

The Auditor-General  
Audit Report No.31 1999–2000  
Performance Audit

## **Administration of Tax Penalties**

Australian Taxation Office

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Canberra ACT  
16 February 2000

Dear Madam President  
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Australian Taxation Office in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Administration of Tax Penalties*.

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

Yours sincerely



P. J. Barrett  
Auditor-General

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

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# Abbreviations/Glossary

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ABS	Australian Bureau of Statistics
ATO	Australian Taxation Office
ATPF	ATO/Tax Practitioner Forum
BSL	Business Service Line
GIC	General Interest Charge
HOTSA	Health of the System Assessment
INB	Individuals Non Business
ITAA	Income Tax Assessment Act
LB&I	Large Business and International
PAYG	Pay As You Go
PBR	Private Binding Ruling
PRS	Problem Resolution Service
QA	Quality Assurance
SB	Small Business
TAA	Taxation Administration Act
TOD2	Tax Officer Development Program

# Summary and Recommendations





# Summary

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## Overview of penalties

1. The Australian Taxation Office (ATO) is the Commonwealth's principal revenue collection agency. In 1998–99, the ATO accounted for total tax revenue of \$135.3 billion.<sup>1</sup> In the same period the ATO applied penalties totalling approximately \$1.122 billion and remitted penalties by \$139 million.

2. Penalties are one of a number of tools used by the ATO to obtain taxpayer compliance with tax law. Where the requirements of the tax law have not been met, a taxpayer is liable to pay an administrative penalty. Areas of non-compliance with tax law that attract penalties include:

- failure to lodge returns;
- tax shortfalls and avoidance schemes;
- late payment<sup>2</sup>;
- failure to provide information; and
- failure to keep records.

3. Under the Constitution, penalties are imposed by legislation or a court of law. The Commissioner of Taxation is not empowered to impose penalties. Where the ATO detects an offence incurring a penalty however, the Commissioner has the power to remit (ie: reduce in part or in full) the penalty in accordance with the provisions of tax law.

4. In July 1986, the ATO moved to a system of self-assessment. Self-assessment places the onus of understanding and applying tax law on taxpayers and relies on high levels of voluntary compliance.

5. More recently, the ATO has adopted a Compliance Model to provide a structured approach to improving taxpayer compliance. Under this model, adopted in 1998, the ATO encourages voluntary compliance of taxpayers through education and the provision of convenient and efficient service delivery. Where voluntary compliance is not obtained, there is an escalation of enforcement strategies involving a hierarchy of sanctions which include penalties.<sup>3</sup> Implementation of the model is included in the ATO Corporate and Business Plans.

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<sup>1</sup> ATO *Annual Report* 1998–99, Financial Statements for the year ended 30 June 1999, page 143. Includes some \$9.7 billion in Excise duty.

<sup>2</sup> Late Payment Penalties were replaced by the General Interest Charge from 1 July 1999.

<sup>3</sup> Improving Tax Compliance in the Cash Economy, ATO, April 1998.

6. It is important that the ATO is effective in administering the penalty regime. This includes detecting non-compliance, providing flexibility for tax officers to deal with individual circumstances, and applying penalties in a fair and consistent manner to improve taxpayer behaviour. Where this is not the case, there is a risk that the integrity of the tax system will be undermined through a proliferation of non-compliance and loss of public confidence in the ATO's ability to manage non-compliance, leading to the loss of taxation revenue.

7. The ATO is currently managing comprehensive reform of taxation policy and administration. The ANAO acknowledges the inevitable impact of this on the conduct of the ATO's day-to-day business. The audit reviewed a comparatively small area of tax administration, albeit one of importance to good tax administration. The ANAO is mindful that senior management of the ATO determine priorities on a considerably larger scale than many of the issues that were the focus of this audit.

8. A recent ATO review culminated in the passing of the *Taxation Laws Amendment Act (No.3) 1999*<sup>4</sup>. The significant reform implemented by this Act was the introduction of a General Interest Charge (GIC).<sup>5</sup> 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 on 1 July 1999 and is used to calculate a range of other penalties.

## Audit objective and approach

9. The objective of the audit was to review the ATO's administration of penalties, with particular emphasis on its corporate governance framework and issues relating to consistency, effectiveness and accountability of penalty administration. In particular the audit examined the administration of two penalty types, Late Lodgement and Tax Shortfall, as case studies.

10. Late Lodgement and Tax Shortfall penalties were selected for review because of their scale. They are two of the three penalties that provide the highest levels of revenue to the ATO. The highest dollar value penalty, Late Payment Penalty, was not reviewed, as it was being replaced by a General Interest Charge.<sup>6</sup>

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<sup>4</sup> *Taxation Laws Amendment Act (No.3) 1999* received Royal Assent in April 1999.

<sup>5</sup> The new s8AAC(3) of the *Taxation Administration Act* provides for the GIC to be calculated daily on a compounding basis. The GIC charge rate for a day is calculated by adding eight percentage points to the specified Treasury Note Yield for that day (set each quarter), and dividing that total by the number of days in the calendar year.

<sup>6</sup> The 1999-2000 ANAO performance audit, *Management of Tax Debt Collection*, considers Late Payment Penalty.

**11.** Late Lodgement and Tax Shortfall penalties are administered in significantly different ways and provided the opportunity for the audit to examine different control structures and corporate governance arrangements. Late Lodgement Penalty is largely imposed automatically whereas application of Tax Shortfall Penalty generally requires ATO officers to analyse and assess individual taxpayer behaviour.

**12.** The ATO is structured around groups of clients, into Business Service Lines (BSLs). Each BSL is responsible for one major market segment and administers penalties applicable to its clients.

**13.** The audit reviewed the administration of penalties over three ATO BSLs, Individuals Non-Business, Small Business and Large Business and International, within the context of the ATO Compliance Model and having regard to principles set out in the Taxpayers' Charter.

## Overall conclusions

**14.** The audit found there is scope for improvement in the ATO's administration of the penalty regime. We found that, although penalties are an important enforcement strategy featured in the ATO Compliance Model, the ATO lacks appropriate control structures to oversight the accountability, consistency and effectiveness of its penalty administration. Currently, ATO management is unable to provide assurance to the Commissioner that penalties are being applied consistently and in accordance with the legislation.

**15.** Penalties are not included in the ATO's governance reporting process, nor are they mentioned in its corporate, business or risk management plans. The ATO has not undertaken research to determine the extent to which penalties are effective as a compliance tool. We concluded that, overall, given the importance of penalties as part of the ATO's enforcement strategies, the management of penalties warrants a higher and more visible profile in the ATO. There would be merit in the administration of penalties being made more clearly accountable in the ATO corporate governance framework.

**16.** Although the ATO collects some data relating to penalties, it does not analyse this data to assist in improving its administration of penalties. The ANAO conducted an indicative analysis of ATO data to determine the extent to which it could be useful to the ATO. Our analysis profiled groups of taxpayers who had incurred penalties. We also examined the incidence of repeat offenders as a potential indicator of penalty effectiveness. Based on this indicative analysis, the ANAO considers that the ATO could develop its analysis of penalty data to identify trends, aspects of non-compliance, and administrative performance, to improve and refine its penalty regime as a means of improving taxpayer compliance.

**17.** Other opportunities for improvement include staff training, the alignment of penalty administration with the Taxpayers' Charter and ATO Compliance Model, implementing on-line decision support tools, enhancing quality assurance and information technology and providing better information to the public. Improvements in these areas would lead to a more effective penalty administration and should result in enhanced consistency, effectiveness and accountability.

**18.** During the course of the audit, the ATO initiated a review of penalties and has proposed legislative amendments aimed at streamlining and simplifying the current penalty regime. The ATO also advised that it will review corporate governance of its penalty regime early in 2000.

# Key Findings

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## ATO management in relation to penalties (Chapter 2)

### Corporate governance

19. The audit found that the Commissioner does not receive assurance through the ATO's corporate governance framework that the penalty regime is operating effectively or consistently.

### Quality assurance

20. The ANAO considers there would be benefit to the ATO in taking a more systematic approach to the quality assurance of penalties and analysing and reporting penalty information as a part of its governance reporting process.

### Staff training

21. ATO staff training in relation to penalties could be enhanced by including the linkages between the Taxpayers' Charter, the Compliance Model and the imposition and remission of penalties. Also, training materials could be improved by providing analyses of the different gradations of non-compliant behaviour and the appropriate enforcement strategies to be applied. The ATO has advised of its intention to develop its training accordingly.

## ATO administration of penalties (Chapter 3)

### Aligning administration of penalties with the ATO Charter and Compliance Model

22. The ANAO found the ATO could better align its penalty administration with the principles and undertakings of the Taxpayers' Charter and the Compliance Model by developing a cost-effective, on-line rule-based decision support system and access to taxpayer history and profiles.

### Improving public information about penalties

23. The ANAO considers that informing taxpayers of their tax obligations is central to the issue of fairness. In a self-assessment environment, taxpayers need to know of their obligations and responsibilities under the law. The audit identified the provision of information for taxpayers about penalties as an area that could be readily improved.

## **Detection of liability for Tax Shortfall Penalty**

24. We found that the ATO does not leverage off its fieldwork where tax shortfalls have been identified, by following-up in future years the effectiveness of penalties on taxpayer behaviour. Such follow-up would enable the ATO to build profiles of non-compliance and to develop indicators of penalty effectiveness.

25. The audit identified areas where detection of liability for Tax Shortfall Penalty could be improved including streamlining claims to legal professional privilege and to concessions under ATO Guidelines for Access to Professional Accounting Advisers Papers.

## **Addressing current gaps in administration of specific penalty types**

26. The audit found other potential areas for improvement relating to the ATO's administration of particular penalties including:

- giving priority to outstanding systems changes to implement accurate calculation of the GIC on a compounding basis as required by legislation;
- eliminating anomalies that exist between administrative penalties and penalties imposed through prosecution. This could reduce the incidence of taxpayers preferring prosecution to administrative penalties;
- implementing system changes to avoid incorrectly applying Late Lodgement Penalty to 'nil trading' companies; and
- improving tax agent lodgement programs to reduce the need to apply Late Lodgement Penalty.

## **Acknowledgments**

27. The ANAO acknowledges the substantial contribution of ATO officers who assisted in the conduct of this audit, particularly with analysis of quantitative data.

