant sections of the FMA Act⁴⁵ where no other collection options are available. Where a compromised amount of debt is agreed and paid, the Commissioner provides a covenant to the taxpayer that no further action will be taken to enforce additional payment.

Non-pursuit of tax debts

1.14 The Commissioner or his delegate may also decide not to pursue recovery of tax debts where the:

- amount of the debt is assessed as irrecoverable at law—that is, the debt cannot be recovered by the judgment of the court⁴⁶; and/or
- debt is uneconomical to pursue, where the total cost of recovery action would exceed the amount of debt that may be collected.⁴⁷

1.15 Specific categories of debt cases are subject to a bulk non-pursuit process. These cases are selected by the ATO's business systems based on several criteria, including that the debt is aged and of low value. Individual debt cases that are not pursued are usually more complex, higher value debts that are under management by an ATO case officer. Debts that the ATO decides not to pursue under these provisions are different from debts that have been subject to release or waiver, in that they can be re-raised, although the re-raising of debts that are irrecoverable at law, by their nature, seldom occurs:

...a decision not to pursue a debt does not absolve the debtor from ever having to pay the liability except if the amount was not pursued because it was irrecoverable at law. A debt that was not pursued due to it being uneconomical to pursue may be re-raised and action to collect the debt can recommence, if the circumstances which led to the decision not to pursue the debt change, for example, the financial position of the debtor, improves.⁴⁸

General interest charge remission

1.16 GIC is a uniform interest charge imposed in a wide range of circumstances, including where an amount of tax, charge, levy or penalty

⁴⁵ FMA Act, sections 44 and 47.

⁴⁶ The definitions of irrecoverable at law includes: when it cannot be recovered by action and by judgment of the court, that is, the debt cannot be 'proved'; and in various specified circumstances relating to bankruptcy and liquidation proceedings. ATO, Practice Statement Law Administration, *PS LA 2011/17: Debt relief*, paragraph 62.

⁴⁷ FMA Act, section 47 (1) (c).

⁴⁸ ATO, Practice Statement Law Administration, *PS LA 2011/17: Debt relief*, paragraph 7.

remains unpaid.⁴⁹ The GIC liability is calculated for each day beyond the due date of the debt, and denies late payers an advantage over taxpayers who pay their tax on time. The provision for penalties applies to most tax laws—that is, if a taxpayer fails to meet a tax obligation under any tax law, for example failure to lodge a tax return or activity statement on time, then the taxpayer will be liable to pay a penalty.

1.17 Taxpayers may be granted full or partial remission of the GIC component of a debt, although they may still be liable for the primary debt. The ATO also applies a systems-based automatic remission of low values of GIC imposed on taxpayers' accounts that is independent of any engagement with taxpayers. The Commissioner (or his delegate) has the discretion to determine when it is fair and reasonable to remit the GIC under the relevant section of the TAA.⁵⁰

1.18 The ATO also applies a range of other penalties, for example in circumstances where taxpayers fail to lodge documents on time; or to withhold amounts as required under the pay-as-you-go (PAYG) withholding system. However, GIC accounts for the largest amount of charges imposed on taxpayers.

1.19 Table 1.1 outlines the value of debt reduced or not collected by debt relief category in 2011–12. Of the \$4.6 billion of debt relief provided, the largest categories were non-pursuit (\$2.4 billion⁵¹) and remission of GIC (\$1.6 billion). Debt release and waiver together represented around one per cent of the total value of debt relief provided in the same period, and 62 per cent of the applications for waiver, release, and compromise finalised in 2011–12 were granted full or partial release of their debt.

⁴⁹ The GIC was implemented on 1 July 1999, following the passing of the *Taxation Laws Amendment Act (No.3) 1999*. The GIC marked a major shift by the ATO towards a more commercial approach whereby taxpayers are required to compensate the government for the time value of money. The GIC replaced the Late Payment Penalty regime and is used to calculate a range of other penalties.

⁵⁰ *Tax Administration Act 1953*, section 8AAG(5).

⁵¹ The ATO's financial statements allow for the non-collection of revenue amounts (including debt subject to relief arrangements) by providing for the impairment of taxation receivables. In 2011–12, the ATO's financial statements disclose in Note 19 total taxation receivable (gross) of \$31.7 billion and an allowance for impairment of \$11.5 billion. While debts that are not pursued because they are uneconomical to do so are impaired in the financial statements, they can be re-raised (as outlined in paragraph 1.15).

Table 1.1**Debt relief applications finalised and granted in 2011–12**

Debt relief	Number of applications received	Number of applications finalised ¹	Value of applications (\$ million)	Number and per cent of finalised applications granted relief ²	Value of debt not collected (\$ million)
Waiver	59	51	13	4 (7%)	0
Release	6165	3863	239	2439 (40%)	61
Compromise	27	23	203	16 (59%)	184
Bulk non-pursuit	NA	NA	NA	NA	462
Individual non-pursuit	NA	NA	NA	NA	1906
GIC remission	NA	NA	NA	NA	1643
Penalty remission	NA	NA	NA	NA	391
Total		3937	455		4647

Source: ATO.

Note 1: Applications may not be finalised in the year that they are received. The large difference between the number of release applications received and finalised in 2011–12 was mainly due to a high number of applications being received late in the financial year, and 1573 applications 'finalised without decision', where taxpayers failed to bring all lodgements up to date or did not provide the required information.

Note 2: While the data shows that a large proportion of the applications in each category were not granted, this does not reflect that taxpayers' applications were rejected outright. A taxpayer's application for a waiver, release or compromise of their debt may result in an alternative solution. For example, a taxpayer's application for waiver of a debt may be refused, but the taxpayer's circumstances and the debt case may be eligible for full or partial release.

NA: Not applicable or data not available.

1.20 Of those cases granted full or partial relief of their debts through release, compromise or waiver in 2011–12, most (69 per cent) involved relief of between \$2500 and \$50 000, while 81 per cent of the total value of relief was granted to cases where the relief exceeded \$100 000.⁵²

⁵² The ATO did not maintain statistics on the age of relief cases.

The ATO's arrangements for managing debt relief

1.21 The ATO's Debt business line (DBL) is one of four business lines within the ATO's Operations sub-plan⁵³, with responsibility for managing all aspects of tax and superannuation debt, including debt relief.⁵⁴ The DBL develops and implements strategies for managing debt that support the ATO's focus areas and deliverables, as set out in the ATO's annual plan and accompanying corporate overview.⁵⁵ As at 1 July 2012, the DBL had 1924 staff and an operational budget of \$186 million for 2012–13.⁵⁶

1.22 The operational structure of the DBL (outlined in Figure 1.2) reflects the ATO's debt management framework of *early collection*, *firmer action*, and *strategic recovery*. By focusing on early collection, the ATO aims to assist both personal and business taxpayers to manage their obligations and prevent their debt from escalating. Firmer action is taken against those taxpayers who make no effort to manage their debt; and the ATO may take more targeted strategic recovery action, particularly where a business is considered not to be viable in the longer term and there would be little likelihood of the tax debt ever being paid. Two additional areas in the DBL provide *risk, intelligence and reporting* and *project delivery and production management* services across the business line.

1.23 The DBL has two specialist teams that deal exclusively with the administration of debt relief:

- the Debt Hardship Capability (DHC) team, established in October 2008, assesses taxpayers' applications for release or waiver, and less complex cases where part of the debt may be compromised. The team is also a reference point for ATO staff and community welfare groups, if a taxpayer is claiming difficulty in meeting their debts; and
- the Debt Reduction team manages the bulk non-pursuit process.

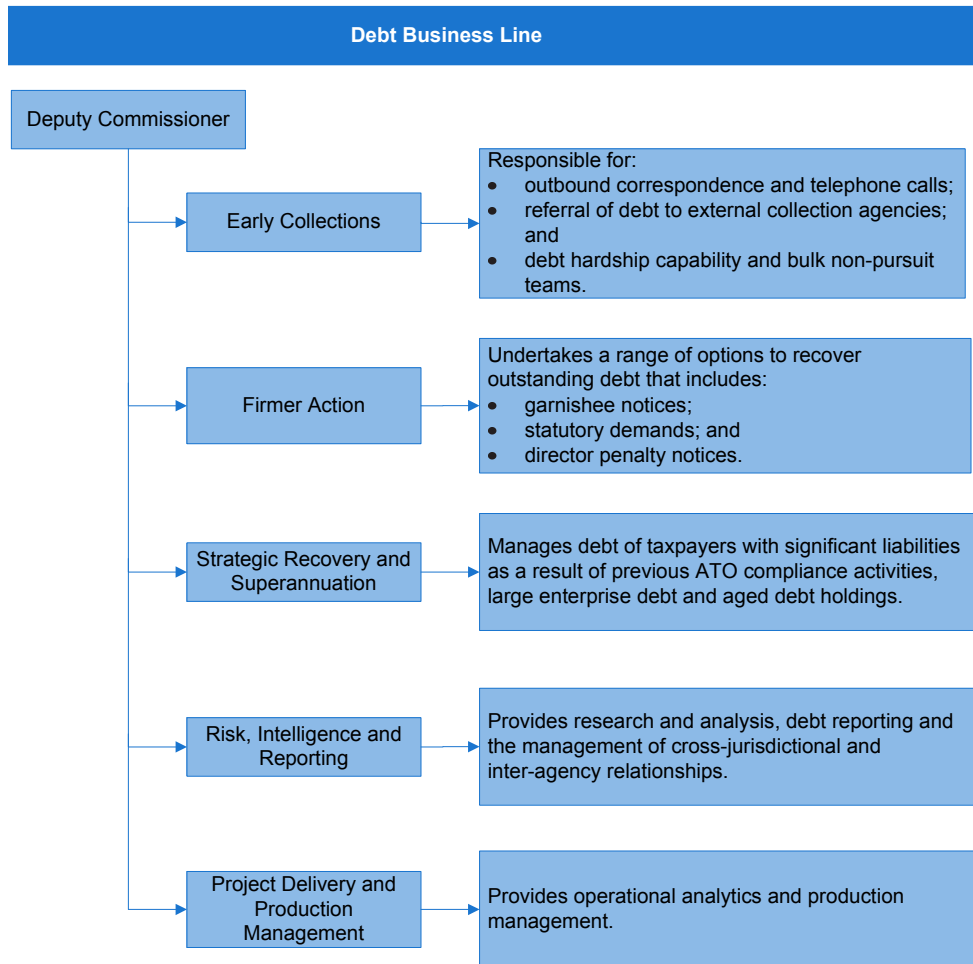
1.24 Debt cases that the ATO may not pursue are generally managed by ATO case officers within the *firmer action* or *strategic recovery* sections of the DBL. Complex compromise issues are managed within the *strategic recovery* section of the business line.

⁵³ The ATO Plan is managed through four sub-plans: Compliance; Corporate Service and Law; Enterprise Solutions and Technology; and Operations. Business and Service Lines provide the operational delivery vehicles for the relevant sub-plan.

⁵⁴ The exception is that the remission of GIC and penalties is managed across the ATO, as outlined in paragraph 1.25.

⁵⁵ ATO, *Debt Line Plan 2012–13*.

⁵⁶ *ibid.*, p. 14.

Figure 1.2**Structure of the Debt business line as at 1 July 2012**

Source: ANAO analysis of ATO documents.

1.25 Administrative arrangements for GIC and penalties extend beyond the DBL. Staff in all business lines dealing with taxpayer assessments have authorisation to grant GIC and penalty remission, subject to delegations approved by the Commissioner of Taxation. The delegation to approve GIC remission up to \$10 000 is also extended to staff employed by external debt collection agencies, contracted to deliver services on behalf of the ATO. The Deputy Commissioner, Debt business line, is accountable for the quality and consistency of GIC remissions across the ATO.

Business systems

1.26 In managing debt cases, the ATO relies on two information and communications technology (ICT) systems—a new integrated core processing (ICP) system established in 2010 and the legacy systems.⁵⁷ Taxpayers may have several accounts in these two systems and, while this situation has little impact on individual taxpayers, it creates additional work for ATO staff to assess and manage debt relief cases as they must use information from both systems.

Published reports relating to the ATO's management of debt

1.27 The ANAO has published four performance audits on the ATO's management of debt:

- Audit Report No.54 2011–12, *Engagement of External Debt Collection Agencies*;
- Audit Report No.42 2006–07, *ATO's Administration of Debt Collection—Micro-businesses*;
- Audit Report No 31, 1999–2000, *Administration of Tax Penalties*; and
- Audit Report No.23 1999–2000, *Management of Tax Debt Collection*.

1.28 While these reports covered a range of topics relating to debt management, none had extensive coverage of debt relief arrangements.

Commonwealth Ombudsman report

1.29 The Commonwealth Ombudsman issued a report in March 2009 concerning the re-raising of 'written-off' income tax debts by the ATO. The report found that the term was confusing for taxpayers, as it:

only reflects a decision not to pursue the debt for a period of time and can be reversed if and when the ATO considers that the person's circumstances have changed.⁵⁸

The Ombudsman's investigation found that there was scope to improve the ATO's administration of decisions to re-raise debt. The report made

⁵⁷ The ICP system processes, among other things, income tax and fringe benefits tax. The legacy systems process taxes that include goods and services tax, pay-as-you-go (PAYG) tax installments, excise, and superannuation guarantee.

⁵⁸ Commonwealth Ombudsman, *Australian Taxation Office: re-raising written-off tax debts*, March 2009.

six recommendations that included improving communication with taxpayers when their debt is written-off, and again when it is re-raised.

1.30 This issue was considered in a Senate Committee in June 2009, with the ATO being asked how the confusion caused by its use of the term ‘write-off’ would be minimised. In response, the ATO stated that:

all information available to taxpayers and Tax Office staff will be updated to use the term non-pursuit rather than write-off, where necessary.⁵⁹

1.31 The ATO’s internal audit unit conducted an audit of the bulk non-pursuit process in July 2011 to ensure compliance with the relevant processes. Overall, the audit found that the cases selected were within the parameters approved by the Debt Executive, although procedures were not up-to-date or lacked detail, and were not always adhered to. The report included seven recommendations, aimed at: improving and updating the documentation for the bulk non-pursuit procedures; improving quality assurance; and ensuring that staff receive thorough training.

Audit objective, criteria and methodology

1.32 The objective of the audit was to assess the effectiveness of the ATO’s administration of debt relief arrangements. The audit assessed whether:

- information is readily available on debt relief options to people in serious hardship;
- those cases being considered for debt relief were effectively assessed;
- debt cases that were not pursued and re-raised or cancelled at a later date were being appropriately managed; and
- debt relief outcomes are accurately reported.

The ATO’s communication with taxpayers and key stakeholders was also examined.

⁵⁹ Senate Standing Committee on Economics, *Treasury portfolio, Budget Estimates 2–4 June 2009. Answer to question on notice.*

Audit methodology

1.33 The audit examined electronic records, documentation and reports held by the ATO, and interviewed relevant ATO staff. The audit included analysing a sample of 629 cases across all major categories of debt relief, drawing on the ANAO’s 2010–11 and 2011–12 audits of the ATO’s financial statements for the analysis of individual non-pursuit cases and remission of the general interest charge. The audit team also interviewed selected tax professionals and welfare organisations providing assistance to people experiencing financial difficulties.

1.34 The audit was conducted in accordance with ANAO Auditing Standards at a cost of approximately \$338 200.

Structure of the report

1.35 Table 1.2 outlines the structure of the report.

Table 1.2

Report structure

Chapter	Chapter overview
2. Engaging with tax debtors and supporting debt staff	Examines the ATO’s engagement with the community and the information provided about debt management arrangements. The guidance and training given to assist staff to identify, assess and manage debt relief cases is also examined.
3. Assessing debt relief applications	Examines the policies and processes supporting the ATO’s assessment of debt relief applications to determine their eligibility for debt relief arrangements.
4. Automated debt relief processes	Examines the ATO’s automated processes supporting the administration of debt relief.
5. Reporting of debt relief arrangements	Examines the reporting of debt relief arrangements by the ATO.

2. Engaging with Tax Debtors and Supporting Debt Staff

This chapter examines the ATO's engagement with the community and the information provided about debt management arrangements. The guidance and training given to staff to identify, assess and manage debt relief cases is also examined.

Introduction

2.1 The ATO encourages taxpayers to contact them as soon as practicable if they are experiencing difficulty in meeting their tax and superannuation obligations. The Commissioner of Taxation's *Annual Report, 2011–12* states that the ATO:

...provides support and assistance to viable small businesses and individuals who are experiencing short-term financial difficulties and who are willing to work with us to address their tax and superannuation debts. This targeted support includes tailored payment arrangements, remission of interest and penalties, and full or partial release of certain debts.⁶⁰

2.2 To encourage and support taxpayers' compliance with their tax obligations, the ATO provides a range of information relating to debt management on its website to assist taxpayers in meeting their payment obligations, including specific information on categories of debt relief. The ATO also conducts community engagement activities that allow communication of specific messages to taxpayers in relation to managing their debt. These messages typically highlight the expectation that tax debtors will meet their debt obligations if they have the financial capacity to do so, however options are available to assist taxpayers experiencing serious financial hardship.

