

The Auditor-General
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Performance Audit

**The Australian Taxation Office's
Management of its Relationship with
Tax Practitioners**

Australian National Audit Office

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of Australia 2002

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Canberra ACT
2 December 2002

Dear Mr 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 *The Australian Taxation Office's Management of its Relationship with Tax Practitioners*.

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

A handwritten signature in black ink, appearing to read 'P. J. Barrett', is positioned below the 'Yours sincerely' text.

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

AUDITING FOR AUSTRALIA

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Abbreviations/Glossary

ANAO	Australian National Audit Office
ATO	Australian Taxation Office
ATOassist	ATO Web site
ATPF	ATO Tax Practitioner Forum
BASs	Business Activity Statements
BCC	Business Call Centre
CCR	Complex Case Resolution service
ELS	Electronic Lodgement System
GST	Goods and Services Tax
IASs	Instalment Activity Statements
ICAA	Institute of Chartered Accountants in Australia
IT	information technology
ITAA	<i>Income Tax Assessment Act 1936</i>
NTLG	National Tax Liaison Group
PTax	Personal Tax line
QA	quality assurance
TABs	Tax Agents' Boards
TPBIL	Tax Practitioner Business Infoline
TAIU	Tax Agent Investigation Unit
TPG&A	Tax Practitioner Group and Alliances Branch
TPRF	Tax Practitioner Relationship Forum

Summary and Recommendations

Summary

The ATO and tax practitioners—their activities and relationships

The ATO and the role of tax practitioners

1. The Australian Taxation Office (ATO) is responsible for the administration of Commonwealth taxation law and for the collection of Commonwealth taxation revenue.¹ In 2001–02, the ATO's desired outcome was 'effectively managed and shaped systems that support and fund services for Australians and give effect to social and economic policy through the tax system.'²

2. Tax practitioners have become an integral part of the tax system as intermediaries assisting taxpayers to deal with their taxation responsibilities. ATO internal and external communications often use the term 'tax agent'³ and 'tax practitioner' interchangeably. However, the ATO also uses the term 'tax practitioner' more broadly to encompass the range of individuals and groups whose profession or occupation involves working on taxation matters for clients. In referring to 'tax practitioners' in this audit, following advice from the ATO, we adopt the latter approach and therefore include in the term tax agents and the wider group of professionals working on taxation matters for clients. That said, our main focus is on the ATO's management of tax agents because they are the core element of the tax practitioner grouping and because their role is fundamental to the effective operation of the tax system.

¹ In 2001–02, the ATO's taxation revenues were \$173.5 billion (net of refunds and rebates). This calculation is based on the Economic Transaction Crystallisation Method of recognising administered revenue. See Commissioner of Taxation, *Annual Report 2001–02*, p. 261.

² The ATO's desired outcome changed for 2002–05 to: 'effectively managed and shaped systems that fund services for Australians and give effect to social and economic policy through the tax, superannuation, excise and other related systems.' *Portfolio Budget Statements 2002–03*, Treasury Portfolio Budget Related Paper No 1.16, pp. 170–171 outlines the old and new ATO outcome and output framework.

³ Registered tax agents are, broadly, the only registered parties who can legally charge for providing taxation services: e.g. preparing or lodging with the ATO an income tax return or objection on behalf of a taxpayer; giving advice about a taxation law; initiating appeal or review proceedings; and/or dealing with the Commissioner on behalf of a taxpayer. Providers of Business Activity Statement (BAS) services and solicitors and barristers acting in the course of their profession, may also charge fees for tax services.

3. The activities of the various types of tax practitioner⁴ differ, as do their relationships with their clients and the ATO. Despite the diversity in their activities and relationships, tax practitioners play important roles as intermediaries between the ATO and taxpayers because they variously interpret the law, advise taxpayers and 'educate' taxpayers in tax law matters and in some cases submit information to the ATO on behalf of their clients (i.e. taxpayer information).