# Recommendations

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**Recommendation No.1**  
**Para. 2.26** The ANAO recommends that the ATO include penalties administration within its corporate governance framework in order to provide assurance to the Commissioner that it is operating consistently and effectively. This could include:

- (a) establishing organisation-wide quality assurance of the ATO's penalty administration to assist in promoting better practice and provide assurance that it is operating consistently; and
- (b) using statistical and demographic data to monitor the effectiveness of penalties in addressing and improving compliance.

**ATO response:** Agreed.

**Recommendation No.2**  
**Para. 2.40** The ANAO recommends that ATO technical training material on penalties include reference to, and discussion of the impact of the Taxpayer Charter and the Compliance Model. This would include guidance on the application of penalties to the different scenarios outlined in the Compliance Model.

**ATO response:** Agreed.

**Recommendation No.3**  
**Para. 3.11** The ANAO recommends the ATO investigate the cost-effectiveness of providing on-line, decision support tools to staff to assist with consistent and efficient application of penalties.

**ATO response:** Agreed.

**Recommendation No.4**  
**Para. 3.34** The ANAO recommends the ATO consider options for providing information in plain English to better inform taxpayers about the ATO penalties regime.

**ATO response:** Agreed.

**Recommendation No.5**  
**Para. 3.43** The ANAO recommends that the ATO study the relative effectiveness of penalties on taxpayer behaviour to assist in determining whether penalties have been effective. This would assist the ATO in improving taxpayer compliance and in refining the Compliance Model.

***ATO response:*** Agreed.



# Audit Findings and Conclusions



# 1. Background and Context

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*This chapter provides background on the Australian Tax Office, tax penalties, the Taxpayers' Charter and the Compliance Model. It describes Late Lodgement Penalty, Tax Shortfall Penalty and proposed reforms to the penalty regime. It also outlines the audit scope and process.*

**1.1** The Australian Taxation Office (ATO) is the Commonwealth's principal revenue collection agency. The ATO is responsible for collecting a number of different taxes. In 1998–99, the ATO accounted for total tax revenue of \$135.3 billion.

**1.2** The ATO is structured around groups of clients, into Business Service Lines (BSLs). Each BSL has responsibility for a major market segment. The ATO currently has six BSLs: Large Business and International, Small Business, Individuals Non Business, Superannuation, Goods and Services Tax, and Excise.

**1.3** The Individuals Non Business BSL is responsible for the management and collection of income tax from around eight million individual taxpayers who are not in business. The Small Business and Large Business and International BSLs are responsible for the management and collection of income and other taxes<sup>7</sup> from around four million business taxpayers. The majority of these are small business taxpayers. The Small Business BSL manages income tax collection from all business taxpayers (including the self-employed) with annual gross turnover of less than \$10 million.

**1.4** The ATO is currently managing a comprehensive raft of reform of taxation policy and practice. The ANAO acknowledges the inevitable impact of this on the conduct of the ATO's day-to-day business. The audit reviewed a comparatively small (though significant) area of tax administration. The ANAO is mindful that senior management of the ATO determines priorities on a broader scale than many of the issues that were the focus of this audit.

## What are penalties?

**1.5** Penalties are one of a number of tools used by the ATO to obtain taxpayer compliance with tax law. Where the requirements of the tax law have not been met, a taxpayer is liable to pay penalty tax and, in certain circumstances, penalty interest.

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<sup>7</sup> Other taxes include those relating to Pay As You Earn, the Prescribed Payments System, Sales Tax and the Reportable Payments System.

**1.6** Under the Constitution, penalties can only be imposed by legislation or a court of law. The Commissioner of Taxation is not empowered to impose penalties. Administrative penalties apply automatically by law where certain offences are committed. Where the ATO detects an offence incurring a penalty, the Commissioner has the power to remit (ie. reduce) the penalty in part or in full.

**1.7** Areas of non-compliance with tax law that attract penalties include:

- failure to lodge returns;
- tax shortfalls and avoidance schemes;
- late payment;
- failure to provide information; and
- failure to keep records.

**1.8** In 1998–99, penalties imposed totalled approximately \$1.122 billion. In that year the ATO remitted penalties by approximately \$139 million.

## Penalty Remission

**1.9** In 1992 the ATO introduced a new penalty regime. Prior to this the legislation provided for the imposition of penalty tax at a rate of 200 per cent. The Commissioner would, however, invariably remit this penalty to a much lower rate.

**1.10** The new penalty regime was designed to apply to specific circumstances. It distinguished and defined different levels of culpability and matched the scale of penalties to the level of culpable behaviour. A major objective of the new regime was to promote certainty. It was anticipated that the new regime would be compromised if penalties were regularly remitted.<sup>8</sup>

**1.11** As recently as 1999, the ATO reiterated this position in advice to staff regarding the remission of Tax Shortfall Penalties. It stated that:

*The discretion to remit... should only be exercised in exceptional circumstances.*<sup>9</sup>

**1.12** The total value of all ATO penalties imposed and remitted in the period 1994–95 to 1998–99 is shown in Figure 1.

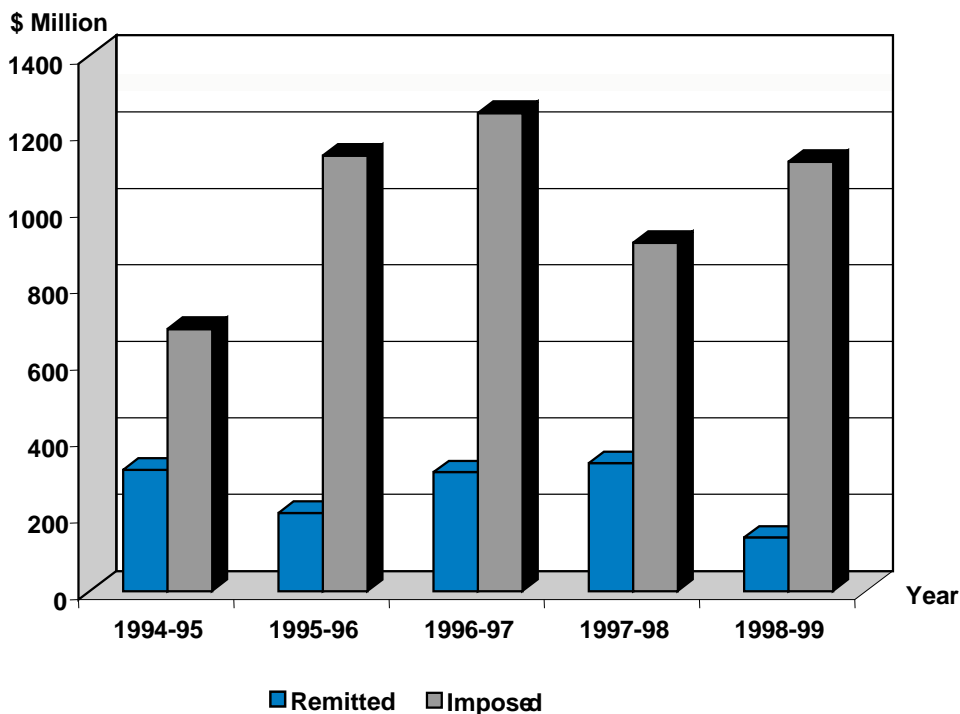
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<sup>8</sup> *Improvement to Self Assessment – Priority Tasks*, an information paper circulated by the Treasurer, August 1991.

<sup>9</sup> TOD 2 training module, 1999.

**Figure 1**

**Total value of all ATO penalties imposed and remitted from 1994–95 to 1998–99<sup>10</sup>**



Source: ATO

## Recent history of tax penalties

**1.13** Prior to 1986, all taxpayers were required to lodge a tax return from which the ATO prepared an assessment of their taxable income and liability. The ATO issued the taxpayer with a notice of assessment which indicated the amount of tax payable and due date for payment.

**1.14** In July 1986, the ATO moved to a system of self-assessment. Under self-assessment, companies determine their tax liabilities and pay the amount due by dates specified by law. Individual taxpayers lodge an income tax return and the ATO issues a notice of assessment advising them of their tax liability.

<sup>10</sup> The penalty remission data shown in this graph is as reported in ATO Annual Reports. The ATO does not report penalty imposition data in its Annual Reports and provided this data separately. The graph shows fluctuating levels of penalty imposition and remission across five years. The ATO has advised that these fluctuations are a result of abnormally large penalty postings in some years relating to specific cases. Additionally, some credit amendments to taxpayers' liabilities were incorrectly posted as penalty remissions. Consequently, the ANAO considers it is not possible to draw reliable trends or conclusions from the data concerning imposition or remission of penalties.

**1.15** With self-assessment, the ATO moved its focus from processing returns and issuing assessments to assisting taxpayers to meet their obligations and to taking enforcement action against those who did not comply.

**1.16** Self-assessment places the onus of understanding and applying tax law on taxpayers and relies on high levels of voluntary compliance. Non-compliance may result if taxpayers are unaware that they have a liability, if they are unsure of their obligations, or believe that the ATO is unlikely to detect their non-compliance.

**1.17** Voluntary compliance needs to be encouraged by provision of ongoing information to taxpayers about their obligations and by a vigorous approach to enforcement. One element of enforcement is the application of penalties, and where appropriate, prosecution action for non-compliance with tax law.

**1.18** The ANAO is conscious that the ATO is interested in identifying and developing new approaches to administering penalties that will assist in improving compliance. The Commissioner recently referred to such an approach:

*. . . I am also attracted to a notion that any further reduction in penalties should be conditional on future good compliance. If a workable approach could be found, the penalty otherwise foregone would become effectively a good tax behaviour bond for a specified period.<sup>11</sup>*

## **The Taxpayers' Charter**

**1.19** The Taxpayers' Charter was developed following a recommendation from the Joint Committee of Public Accounts in 1993<sup>12</sup>, and after extensive community and staff consultation.

**1.20** The Government has committed agencies to developing Service Charters that set targets for improving their quality of service and creating a more open and responsive culture in the public service.

**1.21** The Taxpayers' Charter outlines taxpayers' legal rights and the standards they can expect from the ATO. The ATO commits itself to making:

*fair and equitable decisions in accordance with the law. This includes acting consistently, treating you as an individual, listening to you and taking all the relevant circumstances into account.<sup>13</sup>*

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<sup>11</sup> "A Question of Balance" Mr. Michael Carmody, Commissioner of Taxation. Address to the American Club, 17 September 1999.