2.3 While the ATO has measures in place to identify and support taxpayers who may be experiencing serious financial difficulties, the onus is on taxpayers or their representatives to contact the ATO and discuss their financial circumstances.

2.4 Internally, the identification and processing of debt relief cases is supported by ATO guidance material that sets out policies and procedures that

⁶⁰ Commissioner of Taxation, *Annual Report 2011–12*, p. 44.

must be followed by staff when identifying financial hardship, assessing applications for relief and managing debt relief cases. Training courses are also delivered to ATO staff in order to provide them with the necessary skills to engage taxpayers and work through debt management options.

2.5 The ANAO examined the information and advice provided by the ATO in relation to debt management, including debt relief arrangements and the guidance and training given to ATO staff managing debt cases.

Information and community engagement activities

2.6 The ATO's community information and engagement activities promote taxpayers' early intervention with their tax debt, to avoid further escalation of their debt. As the onus is generally on taxpayers to apply for waiver, release, compromise of a debt, or GIC remission, it is important that they understand the debt relief options available to them.

Information

2.7 Taxpayers experiencing financial difficulty, and who interact with the ATO through a tax professional can reasonably expect to be properly advised on the debt management and relief options that may be available to them. Those managing their own taxation affairs may access relevant information on the ATO's website⁶¹; or check the ATO's social media presence, in the form of the ATO's facebook, Twitter and YouTube accounts. As at 31 December 2012, key documents available on the ATO's website included:

- *Release from your tax debt;*
- *Guide to managing your tax debt;*
- *Difficulty in paying your tax debt: business clients* (available in 18 languages);
- *Difficulty in paying your tax debt, (individual clients);*
- *Financial Difficulties—frequently asked questions; and*
- *General Interest Charge—can I ask for a remission of GIC?*

⁶¹ Taxpayers with hearing or speech difficulties are provided with a direct link from the ATO website to the National Relay Service. The website also provides information in several languages for non-English speaking taxpayers, including how to access the Translating and Interpreting Service. Customised services are provided through the ATO's Indigenous Helpline.

2.8 These publications assist taxpayers to understand the options for repaying debt when they are facing financial hardship, including processes for applying for debt relief. However, the ANAO found that the information did not fully cover all aspects of debt relief and was difficult to locate on the website. Two key publications, *Difficulty in paying your tax debts* for individual and business clients were last updated in July 2011, while the more comprehensive document, *Guide to managing your tax debt*, had most recently been updated in January 2013.

2.9 The website also provides information on actions available to taxpayers when they are dissatisfied with aspects of the ATO's service or an ATO decision. However, this information is not clear in all instances. Notably, the website advises taxpayers that they cannot dispute or disagree with a general interest charge remission decision through the objections process, only advising taxpayers they can contact the ATO to discuss the matter.⁶² Further, it does not advise that complaints and objections for release decisions are dealt with differently by the ATO.⁶³ It would be helpful to taxpayers if the ATO clarified the processes for disputing or disagreeing with these decisions.

2.10 The scope and breadth of the information and services available online are set to increase, with the roll out of the ATO's Online 2015 information and communication technology forward work program. The Commissioner's online update of September 2012 stated:

With advances in technology, we know many of you prefer to interact with us online. So, it's only natural that we want to expand these services and encourage you to use them, as online service is a more efficient way for us to interact with you and to reduce our costs – which benefits us all.

2.11 Taxpayers less comfortable with, or whose personal circumstances may limit their access to, online services, can write to the ATO for information and advice⁶⁴, make phone contact through a free-call number (including self-help lines for personal and business taxpayers), or access services in one of 19 ATO shopfronts and shared services arrangements nationally.

⁶² Advice to taxpayers on the ATO website includes that the ATO, if asked, will, in most cases, review the decision consistent with good administrative practice. The letter to taxpayers informing them that their request for GIC remission has been declined advises that they may seek a review of the decision by the Federal Court, or they should contact the ATO if they believe there are further circumstances that should have been considered.

⁶³ Complaints are initially managed within the Debt team that made the original decision, whereas objections follow a more formal process and are reviewed by another business line to provide an independent assessment.

⁶⁴ The ATO scans letters from taxpayers to identify specific words that may indicate the taxpayer is experiencing financial hardship. These cases would be referred to the Debt Hardship Capability team for follow-up.

2.12 Other taxpayers may be assisted by community-based organisations, including the Financial Counsellors Network (where the ATO provides a direct phone number to the ATO's Debt Hardship Capability team); and the ATO's Tax Time volunteers⁶⁵ can provide information to taxpayers experiencing financial difficulty on how to contact the ATO for information and assistance.

Community engagement

2.13 The ATO conducts a range of community engagement and consultation activities through various workshops and forums with community-based welfare organisations and professional tax bodies. These activities provide the ATO with feedback on its administration of debt management and relief. Particular consultation activities with community welfare organisations relating to debt hardship and relief include presentations to the Financial Counsellors National Conferences in 2011 and 2012. The perceptions of financial counsellors about debt relief have been captured in a recent survey.

Survey of financial counsellors

2.14 As part of this audit, the ANAO consulted the Financial Counsellors Australia (FCA) network⁶⁶ for its views about engaging with the ATO on behalf of clients experiencing financial difficulties. In response, the FCA surveyed, in March 2013, 54 financial counsellors from across Australia (excluding New South Wales and Tasmania) about their experiences in dealing with the ATO, specifically the Debt Hardship Capability team, to negotiate a debt hardship arrangement for their clients. The survey covered the ATO's provision of information and community support activities for debt hardship as well as the decision making processes and practices for debt relief and the outcomes achieved for their clients.⁶⁷

2.15 The survey results indicated that the ATO performed reasonably well in managing taxpayers in hardship and engaging with counsellors. When asked about the information on the ATO's website, while the counsellors themselves were mostly able to find and understand information on debt

⁶⁵ Tax Help volunteers are trained in preparing basic tax returns, such as for taxpayers with less than \$50 000 taxable income with no business or rental income. If volunteers are asked about anything regarding the debt relief categories they are to ring the hotline or refer the taxpayer to contact the ATO.

⁶⁶ Financial Counselling Australia (FCA) is the peak body for financial counsellors in Australia. Financial counsellors provide information, support and advocacy to assist people in financial difficulty.

⁶⁷ Survey participants were asked 16 questions relating to the: information available about hardship; their experience when contacting the ATO; outcomes for their clients; and ATO's overall debt collection practices.

hardship, their clients had more difficulty.⁶⁸ The counsellors' views on the release application form were mixed, with 68 per cent commenting that it was not easy for their clients to complete.

2.16 While the survey was conducted solely for the purposes of this audit, the results provided useful information for management about opportunities to improve the negotiation of debt hardship arrangements. The ATO could consider including questions relating to taxpayers' engagement with the ATO about the management of their debts in its annual surveys, as these do not currently cover debt management or relief issues.⁶⁹

Arrangements supporting external communication

2.17 The ATO's Corporate Relations area has primary responsibility for the agency's external communications, including the content on the ATO's website, and works at the corporate level, across the agency's business and services lines. Commencing in February 2013, communication functions in the Operations sub-plan (that includes the Debt, Client Account Services, Customer Service and Solutions, and Operations Support and Capability business lines) have been combined to form a Shared Services unit providing communication and finance services for the Operations sub-plan.

2.18 This restructure is expected to present opportunities for streamlining business processes, identifying improvement and removing duplication of effort across the Operations sub-plan, as well as ensuring consistency in service delivery across the sub-plan's business lines.

Supporting ATO staff in the management of debt relief cases

2.19 The ATO produces a wide range of guidance material for staff that aims to: establish the ATO Executive's expectations on key aspects of administration; align work processes and practices across the ATO; and assist officers undertake their work more efficiently and effectively. The ATO also provides learning and development opportunities, primarily a range of

⁶⁸ To the question: 'my clients would find the information easy to understand', 81 per cent of participants answered either hardly ever or sometimes, whereas 56 per cent of counsellors were mostly or always able to find information easily and 63 per cent were mostly or always able to understand the information.

⁶⁹ Two annual surveys—the ATO Professionalism survey and the Community Perceptions survey—are commissioned by the ATO but neither includes any questions relating to debt management or relief.

training courses, for ATO officers and staff providing debt collection services and call-centre services under contract to the ATO.

Guidance material

2.20 The range of guidance material produced by the ATO includes policies with agency-wide application, such as the Taxpayer's Charter, and procedures and technical reference documents that set out detailed processes for specific day-to-day operational and administrative tasks. The Debt Best Practice (DBP) team, established in 2006–07, has responsibility for the development and maintenance of guidance material relevant to the management of debt.

Debt Best Practice team

2.21 The DBP team is specific to the DBL and reports to the business line's Executive. The team also works with other business lines and functions across the ATO to support the end-to-end process of debt management and collection. The services provided by the DBP team are referred to by the ATO as 'non-discretionary' functions—that is, functions that are essential for maintaining the operations of the business, and best practice activities. As at December 2012, the non-discretionary functions undertaken by the DBP team include the development and maintenance of:

- a set of 328 procedural documents that are referred to by DBL staff undertaking debt collection activities and support consistency in the processes and procedures they apply. The team manages around 2000 procedural changes each year, including many that are the result of feedback from staff;
- an inventory of 399 debt letters and notices that are sent to taxpayers or their representatives in relation to their debt. The team has responsibility for the content, design and accuracy of these letters, and manages around 250 changes to the content of the letters each year; and
- support tools that use software solutions. These solutions include macros⁷⁰ that reduce or eliminate the manual aspects of operational tasks, such as the number of key strokes or steps required by ATO staff to complete an activity on a client record; and the Script Manager and Reference Tool (SMART), a computer-based program that converts ICT

⁷⁰ A macro is a way to automate a task that is performed repeatedly or on a regular basis. It is a series of commands and actions that can be stored and run whenever the task needs to be performed.

processes to a more user-friendly format, and allows reference material to be accessed more easily.⁷¹

2.22 The ATO does not routinely disaggregate these figures to identify specific guidance material that relates to different tax types or specific activities, but advised the ANAO that, as at 31 March 2013, 61 procedural documents related to the various categories of debt relief. The ATO also advised that the full complement of SMART scripts relevant to the work undertaken by the DHC team (for processing applications for hardship, release, waiver and compromise) were fully implemented in February 2013.

2.23 To maintain the relevance and accuracy of the (non-discretionary) material, the DBP team consults with the relevant business sections on critical changes, and actively seeks feedback and comments from the Debt officers who use the material.

2.24 In the two-year period January 2011 to January 2013, limited resources and other priorities resulted in the DBP team focussing solely on the non-discretionary functions. Additional resources—four full-time equivalent staff—were allocated to the team in January 2013, allowing the team to re-commence best practice reviews and develop a review program for 2013. While the DBP team has processes in place to develop and maintain non-discretionary items, undertaking better practice reviews will support continuous improvement in the ATO's operations.

Accessing guidance material

2.25 All ATO staff have access to the guidance material through the agency's intranet site, and are instructed to refer to the electronic version (rather than download and use a hardcopy) to ensure that they are referring to the most up-to-date version of a policy or procedures document. ATO staff often work with dual monitors to facilitate working concurrently with the information on the intranet, and different views of the taxpayer's accounts on the ATO's business systems.⁷² While the use of macros may be available for some transactions, it can still be a cumbersome, complex and time consuming process. There is also the increased potential for human error.

⁷¹ SMART makes it easier for staff to undertake their work because the procedures follow a script and debt officers do not have to switch between multiple procedures. Rather, they can follow the procedures by choosing options from the script, accessing only information relevant to them.

⁷² Most transactions, for example a decision to remit a taxpayer's GIC liability, involves several 'steps' requiring the ATO officer to switch between different ICT systems and the ATO's intranet, further discussed in Chapter 5.

2.26 In July 2012, the DBP team commenced transitioning debt guidance material to the SMART format, with migration scheduled to be completed in March 2014. The implementation of the SMART format should reduce the processing time and the number of 'steps' involved in many of the transactions undertaken by DBL staff.

Learning and development

2.27 The current administrative arrangements supporting ATO learning and development (L&D) functions were established in 2009–10, following an external review of the ATO's corporate services undertaken in 2008–09.⁷³ Prior to the review, L&D functions were managed in individual business lines, with little or no co-ordination between them. This arrangement resulted in variations in the standards and extent of training opportunities provided to staff, and duplication of the courses available to them. For example, in 2009 there were over 3000 training courses being delivered across the ATO, including 16 dealing with negotiation skills.

2.28 The training courses have been reviewed and consolidated and, as at January 2013, the ATO now delivers less than 1300 courses that meet uniform standards, either through e-learning modules or in a classroom situation. A proposed evaluation framework, when implemented, should provide information on the value and effectiveness of the ATO's investment in staff training. As at April 2013, there were nine L&D staff at the Operations sub-plan level, including two attached to the DBL.

Debt Business line learning and development

2.29 Staff of the DBL have access to a range of general and specialist debt training courses and materials, and manage their training record through an electronic system. The system allows their managers to monitor their participation and progress in training courses and also provides information on the number of times any particular course has been completed.

2.30 Available data indicates that 15 courses were directly related to the administration of debt cases and debt relief. These courses were completed on 3478 occasions by DBL staff: 691 completed on-line, and 2787 in a classroom environment with a trainer. Courses available to staff include those aiming to

⁷³ The ATO's corporate services had not been reviewed in over a decade, and findings in the review identified opportunities to reduce duplication, improve efficiency and achieve cost savings in several of the ATO's corporate services functions, including L&D. ATO, *Tier two project, closure report*, 12 July 2010.

assist them to: identify taxpayers who are experiencing difficulty in paying their debt; and assess taxpayers' applications for debt relief. The courses and the number of times they were completed by DBL staff, is set out in Table 2.1.⁷⁴

Table 2.1

Number of courses completed relevant to debt relief, for the period March 2010 to March 2013

Course type name	Number of times course completed	
	21 March 2010 to 30 June 2011	1 July 2011 to 31 March 2013
Client service—an introduction	160	257
Coping with distressed callers	834	
Decision making—introduction	200	278
Decision making—operations	27	n/a
Delegations and authorisations	26	273
Internal review of ATO decisions	8	13
Non-pursuit of debt	12	129
Quality notes	104	277
Debt—Compromise overview		1
Debt hardship cases		127
Debt hardship team		33
Debt issues and special circumstances		131
GIC—remission overview		254
GIC, SIC, & FTL overview		203
Penalties and interest—remission		131
Total	1371	2107

Source: ATO.

Note 1: Data is available from 21 March 2011, when the ATO implemented a new learning management system.

Note 2: Where there are no numbers in the table, the course was available, including electronically, but not completed by staff within the reporting period.

⁷⁴ Courses are delivered in a classroom setting or online, and the dates and number of times courses are completed is recorded.

2.31 Individual staff and their managers are responsible for ensuring staff complete training courses required for their particular work. While data at this aggregated level does not indicate if the incidence of training is appropriate to the numbers of staff in the DBL, it shows a clear variance in the type of course and attendance over the two periods. For example, no staff completed the course on *Dealing with distressed callers* in the second (20 month) period⁷⁵; and there was no participation in the course dealing with *GIC remission* in the first (15 month) period.

2.32 The DBL *Learning and Development Plan 2012–13* identifies ongoing, new and emerging capability requirements (or training needs) for consideration in the ATO's forward L&D work plan for the year. The plan was developed by DBL L&D staff and endorsed by the Debt Executive.

2.33 While training courses contribute to overall staff skills, none of the training needs in the DBL's L&D plan 2012–13 directly identify issues concerning the administration of debt relief. The results of the survey undertaken by Financial Counsellors Australia may be useful to the ATO when reviewing its annual learning and development plan.

Conclusion

2.34 To encourage and support taxpayers' compliance with their tax obligations, the ATO provides a range of information relating to debt management on its website to assist taxpayers in meeting their payment obligations, and also provides advice in writing and by telephone.

2.35 While online information about debt relief is available, it does not fully cover all aspects of debt relief and is difficult to locate. A new website is being developed to improve accessibility and the clarity of messages as part of the ATO's strategy to deliver more services online. As the ATO's expands its online service delivery, consideration will need to be afforded to those taxpayers who are less comfortable with, or whose personal circumstances may limit their access to, these services.

2.36 The ATO conducts community engagement activities that allow communication of specific messages to taxpayers, including in relation to debt relief, and to obtain feedback on the standard of services being provided.

⁷⁵ The ATO advised that delivery of this course was specifically organised in early 2011 to support DBL staff dealing with taxpayers directly affected by the floods and cyclones that occurred at the time.