4. The significance of tax practitioners in the operation of the tax system has increased very considerably in recent decades. Factors leading to this position include:

- rapid expansion of the scope and complexity of tax law,⁵ accompanied in recent years by shifts in reporting obligations on taxpayers flowing from the New Tax System;
- growth in complexity of business operations in the economy;
- more involvement of individual taxpayers in investment activities and income sources other than personal exertion;
- increased use of the tax system to make social payments as well as to collect revenue; and
- the shift towards self-assessment as the guiding principle of tax administration.⁶

5. These developments make the tax practitioners' roles significantly more relevant to the ATO in its efforts to achieve its desired outcomes than would have been the case two decades ago. The ATO has formally noted that tax practitioners are critical to the efficient and effective operation of the tax system.⁷ Tax practitioners can benefit the public administration of taxation law (enhancing the efficiency of the ATO's administration by streamlining the processes and linkages between the ATO and taxpayers and by their capacity to influence their clients' behaviour, thereby providing a key means by which the ATO seeks to

⁴ e.g. tax agents, bookkeepers lodging BASs and lawyers and accountants working in the taxation area.

⁵ A current (2002) publication of income tax legislation comprises more than 8800 pages in four volumes.

⁶ Self-assessment puts the onus on taxpayers to calculate their taxable income, to exercise reasonable care in keeping records, follow instructions and correctly interpret the taxation law. Previously, taxpayers submitted required documentation with their returns and the ATO made the assessment of tax payable.

⁷ See for example, comments made by the Commissioner of Taxation in his May 1997 speech to the Taxation Institute of Australia on ATO issues affecting the practitioner, that 'tax agents and other tax practitioners play a very significant role in the operation of this country's tax system', as well as his February 2001 announcement of measures to further assist tax practitioners and his speech to the Public Accountants Convention on 14 June 2002.

secure taxpayer compliance.)⁸ Tax practitioners can also benefit from their participation as intermediaries (e.g. with the ATO's provision of support services—priority services in some instances, and with regulated entry and conduct for the tax agent segment of the profession).

6. The ATO has stated that, as a priority, it invests in strategies to support the interaction of tax agents with the tax system. This is on account of the significant processing functions tax agents perform and because the ATO sees tax agents as a critical leverage point for its education and communication efforts.

Characteristics of tax practitioners—including the tax agent segment

7. As noted earlier, the tax agent segment is the core element of the tax practitioner grouping for the ATO because tax agents are of fundamental importance to it. The ATO maintains substantial information about the tax agent segment of tax practitioners due to the considerable interaction with this group. Tax agents are subject to statutory regulation. The registration and regulation processes also generate data to inform the ATO of the characteristics of this important segment.

8. The number of tax practitioners is understood to be increasing but the ATO does not have comprehensive data on the total number, or make-up, of the tax practitioner population (other than tax agents) in Australia.⁹ The ATO cannot be expected to have comprehensive data about the tax practitioner population because, in many instances, the ATO will not be aware of the tax practitioner's interaction with the taxpayer because it is not an interaction that necessarily involves the ATO at all. However, these interactions (e.g. the tax advice the tax practitioner provides) may bear on the ATO's administration of the tax system.

9. Various regulatory arrangements apply to the occupations and professional groupings constituting tax practitioners, but the ATO does not regulate tax practitioners.¹⁰ One sub-set of tax practitioners, *tax agents*, is regulated

⁸ Research findings in studies undertaken by the Centre for Tax System Integrity highlight this point. See Centre for Tax System Integrity, *Preliminary Findings from the Community Hopes, Fears and Actions Survey*, Working Paper No.3, April 2001.

⁹ As a very broad indication of the upper limit of numbers of tax practitioners, the combined membership of the six major professional tax and accounting associations is 170 000. This would overstate the number of tax practitioners because many professionals belong to more than one professional association, and only a proportion of the associations' members would be involved in tax affairs (as opposed to, say, general accounting and other financial services). On the other hand, some tax practitioners do not belong to professional associations.