<sup>12</sup> Joint Committee of Public Accounts, Report 326, *An Assessment of Tax*, November 1993, pp. 313–314.

<sup>13</sup> The Taxpayer's Charter, ATO, effective from 1 July 1997.

**1.22** Explanatory booklets developed to accompany the Taxpayers' Charter provide more detailed information about taxpayer rights and obligations. While one booklet "*Your honesty and the tax system*", describes tax shortfall penalties imposed where a taxpayer deliberately tries to avoid their obligations, there is no general information provided on the overall ATO penalty regime.

### **The ATO Compliance Model**

**1.23** In 1998 the ATO adopted a structured approach to improving taxpayer compliance known as the Compliance Model.

**1.24** The Compliance Model acknowledges that the majority of taxpayers comply voluntarily with no need for ATO intervention. Others will not comply in the first instance but will if prompted further. A small proportion will not comply voluntarily and may need enforcement action. The ATO is committed in its Corporate and Business Plans to implementing the Compliance Model as the framework within which it manages client relations.

**1.25** Under the model, the ATO encourages voluntary compliance of taxpayers through education and the provision of convenient and efficient service delivery. Where voluntary compliance is not obtained, there is an escalation of sanctions which includes penalties.<sup>14</sup>

**1.26** Imposition of penalties is used by the ATO to encourage and promote future voluntary compliance. It is also used to promote public confidence and respect for the administration of the taxation system by bringing to account those who intentionally seek to avoid their taxation obligations.

**1.27** The ANAO notes that adoption of the Compliance Model is one part of a dynamic approach by the ATO to understanding and countering non-compliance. The ATO is providing funding to a Centre for Tax System Integrity at the Australian National University. The new Centre will study fairness and compliance in the tax system and provide advice to the ATO on its evaluation of the Compliance Model.

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<sup>14</sup> *Improving Tax Compliance in the Cash Economy*, ATO, April 1998.

## Recent legislative changes

**1.28** In 1996, a report prepared by the Small Business Deregulation Task Force, *Time for Business*<sup>15</sup>, presented a number of findings and recommendations to reduce the burden of ‘red tape’ on small business. The report recommended that:

*Where penalty taxes are imposed, the Australian Taxation Office include information on the reasons for the penalty, its calculation and any relevant taxpayer rights.*

**1.29** The Government’s response, detailed in *More Time for Business* acknowledged that the complexity of penalty arrangements, which varied significantly between different taxes and classes of taxpayers, was a major factor contributing to confusion and misunderstanding among taxpayers<sup>16</sup>. To resolve this confusion and misunderstanding, the ATO was commissioned to review all tax penalty arrangements in consultation with taxpayers and to report to the Government by the end of June 1997 with options for simplification.

**1.30** The ATO advised the Government that because of time and resource constraints, it was unable to review all penalty arrangements. Instead it focused on two major penalties—Late Payment and Late Lodgement.

**1.31** The review culminated in the passing of the *Taxation Laws Amendment Act (No.3) 1999*. The significant reform implemented by this Act was the introduction of a General Interest Charge (GIC). The GIC marked a major shift by the ATO towards a more commercial approach whereby taxpayers who pay late are required to compensate the Government for the time value of money. The GIC replaced the Late Payment Penalty regime on 1 July 1999 and is used to calculate a range of other penalties, including Late Lodgement Penalty for non-instalment taxpayers.

**1.32** The introduction of the GIC simplified the ATO’s previous penalty regime. Previously penalties had been imposed only on the primary tax, requiring the ATO to separate the total tax debt into two components—primary tax and penalties. The GIC applies to the taxpayer’s total debt balance, thus simplifying tax calculation and imposition of penalties.

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<sup>15</sup> *Time For Business*, Small Business Deregulation Task Force, November 1996

<sup>16</sup> *ibid*



## Late Lodgement and Tax Shortfall Penalties

**1.33** The audit did not review all ATO penalties. Currently there are over 130 separate penalties imposed under tax law. The audit focussed on the operation of two of the most significant—Late Lodgement Penalty and Tax Shortfall Penalty.

### Late Lodgement Penalty

**1.34** A person who fails to lodge a return by the due date required by legislation is liable for Late Lodgement Penalty. If the return relates to an income year before the 1995–96 year,<sup>17</sup> a penalty rate of 200 per cent on the tax payable applies, although the Commissioner invariably remits this penalty to a much lower rate. For a return during the period 1995–96 to 30 June 1999<sup>18</sup>, Late Lodgement Penalty distinguishes between instalment and non-instalment taxpayers:

- for instalment taxpayers: Late Lodgement Penalty is \$10 for each week or part of a week occurring after the due date and before the return is lodged, up to a maximum penalty of \$200. Penalty is payable regardless of whether any tax is payable.
- for non-instalment taxpayers (ie. other than companies, superannuation funds, approved deposit funds and pooled superannuation trusts), an eight per cent penalty tax is imposed on the lesser of the:
  - a) assessed income tax for the year; or
  - b) taxpayer's net tax payable.

**1.35** For non-instalment taxpayers, if there is no tax payable, there is no liability to pay Late Lodgement Penalty. Where Late Lodgement Penalty is applied the minimum amount payable is \$20.

**1.36** The GIC has been used to calculate Late Lodgement Penalty for non-instalment taxpayers since 1 July 1999.

### Tax Shortfall Penalty

**1.37** For 1992–93 and later income years, a tax shortfall penalty is incurred where a taxpayer understates their income tax liability.

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<sup>17</sup> Imposed under *Income Tax Assessment Act 1936* (ITAA) s222.

<sup>18</sup> Imposed under *Income Tax Assessment Act 1936* (ITAA) s163A to 163C.

**1.38** Under the self assessment system, the ATO imposes a sliding scale of penalties based upon taxpayer behaviour or culpability, categorised as follows:

- *Deliberate Evasion.* Where the tax shortfall is caused by intentional disregard by the taxpayer, the taxpayer is liable to pay penalty tax of 75 per cent of the amount of the shortfall (ITAA 1936 Part VII s226J);
- *Recklessness.* A taxpayer who causes a tax shortfall through recklessness is liable to pay penalty tax of 50 per cent of the amount of the shortfall (ITAA 1936 Part VII s226H). Recklessness is considered to be gross carelessness and includes conduct which clearly shows a disregard for the consequences of their actions;
- *Tax Avoidance Scheme.* When a taxpayer enters into a 'scheme' with the sole or dominant purpose of avoiding tax, the taxpayer is liable for a penalty of 50 per cent, reduced to 25 per cent where the taxpayer has a reasonably arguable position (ITAA 1936 Part VII s226L);
- *Private Ruling Disregarded.* Where the taxpayer obtains a private ruling in relation to a tax matter and subsequently ignores the advice given, the taxpayer is liable to pay penalty tax of 25 per cent of the tax shortfall (ITAA 1936 Part VII s226M);
- *Reasonable Care.* The reasonable care test requires a taxpayer to exercise the care that a reasonable person in the taxpayer's circumstance would likely to have exercised in fulfilling their tax obligations. If a taxpayer does not exercise reasonable care, they are liable to pay penalty tax of 25 per cent of the tax shortfall (ITAA 1936 Part VII s226G); and
- *Reasonably Arguable Position.* A taxpayer, liable for tax of over \$10 000 (or one per cent of the return), incurs a penalty where they apply the law in a way that their position is not considered to be 'about as likely as not correct'. A 25 per cent penalty tax is levied on the tax shortfall (ITAA 1936 Part VII s226K).

**1.39** Figure 2 outlines the scale of tax shortfall penalties.

**Figure 2**  
**Tax Penalty Rate Chart**

<i>Tax Shortfall Provisions</i>	<i>Primary Penalty (%) <sup>(a)</sup></i>	<i>Adjusted Penalty (%) <sup>(a)</sup></i>		
		<i>Hinderance</i>	<i>Voluntary Disclosure</i>	
			<i>During Audit</i>	<i>Before Audit</i>
Deliberate evasion	75	90	60	15
Recklessness	50	60	40	10
Tax avoidance	50	60	40	10
No reasonable care	25	30	20	5
No reasonable arguable case	25	30	20	5
Private ruling disregarded	25	20	20	5

Note (a): as a percentage of tax shortfall

Source: The 1999 Australian Master Tax Guide

## Audit objective and approach

**1.40** The objective of the audit was to review the ATO's administration of penalties, with particular emphasis on the corporate governance framework and issues relating to consistency, effectiveness and accountability of penalty administration.

**1.41** The audit covered a wide range of administrative issues within the ATO related to penalties. Administration of penalties was reviewed with regard to principles of the Taxpayers' Charter and within the context of the ATO Compliance Model.

**1.42** The audit was conducted during a time of substantial change within the ATO that affected the administration of some penalties. The audit reviewed a comparatively small area of tax administration, albeit one of importance to good tax administration.

**1.43** The audit did not examine the administration of all tax penalties. The day to day operation of two significant penalty types, Late Lodgement and Tax Shortfall, were selected as case studies.

**1.44** Late Lodgement and Tax Shortfall penalties are two of the three penalty types that provide the highest levels of revenue to the ATO. The highest dollar value penalty, Late Payment Penalty, was not reviewed, as it was being replaced by a General Interest Charge (GIC). The GIC has been used to calculate Late Lodgement Penalty for instalment taxpayers since 1 July 1999.<sup>19</sup>

<sup>19</sup> Under *Taxation Laws Amendment Act (No. 3) 1999*.

**1.45** Late Lodgement and Tax Shortfall penalties are administered in significantly different ways and provided an opportunity for the audit to examine different control structures and corporate governance arrangements. Late Lodgement Penalty is largely applied automatically whereas Tax Shortfall Penalty generally requires ATO officers to analyse and assess individual taxpayer behaviour.

**1.46** The audit was conducted over three ATO Business Service Lines: Individuals Non Business (INB), Small Business (SB) and Large Business and International (LB&I).

**1.47** Audit fieldwork was conducted in ATO branch offices in Sydney, Melbourne, Adelaide and Brisbane as well as the National Office in Canberra over a period of approximately four months. The audit team corresponded with national revenue collection agencies in the United Kingdom, Canada and the USA. The total cost of the audit was approximately \$340 000. The audit was conducted in conformance with ANAO auditing standards.