Results from a survey of 54 financial counsellors completed for this audit indicated that the ATO performed reasonably well in responding to taxpayers in hardship and in engaging with counsellors. The results also provided useful information for management about opportunities to improve the negotiation of debt hardship arrangements. The ATO could also consider including questions relating to taxpayers' engagement with the ATO about the management of their debts in its annual surveys, as these do not currently cover debt management issues.

2.37 The processing of debt cases is supported by guidance material that sets out policies and procedures to be followed by staff when assessing applications for relief. Training courses are also delivered to ATO staff in order to provide them with the necessary skills to engage taxpayers and work through debt management options. Debt business line staff have access to 15 courses that most directly relate to debt management and debt relief arrangements, with ATO records indicating a significant increase in staff attendance since July 2011. The results from the survey of financial counsellors may be useful to the ATO when reviewing its annual learning and development plan.

3. Assessing Debt Relief Applications

This chapter examines the policies and processes supporting the ATO's assessment of debt relief applications to determine their eligibility for debt relief arrangements.

Background

3.1 Community confidence in the ATO's administration relies on maintaining a 'level playing field', so that one taxpayer is not advantaged over another in the treatment of debt. Effective communication, and transparency and consistency in decision making support the fairness and equity of the administration of the tax and superannuation systems.

3.2 Where a taxpayer has applied for some form of debt relief, or the ATO has initiated further examination of a taxpayer's circumstances and capacity to pay their debt, each case is individually assessed. The ATO's quality assurance processes and reviews provide information on the appropriateness and quality of these assessments, and taxpayers also have various rights of review of the ATO's decisions.

3.3 To assess the effectiveness of the ATO's policies and processes supporting the assessment of applications where taxpayers are granted some form of debt relief, the ANAO examined:

- key aspects of the assessment and decision making processes across the categories of debt relief;
- quality assurance processes that provide review of debt relief decisions and whether they were in accordance with relevant policies and procedures; and
- internal and external processes for taxpayers to object to, or appeal, a decision made by the ATO.

Assessment and decision making processes

3.4 Assessing a taxpayer's financial circumstances and eligibility for some form of debt relief involves an understanding of the relevant legislation, policies and procedures, and is supported by ATO guidance material that staff are expected to follow when assessing debt cases. Guidance material in relation to assessing taxpayers' circumstances extends to advice to staff on dealing with taxpayers who may be experiencing difficulties in their personal life and includes contact details for welfare and financial counselling services.

3.5 The ANAO examined a sample of cases to analyse the ATO's decision making processes in relation to taxpayers' applications for waiver, release and compromise of a debt. This analysis focused on whether key procedures in the assessment processes were followed, but did not test the validity of debt relief decisions. The approval and recording of decisions relating to non-pursuit of a taxpayer's debt and GIC are routinely examined in the ANAO's annual audits of the ATO's financial statements.

Applications for waiver of a debt

3.6 As previously noted, applications for the waiver of a debt may be directly received by the ATO, but are generally submitted to the Department of Finance and Deregulation (Finance) and then forwarded to the Debt Hardship Capability (DHC) team in the ATO for review and recommendation. The final decision to grant the waiver of a debt rests with the Finance Minister (or her delegate).

3.7 Where the ATO's assessment of a taxpayer's circumstances supports full or partial relief from the liability, the debt will only be recommended for waiver if there is no alternative solution. For example, the ATO may assess that the case is most appropriately dealt with through release provisions. The waiving of a debt is, effectively, debt relief of last resort.

3.8 The DHC team received 59 applications for waiver in 2011–12 (increased from 43 applications in 2010–11). Another 40 applications were received between July and December 2012. During the 18 month period (1 July 2011 to 31 December 2012) the ATO finalised 77 applications for waiver of a debt. Of these finalised applications⁷⁶:

- six were granted a full waiver, valued at \$418 033;
- eight were not granted a waiver but the taxpayers were released from their debts, valued at \$182 326;
- 26 were not granted a waiver but the ATO assessed the debts as uneconomical to pursue, valued at \$1 932 639;
- six were not granted a waiver but had GIC and / or penalties remitted, valued at \$121 422;

⁷⁶ The number of results exceeds the number of finalised applications, as a single waiver application may be resolved through multiple solutions, for example, by releasing some of the debt and not pursuing the balance.

- two were not granted a waiver but payment arrangements were entered into for the \$160 080 debt;
- 28 were not granted a waiver and the taxpayers were still liable to pay their debts, valued at \$8 284 392; and
- eight applications were discontinued⁷⁷, valued at \$1 096 828.

3.9 The DHC team maintains spreadsheets to monitor workflow, and information relevant to the application is accessed and recorded in the taxpayers' accounts in the ATO's business systems. The ANAO examined three key stages of the ATO's procedures for assessing taxpayers' applications for the waiver of their debts. These included that the ATO had:

- considered an alternative solution, where the taxpayer's circumstances supported some form of relief from debt;
- appropriately recorded the results of the assessment (prepared by the ATO and sent to Finance) on the taxpayers' accounts in the relevant ATO business system, including instances where the ATO found an alternative solution, such as full or partial release of the debt; and
- evidence on the taxpayers' accounts that they had been informed (by the ATO), of the result of the assessment, and that it was consistent with the information sent to Finance.

3.10 The results of the ANAO's testing indicated that the ATO had followed these procedures in the majority of cases. Of the 77 applications examined:

- one case did not have evidence that an alternative solution had been considered;
- 65 taxpayers' accounts included the ATO submission to Finance; and
- 65 taxpayers' accounts recorded ATO contact with the taxpayer to either provide them with the information sent to Finance, or to discuss an alternative solution to the waiver of their debt.⁷⁸

⁷⁷ An application may be discontinued for a variety of reasons, including instances where the taxpayer: did not provide further information; declared bankruptcy during the assessment process; or died during the application process.

⁷⁸ Although both criteria had been met in 65 cases, the ANAO assessed the 'provided information to taxpayer' criterion as not applicable to three records. In two cases the ATO found that the taxpayer had no tax debt and advised Finance which subsequently advised the taxpayer, and in the other case the taxpayer had already entered into a payment arrangement with the ATO.

3.11 Communication is an important element of the overall assessment process. While some of the remaining 11 taxpayers may have been contacted by the ATO (either through email or by telephone), this contact should be noted in taxpayers' electronic case records, as well as any correspondence between the ATO and Finance, and particularly the waiver submissions.

Applications for release of debt

3.12 All applications for release from a primary debt, or where the taxpayer is claiming financial hardship and may be eligible for some form of debt relief, are assessed by the DHC team. A taxpayer who is assessed as experiencing serious hardship will not have the capacity to pay their primary tax debt immediately, or within a reasonable period of time through a negotiated payment arrangement.

3.13 The DHC team has a range of formal ATO guidance material and locally-developed templates and procedures documents to support their assessment of taxpayers' financial circumstances and release applications. Staff may also contact the applicant during the assessment process if further information is required.

3.14 There are no defined benchmarks against which to assess serious hardship and a taxpayer's eligibility for full or partial release from their primary debt. Rather, factors to be considered in assessing a taxpayer's financial circumstances and their capacity to pay their debt, deal with the taxpayer's income and expenditure, including assessment of what constitutes 'non-essential' expenditure.⁷⁹ Importantly, the ATO's policy is that release from a debt will only be granted where the assessment indicates that such action will enable the taxpayer to manage their finances in the future, including provision for any future tax obligations.

3.15 The DBL's Hardship referral fact sheet provides a general explanation of the various factors to be considered when assessing applications and these are set out in Table 3.1.⁸⁰ The nature and substance of these factors indicate the complexity in assessing a taxpayer's financial circumstances and the potential

⁷⁹ The ATO's *PS LA 2011/17* deals with debt relief and sets out the steps by which the ATO evaluates the merits of individual cases. The three steps are assessment of: taxpayers' income and expenditure; assets and liabilities; and other factors.

⁸⁰ The fact sheet provides examples the DHC team members should consider when determining the capacity to pay and helps to indicate the level of hardship being experienced by the taxpayer. It is included in the *Hardship toolkit: Debt—Debt hardship toolkit V.1.14, 4 May 2012*.

risk of subjectivity and inconsistency in decision making. This underlines the importance of appropriate delegation, training, review, and quality assurance processes. The DHC team advised the ANAO that the work is challenging and staff require about 12 months in the role before they feel confident and competent in undertaking these assessments.

Table 3.1

Factors considered when assessing release applications

Factor	Description
Income and employment	What is the status of the taxpayer's employment, are there others sources of income, and what provision is being made for ongoing tax liabilities? The age and health of the applicant is also relevant in assessing the likelihood of future employment and of the financial situation improving.
Assets	Is it reasonable to expect some assets to be sold to pay the debt, including land, shares or a second home? The family home is generally not included, although substantial equity in the home may indicate an ability to obtain finance.
Necessary expenses	Establishing financial hardship requires that a taxpayer has reduced or cancelled all non-essential expenditure, subject to their circumstances. This factor must take into account that certain expenses, for example fuel, are higher in some regions than others, or the costs of medication for different medical conditions will vary.
Compliance history and current level of engagement	The taxpayer's attitude to the liability and preparedness to plan for future obligations must be considered, including that a change in behaviour is observed where past compliance has been poor.
Family situation	The assessment must allow that a marriage or relationship breakdown may result in tax matters not getting the proper attention, including as a result of depression. The number of dependents in the household will also impact on the amount of income the taxpayer can apply to the tax debt.
Other debts	The taxpayer's capacity to pay other debts and / or priority given to payment of those debts can impact on a serious hardship decision.

Source: ATO Hardship referral fact sheet.

Applications for release

3.16 The DHC team received 6165 applications for release in 2011–12 (an increase of 10 per cent from the previous year), and 3705 applications between July and December 2012. During the 18 month period (1 July 2011 to 31 December 2012) the team actioned 9499 applications, representing almost \$352 million in collectable debt. Of the applications actioned:

- 3826 taxpayers were granted full or partial release from their debt, valued at over \$110 million, (31 per cent of the total value of the applications for debt release);
- 2584 taxpayers were refused release (but may have been granted other solutions, such as negotiating a payment arrangement); and
- 3089 applications were 'finalised without decision'.⁸¹

The results, grouped by the ATO's debt levels (DL), are set out in Table 3.2.

Table 3.2

Release applications processed from 1 July 2011 to 31 December 2012

Result	DL 1 <\$2 500	DL2 \$2 500 – <\$7 500	DL3 \$7 500 – <\$25 000	DL4 \$25 000 – <\$50 000	DL5 \$50 000 – <\$100 000	DL6 \$100 000+
Release granted ¹	643	843	1249	627	332	132
Release refused	252	449	796	501	338	248
Finalised without decision	472	429	924	599	418	247
Total (9499)	1367	1721	2969	1727	1088	627

Source: ANAO analysis of ATO data.

Note 1: 3751 cases were granted full release, and 75 cases were granted partial release.

3.17 All applications for release must be submitted in writing to the ATO as there is no online facility that taxpayers can use. Within seven days of receiving an application, DHC staff are required to check the application, enter the case details in the team's standalone systems, and issue a letter to the taxpayer acknowledging receipt of the application. The letter also reminds the taxpayer to ensure their lodgements are up-to-date or a decision cannot be made about their application.

3.18 Very rarely is an application for release refused at this initial stage, irrespective of whether or not the application meets key criteria for release from a debt. For example, the application may be for a category of debt that is

⁸¹ 'Finalised without decision' means that release was neither granted nor refused. Reasons for a 'finalised without decision' result include that: the taxpayer had outstanding lodgements; the taxpayer had an unresolved compensation claim; the debt was in dispute; and the debt type was not eligible for release.

not covered by release provisions, but the taxpayer could still be assessed as experiencing financial hardship and another option may be considered, or the taxpayer has outstanding lodgements when the application is received but these are subsequently brought up-to-date.

3.19 The DHC team takes a risk management approach to processing these applications that seeks to balance the risk to revenue with the resources available, while meeting service times⁸² and achieving consistency in the decisions made. ATO documentation notes that the DBL's *firmer action* area takes limited action on debt cases valued at less than \$50 000, however the DHC team often spends around four hours processing each release application in the same value debt range.

3.20 The risk management approach to processing release applications is set out in a training aid for staff that advises them to consider, amongst other aspects of the case: the value of the debt; whether the taxpayer is in receipt of welfare benefits; and the status of the taxpayer's lodgements.⁸³ The final assessment and recommendation, including calculation of the respective amounts of the taxpayer's income and expenditure, is prepared for approval by the relevant delegate.

3.21 A macro⁸⁴ introduced in February 2013 has streamlined the number of 'steps' previously required to process a release application (switching between the taxpayer's accounts in the ATO's business systems and the DHC team's standalone databases), reducing the research and processing time for each application. The ATO advised that the new macro has also standardised the information included in the release recommendation, improving the quality of the recommendations for delegate approval.

ANAO testing of finalised release applications

3.22 The ANAO selected a random sample of 410 applications for release that were finalised between 1 July 2011 and 31 December 2012. The sample consisted of:

- 183 cases (45 per cent) where release was granted;

⁸² The applicable service standard is to finalise the case within 56 days of receipt, including those cases where further information is required.

⁸³ The ATO advised the ANAO in May 2013, that the training aid is under review.

⁸⁴ A macro is a way to automate a task that is performed repeatedly or on a regular basis. It is a series of commands and actions that can be stored and run whenever the task needs to be performed.

- 98 cases (24 per cent) where release was refused; and
- 129 cases (31 per cent) where the outcome was 'finalised without decision'.⁸⁵

The total value of debt relating to these cases was \$12.6 million of which \$4.4 million (35 per cent) was released.

3.23 For each case, the ANAO examined whether:

- supporting documentation had been entered into the ATO's business systems;
- recommendations for applications for release were approved by the appropriate delegate; and
- the ATO had met timeliness standards for finalising applications.

Supporting documentation

3.24 Key documents supporting release decisions are the: application; letter informing the taxpayer that the ATO has received the application; report outlining the assessment of the case; and letter informing the taxpayer of the final decision. Not all cases include each of these documents, for example, an application that had been finalised without decision may only have the application and a letter to the taxpayer.

3.25 For the 410 cases examined, a small number of documents were not available. These included the :

- release application for two cases;
- letter to taxpayers informing them that their applications had been received for nine cases;
- report outlining the assessment of the case for four cases; and
- record of the taxpayer having been informed of the final decision, for 10 cases.

Appropriate delegations

3.26 The delegation to approve an assessment of a taxpayer's application for release is determined by the value of the debt. For example, release of debts

⁸⁵ An assessment maybe 'finalised without decision' where the ATO has, for example, requested further information from the taxpayer and this has not been provided.

valued at less than \$20 000 can be approved by an ATO officer at the Australian Public Service (APS) 4 level, while executive level (EL) staff and senior executive level (SES) staff have much higher delegations. The delegate would generally review a submission prepared by a more junior staff member. Table 3.3 sets out the maximum debt value for each APS staff classification level.

Table 3.3

Debt values and delegations—release

Debt value (\$)	APS delegate level
0	APS1–3
<20 000	APS4
<50 000	APS5
<100 000	APS6
<250 000	EL 1
No Limit	EL 2 and SES

Source: ATO.

3.27 As previously discussed, appropriate review and delegation supports consistency in decision making, particularly where complex factors are involved. Of the 410 cases examined, the 129 that were finalised without decision did not require delegate approval. Of the remaining 281 cases tested, in one case, valued at \$4234, there was no record that the report had been reviewed by the delegate; in all other cases, there was evidence of the report being reviewed by the appropriate delegate. Additionally, in observing the work of the DHC team, the ANAO noted the commitment by team members to achieve appropriate and consistent outcomes through discussion and mentoring, over and above the required delegations.

Timeliness standards

3.28 The ATO has three timeliness standards in place relating to release decisions. The ATO aims to:

- acknowledge receipt of an application within seven days of receiving it. Of the 410 cases tested, the ATO acknowledged receipt of an application within an average four days, with 90 per cent of applications acknowledged within seven days;

- complete the assessment of the application within 56 days. Of the 410 cases analysed, the ATO completed the assessment within 61 days, on average, with 42 per cent completed within the 56 day standard; and
- notify taxpayers within 28 days of making the decision.⁸⁶ Of the 410 cases, the ATO notified the taxpayer of the decision within one day, with no cases failing to meet the 28 day standard.

This analysis indicates that, while release applications are generally processed in accordance with the three relevant timeliness standards, there is scope to improve the time taken to complete the assessment.

Compromised debt applications

3.29 The ATO does not promote accepting a compromised amount of the full value of the debt as a preferred solution to debt management. The application form is extensive (in excess of 40 pages), and very few applications are received. Applications are processed by the DHC team, with the exception of particularly complex cases which are generally managed by case officers in the *strategic recovery* area of the DBL.