¹⁰ For example, the providers of financial services, such as providers of financial product advice, are regulated under the *Corporations Act 2001*, tax professional associations have professional standards that apply to their memberships and some types of tax practitioner, such as solicitors and accountants, also have practice standards attaching to their profession.

through the *Income Tax Assessment Act 1936* (the ITAA).¹¹ The ATO does not administer directly the registration of tax agents. This is the function of independent statutory bodies, the Tax Agents' Boards (TABs), in each State.

10. At approximately 25 000 registrations in 2001–02, tax agents are considered by the ATO to be the largest component of the tax practitioner population. The following are illustrative¹² of some broad characteristics of the tax agent population:

- each tax agent has, on average, 599 clients but around half of the registered agents have fewer than 100 clients;
- close to 50 per cent of practices are located in inner metropolitan areas; and
- 80 per cent of their client base are individual taxpayers.

11. The use by taxpayers of registered tax agents has grown over time. In 1980, approximately 20 per cent of individual taxpayers sought professional assistance from tax agents to prepare income tax returns. By 2001, the proportion had risen to 76 per cent. The significance of tax agents' involvement in the tax system is shown by ATO processing statistics (e.g. tax agents accounting for 76 per cent of the 10.1 million individual returns, 94 per cent of the 0.6 million company returns and 51 per cent of the 1.8 million quarterly Business Activity Statements (BASs) in 2001–02).

The relationship between the ATO and tax practitioners

12. Key features of the ATO's relationship with tax practitioners are that it:

- is dynamic and multi-dimensional;
- requires the ATO to balance different (even divergent interests) between itself and tax practitioners; and
- is affected by the myriad of interactions between the ATO and tax practitioners and by matters that are not under the control of either party.

13. The tax practitioner community is itself very diverse. Even the segment of tax agents interacts operationally with many different parts of the ATO. Also, the ATO engages in a number of different functions under its legislation when it deals with tax practitioners (or particular segments, such as tax agents). These functions determine a range of different types of interactions. The latter include client support—providing legislation, policy and systems; service support—

¹¹ Part VIIA of the ITAA, and Part 9 of the *Income Tax Regulations 1936*.

¹² The characteristics were determined from various ATO data reported during 2000 and 2001.

providing information, technical and procedural assistance; active compliance; and regulatory support. The ATO also relates to tax practitioners because the latter are crucial stakeholders in tax administration, with practical expertise in the tax systems the ATO shapes and administers.

ATO management structure and resourcing

14. Tax practitioners' work is embraced in the activities of all 13 of the ATO's business and service lines, the ATO's organisational divisions. The ATO has established a dedicated unit in the Personal Tax (PTax) business line to manage and coordinate its relationship with tax agents, which are the particular focus of the ATO's relationship management efforts. This is called the Tax Practitioner Group and Alliances (TPG&A) Branch.

15. In addition to TPG&A's relationship management activities with tax agents, the ATO also consults and interacts with many other categories of tax practitioners as stakeholders who may represent or influence taxpayers (e.g. via its consultative bodies representing the personal tax, small business and large business 'market segments', its key client manager relationships with large business participants in the financial advisory industry, and consultations with tax agents and professional associations with a special interest in GST matters). Tax practitioners are also among the groups the ATO consults on specific tax measures.

16. The ATO does not attribute and collect data on the total costs of its management of its relationships with tax practitioners, or the tax agent segment, as relevant expenditure is diffused throughout the lines. An insight into the cost of management of the tax agent relationship can be gained, however, from TPG&A's expenditure (\$11.7 million in 2001–02 in direct costs, including \$1.2 million for the TABs) and the cost of the ATO Business Call Centre—the call centre most used by tax agents and other tax practitioners (\$56.4 million in 2001–02 in direct costs).