## **Proposed reforms of the penalty regime**

**1.48** During the audit the ATO advised that legislation to give effect to a new penalty regime is currently being drafted. The ATO anticipates the legislation will go before Parliament early in 2000.

**1.49** The ATO expects that because of the high demand on system changes during the current period of tax reform, the implementation of any changes to penalties would be staggered over a period of up to two years to fit into the ATO's systems development schedule.

## 2. ATO Management in Relation to Penalties

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*This chapter outlines ATO corporate governance and planning frameworks and the ATO control environment for administration of penalties. It notes the administration of penalties is not included in current governance reports and the consistency of penalties applied and their effectiveness are not monitored. It notes the current level of reporting of penalties in ATO Annual Reports could be enhanced.*

### Corporate governance

**2.1** Corporate governance is concerned with the leadership of an organisation, with structures and processes for decision-making, and with the controls and behaviour within organisations that support effective accountability for performance and outcomes.

**2.2** The audit reviewed those control structures within the ATO that provide assurance to the Commissioner that ATO management is administering penalties effectively, consistently and in accordance with legislation.

**2.3** Given that penalties are one of the strategies featured in the ATO Compliance Model as a means to achieve compliance with tax law<sup>20</sup>, the audit team expected that it would be reflected in corporate governance arrangements associated with the oversight, accountability, performance and outcomes of penalty administration.

### ATO governance framework

**2.4** The ATO has an Executive Committee comprising the Commissioner and three Second Commissioners. Since the mid-1990s the Commissioners have refined and expanded the corporate governance system to emphasise links between strategic and operational planning and accountability.

**2.5** The Commissioners are provided with monthly performance reports that include operational performance information, significant events, emerging issues and trends. Three times a year, the monthly process is supplemented with governance reports from each BSL, and reports from officers appointed to provide overview reports on aspects

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<sup>20</sup> Other compliance strategies include education, real-time business reviews and prosecution.

such as finance, security, information technology, internal audit and human resources. As part of the process, the Commissioners meet with the responsible officers to clarify and discuss issues highlighted in the reports.

**2.6** One of the triannual governance reports deals with issues of taxpayer compliance. However, it does not deal specifically with administration of penalties. The audit found that the ATO Commissioners do not receive assurance through their governance framework that the penalty administration is operating either effectively or consistently.

## **Planning**

**2.7** Effective planning sets an organisation's direction; it provides leadership and it is a key to accountability. Corporate and Business Plans provide defined directions as well as leadership and high level strategic guidance for the organisation. Planning and public reporting on performance against plans is a key accountability mechanism.

**2.8** ATO planning dovetails with its governance framework and allows the Commissioners to make considered judgements about how its various parts will work together to achieve objectives and expected outcomes. The audit noted that administration of penalties is not included in ATO corporate, business or risk management plans.<sup>21</sup> Other than being identified indirectly within the broader theme of taxpayer compliance, penalties are not mentioned explicitly in current ATO planning documents.

## **Improving ATO administration of penalties within its corporate governance framework**

**2.9** Effective and consistent use of penalties is very important to the ATO's reputation and credibility.

**2.10** The ANAO considers that the ATO's administration of penalties could benefit from a higher and more visible profile within the ATO governance framework, both to express its principles in the context of the Compliance Model and to renew communication to ATO staff about the importance of penalties in improving taxpayer compliance.

**2.11** The Compliance Model represents a significant shift in the ATO's approach to managing taxpayer compliance. The ANAO considers that implementation of the Compliance Model will require systematic direction and sustained communication to manage the cultural change necessary for successful implementation across the ATO.

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<sup>21</sup> The ATO's 1998 to 2001 Three Year Plan is directed at achieving the outcome of maintaining overall tax compliance, reducing compliance costs, gaining community confidence and having an efficient and adaptive organisation.

**2.12** Currently, responsibility for penalty administration rests with the various BSLs. In this context, there is a risk of a lack of organisation wide control, assessment or accountability for the administration of penalties in the ATO. The audit team could not find evidence of an appropriate reporting process to monitor and assess penalty administration. The ANAO considers the ATO could benefit from collecting performance information for inclusion in triannual governance reports to enable the Executive to monitor penalty administration performance.

**2.13** The ATO has advised that it is currently considering the best forum in which to implement a corporate governance framework for penalties.

### **Consistent treatment of taxpayers**

**2.14** Through the Taxpayers' Charter, the ATO has committed itself to acting consistently. In an accompanying booklet, *Treating you fairly and reasonably*, the ATO states:

*We always aim to be consistent in our treatment of taxpayers. This means:*

- *in interpreting and applying the tax laws, there is one Tax Office view of the law. The view is applied consistently throughout the Tax Office;*
- *in relation to more general matters, guidelines have been established and these are followed with judgment by our staff. Not every situation is the same and our staff follow guidelines in a way that achieves a sensible and equitable outcome having regard to your circumstances.*

**2.15** To support this commitment in its imposition and remission of penalties, the ATO needs to effectively monitor its performance to identify potential risk areas where inconsistencies can develop and take corrective action.

**2.16** The ANAO identified the consistent treatment of taxpayers as an area requiring attention in the ATO's administration of penalties. Consistency has many facets, including consistency between taxpayers in similar circumstances, consistency of application from year to year, and consistency with the prior experience of taxpayers. Consistency of application is implicit in achieving fairness, equity, effectiveness, and high quality administration of penalties.

**2.17** Penalties act as a deterrent for non-compliance by making it undesirable for taxpayers to avoid their tax obligations. Consistent administration of penalties promotes equity among taxpayers by ensuring

that those who are honest and follow the laws are not disadvantaged with respect to those who fail to do so. The ATO must ensure that taxpayers who comply voluntarily are not at a relative disadvantage to those who do not.

**2.18** One way the ATO can maintain community confidence in the tax system is through being, and being seen to be, effective in detecting non-compliance and consistent in its imposition and remission of penalties. Consistent decision-making also supports the equitable treatment of taxpayers and the provision of high quality client service.

**2.19** While the ATO routinely collects some data on penalties, the ANAO found no evidence that the ATO monitors or reviews the consistency of its penalty administration.

### **Quality assurance**

**2.20** The ANAO noted that while some ATO branches undertake quality assurance (QA) to examine whether penalties have been properly applied, there is no systematic approach by BSLs across the ATO in this regard. As a result, it is not possible for ATO management to provide assurance to the Commissioner that penalties are applied consistently.

**2.21** The audit noted that some QA programs collect data to review matters such as accuracy, timeliness and completeness and can assist BSLs to ensure efficiency, compliance with laws and regulations, and reliable financial reporting of penalty administration. However, certain key information is not collected, for example, the reasons why remissions are granted, are not included in QA reviews.

**2.22** The ANAO considers that ATO staff should in each case specify and record their reasons when they grant a penalty remission. This data should be collected and analysed to assist management to assess the consistency of penalty administration. This would also assist with transparency and accountability and could be used to evaluate and improve penalty administration and staff training.

### **Monitoring effectiveness**

**2.23** As noted above, it is important that the ATO is effective in detecting non-compliance and in applying penalties in accordance with the law to improve taxpayer behaviour. Where this is not the case, there is a risk that the integrity of the tax system will be undermined through proliferation of non-compliance. This could lead to loss of public confidence in the ATO's ability to control non-compliance, leading to a loss of taxation revenue. Penalties are an important strategy used to encourage taxpayer compliance. For the strategy to be effective, the ATO needs a sound administrative regime for penalties.



**2.24** The ANAO found no evidence that the ATO monitors or reviews the overall effectiveness of its penalty application in improving taxpayer compliance.

**2.25** The audit found that the ATO routinely collects a range of statistical and demographic data on penalties that it does not analyse. Available ATO data could be utilised to assist in determining the effectiveness of penalties in encouraging compliance, and to review issues such as consistency or efficiency. As part of the audit, the ANAO undertook a pilot analysis of available ATO penalty data. The results of this analysis are reported in Chapter 3.

## **Recommendation No.1**

**2.26** The ANAO recommends that the ATO include penalties administration within its corporate governance framework in order to provide assurance to the Commissioner that it is operating consistently and effectively. This could include:

- (a) establishing organisation-wide quality assurance of the ATO's penalty administration to assist in promoting better practice and provide assurance that it is operating consistently; and
- (b) using statistical and demographic data to monitor the effectiveness of penalties in addressing and improving compliance.

### *ATO Response*

**2.27** The ATO agrees that more prominence could be given to penalties in the governance process. This functionality may require substantial changes to ATO business systems. The timing and extent of implementation will be addressed through ATO planning processes.

## **Penalties' control environment**

**2.28** As part of our consideration of corporate governance issues, the audit reviewed the ATO's control environment for administration of penalties. Controls should assist organisations with:

- efficiency and effectiveness of program outcomes;
- reliable financial reporting; and
- compliance with laws and regulations.

**2.29** The audit considered four key elements of the control environment of ATO penalties administration:

- a system of tax rulings which clarify the law and assist with certainty in its interpretation;
- an ATO-wide network of delegations;
- a high degree of technical training; and
- capacity for review of ATO decisions.

### **Tax rulings**

**2.30** The Commissioner has issued a variety of rulings in regard to penalties. These technical documents clarify the law and give taxpayers more certainty regarding its interpretation.

**2.31** The audit found that tax rulings are the major source of guidance and direction used by ATO staff in their application of tax law.

**2.32** Tax rulings are available on request and made public through the ATO web site and notification in the *Commonwealth Gazette*.

### **Delegations of authority**

**2.33** The Commissioner of Taxation has delegated to Deputy Commissioners, First Assistant Commissioners and an Assistant Commissioner, his powers and functions in relation to the administration of penalties. These officers in turn have authorised other ATO officers within the BSLs to undertake duties relevant to the imposition and remission of penalties. The amount of penalty an officer is able to impose or remit is defined within the authorisation provided to that officer. Authorisations to apply penalties increase in accordance with the level of the ATO officer.

**2.34** The audit team found that the ATO has firm centrally managed guidelines and on-line information on its system of delegations. Overall, the audit found that delegations relating to penalties appear to operate effectively although a small number of staff interviewed during the audit were unsure of their requirements.