3.30 While the number of compromise applications is relatively small, the value of revenue foregone when a compromise is granted can be significant. In the period 1 July 2009 to 31 December 2012, the ATO received 95 applications, and finalised 98 applications (including applications on hand that were received prior to 1 July 2009). Of the 98 finalised applications, 78 were refused and 20 were granted a compromised amount of debt. Of the 20 cases granted (valued at \$12.06 billion) a total of \$9.3 billion in debt was compromised, with the ATO collecting \$2.75 billion, or 23 per cent of the total value of the debts. For one of the cases granted in 2010–11, valued in excess of \$10 billion, the ATO accepted a significantly lesser amount than the original value of the debt.⁸⁷

3.31 The number and value of debts where the ATO has accepted a compromised amount of the full value of the debt, for the period 1 July 2009 to 31 December 2012, are set out in Table 3.4.

⁸⁶ *Taxation Administration Act 1953*, Schedule 1, Chapter 4, Part 4-50, Section 340-5(5).

⁸⁷ In November 2010, a large amount was written-off taxation receivables in relation to a number of related companies that had been subject to lengthy legal proceedings. The majority of the receivables balance related to accumulated GIC. The GIC revenue had been recorded and then written-off as an expense in the ATO's administered financial statements over a number of years.

Table 3.4**Value of compromised debts, 1 July 2009 to 31 December 2012**

Year	Number of cases granted	Debt value (\$ million)	Compromised value collected (\$ million)	Value of debt not collected (\$ million)
2009–10	1	6.1	1.0	5.1
2010–11	2	11 830.8	2734.4	9096.3
2011–12	16	203.1	19.0	184.2
July to Dec 2012	1	20.3	2.0	18.3
Total	20	12 060.3	2756.4	9303.9

Source: ATO data.

3.32 Under ATO policies⁸⁸, taxpayers must meet stringent requirements to be granted a compromise of the full value of the debt, and entering a compromise arrangement must present benefits for the ATO. These benefits include: a saving in the cost of collection; collection at an earlier date than would otherwise be the case; or collection of a greater sum than could otherwise be recovered. Offers of compromise will not be accepted where the:

- proposal offers less than the tax debtor's total net assets;
- benefit of accepting the proposal is greater than taking action either under the *Bankruptcy Act 1966* or *Corporations Act 2001*; and
- only reason to support a proposal is the tax debtor's claim of hardship.⁸⁹

3.33 The delegation to approve a compromised tax debt is at the EL2 level and above⁹⁰, and the assessment of each application is submitted to the relevant delegate. The ANAO examined the electronic case management records⁹¹ for 42 of the 98 compromise cases that were finalised between

⁸⁸ The onus is on the tax debtor to establish that the debt should be compromised. To this end, tax debtors should be made aware of the stringent requirements that must be satisfied in order to obtain a compromise agreement, and of the actions the ATO may take if a compromise proposal is not accepted. ATO, Practice Statement Law Administration, *PS LA 2011/3: Compromise of taxation debts*, para 20.

⁸⁹ Ibid, Guiding principles. paras 50 – 72.

⁹⁰ ATO, *Instruments of Delegations*, July 2010 and August 2012, respectively.

⁹¹ The ATO's Siebel case management system is the primary case management system for recording information about compromise cases. Records on the Receivables Management System were not reviewed.

1 July 2009 and 31 December 2012. Of the 42 cases assessed, 26 were managed by the DHC team; 12 were managed by the team dealing with complex debt cases in the *strategic recovery* area of the DBL, and four were managed by the Project Wickenby team, also in the *strategic recovery* area.

3.34 The ANAO tested three aspects of the ATO's procedures for actioning a compromise application, based on the ATO's compromise procedures document and considered whether:

- supporting documentation was recorded on the taxpayers' accounts—the compromise application form, a letter or note of a phone call to the taxpayer acknowledging receipt of the application, and the assessment;
- the activity in the ATO's business systems was appropriately classified as a 'compromise' application; and
- the outcome had been approved by the appropriate delegate.

3.35 Compromise procedures require that the activities for processing an application are to be recorded on the ATO's case management system, with a cross-referencing note to the ATO's Receivables Management System. The ATO advised that particularly sensitive or high-profile cases may be maintained as paper-based records, but the records would be referenced in the relevant taxpayer's account.

Supporting documentation

3.36 Of the 42 finalised cases, two cases were marked as maintained on paper-based records, with reference numbers attached.⁹² Seven of the remaining 40 cases did not have a record on the taxpayer's accounts to indicate any activity in relation to a compromise of a debt. Of the 33 cases where documentation was available, two cases were granted a compromise of the debt by the ATO. The ANAO found that:

- 26 cases had the compromise application on file;
- four of the cases included a record indicating that the ATO had informed the taxpayer that the ATO had received the application;

⁹² The ANAO did not examine these cases as they were held in the Melbourne office, but tested that the records were appropriately referenced in the taxpayers' accounts.

- four cases were finalised without decision⁹³, and of the remaining 29 cases, 17 included the assessment for delegate approval; and
- 25 cases had a letter advising the taxpayer of the outcome attached to the electronic record.

3.37 In relation to the 33 cases where the ANAO was able to locate records relating to the compromise application, in 15 cases the records were wrongly classified, most commonly recorded as release cases (12 cases). In the 17 cases where the ANAO was able to locate an assessment on the taxpayer's file, four did not have a record of delegate approval. These applications were rejected, and related to debt valued at approximately \$1.85 million.

Individual non-pursuit of debts

3.38 As previously noted, the ATO may decide not to pursue debts that are considered to be irrecoverable at law or uneconomical to pursue. These debts may be subject to a bulk non-pursuit process (further discussed in Chapter 4) or are dealt with by ATO staff. Taxpayers do not make an application to the ATO not to pursue their debt, and may not be aware that the ATO has taken this action, particularly where the debt has been subject to the bulk non-pursuit process, unless the case is subsequently re-raised for collection.

3.39 Debt cases that are considered for non-pursuit are processed across the DBL—they are not the exclusive responsibility of the DHC team. Larger value debts that not pursued are predominantly dealt with by ATO case officers in the *firmer action* and *strategic recovery* areas of the DBL.

3.40 The ANAO conducts testing of individual cases that have been selected for non-pursuit by ATO staff, as part of the annual audit of the ATO's financial statements. In 2010–11 and 2011–12, the ANAO examined a sample of activity statement debts and income tax debts⁹⁴ that the ATO had not pursued between 1 July and 30 November 2010, and 1 July and 31 December 2011 and considered whether the:

- non-pursuit decision had been approved by an appropriate delegate;

⁹³ Some cases do not require an assessment to be completed by the decision-maker. For example, if the taxpayer does not provide additional information or enters into a payment arrangement during the application process the compromise case is finalised, not requiring an assessment.

⁹⁴ In 2010–11, the sample resulted in the selection of debt cases that had not been pursued because they were irrecoverable at law or uneconomical to pursue, and did not include cases that were granted debt relief under other provisions.

- non-pursuit had been correctly recorded in the client account; and
- non-pursuit had been correctly calculated in view of the client balance and expected recoverable amount.

3.41 In both years, there were no issues arising from the ANAO's testing of individual non-pursuit cases as part of the ATO financial statement audits; the testing also providing assurance for the valuation and allocations relating to account balances.

GIC remission

3.42 A decision to grant GIC remission is made by the Commissioner or his delegate in circumstances where it is considered fair and reasonable to do so. In some circumstances the ATO remits GIC without a request from the taxpayer, and telephone requests may also be granted. The ATO also applies a bulk process to remit low value charges that have accrued on taxpayers' records, which is further discussed in Chapter 4.

3.43 Delegations to approve GIC remission are generally set at lower levels than for other categories of debt relief. An APS officer at the lowest grade (APS 1) may grant GIC remission to a maximum of \$5000; at the APS 6 level to a maximum of \$250 000; and there is no upper level limit to the value of GIC remission that can be approved by an executive level officer. The delegation to approve GIC remission up to \$10 000 is also extended to staff employed by external debt collection agencies, contracted to deliver services on behalf of the ATO. In 2011–12, the ATO remitted a total of \$1643 million GIC as a result of manual and bulk remissions.⁹⁵

3.44 As part of this audit the ANAO reviewed the policy and procedures associated with GIC remissions.⁹⁶ The audit drew on testing undertaken as part of the annual audit of the ATO's financial statements, and did not conduct further substantive testing on manual GIC remissions.

⁹⁵ Of the total value of remissions, \$1039 million was manually remitted from 245 061 transactions: \$428.6 million associated with 113 517 Activity Statement debts and \$610.3 million associated with 131 544 income tax debts.

⁹⁶ Previous audits and reviews examining the ATO's administration of GIC and penalty charges and remission include: ANAO Report No 31, 1999–2000, *Administration of Tax Penalties*; further referred to in the Inspector-General of Taxation's review, September 2005, *Review into the Tax Office's Administration of Penalties and Interest arising from Active Compliance Activities*.

GIC policy and procedures

3.45 Guidance material for GIC remission reflects a much simpler process than for other forms of debt relief. The taxpayer does not have to submit an application for GIC remission, with only a notation on the taxpayer's record being required to support the decision to remit all or part of the GIC. There is also less oversight of the decision, including for officers at relatively low levels of authority and by external debt collections officers working under contract to the ATO. Importantly, the relevant practice statement providing guidance on the remission of GIC includes that it would be inappropriate to exercise the discretion to remit GIC for the following reasons:

- as an inducement to finalise a disputed debt although, depending on the circumstances, remission may form a component of a settlement of litigation, or
- to finalise a case where the ATO has not attempted to collect GIC.⁹⁷

3.46 Guidance procedures dealing with GIC remission, including GIC remission requests negotiated by telephone, were reviewed by the ATO in January 2013. The ATO found the procedure was appropriate, but advised the ANAO that the advice to staff in the relevant procedures document that stated *'this category of work is high volume, resource intensive and generally a lower risk to the business, therefore requiring less stringent security'* would be removed, as the ATO considers it adds no value in substance to the procedure itself.

Financial statements audits

3.47 In 2010–11 the ANAO examined a sample of GIC remissions associated with activity statement debts recorded between 1 July and 30 November 2010. The cases included those valued at over \$1 million, and the ANAO examined whether the:

- remissions had been processed in accordance with the ATO's policies and procedures;
- reason for the remission was supported with reference to the relevant policy; and

⁹⁷ ATO, Practice Statement Law Administration, *PS LA 2011/12: Administration of general interest charge (GIC) imposed for late payment or underestimation of liability*, paragraph 21.

- approval for the remission had been granted by an appropriate delegate.

3.48 In 2011–12, the ANAO also examined a sample of GIC remissions associated with activity statement and income tax debts. These included remissions valued at more than \$10 million, and the ANAO examined whether the:

- remissions had been appropriately applied and approved in accordance with the ATO's policies and procedures; and
- amounts had been correctly recorded in the client account.

3.49 In both years, there were no issues arising from the ANAO's testing of GIC remissions as part of the ATO financial statement audits.

Quality assurance processes

3.50 The ATO has several mechanisms to assess the quality of its administration and decision making, notably the:

- Integrated Quality Framework (IQF) that is applied across the ATO;
- Debt Quality Management System (Debt QMS) that is specific to the DBL; and
- independent reviews of release decisions.

Integrated Quality Framework

3.51 The ATO's Practice Statement Law Administration (PS LA) 2009/6 sets out that:

... each business line is required to act to continuously improve and assure the quality of its written interpretative decision making and of certain types of other actions, advice, decisions and information (work in-scope) in this Practice Statement.⁹⁸

The IQF⁹⁹ is the ATO's enterprise-wide quality assurance process, and its primary means of improving and assuring the quality of its work. The IQF assesses performance through the examination of 'action types'. Business lines

⁹⁸ ATO, Practice Statement Law Administration PS LA 2009/6: *Quality improvement and assurance; application of and conformance with the Integrated Quality Framework*.

⁹⁹ The Integrated Quality Framework replaced the Technical Quality Review framework on 30 September 2009.

are also required to participate in a minimum of two community involvement workshops per year:

- an 'action type' is a key stage in any of the ATO's processes. For example, negotiating a payment arrangement with a taxpayer is an 'action type'; while processing a release application includes several 'actions types'—receipting the application, decision making, and delegation. Each action type examined counts for one IQF assessment¹⁰⁰; and
- community involvement workshops bring together a panel of community representatives and ATO staff to review actions taken by the ATO on a sample of approximately 20 cases. In a few cases, usually about four, the end-to-end process is examined, rather than a specific action, allowing more comprehensive assessment of the cases.

3.52 For the IQF assessment applied in the DBL, action types are selected from different types of tax or activities within the scope of work for the reporting period. The actions are selected using a sampling methodology based on the risk rating of the tax type or activity (low to catastrophic) and an estimated number of interactions (the population sample) for the forthcoming IQF reporting period. The IQF process may also be applied to conduct ad hoc analysis on any aspect of the ATO's operations. To date, no such specific assessments and reports have been undertaken.

3.53 Between commencement of the IQF in September 2009 and 31 December 2012, the DBL had submitted 30 236 of the approximately 151 437¹⁰¹ actions examined in the IQF process. The debt community involvement workshops held in February 2013 focused on debt relief activities, including hardship assessments and release of debts. The results of the IQF assessments and the community involvement workshops are included in monthly IQF reports, and aggregated in six monthly reports that are prepared in March and September each year. The ANAO examined the seven aggregated reports produced between September 2009 and September 2012.

¹⁰⁰ Assessment follows the nine elements of administration contained in the IQF matrix: integrity; correctness; appropriateness to the taxpayer's requirements and circumstances; effectiveness; administrative soundness; transparency; consistency; timeliness; and efficiency. These criteria are assessed on a five point scale, ranging from the lowest standard where the action has not been aligned with policy and procedural requirements, to the highest, where the assessors consider that the action has been managed to a very high standard.

¹⁰¹ This is an estimated figure, as the ATO relies on multiple data bases (and archives) for the maintenance of IQF data.

3.54 The format of the reports has changed slightly since the first IQF report was produced in 2009, and later reports provide additional levels of detail on the results achieved. In relation to the work undertaken in the DBL, the IQF reports indicate that, generally, the actions assessed have been rated as 'meets standard'. However, each report notes that there is insufficient historical data to identify any trends in the results, with the September 2012 report noting that DBL quality assessments cover a broad spectrum of debt actions, and not necessarily the same actions each month.

3.55 Of the total number of action types examined through the IQF process for the reporting period, 1917 most directly related to debt relief. These actions were:

- GIC remission: 545 granted and 38 refused;
- recommendation not to pursue a debt: 890 approved by the delegate and 10 refused;
- recommendation to release a debt: 170 granted and 66 refused;
- release applications: issuing 14 applications and receipting 34 applications;
- recommendation to accept a compromised amount of the full value of the debt: four cases approved; and
- recommendation to waive a debt: one granted and one refused.

3.56 While no specific problems were identified in the IQF reports, the overall number of assessments for each action type, covering a period of just over three years, is relatively small for some of the action types in comparison to the number of cases managed.

3.57 The ATO's Enterprise Quality Assurance Re-Design project is scheduled for implementation in July 2013. The new quality assurance processes aim to be more targeted and provide improved analysis. Changes in the process and the outcomes that will be delivered under the new framework are set out in Table 3.5.

Table 3.5**Enterprise quality assurance re-design project, processes and outcomes**

Existing Integrated Quality Framework	Re-designed processes and outcomes sought from 1 July 2013
Process: <ul style="list-style-type: none"> • Bottom-up submission requirements • Micro-focused compilation of information 	Process: <ul style="list-style-type: none"> • Self-serve based on need • Varying tiers and lenses for analysing and assuring (including enterprise view)
Outcomes: <ul style="list-style-type: none"> • Focus on tactical issues and performance checks • Limited analysis and improvement • No enterprise view of quality and improvement • Tactical business area improvements 	Outcomes: <ul style="list-style-type: none"> • Quality management identifies tactical, operational and enterprise risks and priorities • Quality management contributes to tactical, operational and enterprise business improvements

Source: ATO.

Debt Quality Management System

3.58 In April 2011 the DBL commenced a staged implementation of a new debt-specific quality assurance process, the Debt QMS, with full implementation achieved in July 2011. The Debt QMS aims to complement the IQF, and support more detailed analysis of the work being undertaken in the business line. While the IQF is able to identify systemic issues concerning processes and procedures at the corporate and team level, it was not designed to assess the quality of the work undertaken by individual staff. The IQF system selects and assesses actions by debt category, while the Debt QMS selects and assesses actions of individual staff, irrespective of the type of work they are assigned to.

3.59 Following the introduction of the Debt QMS, the DBL's IQF requirements were changed, requiring the business line to undertake a minimum of 120 mandatory IQF assessments each calendar year. The assessments must include a minimum of 24 from large income tax withholding cases, and 24 panel assessments. The remaining 72 assessments are comprised of community involvement workshop assessments and approval assessments.