Objective and scope

17. The audit objective was to assess how well the ATO manages its relationship with tax practitioners. The ANAO was interested in the management of the relationship because tax practitioners are a key part of the ATO's operating environment. Importantly, the relationship bears directly on the efficiency and effectiveness of the operations of the tax system.

18. Our main focus was on the tax agent segment because this group is a priority for attention for the ATO given its fundamental importance to the tax system. However, we also looked at the overall relationship with the wider group

of tax practitioners practising in the taxation field, because the activities of the wider tax practitioner grouping also have varying impacts on the administration of tax legislation by the ATO.

19. The audit focused on selected ATO relationships with tax practitioners, in particular its regulatory relationship with tax agents, its service support relationship with tax agents and its relationship with tax agents and members of the wider tax practitioner group in the professional bodies, as key stakeholders in tax administration. The relationships selected broadly map the major functional areas of the TPG&A branch, which has current responsibility for management of the tax agent relationship. We also examined aspects of ATO call centre service support relevant to tax agents because they are an important mode of service support to tax agents and because the operation and performance of ATO call centres have been contentious in recent years.

20. In undertaking this audit, we sought to reflect the dynamic nature of the ATO's relationship with tax practitioners and, especially, the tax agent segment. In this context, there have been many changes in the ATO's activities in recent times. These include the agreement between the ATO and the tax and accounting professional bodies in September 2002 to improve ATO services, and agreed initial priorities in that regard. Priorities include the appointment of a senior executive ATO staff member to coordinate support programs for tax agents, reporting directly to the Commissioner; development of 'client' relationship manager models; improvement to on-line services and telephone services; and enhanced transparency around the performance statistics and information relating to tax agents.

21. We did not examine the ATO's activities providing client support via the ATO systems and legislation, nor did we review the compliance activities administered by areas of the ATO other than TPG&A.

Overall conclusion

22. Managing the relationship well is an ongoing and challenging task. The ATO's relationship with tax practitioners is dynamic, multi-dimensional and necessarily involves ambiguity and the balancing of different interests. Tax practitioners are not an homogeneous group. The ATO engages in a number of different functions with them at any one time. The relationship is affected by many factors, ranging from small, operational matters to high-level strategic issues and even matters outside the control of the parties themselves. Operational problems for either party can easily damage the relationship with adverse consequences for tax administration.

23. Aspects of the relationship have not been well managed in the past. The current relationship can generally be described as strained and tense. Our consultations showed that the ATO and tax agents and some other tax practitioners perceive a considerable measure of dissatisfaction with the relationship. Further, on a range of measures, overall perceptions of the relationship have been negative, and increasingly so, in some areas. Parties to the relationship consider that the present situation has arisen largely because of pressures placed on tax agents and other tax practitioners, and on the ATO's operational systems, by tax reform. For its part, the ATO has recognised that the demands of tax reform have stretched the capacity of many tax agents, in some cases, to breaking point. Problems with the ATO's systems exacerbate these workload strains for both parties to the relationship.

24. The ATO has recognised that improvements are required in its relationship with tax practitioners, and particularly with tax agents. It has been trying on many fronts, over the last two years or so, to better manage and enhance the relationship (e.g. with operational improvements to enhance services or remedy service problems, including dedicated phone services and special complaint resolution services; more extensive consultation processes with tax agents, and members of tax and accounting professional bodies; and reactivation of consideration of reform in the regulation of tax agents). It now has in place some useful mechanisms to support tax agent relationship management, and a renewed commitment from senior ATO staff. Although these measures are positive, the ultimate test is in the results.

25. In handling its complex, yet vital, relationship with tax agents, the ATO has established appropriate internal management, oversight and coordination mechanisms across its business lines. It also maintains a range of external liaison, consultation and communications systems that enable two-way dialogue with representatives of tax agents and the tax and accounting professional bodies. The ATO has substantial information about the characteristics of the tax agent segment of tax practitioners, but its knowledge of characteristics highlighting possible risks of non-compliance is less comprehensive. It is important that the ATO continues to seek to improve its knowledge of the 'compliance characteristics' of tax agents because of tax agents' fundamental importance in the tax system.