### **Penalties technical training**

**2.35** The ATO provides training for staff administering penalties through its Tax Officer Development Program (TOD2) and 'on-the-job' training.

**2.36** Before determining the scale of a Tax Shortfall Penalty, ATO officers are required to form an opinion as to the degree of culpability displayed by the non-compliant taxpayer.

**2.37** Audit examination of the most recent Tax Technical<sup>22</sup> training packages found that the training module covering Tax Shortfall Penalty mapped out the procedure for applying Tax Shortfall Penalty, where the taxpayer claimed to have a ‘reasonably arguable position,’ that did not reflect the above requirement.

**2.38** The audit also noted that the TOD2 training package reviewed made no reference to the Taxpayers’ Charter or the Compliance Model.

**2.39** The ANAO believes there is a need to set penalty administration within the broad framework of ATO client relations set out in the Charter and the Compliance Model. ATO training needs to provide clear guidance on consistent approaches to assessing culpability and to determining penalty levels that take account of taxpayer behaviour and history.

## Recommendation No.2

**2.40** The ANAO recommends that ATO technical training material on penalties include reference to, and discussion of the impact of the Taxpayer Charter and the Compliance Model. This would include guidance on the application of penalties to the different scenarios outlined in the Compliance Model.

### *ATO Response*

**2.41** The ATO agrees with this recommendation.

## Review of decisions

**2.42** Where the ATO detects a breach of the tax laws and a penalty is imposed, a written notice is sent to the taxpayer advising them of the type and extent of penalty incurred. The taxpayer can request a review of the decision. An ATO officer who was not involved in the original decision conducts the review.

**2.43** After a review has been conducted, a letter is sent to the taxpayer which advises them of the results of the review, sets out the reasons for the ATO’s decision and informs the taxpayer of their rights.

**2.44** The audit did not include examination of individual review cases. It did however, look at the level of complaints regarding penalties dealt with by ATO’s Problem Resolution Service (PRS).

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<sup>22</sup> ATO Tax Technical training package—TOD2 (incorporating legislative changes to 30 June 1999). The penalties module also includes a brief overview of the Commissioner’s power to prosecute a taxpayer, which may be used in certain circumstances as an alternative to penalties. TOD 2 training is targeted towards ATO officers at the APS 2 level and above.

### *Problem Resolution Service*

**2.45** If a taxpayer feels their rights have been infringed, that the standards in the Taxpayers' Charter have been breached, or if they have another complaint, they can contact the PRS.

**2.46** The PRS was established in July 1997 to support the Taxpayer's Charter. There is a commitment that complaints received by PRS will be dealt with promptly.

**2.47** The ATO has indicated that, with access to the ATO complaint management system, business managers can ensure that complaints that relate to their areas are addressed. PRS reported that there was a greater corporate acceptance of the complaint mechanism and that there was a will to resolve complaint matters that were raised through PRS. The ANAO was also advised that the PRS receives strong support through the ATO executive.

**2.48** Data obtained during the audit showed that between July 1997 and June 1999, in cases where the taxpayer had made a complaint through the PRS regarding penalties, 48 per cent of these cases resulted in the penalty being remitted. The ANAO sought to compare this remission rate with the percentage of penalties remitted through normal ATO review processes but the ATO was unable to provide comparative data.

## **ATO performance information and reporting**

**2.49** Taxation legislation requires the Commissioner to report on the working of the legislation. The audit found that there is scope for improving the range and quality of information published about ATO administration of legislation regarding penalties.

**2.50** The ATO Annual Report provides information on the total amount of penalties remitted during the year. The value of penalties applied by the ATO is not reported, nor is the net value of penalties imposed after remission.

**2.51** The ANAO considers that the current level of reporting of penalties in ATO Annual Reports could be enhanced. A more detailed level of disclosure on penalty imposition and remission in the Commissioner's Annual Report would clarify the ATO's administration of penalties and support accountability.

**2.52** The ATO advised that it considers that the amount of penalties applied and remitted should not be included, as this level of detail was not in line with the philosophies of the Commissioner's Annual Report.

**2.53** While appreciating the point being made by the ATO, the ANAO considers that publication in the Annual Report of suitable information on penalties applied by the ATO, and their net value after remissions, would be desirable given that penalties are an important strategy in the management of taxpayer compliance.

## 3. ATO Administration of Penalties

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*This chapter describes potential improvements to penalties administration identified by the audit.*

### Background

**3.1** Tax penalties have been imposed for non-compliance since the first tax laws were promulgated. While there have been substantial changes made to aspects of penalties, including the recent introduction of a GIC, to date the ATO penalty regime has not been subject to a systematic review of its objectives and effectiveness.

### Potential improvements identified in the audit

**3.2** The objective of the audit was to review the ATO's administration of penalties, with particular emphasis on its corporate governance framework and issues relating to consistency, effectiveness and accountability of penalty administration. In addition to improved corporate governance arrangements for penalties discussed in Chapter 2, the ANAO identified five areas of penalty administration where there was potential for improvements. They included:

- alignment of penalties administration with the principles and undertakings of the Taxpayers' Charter and the Compliance Model;
- provision of public information about penalties;
- detection of liability for tax shortfall penalty;
- closure of current gaps in the penalty regime; and
- routine analysis of penalty data to identify trends, develop profiles of non-compliance, and to monitor the effectiveness of penalty administration.

### Alignment of penalties administration with the Taxpayers' Charter & the Compliance Model

**3.3** The ATO issued the Taxpayers' Charter in 1997 and in 1998 adopted the Compliance Model as the framework in which to manage all of its client relations.

**3.4** To ensure that the ATO targets compliance activities in accordance with the Compliance Model requires knowledge of its client base and the extent to which it complies with the tax law. The Model asserts that without appropriate targeting of compliance activities, clients will not

receive the necessary support to enable them to comply with the tax law and the ATO will not be effective in changing the behaviour of non-compliant taxpayers.

**3.5** The audit found the principles introduced by the Charter and the Compliance Model have made only limited inroads into the administration of penalties to date. The audit identified the development of on-line, rule-based, decision support tools as an area that the ATO could consider to improve this situation.

**3.6** The audit also identified a need to provide tax officers with appropriate access to taxpayer histories and with clear guidance on how to interpret these histories when determining culpability and an appropriate penalty.

**3.7** The ATO advised that a system is being developed within the ATO which aims to provide ATO officers with access to a taxpayer's complete taxation history. This history will be contained in one system and should assist ATO officers to apply the Compliance Model.

### **Decision support tools**

**3.8** The ATO provides some automated support for tax officers through an on-line information and knowledge sharing system allowing ATO staff to share information about a variety of tax issues including penalty imposition.

**3.9** The ANAO considers that better consistency in application of penalties within and between BSLs could be achieved by providing a cost-effective, on-line, rule-based information system to support penalty administration. Such a system would respond to information entered, provide options for decisions concerning penalty remission and record statistical information concerning penalty application, including the reasons why remissions are granted. It should be designed to ensure that the ATO maintained the capacity to address exceptional and individual circumstances.

**3.10** The ANAO considers that a system of this kind could provide multiple benefits for staff administering penalties, particularly Tax Shortfall Penalty. It could assist them to achieve more efficient and consistent decision-making while also capturing data for ATO statistical and quality assurance purposes.

## **Recommendation No.3**

**3.11** The ANAO recommends the ATO investigate the cost-effectiveness of providing on-line, decision support tools to staff to assist with consistent and efficient application of penalties.

## *ATO Response*

**3.12** The ATO agrees with this recommendation.

### **Access to taxpayer compliance history and profiles**

**3.13** The Compliance Model requires ATO staff to consider the taxpayer's circumstances and compliance history. To ensure the effective implementation of the Model, ATO staff require access to taxpayers' compliance history or profiles.

**3.14** The ANAO sought to determine the extent to which ATO management information systems support the application of the Compliance Model principles in administration of penalties.

**3.15** The audit noted that although some field team members attempt to ascertain the taxpayer's circumstances and compliance history in applying a Tax Shortfall Penalty, most do not.

**3.16** Certain audits, particularly in INB, focus on single items in the taxpayer's return. For example, an ATO field team member could be reviewing only a taxpayer's Work Related Expenses, rather than examining all aspects of their tax affairs. In this instance, their level of compliance in relation to the item under review would be considered rather than their full compliance history.

**3.17** The audit found that when ATO staff attempt to gain a wider picture of a taxpayer's level of compliance with the tax law, they generally experience difficulties in obtaining the required information. To access taxpayer compliance histories and profiles, ATO officers need to interrogate several different systems that are sometimes located at separate locations. The audit considers this practice is inefficient and discourages ATO staff from "*taking all the relevant circumstances into account*," as specified in the Taxpayers' Charter.

**3.18** The ATO recognises that this is a problem area and has identified that its systems are designed for a transactional business not for managing risk and client relationships.

**3.19** The ANAO notes that ATO Receivables Management has implemented the use of client profiling, involving advanced mathematics, statistics and data mining, to maximise the probability that the most cost effective action will be taken in respect of particular tax debtors. The ANAO considers that the ATO could explore an extension of this method to develop profiles of non-compliance that could assist in the administration of penalties.



**3.20** The ANAO considers there is a lack of an appropriate level of access to ATO data systems for staff administering penalties to determine a taxpayer's profile, compliance history and level of compliance with the tax law in order to properly implement the principles of the Taxpayers' Charter and the Compliance Model. There is a risk that in the absence of complete information concerning a taxpayer's compliance history, ATO officers will form different opinions about the compliance status of a taxpayer resulting in the ATO applying penalties in an inconsistent manner.

**3.21** When a Tax Shortfall Penalty is applied, the ATO writes to the taxpayer, providing them with the opportunity to explain the circumstances of the shortfall. ATO officers use the taxpayer's response to inform their determination of the appropriate level of penalty to be imposed. While this process provides flexibility for officers to deal with individual circumstances, the information supplied is not a substitute for an ATO profile of taxpayer compliance. It is important that ATO flexibility to respond to individual issues operates within an informed and consistent rule-based framework that is monitored and subject to performance review.

**3.22** The ATO has advised that this issue will be addressed in its planned review of penalties.

### **Provision of public information about penalties**

**3.23** The ANAO considers that informing taxpayers of their tax obligations is central to the issue of fairness. In a self assessment environment, taxpayers need to know of their obligations and responsibilities under the law.