Application of the Debt QMS

3.60 Each week, five action types are randomly sampled, (using a similar methodology to that applied in the IQF assessments) from each DBL officer, and loaded into the Debt QMS database. Examples of action types are: 'payment arrangement activated' or 'release application received'. From this

sample, on average three actions undertaken by each staff member (from the total selected over four weeks) are assessed by a trained Debt QMS assessor each month. The Debt QMS has five assessment criteria.¹⁰²

3.61 The Debt Quality team may also conduct ad hoc analysis on any aspect of the DBL's operations, when specifically requested to do so. To date, one such report has been requested, concerning a technical matter in the business systems, in relation to the recording of non-pursued debts.

Debt QMS reports

3.62 The ANAO reviewed the 22 reports produced since the new process was implemented in May 2011 to February 2013. The content and format of the report has evolved since the system was implemented. For example, in March 2012 the framework expanded from providing information by each area of the DBL—*early collections*, *firmer action* and *strategic recovery*—to include further detail on performance by ATO site.

3.63 As at February 2013, the content and format of the reports provides detailed performance data, based on the five criteria:

- summary data at the business line level, and by each area of the DBL—*early collections*, *firmer action* and *strategic recovery*;
- data for each area of the DBL by the type of debt management tasks associated with the area¹⁰³; and
- the overall quality of work undertaken by each area, by ATO site.

The reports also include the number of assessments completed in each area against the target. Review of the available results in the period September 2012 to February 2013 indicate that around 80 per cent of the targeted number of assessment was completed in each DBL business area.

3.64 Information on different categories of debt relief cannot be extracted from these reports, although there is a 'Hardship' profile that has been included in Debt QMS reports since they commenced. Data extracted by the ATO from the Debt QMS reports under the Hardship profile, from May 2011 to

¹⁰² The assessment criteria are: taxpayer interaction; information gathering and evaluation; decision making; process, closure and finalisation; professional representation.

¹⁰³ For example, work types examined in the *early collections* area include telephony, correspondence, aged debt, and hardship; in *firmer action* the work types include formal recovery and insolvency; and in *strategic recovery*, the administration of superannuation, and large and consolidated debts.

23 October 2012, show that 1345 records exist for assessments actioned under this profile. These assessments include¹⁰⁴:

- 772 on aspects of release, including release applications issued, receiving an application, and making a recommendation;
- 117 on non-pursuit actions, including the creation, approval and submission of not pursuing the debt;
- 17 on processing GIC and penalty remissions;
- eight on the compromise of debts; and
- 431 miscellaneous assessments that includes but is not limited to specialist advice requested, account balance explanation, phone calls, information requests and general debt.

3.65 The results from the 2011–12 Debt QMS reports in relation to Hardship work show a high level of compliance with ATO policies, procedures and practices, including a:

- 100 per cent rating for the ‘present circumstances considered’ and ‘authorisations/delegations applied’ sub-criteria; and
- 99 percent rating for ‘decisions reasonable, effective and supported by evidence’ sub-criteria.

3.66 The ‘overall quality’ rating for the 12 sub-criteria for Hardship was 96 per cent as at February 2013. While the ratings reflect positive performance, the results provide a higher level of assurance for different products.

Independent review of release decisions

3.67 The responsibility for assessing taxpayers’ applications for release from their tax debt changed from an independent external board, the Tax Relief Board, to the Commissioner of Taxation in September 2003.

3.68 To provide community confidence that the change would not result in any loss of transparency regarding how these decisions were made, the (then) Commissioner of Taxation decided that external consultants would be engaged

¹⁰⁴ The ATO advised that additional actions relating to ‘hardship’ may be assessed but are not necessarily captured under the Hardship profile in the Debt QMS. For example, for the reporting period, an additional 55 QMS records existed for the action of Relief Application Issued from the QMS focus area of telephony, firmer action, correspondence and aged debt. In addition, analysis of the results recorded in the Debt QMS under the ‘Hardship’ profile identified cases that would not necessarily be assessed on the grounds of ‘Hardship’.

on an annual basis to undertake reviews of decisions regarding taxpayers applications for release from debt. Seven reviews have been conducted since 2007—five from 2007–08 to 2009–10 and annually thereafter.

3.69 For each review, the ATO selects 125 cases from the total population and the first five reviews included a review of whether the ATO had:

- considered each case on its merits;
- understood the taxpayer's situation;
- applied the law fairly and equitably; and
- assisted the taxpayer to move on and do the right thing.

3.70 The 2010–11 and 2011–12 reviews, however, were reduced in scope as the ATO considered there was some duplication in the material being reviewed. These reviews examined if a decision about release was made in accordance with the relevant policy, and whether or not the taxpayer was kept informed of the progress and result of their application.

3.71 Overall, the reports conclude that the ATO has had a high level of compliance with the aspects of the debt release cases tested, however the external provider does not verify that the record is comprehensive and accurate. The reviews cost approximately \$25 000 each and are published on the ATO's website. The 2013 review is due to be released in early June 2013.

Appeals processes

3.72 Subject to the legislative provisions applied to the waiver, release, compromise of a debt or GIC remission, taxpayers have different avenues of appeal where they are dissatisfied with the ATO's decision. Taxpayers may object to the ATO's decision not to grant full or partial release from their debt, but are not able to object to a decision not to remit GIC.¹⁰⁵ While the ATO encourages taxpayers to contact the original decision maker in the first instance and attempt to resolve the issue, information on options available to taxpayers provided in ATO letters and on the ATO website could be clearer, as discussed in Chapter 2.

¹⁰⁵ Available from
http://www.ato.gov.au/corporate/content.aspx?menuid=0&doc=/content/00264755.htm&page=36#P1283_84157
 [Accessed 9/1/2013].

3.73 A disagreement with a decision made by the ATO is an objection, not a complaint. Objections and complaints are processed differently by the ATO. Complaints are initially managed within the Debt team that made the original decision, whereas objections follow a more formal process and are reviewed by another business line to provide an independent assessment.¹⁰⁶ Objections relating to a taxpayer's application for release from their debt are actioned by the Micro Enterprises and Individuals interpretative advice team, providing an independent assessment of the case.

Objecting to a decision not to release a debt

3.74 Taxpayers can object to a decision to refuse their application for full or partial release from a debt. Where the ATO has reviewed the case and upheld the original decision, the taxpayer may lodge an appeal with the Administrative Appeals Tribunal (AAT).

3.75 Objections to decisions not to grant taxpayers' applications for full or partial release from their debt cases, for the period 1 July 2010 to 22 February 2013, are set out in Table 3.6. No data is available for the outcomes of the objections for 2010–11, but the outcomes for the period 2011–12 and 1 July 2012 to 22 February 2013 are included.

Table 3.6

Objections to debt release decisions for the period 2010–11 to 22 February 2013

Year	Objections received	Objections finalised	Allowed or partially allowed	Disallowed	Other
2010–11	118	90 ¹	n/a	n/a	n/a
2011–12	224	209	4	113	75
1 July 2012 to 22 February 2013	204	114	0	122	22
Total	546	413	4	235	97

Source: ANAO analysis of ATO data.

Note 1: Estimated by the ATO, as data was incomplete.

¹⁰⁶ The ANAO is currently undertaking an audit examining the ATO's management of complaints and other feedback.

3.76 While the data is not complete for 2010–11, the 2011–12 figures indicate that very few taxpayers' objections (less than two per cent) to the ATO's decisions on their application for release are upheld.

Pre-AAT reviews of release decisions

3.77 In March 2008, the ATO introduced a scheme that allows taxpayers whose applications for release from debt have been refused by the ATO to have their case reviewed by an expert (a registered lawyer, tax agent or accountant) before deciding to pursue a formal review to the AAT. In the 'objection disallowed' letter, taxpayers are advised of their right to apply for this type of independent review.

3.78 The scheme allows the taxpayer to select an adviser to review the case, for a fee of up to \$3000 that is paid by the ATO.¹⁰⁷ Taxpayers whose release application has been refused can access this scheme, but can still go to the AAT irrespective of the recommendations in the review.

3.79 The ATO introduced this scheme to strengthen the transparency of the ATO's release decisions and to reduce the incidence of AAT appeals. Between the introduction of the scheme in March 2008 and December 2012, 23 information packs have been requested by taxpayers, resulting in 10 accessing the expert advice. Of the 10 who received the expert advice, eight proceeded with a review to the AAT.

3.80 The number of taxpayers who have accessed this scheme is very low in comparison to the number of objections disallowed by the ATO. This may reflect that the taxpayer accepts the decision, or the review scheme may be too complex or could be promoted more effectively. There would be benefit in the ATO reviewing the reasons behind the low take-up rate for this scheme.

AAT reviews of release decisions

3.81 The AAT conducts independent merit reviews of administrative decisions. For the period 2010–11 to 31 December 2012, 41 appeals were made to the AAT relating to debt release decisions. This figure represents 21 per cent of the 197 disallowed objection decisions relating to debt release over the same period.

¹⁰⁷ The ATO does not pay for this expert to represent the taxpayer in the AAT or Federal Court proceedings, where the taxpayer decides to escalate the appeal, irrespective of the advice of the independent review.

3.82 Of the 41 appeals, 15 were finalised during the reporting period: the AAT upheld or partially upheld the ATO's decision in four cases, with seven being withdrawn or settled before the AAT hearing, and four cases being dismissed. The results of the AAT appeals regarding debt release decisions are set out in Table 3.7.

Table 3.7

Debt release appeals to the Administrative Appeals Tribunal

Appeal / finalised result	2010–11	2011–12	July to Dec 2012
AAT appeals	6	12	23
ATO decision upheld	1	1	2
Withdrawn / settled	2	2	3
Dismissed	2	0	2

Source: ATO.

3.83 The ATO advised that of the total cases overturned by the AAT since 2003, the Commissioner of Taxation has initiated two appeals to the Federal Court concerning applications for release. The ATO lost both cases—with the release applications being upheld.¹⁰⁸

Conclusion

3.84 Assessing a taxpayer's circumstances and eligibility for some form of debt relief involves an understanding of the relevant legislation and the ATO's policies and procedures. ATO staff are required to assess taxpayers' circumstances against factors that, by their nature, require a degree of judgement, including that the decision to grant debt release will allow taxpayers to gain control of their finances. The ANAO's analysis of the administration of a sample of applications for waiver and release of a debt indicated general compliance with ATO processes and record keeping obligations. However, in respect of compromise, the ATO could strengthen its record keeping for the relatively small number of cases it manages each year.

¹⁰⁸ *FC of T v Milne* 2006 ATC 4503, the Federal Court agreed with the Small Taxation Claims Tribunal that the solicitor should be granted release from his income tax debt because he would otherwise suffer serious hardship. In a similar case, *FC of T v A Taxpayer* (name suppressed) 2006 ATC 4393, the Federal Court found that another solicitor earning \$250 000 should have his debt partially released because of the costs of caring for his family and complicated financial arrangements in his firm.

3.85 In examining decision-making processes for the non-pursuit of individual debts and the remission of general interest charges, this audit drew on the findings of the ANAO's 2010–11 and 2011–12 audits of the ATO's financial statements. These audits indicated that the ATO had appropriate approvals and recording of remittal values. The audits also noted that there was generally less oversight of the decisions to remit general interest charges than other forms of debt relief. This is despite decisions to remit these charges being made across the ATO and often by officers at relatively low classification levels.

3.86 The ATO commissions external consultants to conduct annual independent reviews of its debt release decisions. As these reviews have a relatively narrow focus, examining only the assessment of 'serious hardship' and if taxpayers were kept informed of the progress of their application, there would be benefit in the ATO reviewing the ongoing value of these reviews. The ATO does not assess the outcomes of debt release decisions, including the extent to which they have supported taxpayers to meet their taxation payment obligations in the longer term. Such analysis would provide a better understanding of the factors involved in assessing taxpayers' financial hardship and the quality of debt release decisions, as well as informing debt release strategies.

Recommendation No.1

3.87 To inform debt release strategies, the ANAO recommends that the Australian Taxation Office assesses (through a sampling approach) the extent to which it has achieved its objective of supporting taxpayers to gain control of their financial circumstances and meet taxation payment obligations in the longer term.

ATO response: *Agreed.*

3.88 As previously noted, taxpayers are expected to meet their debt obligations where they have the capacity to pay. Decisions to reduce or cancel debts represent a loss of revenue for the Commonwealth, and if not consistently applied may advantage one taxpayer over another. The ATO has several mechanisms to assess the quality and consistency of its administration and decision making. In particular, the IQF processes aim to provide assurance that there are no systemic issues in the administration of the tax and superannuation systems, and the Debt Quality Management System is used to

assess the quality of the work of individual staff members in the Debt business line.

3.89 While the Debt Quality Management System assessment processes are generally sound, the ATO is redesigning the IQF to provide a greater level of assurance on the work being undertaken. The new IQF processes are to be implemented in 2013–14. There would be benefit in increasing the quality assurance reviews for the remission of general interest charges to provide greater assurance that decisions are being applied consistently and staff are following the appropriate procedures, including not to remit these charges as an inducement to finalise a debt.

Recommendation No.2

3.90 To provide increased assurance of the quality and consistency of decisions to remit general interest charges, the ANAO recommends that the Australian Taxation Office undertakes specific quality assurance assessments on general interest charge remission decisions and includes a focus on these decisions in the IQF summary reports.

ATO response:

Agreed. The ATO is currently in the process of moving to an enterprise quality reporting system and future enhancements to the IQF reporting database will enable reporting on GIC remission quality assurance assessments across the ATO.

3.91 Taxpayers can request the ATO to review a decision not to grant relief from their debt. However, information provided by the ATO about the main options for review is not clear in all instances. Notably, the ATO website advises taxpayers that they cannot dispute or disagree with a general interest charge decision through the objections process, only advising taxpayers that they can contact the ATO to discuss the matter. Further, it does not advise that complaints and objections regarding release decisions are dealt with differently by the ATO. While the ATO's processes for managing taxpayers' objections are sound, it would be helpful if the ATO better communicated the processes for disputing or disagreeing with their decisions. There have been relatively few objections and reviews of the ATO's debt relief decisions upheld in recent years. Only four of 209 objections finalised in 2011–12 were upheld (less than 2 per cent), and similarly one of 12 appeals to the Administrative Appeal Tribunal was upheld.

4. Automated Debt Relief Processes

This chapter examines the ATO's automated processes supporting the administration of debt relief.

4.1 The ATO relies on Information and Communication Technology (ICT) business systems for the effective and efficient delivery of its outputs, including the administration of taxpayers' debt.

4.2 To establish an up-to-date ICT capability, in 2002 the ATO initiated the Change Program, to 'improve the client experience, reduce operational costs, and improve flexibility and sustainability for future change'.¹⁰⁹ Specifically, the Change Program aimed to replace the agency's multiple ICT systems with a single integrated core processing system that would process all taxes and replace all previous core processing systems.

4.3 Implementation of the Change Program was scheduled over six years, 2003–04 to 2008–09, at an estimated cost of \$445 million.¹¹⁰ In June 2010, the ATO announced that the implementation of the Change Program was formally completed.¹¹¹ However, a range of legislative changes (most notably the introduction of the Super Simplification Reform in 2007), combined with changes in project scope and a series of delays and extensions, resulted in the full functionality of the original program specifications not being achieved. As a result, a number of legacy core processing systems could not be retired.

4.4 The ATO continues to use two ICT systems that are not fully integrated—the legacy systems used to manage a number of tax and superannuation products, and the new Integrated Core Processing (ICP) system. While this arrangement has no direct impact on taxpayers, it limits the ATO's capacity to administer certain business operations without intervention. For debt management, these limitations include the requirement to maintain separate or standalone systems (from the main ICT systems), to support the management of taxpayers' applications for release, waiver and compromise.

¹⁰⁹ ATO, *The Australian Tax Office Change Program*, February 2011, p. 2, available at <<http://www.ato.gov.au/content/downloads/CR00271687.pdf>> [accessed 19 September 2012].

¹¹⁰ ANAO, Audit Report No.8 2009–10, *The Australian Taxation Office's Implementation of the Change Program: a strategic overview*, p. 19.

¹¹¹ At completion, the cost of the program was \$814 million, an increase of \$369 million over the cost initially estimated. ATO, *Annual Report 2011–12*, p. 127.

4.5 The ATO applies processes in both ICT systems to allow the bulk non-pursuit of debts that are assessed as uneconomical to pursue or irrecoverable at law. This bulk non-pursuit process allows the ATO to efficiently manage large volumes of lower value and more aged debt cases that remain outstanding and may not be otherwise actioned. As previously noted, these debts may be re-raised where a taxpayer's circumstances have changed such that they become able to pay the liability. A similar bulk process is applied to 'clean-up' very low amounts of GIC that have accrued on taxpayers' accounts.

4.6 To assess the effectiveness of the ATO's ICT systems supporting the administration of debt, including debt relief, the ANAO examined the:

- bulk non-pursuit (BNP) process;
- re-raising of debts;
- standalone systems used by the DHC team for managing applications and referrals in relation to taxpayers' financial hardship; and
- automatic processes for the bulk remission of low-value GIC.