26. The ATO is developing, in conjunction with the tax and accounting professional associations, a model of differentiated service delivery for tax agents that it sees as contributing to the development of an overall strategic view for the ATO's relationship with that segment. Although the ATO has a statement of principles on tax agent relationship management, it does not have an integrated statement of its overall strategic framework for its various relationship activities for tax agents.

27. The ATO's development of its strategic framework for its relationship with tax agents would be enhanced by it developing an integrated and consistent statement of its intended strategic relationship with tax agents that takes into account the many different dimensions of the ATO/tax agent relationship. The ATO's separate strategies for the wider tax practitioner group are based on the tax practitioners' risk and leverage (influence) in the tax system. However, the objectives for the ATO's various relationships with the wider tax practitioner group are not necessarily clearly specified. The ATO's development of its strategic framework for its relationship with the wider tax practitioner group would be enhanced by the ATO ensuring its strategies specify its objectives in dealing with the wider tax practitioner group and clarifying how these objectives will be pursued.

28. The ATO has not developed performance information about the operation of the relationship management systems it has in place in respect of tax agents and the members of tax and accounting professional bodies for which it also has some formalised consultative arrangements. As well, it has not articulated a clear, comprehensive and consistent statement of the respective roles and responsibilities of itself and tax agents in the operation of the tax system.

29. The ATO has given proper emphasis to its tax agent compliance responsibilities in its regulatory relationship with tax agents. It is seeking to develop a differentiated approach to service to secure taxpayer compliance through tax agents and other tax practitioners, such as the providers of BAS services, based on the modelling of performance characteristics of the tax agents and such tax practitioners in question and using combined incentives and penalties. It has, over the years, established a range of education, information and call centre services to facilitate the roles of the tax agent segment of tax practitioners. But because the ATO has not developed a clear and consistent strategic framework in which its diverse interests with tax agents can be designed, pursued and developed, its own capacity to get the best out of the relationship for both administrative efficiency and compliance purposes is constrained. The limitations also constrain the ATO's capacity to assess the magnitude of costs and to better meet the frustrations and concerns of the tax agents themselves in working in an increasingly complex taxation law system.

30. The National Review of Standards for the Tax Profession placed on record, in 1994, challenges and ideas for reform of the tax agent regulatory framework, but there has not been the fundamental reform canvassed in that report. As of July 2002, responsibility for the design of tax law and regulations, including for the review of standards for the tax profession, was passed from the ATO to the Treasury. The ATO has advised that it is no longer responsible for contributing to policy development and design but it will continue to provide a view on

administrative impacts. As such, the ATO can be expected to continue to take a close interest in the appropriate involvement of the tax and accounting professional groups in the design processes for any new regulatory scheme and in how the regulatory system (and possible changes to it) impacts on its relationships with tax agents. Resolution of this longstanding matter of reform of the regulatory framework may help to improve the ATO's relationship with tax agents.

Recommendations

31. The ANAO made 10 recommendations aimed at improving the ATO's management of its relationship with tax agents and some other practitioner groups and to complement the ATO's initiatives agreed in September 2002 with the tax and accounting professional associations to address the priority areas for tax agent service improvement.

ATO response

32. The ATO agreed with all the recommendations.

33. In its response in November 2002, the ATO also noted that since the ANAO completed the fieldwork for the audit, the ATO had made major new approaches and breakthroughs¹³ to improve its relationship with tax agents, including:

- appointment of a First Assistant Commissioner, reporting directly to the Commissioner to coordinate support programs for tax agents;
- improved telephone services, including prioritising tax agent phone calls, streamlining the number of access points for tax agents, 'cleaning up' proof of identity processes, and incorporating further expertise into the call centres to expand the one-stop shop services for tax agents. Early in 2003, new technology will be introduced to allow tax agents to get back to the ATO officer with whom they spoke, if available;
- on-line services. The Tax Agent Portal was launched on 3 October 2002 providing tax agents with detailed information about their clients and on-line access to new and improved products and services, including tailored reports to their clients;
- an increased level of education visits to tax agents on how to optimise the use of technology in their practice, including how to get the most out of the ELS software and the ATO website;

¹³ References to these measures are included in the audit report.