**3.24** The ATO has recognised it has an "*obligation to answer the information needs of taxpayers.*"<sup>23</sup> If the ATO does not provide clear information about penalties and taxpayers are not appropriately informed of the consequences of deviating from the tax laws, then taxpayers may view the type and extent of penalty imposition as unfair or unjustified.

**3.25** The ATO provides information for taxpayers in relation to their administration of the tax system through a variety of sources and activities. The ANAO found only limited information on penalties included in the regular channels of information that the ATO maintains with taxpayers. The audit identified provision of information for taxpayers as an area that could be readily improved.

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<sup>23</sup> *Review of TaxPack, Directions for the Future*, Australian Taxation Office, December 1994

### *Taxpack*

**3.26** Introduced in 1990 by the ATO to help taxpayers calculate their tax liability, TaxPack is the ATO's most widely disseminated tax information. TaxPack last included information on penalties in 1993. This included a brief discussion of the standard of reasonable care and a detailed explanation of Late Payment Penalties.

**3.27** Since 1997, the Commissioner has provided a guarantee that taxpayers would not be charged a penalty if they honestly followed the TaxPack. The ATO holds that the guarantee is sufficient and no further reference to penalties is necessary.

**3.28** While the ATO considers that the Taxpack is a vehicle for education, particularly for unrepresented taxpayers, it is not considered an appropriate vehicle in which to discuss penalties at length. However, the ATO has advised that the 2000 TaxPack will contain an enhanced message in relation to penalties.

### *The Internet*

**3.29** The ATO maintains an Internet web-site. It has three major sections of information: Tax Practitioners, Business and Individuals. In June 1999 the site received an average of 121 874 'hits' per day.

**3.30** The web-site includes ATO Tax Rulings. Many of these are in legalistic language and may not be well understood by the general public.

**3.31** The ANAO noted that the State Revenue Office of Victoria has a section on its Internet web-site<sup>24</sup> that outlines its penalties regime in plain English<sup>25</sup> from the perspective of taxpayers' obligations and rights. The ANAO considers that the ATO could consider following this approach.

### *ATO publications*

**3.32** The ATO produces a range of publications aimed at specific client groups. These publications cover a range of topics such as capital gains tax, depreciation and rental properties. The ATO also provides information to specific professions to help them meet their tax requirements.

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<sup>24</sup> <http://www.sro.vic.gov.au/index.htm>

<sup>25</sup> Plain English is written or spoken English that attempts to eliminate jargon and technical terms, and to simplify structure and syntax, etc., in order to make a document or communication more accessible to the general public. These principles could also be followed by the ATO in preparing information on penalties in languages other than English.

**3.33** The ANAO notes there is no specific mention of penalties within these publications. To date, the ATO has not published a guide to penalties designed for taxpayers. The ANAO considers that the ATO could usefully prepare a plain English statement on its penalty regime and disseminate this through all current information channels.

## Recommendation No.4

**3.34** The ANAO recommends the ATO consider options for providing information in plain English to better inform taxpayers about the ATO penalties regime.

### *ATO Response*

**3.35** The ATO agrees with this recommendation.

### **Detection of liability for tax shortfall penalty**

**3.36** The ATO uses a range of strategies to detect tax shortfall including electronic analysis of returns, cross-matching of data and application of income and deduction parameters. Another approach used to identify, quantify and address tax shortfall is through deployment of ATO field audit teams.

**3.37** The ATO uses a risk management approach in order to direct field team resources to target areas that represent the greatest risk to revenue. The ATO risk management framework encompasses:

- identification of risks associated with individual programs and with individual client groups within programs;
- risk rating and prioritising of client groups; and
- allocation of resources based on risk rating.

**3.38** The audit identified two areas where it considered detection of liability for Tax Shortfall Penalty tax could be improved. They are:

- routine follow-up of those taxpayer groups identified as non-compliant; and
- streamlining administration of claims of legal professional privilege.

### *Routine follow-up of taxpayers identified as non-compliant*

**3.39** The ATO advises that the majority of taxpayers are compliant. However, in the case of penalties, the ATO does not monitor those taxpayers identified as non-compliant in subsequent years to review any alteration in behaviour. Consequently the ATO loses the opportunity to gather information on at-risk clients to determine if penalties have been effective and if further compliance improvement is needed.

**3.40** The ANAO considers that the ATO could follow-up in future years, where appropriate, those taxpayers who had previously been detected as liable for a Tax Shortfall Penalty. While follow-up audits need to be cost effective and within the context of the ATO's risk management planning, systematic follow-up would enable the ATO to build up profiles of non-compliance and to develop indicators of penalty effectiveness. It would also reinforce the importance of compliance and determine whether compliance had improved. Any perception that once audited the taxpayer is unlikely be followed-up in the short term can have a negative effect on taxpayer compliance.

**3.41** The ANAO recognises that determining the reasons for taxpayer compliance is complex and the imposition of penalties represents only one strategy in obtaining compliance. It is important however, that the ATO identifies key performance indicators and result areas to analyse the correlation between its administration of penalties and taxpayer compliance. The ANAO found that the ATO has not analysed links between penalty administration and taxpayer compliance. Consequently, the ATO was not able to provide information on the effectiveness of Late Lodgement and Tax Shortfall Penalties in improving taxpayer compliance.

**3.42** The ANAO considers that the ATO could establish a system to monitor those taxpayers whose non-compliance represents a risk to taxation revenue. This information could be used to identify any changes needed to the penalty regime to improve compliance and to refine the Compliance Model.

## **Recommendation No.5**

**3.43** The ANAO recommends that the ATO study the relative effectiveness of penalties on taxpayer behaviour to assist in determining whether penalties have been effective. This would assist the ATO in improving taxpayer compliance and in refining the Compliance Model.

### *ATO Response*

**3.44** The ATO agrees with this recommendation.

### *Streamlining claims of legal professional privilege*

**3.45** ATO officers performing audit work often need access to documents that record transactions or arrangements entered into by a taxpayer. The Commissioner or his authorised officers have the right of full and free access to buildings, places, documents and other papers. Officers are also entitled to make extracts from records they locate or to take copies of those records.

**3.46** The common law doctrine of legal professional privilege (which belongs to the client) protects the confidentiality of certain communications made in connection with giving or obtaining legal advice or the provision of legal services. Legal professional privilege applies both to judicial and non-judicial proceedings. The ANAO was informed of increasing disquiet among some ATO auditors that legal professional privilege is being used as a tactical tool to impede and frustrate both the progress and ultimate outcomes of taxation audits (in terms of restricting the auditor's ability to access factual information about transactions and arrangements.)

**3.47** Legal professional privilege in some field audits may be claimed over a large number of documents, which requires argument on a document by document basis, sight unseen, to determine the legal professional privilege status. Legal professional privilege claims can cause extended delays in the resolution of tax audits. When evidence cannot be obtained it can limit the ability of the ATO to detect non-compliance and to apply appropriate penalties to that non-compliance.

**3.48** The issue of legal professional privilege was addressed by the Joint Committee of Public Accounts in 1995. In its Report No. 335, the Committee recommended that:

*The Attorney General refer the question of the operation and impact of the doctrine of legal professional privilege, as it applies to the administration of the taxation system, to the Australian Law Reform Commission for evaluation, review and report.*<sup>26</sup>

**3.49** The Australian Law Reform Commission agreed with the recommendation.

**3.50** In 1989 the ATO extended an administrative concession to professional accounting advisers in the form of the guidelines 'Access to Professional Accounting Advisers Papers—Guidelines for the Exercise of Access Powers' (Guidelines). The guidelines are to be adhered to by ATO officers provided that taxpayers and their professional accounting advisers use the guidelines in the spirit in which they were formulated. The guidelines restrict access to 'restricted source documents' and 'non-source documents' as defined in the guidelines.

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<sup>26</sup> Joint Committee of Public Accounts Report 335, Finance Minutes Tabled in 1994, March 1995.

**3.51** The guidelines were an acknowledgment by the ATO that taxpayers should be able to consult with their professional accounting advisers on a confidential basis to enable full and frank discussions to take place and for advice to be communicated on that basis. The ANAO was advised that some taxpayers and their advisers have invoked the Guidelines (and legal professional privilege) with the intention of causing delays and attempting to limit the ability of the ATO to detect non-compliance.

**3.52** Given the operation of legal professional privilege and the Guidelines can impact on the ATO's detection of non-compliance and as a consequence the ability to apply penalties, the ANAO considers that the ATO could streamline administration of the guidelines and claims of privilege. It could devise a standard pro forma document to be completed in all instances where privilege is claimed which requires claimants to substantiate their claim; it could respond to claims of privilege by routinely seeking further information; and that it could institute sanctions to dissuade misuse of claims.

**3.53** LB&I BSL recently commissioned a report on legal professional privilege.<sup>27</sup> In line with the ATO commitment to monitor and review the Guidelines from time to time, LB&I also conducted an internal review of ATO access to accountants' papers. Both reports were presented to senior ATO management.

**3.54** The ATO has advised that in relation to these reports:

- the agreed recommendations are currently being implemented;
- improved support mechanisms will be made available to auditors faced with claims of legal professional privilege or under the Guidelines;
- a database will be maintained to monitor claims;
- training will be provided to appropriate staff;
- improved procedures such as pro formas will be required in all instances where claims for legal professional privilege or the concession under the Guidelines are made; and
- test cases on the 'grey' areas of the law surrounding legal professional privilege will be litigated and consideration will be given to prosecuting taxpayers and their advisors where unsubstantiated claims are found to have been made.

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<sup>27</sup> Associate Professor Suzanne McNicol, *Legal Professional Privilege in the Taxation System*, July 1999

## Closure of current gaps in the ATO penalty regime

**3.55** The audit identified four current gaps in ATO penalty regime. These include:

- application of the GIC;
- anomalies between Late Lodgement penalties applied by the ATO and imposed as a result of prosecution;
- unreliability of ATO systems in identifying late lodgement by ‘nil’ trading companies; and
- proliferation of late lodgement in the tax agent lodgement program.

### *Application of the General Interest Charge (GIC)*

**3.56** The GIC has been used to calculate Late Lodgement Penalty for non-instalment taxpayers since 1 July 1999.<sup>28</sup> The legislation introducing the GIC requires that the ATO calculate interest on a daily compounding basis.