A diagram of the systems' processes and work flows (at Figure 4.1 on page 78) provides context.

Debt management in the legacy and ICP systems

4.7 The two ICT systems that support the ATO's administration of different types of taxes are the:

- legacy systems, used to manage a number of tax and superannuation liabilities. Legacy operating systems are the:
 - ATO Integrated System (AIS), an accounting system that maintains transactions including those related to taxpayers' activity statement instalments;
 - General Accounting System (GAS), an accounting system that maintains transactions mainly relevant to superannuation products; and
 - Receivables Management System (RMS), a case management system that maintains the creation, tracking and recording of ATO internal business activities related to specific taxpayers' matters.

- ICP system, established in 2010 that maintains taxpayers' accounts and processes transactions relating to fringe benefits tax, income tax, superannuation co-contribution and other taxes.¹¹²

4.8 Taxpayers can have multiple, concurrent accounts associated with their tax and superannuation liabilities. For example, a taxpayer may have an income tax account in the ICP system, and goods and services tax and superannuation guarantee charge liabilities in the legacy systems. Staff managing debt cases are required to manually review all the taxpayer's accounts in both systems, to check the total debts the taxpayer has, and their characteristics, including the age and value, of those debts.

Debt management process flow

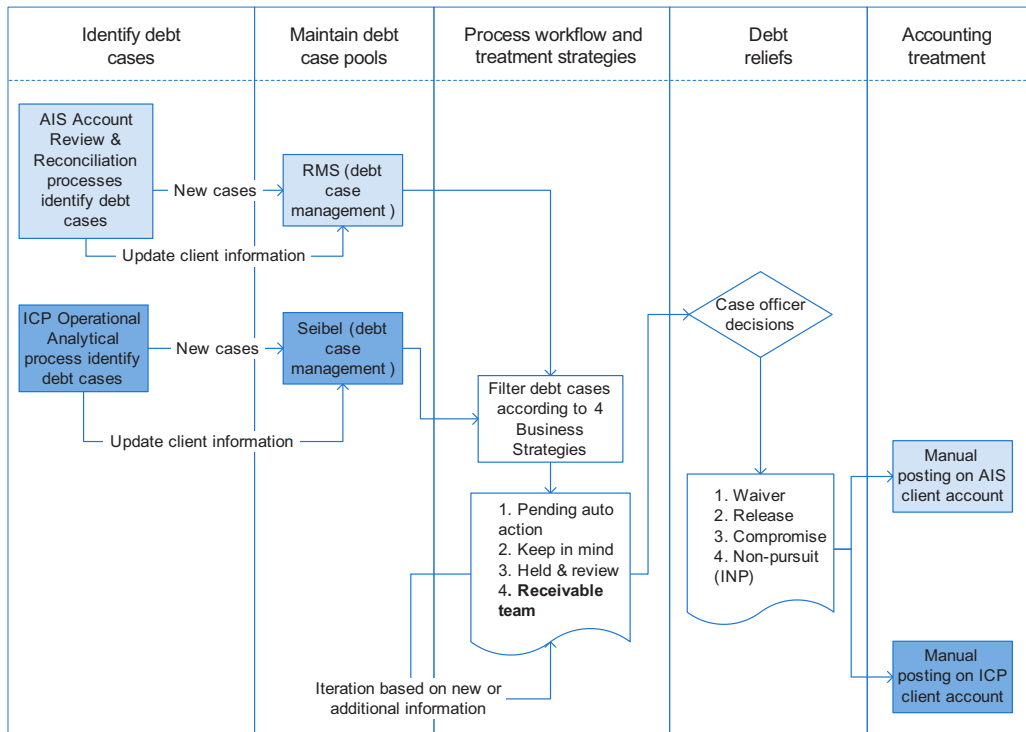
4.9 In both ICT systems, the ATO applies various business rules, defined by ATO policies, to examine all taxpayers' accounts and to identify account balances that are in debt. Subject to the business rules, that include different balance thresholds and grace periods¹¹³ categorised by account type, the systems function automatically to identify new debts and gather updated information for existing debts. These debts are maintained in separate debt pools and then filtered for distinct treatment strategies. The stages in the end-to-end business process for debt management, including debt relief, are set out in Figure 4.1.

¹¹² Together with the ICP system, the Change Program also established Siebel, a workflow management system that manages the routing, tracking and recording of tasks and activities between business functions. Siebel is a third-party vendor application widely used by large organisations for customer relationship management.

¹¹³ The ATO allows a longer period of grace before instigating recovery action for lower value debts.

Figure 4.1

Debt management process flow



Source: ANAO analysis of ATO business systems.

Note 1: The process workflow and treatment strategies are iterative processes.

Bulk non-pursuit process

4.10 The BNP process was established in August 2007, to run in the ATO Integrated System and the (then) National Tax System. In September 2010, operations conducted in the National Tax System, including the administration of income tax, were transferred to the ICP system. Since the transfer, the bulk process has been applied almost exclusively in the legacy systems, with the BNP capability scheduled to be available in the ICP system from September 2013. In the meantime, the ATO applies an interim process in the ICP system that targets only debts that are uneconomical to pursue (and does not include debts that are irrecoverable at law).

Bulk non-pursuit process in the legacy systems

4.11 Business rules (or debt case parameters) targeting debts with specific characteristics (including the age and value of the debt) for the bulk

non-pursuit process are submitted to the Debt Executive for review and approval prior to application. There are two sets of parameters: a standard set that is run on a monthly basis, and ad hoc sets that are designed to capture specific debt cases that the ATO has decided not to pursue at different times. The parameters assist the ATO to manage debt recovery more efficiently by setting aside large numbers of low value debts that are difficult or costly to collect. The parameters can be changed, and the debts can be re-raised and collected at a later date if the taxpayer's circumstances change.

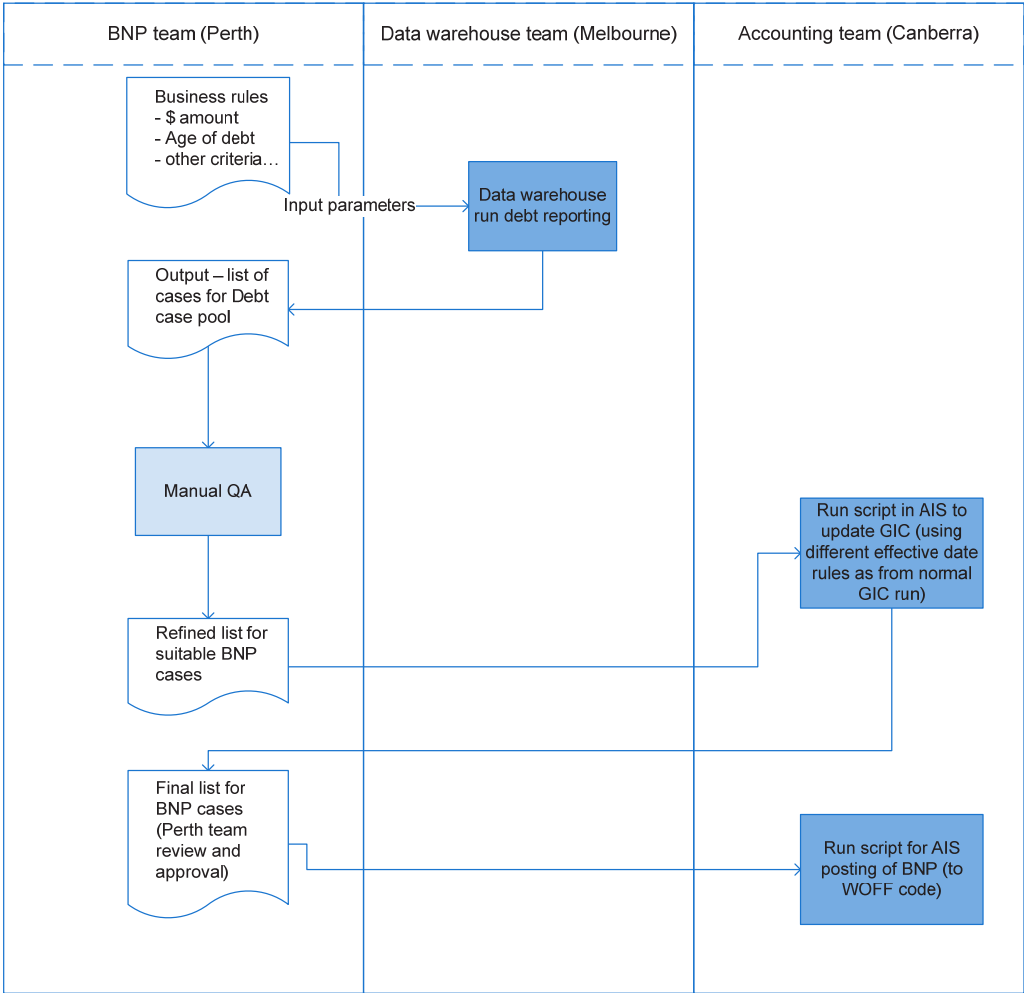
4.12 The BNP data showed that just over \$462 million—comprising debts that were uneconomical to pursue or irrecoverable at law—was not pursued during 2011–12. The process is conducted by three ATO teams. The teams are the:

- *BNP team* has overall responsibility for the management and administration of the BNP process. Specific activities undertaken by the team include: developing the BNP parameters and having them endorsed by the DBL executive; and conducting a reconciliation process to check that the BNP process is working as intended;
- *data warehouse team* is responsible for applying the BNP parameters to the ATO's data warehouse and producing a list of the targeted population of debt cases. The list is returned to the BNP team to determine whether the business rules need to be adjusted—this usually takes a few iterations between the teams, before a final debt case population is specified; and
- *Enterprise Solutions and Technology* accounting support team execute the non-pursuit of debt based on the final approved list. This process is made more complex by the requirement to update the value of GIC imposed on a taxpayer's primary debt (so it is accurate at the time of non-pursuit), to maintain data integrity between multiple system processes.

4.13 The BNP process in the legacy systems is complex, requiring several exchanges of data and co-ordination between teams across the ATO. To ensure process integrity, the process also requires the segregation of control and the checking of a sample of non-pursuit cases. The process in the legacy systems is outlined in Figure 4.2.

Figure 4.2

Bulk non-pursuit process workflow in the legacy systems



Source: ANAO analysis of ATO business systems.

4.14 Each month the total number and value of debts subject to the BNP process is reconciled by the BNP team. While referred to as a reconciliation, the activity more accurately reflects an assurance process, as it checks that:

- all debts not pursued have been approved by the DBL executive. This approval is sought retrospectively through an email exchange informing the delegate of the number and value of debts that have not been pursued under the (previously approved) BNP parameters; and
- the process output is accurate. This assurance is gained through a testing methodology (based on an Australian Bureau of Statistics

sampling methodology). Each sampled case is manually checked against the BNP parameters to ensure that the value of the debt not pursued is accurate.

4.15 The ANAO observed the preparation and reconciliation of the BNP process undertaken in September 2012 and examined ad hoc BNP results for the 2011–12 financial year. It was evident that the endorsed business processes and procedures were closely followed by the operational teams, including that:

- segregation of control was enforced to minimise the risk of debt cases being included in the BNP process where ATO staff may have had a personal interest;
- the BNP team worked closely with other operational teams to ensure the business rules were accurately applied (in the programming parameters) for selecting and filtering BNP debt case population; and
- the submissions and approvals documents, and all execution data files, are kept on an ATO share drive to provide an appropriate audit trail.

The ATO's internal controls provide reasonable assurance of the accuracy and integrity of the BNP process in the legacy systems.

Interim BNP process in the ICP system

4.16 The BNP process in the ICP system is designed to identify only debts that are considered uneconomical to pursue. Referred to by the ATO as an interim solution (until the full BNP process is available in September 2013) as at April 2013, it had been run on three occasions—in February, March and April 2013—resulting in 35 692 debt cases not being pursued. These cases were valued at \$49.5 million.¹¹⁴ The ATO advised that there is potential to expand these parameters in the future, and the use of the BNP process is expected to increase as additional accounts are transitioned from the legacy to the ICP system.

4.17 Prior to February 2013, the ATO estimated (from data warehouse queries) that there would be 54 000 debts with a total value of \$27 million for BNP treatment in the ICP system. The ATO advised that the BNP interim solution run in April 2013 has cleared all known backlogs (of debts considered uneconomical to pursue). The ATO further advised that the interim solution

¹¹⁴ The ANAO did not conduct testing on this interim solution as it was not operational during the audit's fieldwork phase.

will be run at the beginning of each month to action any new debts that meet the non-pursuit BNP parameters.

Re-raising non-pursued debts

4.18 Debts that the ATO has assessed as uneconomical to pursue through the BNP and individual non-pursuit processes can be re-raised at a later date, subject to changes in the taxpayer's circumstances, using either ICT system.

Re-raising debt in the legacy systems

4.19 Changes in the taxpayer's circumstances that automatically trigger a debt being re-raised for further review in the legacy systems include that:

- the taxpayer lodges a tax return;
- the taxpayer has been traced by the ATO; or
- a decision is made to pursue the debt.

4.20 Once non-pursued debts have been 'triggered', system-based processes in the legacy systems select those with a specified value and transfer them electronically to ATO staff members, who assess whether the debt should be pursued. This process of review and assessment of a previously non-pursued debt is resource intensive. The system identifies debts by tax type, not by taxpayer. A taxpayer may have multiple debts across different types of taxes, requiring a review of all the taxpayer's accounts, and the manual processing of the result of the re-raise and review.

Re-raising debt in the ICP system

4.21 Debts that have not been pursued in the ICP system—either as a result of the limited BNP process or that have been individually not pursued, may be re-raised automatically, subject to specific business rules (also referred to as re-raise 'triggers').

4.22 The ICP system applies a daily process for evaluating credit balance risk. If the output reveals a high risk that a re-raised debt will not be collected (based on the characteristics of the debt and the taxpayer) the system will create a review item for manual intervention. Additional business rules applied to low-risk cases exclude debts where the:

- taxpayer's total income is below a particular threshold; or
- debt was assessed by the ATO as aged debt.

4.23 After these initial filters, the system will automatically check whether the taxpayer has had, or is scheduled to have, a debt not pursued in the legacy systems.¹¹⁵ If this is the case, no debts will be triggered for re-raise in the ICP system and the system will automatically create a review item for actioning by an ATO staff member. The final system check is to verify if the sub-transaction code is 'uneconomical to pursue'. Only when all system checks are completed and all business rules matched and satisfied, will the system re-raise debt.

Analysis of the re-raising process

4.24 The ANAO tested the ATO's systems for re-raising non-pursued debt by examining whether the business rules are being correctly implemented in the legacy and ICP systems. Depending on the ICT system, these business rules may be actioned automatically or require manual processing. The business rules examined were the:

- transaction code 'non-economic to pursue',
- debt threshold;
- taxpayer's income threshold;
- debt age threshold; and
- integration between the legacy and ICP systems.

4.25 The ANAO found that the business rules for re-raising non-pursued debt are being properly implemented in the relevant systems. The program logic and parameters relating to these business rules were appropriately specified, and the automatic information exchange between the legacy and ICP computer systems operated effectively.

Standalone systems supporting the Debt Hardship Capability team

4.26 Cases where taxpayers have applied for release, waiver or compromise of a debt; claimed financial hardship; or have been identified through one of the treatment strategies outlined in Figure 4.1 are assessed and processed by the DHC team.

¹¹⁵ This is done through system programming interface between the legacy systems and ICP system.

4.27 Once referred to the DHC team, reporting and work flow management is largely manual, and reliant on two standalone computer systems, the Release Management and Reporting System and the Hardship Database. There is insufficient reporting functionality in the ATO's legacy and ICP systems to effectively report on the DHC workloads, and there is no interface between these systems and the standalone systems, requiring manual data entry. Effectively, staff in the DHC team have to:

- research information on a debt case in the ATO's main business systems (this means the officer must access the AIS, RMS, ICP and Siebel systems to obtain a full view of all the taxpayer's accounts);
- record the receipt, assessment and administration of the case in the standalone systems; and
- enter the results of the case in the taxpayer's accounts in the main business systems. This final stage includes entering any accounting 'write-off' of the approved debt relief type and the amount on the taxpayer's accounts, in AIS or ICP (as outlined in Figure 4.1), and then completing the case notes in RMS or Siebel, subject to the type of tax debt.

4.28 This is a cumbersome and manual process with multiple data entry processes that reduce operational efficiency and increase the potential for error. The ATO advised the ANAO that there are no current plans to integrate the required business functionalities into the ATO's main business systems.