- working with the tax agent industry to develop jointly some breakthrough strategies in the lodgement program for tax agents; and
- developing a tax agent relationship manager model which would provide each tax agent with more than 100 clients with an ATO client manager. The client manager would assist the tax agent with difficult or unresolved enquiries and be available to provide personal visits and product updates. The model is being trialed in Tasmania and Victoria in December 2002, with staged implementation planned for the first half of 2003.

Acknowledgements

34. The ANAO wishes to express its appreciation for the time, effort and expertise contributed by ATO staff during the audit. The ANAO also thanks the individual tax agents and other tax practitioners, the members of the professional organisations and other stakeholders we consulted.

Key Findings

Background and Context—Chapter 1

35. Tax practitioners are a very diverse group and there are many aspects to their dynamic relationship with the ATO. Because the interests of the ATO and tax practitioners are not identical and because the relationship is affected by many factors (including factors not even within the parties' control), the ATO's multi-faceted relationship with tax practitioners is dynamic, complex and necessarily involves ambiguity.

The ATO's Management Framework and Governance Arrangements—Chapter 2

The ATO management framework and coordination arrangements

36. The tax agent segment of tax practitioners is the core grouping with which the ATO seeks to interact, to support and to maintain a relationship, because it sees tax agents as a critical leverage point for its education and communication efforts. The ATO consults and interacts with many other categories of tax practitioners as stakeholders who may represent or influence taxpayers (e.g. via its consultative bodies representing the personal tax, small business and large business 'market segments', its key client manager relationships with large business participants in the financial advisory industry, and consultations with tax agents and professional associations with a special interest in GST matters). However, quite reasonably, the ATO does not have the same approach to relationship management and governance for these groups, as it does for tax agents.

37. The ATO has a good management framework (with the Tax Practitioner Relationship Forum being the key body in the ATO for coordination of activities with tax agents), and management staff are highly motivated. The activities of all of the ATO's business and service lines bear directly or indirectly on the ATO's relationship with tax agents and other tax practitioners but TPG&A is the focus of responsibility for management and coordination of the tax agent relationship. The efforts of managers in the ATO lines would be better supported if the relationship responsibilities of TPG&A, which has corporate responsibility for the ATO's relationship with tax agents, were spelt out and the tax agent relationship responsibilities of other lines were more clearly defined.

The strategic framework elements and a coherent and consistent statement of this

38. The ATO is applying a range of different corporate principles to guide the strategic direction of its relationship with tax agents and tax practitioners, more generally. These corporate principles have been developed for different purposes and with different audiences in mind. The ATO has not formulated a statement of its ATO-wide strategy for tax agents and other practitioners that spans the various dimensions of its tax agent relationship and its relationship with members of the wider tax practitioner group as appropriate (and its various relationship activities), in an integrated and consistent way. Among other things, a coherent, statement of the ATO's strategic relationship framework would help to remove the uncertainty and confusion in some tax agents' minds as to the shape of the relationship, if any, that the ATO wants with them, i.e. the ATO's core grouping. Such a statement of the strategic relationship framework would also be a useful reference point in the ATO pursuing its objectives for tax practitioners other than tax agents.

Tax agent roles and responsibilities statement

39. It would be useful for the ATO to supplement its high-level statements of relationship principles (the Taxpayers' Charter and the tax agent relationship management principles statement) with a tax agent 'roles and responsibilities statement' to clarify, and make explicit, many of the ideas that, at present, are only implicit in the ATO's interactions with tax agents.