**3.57** Currently, the ATO Integrated System<sup>29</sup> is the only system able to calculate interest on a daily compounding basis as required in the tax legislation. The remaining ATO systems calculate GIC on a simple interest basis. The result is that the ATO will impose the GIC in an inconsistent manner across tax revenue types, creating inequity in the manner in which penalties are administered.

**3.58** The effect of this is that some taxpayers would be paying higher GIC penalties than others until the ATO is able to implement system changes necessary to implement the GIC consistently as required by the legislation.

**3.59** The ATO has advised that the Commissioner of Taxation will exercise a remission power to change the calculation method for GIC imposed on non-AIS accounts from a daily compounding basis to a simple interest method for the period 1 July 1999 to June 2000. The GIC will be applied on a daily compounding basis for all relevant revenue types from 1 July 2000. The ANAO considers that ATO could give priority to implementing systems changes to support the calculation of the GIC on a compounding basis as required by legislation.

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<sup>28</sup> Under *Taxation Laws Amendment Act (No. 3) 1999*.

<sup>29</sup> The ATO Integrated System supports the administration of the Pay-As-You-Earn, Prescribed Payments and Reportable Payments tax collection systems.

**3.60** The ATO advised that Parliament has been informed of the fact that the ATO is applying a simple, as opposed to a compound interest rate. The issue was raised in the 1998 Budget announcements of the GIC measures and in the Explanatory Memorandum to the Taxation Laws Amendment Bill (No.5) 1998 which first introduced the GIC into Parliament.

**3.61** The ATO also advised that this system change will need to be worked in with system changes required for other business, as well as for the large number of reform measures from the Government's 'A New Tax System' and those put forward under the Review of Business Taxes.

*Anomalies between Late Lodgement penalties applied by the ATO and imposed as a result of prosecution*

**3.62** The audit noted that significant anomalies have developed between the scale of penalties applied by the ATO and those imposed as a result of prosecution.

**3.63** The ATO's prosecution policy directs that a matter will not proceed where an administrative penalty by itself, or some other administrative response is appropriate. In appropriate cases, the administrative penalties can be supplemented by prosecution activity to reinforce the ATO's compliance goal.

**3.64** Following the amendment of section 8ZE of the *Taxation Administration Act 1953* (TAA) in 1995, where a person is liable to an administrative penalty and a prosecution is subsequently instituted against the taxpayer for a taxation offence (other than a *Crimes Act* offence) based on the same act or omission, the taxpayer is no longer liable to pay the penalty originally imposed.

**3.65** Where the ATO successfully prosecutes a taxpayer, the maximum fine for a first offence is \$2000 (section 8E(1)), \$4000 for a second offence (section 8E(2)) or \$5000 or 12 months imprisonment for a third or subsequent offence (section 8E (3)). Where taxpayers would be subject to a Late Lodgement Penalty greater than these amounts, they may choose to wait for the ATO to prosecute rather than pay a higher amount through the imposition of an administrative penalty. Examples of the discrepancy between potential administrative penalties and court fines include:

- a case where a taxpayer lodged 17 years returns that would have resulted in Late Lodgement Penalty of \$66 000. Instead, the court imposed a \$3000 fine; and
- a case where \$164 000 in Late Lodgement Penalty would have been applied however, the court imposed a fine of \$3000.



**3.66** While tax law is clear on the requirement concerning taxpayers' lodgement obligations there is inconsistency between court processes and the ATO administration of Late Lodgement Penalty.

**3.67** The ATO considers:

- the impact on revenue resulting from this problem to be very high, both directly from forgone late lodgement penalties and indirectly from assessment debts delayed by non-lodgement; and
- this issue affects a large number of taxpayers in a part of the taxpayer population where compliance is already low and where the ATO expends large amounts of its compliance resources.

**3.68** The ATO has advised that it is implementing measures to address this issue.

*Identification of late lodgement by 'nil' trading companies*

**3.69** ATO systems currently apply Late Lodgement Penalty incorrectly to nil trading companies<sup>30</sup> which do not normally have a requirement to lodge an income tax return. In some instances, nil trading companies lodge tax returns even though there is no requirement for them to do so. Where such returns are lodged late, ATO systems incorrectly apply a Late Lodgement Penalty.

**3.70** The ATO advised that it makes every attempt to ensure that taxpayers are not penalised incorrectly. Where a taxpayer is incorrectly penalised and that error is detected, the penalty is subsequently remitted. In relation to 'nil trading companies,' such companies cannot be differentiated from companies that trade but make no profits. It is a question of fact as to whether a company is or is not 'carrying on a business', an issue which cannot be readily ascertained from information on the tax return. In addition, the ATO advised that no system changes would allow correct differentiation between these classes of taxpayers in all cases.

**3.71** The ATO further advised that a label on the income tax return seeking information from taxpayers as to whether or not the company was a 'nil' trading company could resolve this problem. However it noted there are compliance costs associated with completing labels, as well as restrictions on space on the return, and there needs to be a balance between collection of information for ATO use and compliance costs for taxpayers.

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<sup>30</sup> Nil trading companies are companies which are defined as having no income, no deductions and/or no carried forward losses.

### *The tax agent lodgement program*

**3.72** A high number of taxpayers utilise tax agents to assist them with their tax affairs. It is estimated that tax agents lodge over 95 per cent of small business tax returns.

**3.73** For many years the ATO has offered registered tax agents the facility of a concessional lodgement program. The object of the program is to spread the workload of tax practitioners and the ATO, past the due date for lodgement for self preparers and into the following year.

**3.74** A major concern of the ATO in past years has been the gradual deferral of lodgements, particularly debt cases, to the end of the program. In one year, over 400 000 returns were lodged in the last week of April. This raises difficulties for the ATO, including its programs for detection of non-compliance. To address these concerns, the ATO has participated in a working party of the ATO/Tax Practitioner Forum (ATPF) to address this issue.

**3.75** The ATO has decided against making significant changes to the lodgement program for 1999–2000, instead focusing on addressing three key areas of concern:

- increasing numbers of very late returns;
- tax practices that fail to meet specified achievements at the end of the year; and
- tax practices that lodge substantial numbers of debit returns towards the end of the program.

**3.76** The ANAO recognises that the ATO has a role to play in assisting tax agents to lodge tax returns in a timely way. Developing appropriate lodgement programs will assist taxpayers in achieving compliance and reduce the need to impose Late Lodgement Penalty to improve their compliance behaviour.

**3.77** The ATO advised that the current Tax Agent Lodgement Program achieves a balance between controlling the workflows of both the ATO and Tax Agents. Tax Agents are finding their workloads are ever increasing and this is largely the reason why they fall behind in their lodgements. Under the New Tax System, Pay As You Go (PAYG) will be implemented. All business taxpayers will pay instalments (at least) quarterly, with the annual return becoming a balancing item. The ATO considers that this system should reduce the level of debit annual assessments and thus reduce the level of Late Lodgement Penalty by clients of Tax Agents.

## Improved analysis of penalty data

**3.78** The ATO collects a variety of data relating to the penalties it administers. As discussed in Chapter 2, the ATO does not routinely analyse its penalty data to assist in improving its administration of penalties.

**3.79** As part of the audit, the ANAO conducted an indicative analysis of available ATO data on Late Lodgement Penalty and Tax Shortfall Penalty to determine the extent to which the data may be useful to the ATO in improving its penalty administration. Given the limited nature of the data, the results reported here cannot be regarded as definitive.

**3.80** ATO data used for this analysis included:

- Late Lodgement Penalty and Tax Shortfall Penalty transactions during the 1997–98 and 1998–99 financial years where the penalties related to the 1995 to 1998 income years for companies and the 1996 to 1998 income years for individuals; and
- 1997–98 population totals for various taxpayer groups (most recent data available).

**3.81** ANAO analysis of this data sought to:

- profile groups of taxpayers that had received penalties to identify those taxpayer groups that were over-represented relative to their representation in the total population;
- determine socio-economic profiles of taxpayer groups receiving penalties to assist the ATO in better understanding its clients;
- identify the incidence of repeat-offenders<sup>31</sup> as a potential measure of the effectiveness of penalties; and
- review the consistency of ATO penalty administration.

**3.82** The ANAO engaged the services of the Australian Bureau of Statistics (ABS) to analyse taxpayer groups and quantify their incidence in the general population.

**3.83** Based on this indicative project, the ANAO considers the type of analysis shown in Figures 5 to 10 could provide a model for the ATO to develop a methodology to monitor and review taxpayer compliance levels and to measure the effectiveness of penalties.

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<sup>31</sup> For the purpose of ANAO analysis, a repeat offender was defined as a taxpayer receiving a Late Lodgement Penalty more than once in the period 1995 to 1998.

**3.84** The ATO has recently initiated a research project into taxpayer compliance through the ANU Centre for Tax System Integrity. The ATO data and the methodologies used in our analysis may be relevant to this project.

#### *Penalty profiling*

**3.85** The ANAO profiled those taxpayers that had received Late Lodgement and Tax Shortfall penalties as follows:

- individual taxpayers compared with business<sup>32</sup> taxpayers;
- small and large businesses relative to their representation in the total business population;
- industries relative to their representation in the total industry population; and
- individuals (by income bracket) relative to their representation in the total population (by income bracket).

**3.86** These profiles were designed to identify instances where taxpayer groups appeared to be over-represented relative to their representation in the total population to highlight particular groups of non-compliers that the ATO could investigate further.

**3.87** The application of Late Lodgement Penalty is largely automated, thereby improving the ATO's chance of detecting non-compliance with tax lodgement requirements. Conversely, Tax Shortfall Penalty is imposed manually and generally applied as a result of ATO investigations into the tax affairs of those groups it considers represent a risk to taxation revenue. The ANAO sought to compare the consistency of imposition of Late Lodgement and Tax Shortfall penalties between individuals and business taxpayers.

**3.88** As shown in Figure 5, the percentage of individuals incurring Late Lodgement Penalty and Tax Shortfall Penalty for 1997–98 and 1998–99 was relatively consistent at approximately three per cent of the population. There was a significant difference however, in the percentage of business taxpayers incurring Late Lodgement Penalty (approximately 32 per cent of the population) compared with Tax Shortfall Penalty (approximately 1 per cent of the population). It would be beneficial for the ATO to investigate whether the difference in the percentage of penalties applied to business taxpayers in relation to Tax Shortfalls compared with Late Lodgement, is an accurate reflection of the compliance levels of these taxpayers.