Reconciliation of debt cases

4.29 All debt relief cases (waiver, release and compromise) actioned by the DHC are reconciled to verify that the type and amount of debt relief approved is accurately entered and processed in the ATO accounting systems: AIS (legacy) or ICP. Waiver is reconciled annually against Department of Finance and Deregulation records by the Waiver officer in DHC (and verified by ATO Finance); release cases are reconciled monthly by a dedicated officer in the DBL; and the reconciliation for compromise is conducted by the Non-Pursuable Debt Reconciliation team.

4.30 The ANAO examined the reconciliation process conducted in September 2012. While a full reconciliation process is undertaken for AIS account postings, only a partial reconciliation is performed for ICP account postings due to a lack of system functionality.

4.31 The reconciliation process in the legacy systems consists of two parts:

- debt cases are extracted from the RMS system and checked to ensure that the debt treatment recorded in RMS is accurately reflected in AIS; and
- the reverse is tested—a report extracted from AIS is matched against the RMS records to ensure that each ‘write-off’ posting in AIS has the corresponding case approval in RMS and the amounts are the same.

The ANAO found that the reconciliation process in the legacy systems worked as intended.

4.32 The reconciliation process involving the ICP system is still under development. Rather than a full reconciliation involving two processes, as at 31 March 2013 only one process exists: matching debt write-offs from ICP to the ATO’s case management system. As a result, the reconciliation process only provides assurance that write-off accounting treatments in ICP are verified as approved by the DBL Executive (as recorded in Siebel). The process does not provide assurance that all approved debts are actioned accurately in the accounting system and will not be achieved until the reconciliation process is fully developed.

GIC remission

4.33 As previously noted, taxpayers’ full or partial GIC liabilities may be remitted through:

- a monthly system-based process that cancels, or ‘cleans up’ very low value amounts of GIC that have been imposed on taxpayers’ records;
- a decision by an ATO officer or staff of an external collection agency; or
- the taxpayer being included in a GIC-free payment arrangement.

GIC remission may be provided while the primary debt remains, or the primary debt and GIC can be cancelled together.

4.34 The DBL does not have primary responsibility for the administration or remission of GIC. The Client Account Services business line has responsibility for the management of the systems that impose GIC on taxpayers’ accounts and the application of the monthly ‘clean up’. Reporting on GIC is provided by ATO Finance (which is further discussed in Chapter 5). ATO officers in other areas of the ATO, as well as staff from external collection agencies may also remit GIC.

4.35 This audit did not examine the processes for imposing or remitting GIC but reviewed the ATO's documentation for implementing the processes, and drew on the results of the ANAO audit of the ATO's 2011–12 financial statements:

- the ATO's documentation showed that appropriate processes were in place for implementing and controlling the automatic imposition and remission of GIC calculations on taxpayer's accounts; and
- the ANAO testing found there were no material mistakes in the GIC monthly 'clean ups'.

Conclusion

4.36 The ATO initiated the Change Program in 2002 to establish an up-to-date ICT capability and replace the agency's multiple ICT systems with a single business system. In June 2010, the ATO announced that the implementation of the Change Program was formally completed. However, a range of legislative changes, combined with changes in project scope and a series of delays and extensions, resulted in the full functionality of the original program specifications not being achieved. As a result, the ATO continues to use two ICT systems to administer tax and superannuation.

4.37 While these ICT arrangements have no direct impact on taxpayers, they limit the ATO's capacity to administer certain business operations without intervention. For debt management, this means using systems separate from the main ICT systems to support the management of taxpayers' applications for release, waiver and compromise, and to report on the movement of debt cases and the different categories of debt relief. While the ATO recognises the risks and challenges of maintaining two complex, parallel ICT systems, it noted that there are multiple demands for system upgrades and enhancements that have to be prioritised across the ATO.

4.38 The ATO applies processes in both ICT systems to allow the bulk non-pursuit of debts that have been outstanding for some time and are considered uneconomical to follow up or are irrecoverable at law. In the legacy systems, just over \$462 million of debt was not pursued during 2011–12. This bulk process is safeguarded by two key controls—executive review and approval of bulk non-pursuit parameters and a sampling review of the output of the process—that provide reasonable assurance of the integrity of the process.

4.39 There is, however, only a limited, interim bulk non-pursuit capacity in the ICP system as full functionality is not yet available. Since September 2010, debts in this system totalling just under \$50 million were not pursued, covering debts that are potentially uneconomical to pursue, but none that are potentially irrecoverable at law. There is a potential backlog of cases that will not be processed until the full bulk non-pursuit capability is available in the ICP system, scheduled for September 2013.

4.40 Debts that the ATO has assessed as uneconomical to pursue through the bulk non-pursuit and individual non-pursuit processes can be re-raised at a later date, subject to changes in the taxpayer's circumstances, using either ICT system. Analysis of the ATO's systems for re-raising non-pursued debt found that the five relevant business rules are being properly implemented in the relevant systems. The ATO's internal procedures to impose general interest and penalty charges and to run monthly bulk processes to deal with very low value automatic remissions are also sound, and ANAO testing has found no material mistakes in the process.

5. Reporting of Debt Relief Arrangements

This chapter examines the reporting of debt relief arrangements by the ATO.

Background

5.1 Accurate and transparent reporting is critical to maintaining the confidence of the Government and broader community in the administration of taxation laws, and allows meaningful analysis and review by external parties. It also supports the ATO's business strategies by providing useful management information about the incidence, value and circumstances of applying the various provisions for debt collection and relief.

5.2 The ATO's public reporting of debt relief has generally been through the Commissioner of Taxation's annual reports and accompanying financial statements. Information for the annual report is prepared by ATO Finance from data mapped from the ATO's business systems to its accounting system.¹¹⁶ At the operational or business line level, the focus of reporting has been primarily on debt collection rather than the incidence of debt relief, which the ATO advised has traditionally been regarded as a lower priority and undertaken on an ad hoc basis.

5.3 The reporting requirements associated with new program funding provided in the 2012–13 Budget presented a 'key driver' for changes in the DBL's debt reporting capacity. The ATO was allocated \$106 million over four years to fund a new tax compliance initiative—*managing tax debt in challenging times: a balanced and differentiated approach*.¹¹⁷ Under the program, referred to as the Managing Challenging Tax Debt program, the ATO is required to provide data in respect of all debt reduction, including the different categories of debt relief. To enable this level of reporting, a framework was developed in early 2013 to:

support a breakdown of management components, including business as usual and specific commitments to government, and also enable reporting across all categories of Debt Relief.

¹¹⁶ ATO Finance also prepares many other data requirements, including for Senate Estimates briefs, ATO funding proposals, or to respond to requests from the Department of the Treasury.

¹¹⁷ *Federal Budget papers, 2012–13, Part 1 Revenue Measures*, May 2012.

5.4 The first report under the new framework, the debt flow weekly summary report (debt flow report), was phased in between November 2012 and May 2013, with the first full report produced in April 2013. Prior to this, ATO reporting on debt relief consisted of a non-pursuit report, a hardship capability report, and a report on the value of GIC remitted each month. These reports provide consolidated data on aspects of debt relief that are used in other reports on debt management more generally, and will complement the information provided in the new report.

5.5 The ANAO examined the ATO's:

- management reporting on debt relief; and
- external reporting of debt relief in the Commissioner of Taxation's annual reports, and other reporting requirements.

As part of this audit, the ANAO examined the extent to which key measures of debt relief were being effectively communicated within the ATO and externally. The ANAO also examined whether these measures were being reported consistently in different reports but did not seek to establish the integrity of the relevant data in these reports.

Management reporting of debt relief

5.6 As noted in Chapter 1, the ATO's use of the term debt 'write-off' was the subject of a report by the Commonwealth Ombudsman in March 2009. In a later response to a Senate Committee, the ATO stated that:

all information available to taxpayers and Tax Office staff will be updated to use the term non-pursuit rather than write-off, where necessary.¹¹⁸

5.7 For reporting purposes, the ATO still uses the terms 'write-off' and 'non-pursuit' of debt interchangeably. Either term may be used:

- collectively, for all types of debt where the ATO has provided full or partial reduction in the amount of the liability collected; irrespective of the supporting legislative provisions; and
- to describe some debts that are not pursued by the ATO at a point in time, but could be re-raised at a later date. Where the ATO refers to a

¹¹⁸ Senate Standing Committee on Economics, *Treasury portfolio, budget estimates 2–4 June 2009. Answer to question on notice.*

debt being 'written-off', the term, in effect, is not always being used in the general commercial sense that the debt has been cancelled.

The ATO advised in May 2013 that its use of these terms is under review.

5.8 The ATO may also use the term 'forgiven debt' to collectively describe debt that has been waived, released or compromised—that is, where the debt has effectively been cancelled rather than not pursued (because the ATO has assessed that it is uneconomical to pursue or irrecoverable at law) and cannot be re-raised at a later date.

5.9 Transaction codes in the legacy and ICP systems record activities on debt cases, including where taxpayers have been granted some form of relief from their debt, and are the source of management reporting data. As at March 2013, there are some constraints in the transaction codes and associated sub-codes available for recording and reporting aspects of debt relief. These constraints affect the ATO's financial reporting system, preventing it from being able to differentiate between impeded (disputed and insolvent debt) and collectable debt, and further between collectable debt that is compromised (and cannot be re-raised) or not pursued (and could be re-raised).

5.10 Drawing on data in the ATO's financial reporting system, the ATO's 2010–11 financial statements reported that, as at 30 June 2011 the value of total taxation receivables was \$27 680 million. For the same period, the DBL's debt reporting reflected \$27 460 million in total debt holdings, some \$220 million less. The ATO explained that these figures will be different because of:

- the timing when figures are referred from the business systems to the ATO's accounting system;
- the parameters that the Debt Reporting team uses to run its debt reports; and
- the actual reporting timelines (Debt Reporting may run its reports at different dates).

5.11 As part of the financial statement audits in recent years, the ANAO has attempted to reconcile the two sets of figures (the Debt Reporting figure and the annual report gross receivable figure), on the assumption that the two sets of figures should be equal. To date, this reconciliation has not been achieved. The ATO is researching this issue for the ANAO's 2012–13 audit of the ATO's financial statements.

Management reports

5.12 As at April 2013, the ATO produces the following four reports that provide information on debt relief:

- non-pursuit report, prepared by DBL's Debt Reporting team;
- hardship capability report, prepared by the DBL's Debt Hardship Capability (DHC) team;
- GIC remission report, prepared by the ATO Finance team; and
- debt flow weekly summary report, prepared by DBL's Debt Reporting team.

The non-pursuit, hardship capability and GIC remission reports are produced monthly, while the new debt flow report provides weekly information.

Non-pursuit report

5.13 The non-pursuit report provides information on the value of collectable debt that the ATO has 'not pursued' each month, with year-to-date totals. The report includes both individual non-pursuit cases and bulk non-pursuit¹¹⁹ debt, as well as debts that are subject to waiver, release, or where the ATO has accepted a compromised amount of the liability, with the figure reported being the value of the debt reduction. Essentially, the reports combine various categories of debt relief rather than debts that have not been pursued because they are uneconomical to pursue, or irrecoverable at law, and could be subsequently re-raised for collection action.

5.14 The non-pursuit report was initially developed in May 2011 by the DBL's Debt Reporting team. The aim of the report was to provide a more detailed view of the overall levels of debt not pursued across the ATO, in an attempt to reconcile the DBL's Debt Reporting figure with the corresponding values prepared by ATO Finance for the ATO's financial statements.

5.15 The June 2012 non-pursuit report for 2011–12 reflects that 213 780 non-pursuit transactions¹²⁰ were processed during the financial year,

¹¹⁹ As noted in Chapter 4, the bulk non-pursuit process has had limited application in the ICP environment since September 2010.

¹²⁰ Transactions reflect the activity on a taxpayer's record, not the number of individual taxpayers. For example, a taxpayer may have several accounts: income tax and activity statement accounts, and transactions relate to the activities on these accounts. Reporting by transactions does not readily provide an indication of the number of taxpayers whose debts have been subject to some form of relief.

and \$2613.4 million in collectable debt was 'written off'. Table 5.1 shows the reported breakdown of these figures.

Table 5.1

Reasons for non-pursuit of debt in 2011–12

Reason	June 2012		2011–12	
	Number of transactions	Value (\$m)	Number of transactions	Value (\$m)
Irrecoverable	6336	-359.8	49 532	-2445.7
Uneconomical	8250	-41.1	132 493	-764.8
Re-raise/cancel	3589	57.5	31 755	597.1
Total	18 175	-343.5	213 780	-2613.4

Source: ATO debt reporting, *Non-pursuit report, June 2012*.

The definitions of the terms used in the report are:

- *Irrecoverable*: includes debts that were not pursued because they were assessed as irrecoverable at law, as well as debts that were waived, released, or a compromised amount had been accepted by the ATO. Of the \$2445.7 million, \$10 million was waived and \$61 million was released under the relevant provisions. No separate data was provided for compromised debts;
- *Uneconomical*: includes debts that have not been pursued because the value and circumstances of the debt indicated it was uneconomical to do so. The debt could, however, be re-raised at a later date, and so was not 'written-off' in the commercial use of the term; and
- *Re-raise / cancel*: reflects the value of debts that had previously been non-pursued and then subsequently either: re-raised for collection action; or that the non-pursuit indicator had been incorrectly applied and was subsequently cancelled, reversing a non-pursuit transaction on the taxpayer's account. Of the 31 755 transactions in the re-raise / cancel category, 28 908 transactions with a value in excess of \$480 million were re-raised for collection action; and 2847 transactions, with a value of almost \$117 million, were cancelled.

5.16 The format and content of the non-pursuit report for December 2012 reflects further development in the presentation and level of detail provided in these reports since they were established in May 2011. The December report includes:

- a more accurate net figure for debts that were uneconomical to pursue and irrecoverable at law;
- differentiating non-pursuit, release and waiver for each of the systems;
- the split between manual and bulk processes; and
- inclusion of graphs for comparison to prior years.

5.17 The December 2012 report also included an adjustment made to the June 2011 report, for 2010–11, removing one very large debt relief item to align with ATO Finance’s figures for that year. Further proposed developments to the report include initiating coverage of GIC and penalty remissions.

Hardship capability reports

5.18 Hardship capability reports were established in 2009, and produced from data maintained in standalone databases by the DHC team. The reports provide information on the number and value of cases where taxpayers have submitted a claim for release or waiver of their tax debt, or have been referred to the specialist team for assessment of financial hardship. The report fulfils its role as a work management tool.

GIC remission report

5.19 As previously noted, the DBL does not report on the value of GIC and penalty remissions. While ATO Finance prepares some reports on GIC, this reporting is at an aggregated level as the ATO’s systems do not capture detailed data about the various methods for remitting GIC.¹²¹

5.20 The ATO advised that the purpose of the Finance reports is to provide readily available information for use by the ATO executive when they face parliamentary or external scrutiny, such as in Senate Estimates hearings, rather than for use in ongoing management.

Reconciliation of the general interest charge

5.21 While the DBL’s Debt Reporting team does not undertake any GIC reporting, the team participates in a monthly reconciliation process between the GIC data from the financial reporting system and the ATO’s business

¹²¹ These methods include: in the monthly system runs to cancel small amounts of GIC; following a decision by the ATO or an external collection agency; or if the GIC has been cancelled when the primary debt has been subject to full or partial relief.

systems. ATO Finance uses various systems for these GIC reconciliation process:

- for GIC transactions occurring in the legacy systems, a daily national reconciliation report that captures the year-to-date GIC transaction dollar amounts; and
- for GIC transactions occurring in the ICP system, the GIC figures are accessed via the ATO enterprise reporting portal from the data warehouse.

5.22 ATO Finance matches these monthly transaction amounts recorded in the legacy and ICP systems against the aggregate monthly GIC journal entries in the financial management system. The GIC reconciliation process is to ensure that the GIC figures reported from its financial system accurately reflect the actual GIC transactions recorded in the business systems.

5.23 The ANAO examined the reconciliation process applied for three months—July, August and September 2012, and found that the GIC reconciliation process provides a useful control of the value of GIC transactions. Additionally, the ANAO financial statement audit for 2011–12 concluded that the value of GIC reported in the ATO’s financial statements is free from material error.

Debt holdings and flow summary report

5.24 The new debt reporting framework is designed to provide a weekly summary report of the value of debt holdings at the start and end of the week, and debt in-flow and out-flow, including debts resolved by collection or reduction (debt relief). The report also provides information on debt reductions by categories.¹²²

5.25 The reporting capability attributes each debt outcome to the work undertaken in areas across the DBL (*former action, strategic recovery, and early collections*), and other business lines that contribute to debt management (for example, the Customer Service and Solutions business line), providing better visibility of the results achieved by any particular debt collection strategy or initiative. As at April 2013, the framework has been substantially developed, with remaining components scheduled for delivery at the end of May 2013.

¹²² The categories are: non-pursuit (uneconomical to pursue and irrecoverable at law); GIC remission; GIC adjustment (that aligns the effective date of the remission decision with the actual amount in the taxpayer’s record); penalty remission; interest on overpayment; compromise; and waiver.