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<sup>32</sup> Business taxpayers are taxpayers in receipt of income from business activities.

**Figure 5:**

**Comparison of percentage of individual and business taxpayers penalised and associated value of penalties for 1997–98 and 1998–99 combined.**

<i>Classification of Taxpayers</i>	<i>Taxpayers Incurring Penalty (%)</i>		<i>Value of Penalties (\$M)</i>	
	<i>Late Lodgement Penalty</i>	<i>Tax Shortfall Penalty</i>	<i>Late Lodgement Penalty</i>	<i>Tax Shortfall Penalty</i>
Business	32	1	30	23
Individual	3	3	114	60

**3.89** As shown in Figure 6, small and large businesses incurred Late Lodgement Penalty at levels generally consistent with their representation in the total business population.

**Figure 6**

**Percentage of Late Lodgement Penalty applied in 1997–98 and 1998–99 by business size compared with their representation in the total business population.**

<i>Size</i>	<i>Business Penalised (%)</i>	<i>Total Business Population (%)</i>
Large	4.8	4.4
Small	95.2	95.6

**3.90** As shown in Figure 7, Large Businesses that received a Tax Shortfall Penalty in the two years 1997–98 and 1998–99 appear to be over-represented relative to their numbers in the total business population. The ATO could explore the possible reasons for this result and any need for refinement of its compliance strategies for large business.

**Figure 7**

**Percentage of Tax Shortfall Penalty applied in 1997–98 and 1998–99 by business size compared with their representation in the total business population.**

<i>Size</i>	<i>Business Penalised (%)</i>	<i>Total Business Population (%)</i>
Large	12.4	4.4
Small	87.6	95.6

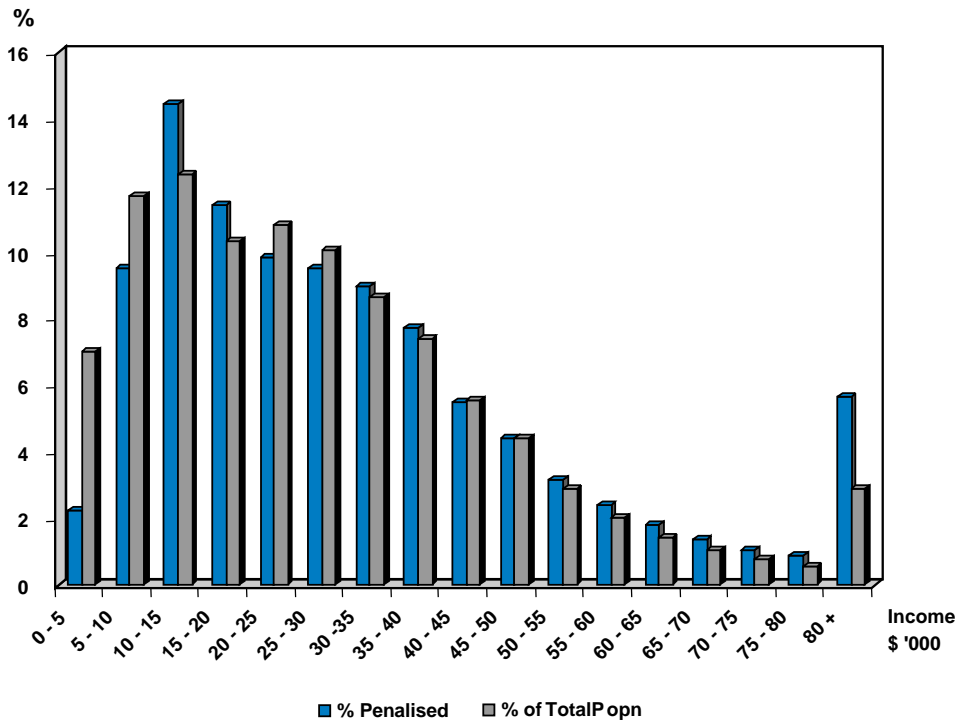
**3.91** ANAO analysis revealed that, overall, with a small number of exceptions, industry groups incurred Late Lodgement Penalty in these years at levels generally consistent with their representation in the overall industry population. This pattern was repeated in relation to Tax Shortfall Penalty.

**3.92** We examined the extent to which individuals in particular income brackets incurred both Late Lodgement Penalty and Tax Shortfall Penalty relative to their incidence in the total population. As shown in Figure 8, individuals in most income brackets (11 out of 17) appear to have incurred Late Lodgement penalty at a percentage greater than the percentage they

represent in the overall population, although for many the difference is small. This type of analysis could assist the ATO to focus its investigations on those income brackets where it considers significant lodgement compliance problems may exist.

**Figure 8**

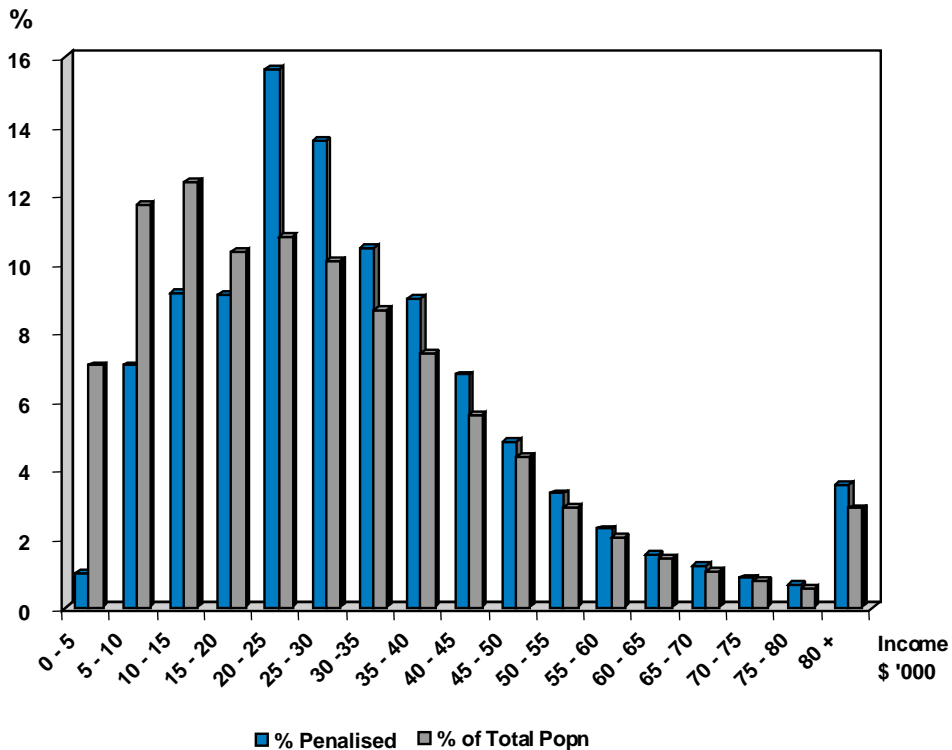
**Percentage of Late Lodgement Penalty applied in both 1997–98 and 1998–99 to individuals by taxable income bracket compared with their representation in the total population.**



**3.93** As shown in Figure 9, individuals in most income brackets appear to have received a Tax Shortfall Penalty at a percentage greater than the percentage they represent in the overall population. Again, this type of analysis could assist the ATO to focus its investigations on those income brackets where it considers significant compliance problems may exist.

**Figure 9**

**Percentage of Tax Shortfall Penalty applied in both 1997–98 and 1998–99 to individuals by taxable income bracket compared with their representation in the total population.**



### *Repeat Offenders*

**3.94** The ANAO examined the incidence of companies that received more than one Late Lodgement Penalty in the period 1995 to 1999. This type of analysis could identify indicators of penalty effectiveness in improving taxpayer compliance. Our analysis was conducted in relation to Late Lodgement Penalty. This penalty is largely automated, making it more likely that repeat offenders will be identified in subsequent years than is the case with Tax Shortfall Penalty.

**3.95** As shown in Figure 10, approximately 18 per cent of companies receiving a Late Lodgement Penalty in the period 1995 to 1999 were repeat offenders. With the findings from this type of analysis, the ATO could target compliance strategies towards those companies identified as repeat offenders. For example, a letter reminding them to lodge tax returns where they have received a Late Lodgement Penalty in recent years.

**Figure 10**

**Incidence of companies re-offending after receiving a Late Lodgement Penalty in the period 1995 to 1998.**

<b>No. of Re-Offences</b>	<b>No. of Companies Receiving LLP</b>	<b>Percentage Re-Offending (%) (a)</b>	<b>Penalty Value (\$)</b>
1	170 437	18.3	17 701 357
2	30 659	2.7	3 738 825
3	5758	0.2	400 090
4	464	0.0	32 790
5	104	0.0	7310
6	30	0.0	1990
7	14	0.0	990
8	5	0.0	420
9	1	0.0	120
10	2	0.0	90
11	0	0.0	0
<b>Total</b>	<b>216 474</b>	<b>21.2</b>	<b>21 883 982</b>

Note (a): Percentage of companies that received a Late Lodgement penalty more than once in the period 1995–98.

### *Other analyses*

**3.96** The ANAO considers there may be benefit in the ATO investigating whether correlations exist between taxpayers incurring different types of penalties. This may assist in determining whether taxpayers that are non-compliant in one area of the tax law are any more or less likely to be non-compliant in another area of the tax law.

**3.97** The ANAO was unable to complete the analysis of socio-economic profiles of taxpayer groups receiving penalties because of differences in the number of postcodes used by the ATO and ABS when aggregating data.



**3.98** The ANAO also examined data on penalty application and remission across the ATO with a view to assessing consistency. However, because the ATO's data was not complete and some ATO branch data included abnormal postings, the results were inconclusive. Nevertheless, our work indicates that there could be benefit in the ATO analysing data currently collected on penalties to assist in improving its penalty administration and in targeting its compliance strategies.

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A handwritten signature in black ink, appearing to read 'P. J. Barrett', is positioned above the printed name.

Canberra ACT  
16 February 2000

P. J. Barrett  
Auditor-General

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