5.26 Further refinements are dependent on system changes, for example (as previously noted) data for compromised debt cases is not available from the ATO's business systems, and data is still sourced from the DHC team's standalone systems.¹²³

5.27 The scope for further enhancements has been endorsed by the DBL Executive and the Debt Enterprise Reporting Program of Work Steering Committee, but is subject to other priorities across the ATO. The proposal:

- enables enterprise reporting methodologies to be applied in the legacy systems, whereby a debt can be identified before an actual debt case is created in both systems, allowing the reporting of total debt holdings as well as debt holdings under management; and
- designing the new reporting framework (based on the enterprise reporting architectural principle) to be more fully integrated within existing business systems.

5.28 The ATO advised that when fully developed the new reporting framework will assist in debt management, including by:

- identifying an accurate population of overdue tax liabilities in the form of an annual debt inventory built on weekly rather than monthly debt flow events, capturing a more accurate picture of debt flow;
- quantifying financial outcomes attributable to broad collection strategies, by business group and program;
- clearly quantifying year-to-date revenue collected or reduced, including debt relief sub categories; and
- measuring debt inflow and outflow by consistent categories of stock, new and additional assessments, providing better intelligence on the age of debts collected or reduced.

5.29 The newly developed debt flow report and recent developments in the non-pursuit report will provide the ATO with more detailed information on debt management, and increase the reporting capacity for debt relief in other reports.

¹²³ Consequently, this new report also combines the reporting of compromised debt and non-pursuit categories under 'non-pursuit'.

External reporting of debt relief

5.30 As previously noted, aspects of debt relief are reported in the Commissioner of Taxation's annual reports and accompanying financial statements, and may be included in other documents—for example, in response to a request for information at Senate Estimate committees or to support an ATO funding proposal. As at March 2013, the extent to which the new debt flow report can support the ATO's external reporting has not been fully determined and, as previously noted, other system constraints may continue to impact on the ATO's debt reporting capacity.

5.31 The ANAO reviewed the information in the ATO's management reports, and in the annual report and the financial statements for the: value of debt the ATO had not pursued, or written-off; and the value of GIC remissions, in the reporting period 2011–12.

Reported value of debt not pursued or written-off

5.32 The ATO's reported value of debt not pursued, or written-off, for the period 2011–12 includes:

- the non-pursuit report reflected a year-to-date total of \$2613 million in non-pursued debt, that did not include the value of penalty and interest charge remission expenses;
- the annual report included that the ATO had written-off \$2.6 billion of debt¹²⁴, with GIC and penalty remission of \$2034 million reported separately¹²⁵;
- the financial statements included that the ATO had written-down \$6115 million in debt: \$4081 million from impairment on taxation receivables and \$2034 million in penalty and interest charge remission expenses.¹²⁶

5.33 The data reflects some variations in reporting, relating to the value of non-pursued debt and the inclusion, or not, of GIC and penalty remissions. The variations in reporting of non-pursued debt mainly relate to: accounting

¹²⁴ Commissioner of Taxation, *Annual Report, 2011–12*, p. 59.

¹²⁵ *ibid.*, p. 44.

¹²⁶ *ibid.*, financial statements, note 18C, p. 264.

treatments in the ATO's financial statements¹²⁷; and some rounding differences in the annual reports. While the variations can be explained, the effect is to reduce the transparency of the value of debt that the ATO decides not to collect.

Reported value of GIC remissions

5.34 GIC data is reported in the Commissioner of Taxation's annual reports (including in financial statements that present the combined value of GIC and penalty remissions), and the ATO Finance GIC management reports. The value of GIC imposed and remitted in the ATO's annual reports for 2011–12 and in ATO Finance reports for the same period is set out in Table 5.2.

Table 5.2

GIC reported in annual reports and ATO Finance reports, 2011–12

GIC	Annual report (\$ million)	ATO Finance reports (\$ million)
GIC posted / imposed	4782	4901
GIC remitted	1643	1712

Source: ATO.

5.35 After allowing for rounding, the data reflects variances between the figures including a difference of \$69 million in the value of GIC remitted (approximately 4 per cent).

Conclusion

5.36 The ATO developed a new debt reporting framework in 2012–13, primarily to meet the reporting requirements associated with the additional program funding allocated in the 2012–13 Budget. The framework provides the DBL with improved management information on the value and 'flow' of debts, including for the categories of debt relief. Previously, the focus of reporting had been on debt collection, with the ATO advising that reporting of debt

¹²⁷ The figure in the financial statements is made of two elements:

- (1) the net movement in the Impairment Allowance Account for taxation receivables, which represents changes in the current year for the amount of estimated bad and doubtful debts ; and
- (2) the actual value of GIC and penalty remissions.

relief had traditionally been regarded as a lower priority and undertaken on an ad hoc basis.

5.37 The first full report under the new framework, the debt flow weekly summary report, was produced in April 2013. The ATO now produces four reports that provide information on debt relief—the other reports being the non-pursuit report, the hardship capability report, and a report on the value of general interest and penalty charges imposed and remitted each month. These reports provide high-level data on some but not all aspects of debt relief, and will complement the more detailed information provided in the new report. Refinements to the four debt reports depend on the ATO further developing its ICT systems. These changes would address issues that currently constrain the debt reporting capability, including that data must be sourced from the standalone systems used by the Debt Hardship Capability team.

5.38 There is limited public reporting of debt relief arrangements in the Commissioner of Taxation's annual reports and accompanying financial statements. Reporting would be strengthened by the consolidated presentation of all debt relief arrangements, shown by category, and by the ATO ceasing to use the terms 'non-pursuit' and 'write-off' interchangeably. These terms do not accurately distinguish between those debts the ATO has chosen not to pursue but can re-raise at a later date (non-pursuit) and those it had decided not to recover (write-off).



Ian McPhee
Auditor-General

Canberra ACT
25 June 2013

Appendices

Appendix 1: Agency response



Ms Barbara Cass
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Ms Cass

RE: AUSTRALIAN NATIONAL AUDIT OFFICE AUDIT OF MANAGEMENT OF
DEBT RELIEF ARRANGEMENTS.

Thank you for your letter dated 24 May 2013 and for the opportunity to provide
comments on the proposed report on the Management of Debt Relief Arrangements.

The ATO agrees with the two recommendations.

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.

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

If you require further information on this matter, please contact Steve Vesperman,
Deputy Commissioner Debt on (02) 62161080.

Yours sincerely



Geoff Leeper
12 June 2013

c.c. Andrew Morris, ANAO
Jane Whyte, ANAO

PO BOX 900 CIVIC SQUARE ACT 2608 AUSTRALIA
ADDRESS

+61 (0)2 6216 1111
TELEPHONE

+61 (0)2 6216 2743
FACSIMILE

Index

C

Compromise, 28, 57–60

D

Debt

- ATO holdings, 25–26
- definition, 24

Debt case assessment, 48–49

- compromise, 57–60
- delegations, 56
- GIC remission, 61–63
- non-pursuit, 60–61
- release, 51–57
- timeliness, 56
- waiver, 49–51

Debt Quality Management System (DQMS), 66–68

Debt relief

- applications, 31
- taxpayer guidance, 38–40
- types, 27–30

Decision review

- Administrative Appeals Tribunal, 70–72
- appeals, 69
- independent review, 68
- objections, 70–71

F

Financial Counsellors Australia (FCA), 40–41

G

GIC remission, 29–30, 61–63, 86–87

I

Information and Communication Technology (ICT)

- debt case reconciliation, 85–86
- debt management systems, 76–79

Integrated Quality Framework (IQF), 63–66

N

Non-pursuit, 29, 60–61

R

Release, 28, 51–57

Reporting

- external, 97–98
- financial statements, 91
- management reports, 92–96
- transaction codes, 91

Re-raise

- process, 83–84
- triggers, 83

S

Staff training, 44–46

W

Waiver, 27–28, 49–51

Series Titles

ANAO Audit Report No.1 2012–13

Administration of the Renewable Energy Demonstration Program

Department of Resources, Energy and Tourism

ANAO Audit Report No.2 2012–13

Administration of the Regional Backbone Blackspots Program

Department of Broadband, Communications and the Digital Economy

ANAO Audit Report No.3 2012–13

The Design and Conduct of the First Application Round for the Regional Development Australia Fund

Department of Regional Australia, Local Government, Arts and Sport

ANAO Audit Report No.4 2012–13

Confidentiality in Government Contracts: Senate Order for Departmental and Agency Contracts (Calendar Year 2011 Compliance)

Across Agencies

ANAO Audit Report No.5 2012–13

Management of Australia's Air Combat Capability—F/A-18 Hornet and Super Hornet Fleet Upgrades and Sustainment

Department of Defence

Defence Materiel Organisation

ANAO Audit Report No.6 2012–13

Management of Australia's Air Combat Capability—F-35A Joint Strike Fighter Acquisition

Department of Defence

Defence Materiel Organisation

ANAO Audit Report No.7 2012–13

Improving Access to Child Care—the Community Support Program

Department of Education, Employment and Workplace Relations

ANAO Audit Report No.8 2012–13

Australian Government Coordination Arrangements for Indigenous Programs

Department of Families, Housing, Community Services and Indigenous Affairs

ANAO Audit Report No.9 2012–13

*Delivery of Bereavement and Family Support Services through the Defence
Community Organisation*

Department of Defence

Department of Veterans' Affairs

ANAO Audit Report No.10 2012–13

Managing Aged Care Complaints

Department of Health and Ageing

ANAO Audit Report No.11 2012–13

*Establishment, Implementation and Administration of the Quarantined Heritage
Component of the Local Jobs Stream of the Jobs Fund*

Department of Sustainability, Environment, Water, Population and
Communities

ANAO Audit Report No.12 2012–13

*Administration of Commonwealth Responsibilities under the National Partnership
Agreement on Preventive Health*

Australian National Preventive Health Agency

Department of Health and Ageing

ANAO Audit Report No.13 2012–13

The Provision of Policing Services to the Australian Capital Territory

Australian Federal Police

ANAO Audit Report No.14 2012–13

Delivery of Workplace Relations Services by the Office of the Fair Work Ombudsman

Department of Education, Employment and Workplace Relations

Office of the Fair Work Ombudsman

ANAO Audit Report No.15 2012–13

2011–12 Major Projects Report

Defence Materiel Organisation

ANAO Audit Report No.16 2012–13

*Audits of the Financial Statements of Australian Government Entities for the Period
Ended 30 June 2011*

Across Agencies

ANAO Audit Report No.17 2012–13

Design and Implementation of the Energy Efficiency Information Grants Program

Department of Climate Change and Energy Efficiency

ANAO Audit Report No.18 2012–13

Family Support Program: Communities for Children

Department of Families, Housing, Community Services and Indigenous Affairs

ANAO Audit Report No.19 2012–13

Administration of New Income Management in the Northern Territory

Department of Human Services

ANAO Audit Report No.20 2012–13

Administration of the Domestic Fishing Compliance Program

Australian Fisheries Management Authority

ANAO Audit Report No.21 2012–13

Individual Management Services Provided to People in Immigration Detention

Department of Immigration and Citizenship

ANAO Audit Report No.22 2012–13

Administration of the Tasmanian Forests Intergovernmental Contractors Voluntary

Exit Grants Program

Department of Agriculture, Fisheries and Forestry

ANAO Audit Report No.23 2012–13

The Australian Government Reconstruction Inspectorate's Conduct of Value for

Money Reviews of Flood Reconstruction Projects in Victoria

Department of Regional Australia, Local Government, Arts and Sport

ANAO Audit Report No.24 2012–13

The Preparation and Delivery of the Natural Disaster Recovery Work Plans for

Queensland and Victoria

Department of Regional Australia, Local Government, Arts and Sport

ANAO Audit Report No.25 2012–13

Defence's Implementation of Audit Recommendations

Department of Defence

ANAO Audit Report No.26 2012–13

Remediation of the Lightweight Torpedo Replacement Project

Department of Defence; Defence Material Organisation

ANAO Audit Report No.27 2012–13

Administration of the Research Block Grants Program

Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education

ANAO Report No.28 2012–13

The Australian Government Performance Measurement and Reporting Framework:

Pilot Project to Audit Key Performance Indicators

Across Agencies

ANAO Audit Report No.29 2012–13

Administration of the Veterans' Children Education Schemes

Department of Veterans' Affairs

ANAO Audit Report No.30 2012–13

Management of Detained Goods

Australian Customs and Border Protection Service

ANAO Audit Report No.31 2012–13

Implementation of the National Partnership Agreement on Homelessness

Department of Families, Housing, Community Services and Indigenous Affairs

ANAO Audit Report No.32 2012–13

Grants for the Construction of the Adelaide Desalination Plant

Department of Sustainability, Environment, Water, Population and Communities

Department of Finance and Deregulation

Department of the Prime Minister and Cabinet

ANAO Audit Report No.33 2012–13

The Regulation of Tax Practitioners by the Tax Practitioners Board

Tax Practitioners Board

Australian Taxation Office

ANAO Audit Report No.34 2012–13

Preparation of the Tax Expenditures Statement

Department of the Treasury

Australian Taxation Office

ANAO Audit Report No.35 2012–13

Control of Credit Card Use

Australian Trade Commission

Department of the Prime Minister and Cabinet

Geoscience Australia

ANAO Audit Report No.36 2012–13

Commonwealth Environmental Water Activities

Department of Sustainability, Environment, Water, Population and Communities

ANAO Audit Report No.37 2012–13

Administration of Grants from the Education Investment Fund

Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education

ANAO Audit Report No.38 2012–13

Indigenous Early Childhood Development: Children and Family Centres

Department of Education, Employment and Workplace Relations

ANAO Audit Report No.39 2012–13

AusAID's Management of Infrastructure Aid to Indonesia

Australian Agency for International Development (AusAID)

ANAO Audit Report No. 40 2012–13

Recovery of Centrelink Payment Debts by External Collection Agencies

Department of Human Services

ANAO Audit Report No.41 2012–13

The Award of Grants Under the Supported Accommodation Innovation Fund

Department of Families, Housing, Community Services and Indigenous Affairs

ANAO Audit Report No.42 2012–13

Co-location of the Department of Human Services' Shopfronts

Department of Human Services

ANAO Audit Report No.43 2012–13

Establishment, Implementation and Administration of the General Component of the Local Jobs Stream of the Jobs Fund

Department of Education, Employment and Workplace Relations

ANAO Audit Report No. 44 2012–13

Management and Reporting of Goods and Services Tax and Fringe Benefits Tax Information

Australian Taxation Office

ANAO Audit Report No. 45 2012–13

Cross-Agency Coordination of Employment Programs

Department of Education, Employment and Workplace Relations

Department of Human Services

ANAO Audit Report No. 46 2012–13

Compensating F-111 Fuel Tank Workers

Department of Veterans' Affairs

Department of Defence

ANAO Audit Report No. 47 2012–13

AUSTRAC's Administration of its Financial Intelligence Function

Australian Transaction Reports and Analysis Centre

ANAO Audit Report No.48 2012–13

Management of the Targeted Community Care (Mental Health) Program

Department of Families, Housing, Community Services and Indigenous Affairs

ANAO Audit Report No.49 2012–13

Interim Phase of the Audits of the Financial Statements of Major General Government Sector Agencies for the year ending 30 June 2013

Across Agencies

ANAO Audit Report No.50 2012–13

Administration of the GP Super Clinics Program

Department of Health and Ageing

ANAO Audit Report No.51 2012–13

Management of the Australian Taxation Office's Property Portfolio

Australian Taxation Office

Current Better Practice Guides

The following Better Practice Guides are available on the ANAO website.

Preparation of Financial Statements by Public Sector Entities	Jun 2013
Human Resource Management Information Systems – Risks and Controls	Jun 2013
Public Sector Internal Audit	Sept 2012
Public Sector Environmental Management	Apr 2012
Developing and Managing Contracts – Getting the right outcome, achieving value for money	Feb 2012
Public Sector Audit Committees	Aug 2011
Fraud Control in Australian Government Entities	Mar 2011
Strategic and Operational Management of Assets by Public Sector Entities – Delivering agreed outcomes through an efficient and optimal asset base	Sept 2010
Implementing Better Practice Grants Administration	Jun 2010
Planning and Approving Projects – an Executive Perspective	Jun 2010
Innovation in the Public Sector – Enabling Better Performance, Driving New Directions	Dec 2009
SAP ECC 6.0 – Security and Control	Jun 2009
Business Continuity Management – Building resilience in public sector entities	Jun 2009
Developing and Managing Internal Budgets	Jun 2008
Agency Management of Parliamentary Workflow	May 2008
Fairness and Transparency in Purchasing Decisions – Probity in Australian Government Procurement	Aug 2007
Administering Regulation	Mar 2007
Implementation of Program and Policy Initiatives – Making implementation matter	Oct 2006