Corporate planning and review

40. The ATO's corporate planning and review processes are well-developed. However, the planning and reporting framework for 2001–02 for the management of the tax practitioner program by TPG&A does not include the important elements of the objectives of the tax practitioner program in relation to the ATO's own relevant statements of purpose (maintaining community confidence and overall compliance). Nor does it include relevant benchmarks to assist in assessing performance.

Relationship management performance in the governance framework

41. The ATO's assessments of relationship performance with tax agents:
- were very specific in focus (mostly related to timeliness of processing, although qualitative assessments of tax agent perceptions are undertaken in community surveys from time to time);

- were not brought together for ATO senior management in a consolidated report with a tax agent focus;
- did not appear to be used explicitly by the ATO's relationship management mechanisms; and
- were not used clearly, in a consolidated way for relationship governance to improve performance.

The ATO's knowledge of tax practitioners

42. The tax agent segment of tax practitioners is the core element of the tax practitioner grouping for the ATO. The ATO does not seek to provide the same level of support across the provision of broader tax advice by members of the wider tax practitioner grouping as it does in respect of tax agents. Indeed, in many instances, the ATO will not be aware of the tax practitioner's interaction with the taxpayer, or their advice, and it cannot be expected to be. Although the ATO has information about the tax agent segment of tax practitioners because this is its priority area for attention, the ATO's knowledge of their characteristics highlighting possible risks of non-compliance is less comprehensive. Such knowledge of the 'compliance characteristics' of this segment is fundamental to the ATO effectively applying its compliance model to tax agents as it intends. However, it is undertaking work that should enhance its knowledge of the compliance attitude of this important segment and of the effectiveness of its measures with tax agents. The ATO's analytical work around the characteristics and behaviours of tax agents will assist the ATO to undertake risk management and relationship management work across the ATO, to better manage its relationship with tax agents.

43. While not expecting the ATO to have information to the same extent on the wider tax practitioner population, it is also important that the ATO continues to enhance its information about the characteristics of the wider tax practitioner population relevant to it, including especially tax practitioners lodging activity statements and providing relevant BAS advice, and intelligence about other relevant types of tax practitioners. Information about the latter groups is important because they can bear on ATO activities such as the management of Aggressive Tax Planning, priorities in the provision of technical advice to clarify the law (e.g. via public rulings) and the scoping and targeting of its support and compliance efforts, more generally.

Maintaining and Developing the Relationship— Chapter 3

Principles of an effective professional relationship and the current state of the relationship

44. Based on our research and interviews with ATO staff, tax professional organisations, tax agents and other tax practitioners, the parties consider the following features in the relationship to be important:

- trust;
- understanding;
- effective, two-way communication;
- real respect for the other's capabilities;
- effective problem solving; and
- commitment.

45. Overall, the current relationship between the ATO and tax agents and other tax practitioners including members of the tax and accounting bodies, can generally be described as strained and tense. Our consultations showed that the ATO and tax agents, in particular, perceive a considerable measure of dissatisfaction with the relationship. For the ATO's part, this relates to some tax agents' service expectations, and some tax agents' reluctance to embrace technology and electronic systems that might assist them for example, and for tax agents, relates to confidence in the information and advice the ATO provides. The ATO has recognised that the demands of tax reform have stretched the capacity of many tax agents, in some cases, to breaking point.¹⁴ In these circumstances, the ANAO considers that the ATO needs to take further initiatives to restore relationships with the tax agent community and members of the tax and accounting bodies as a basis for further improvement in the effectiveness of the tax system. For its part, the ATO has, among other things, placed increased emphasis on extending and improving its consultation processes with tax agents and other tax practitioners, including representatives of the tax and accounting bodies.

46. In August 2002, The Institute of Chartered Accountants in Australia (ICAA), supported by other accounting professional bodies,¹⁵ commenced a public campaign highlighting members' concerns and frustrations with the complexities of the tax administrative system, the extent of ATO service support

¹⁴ The term 'tax reform' encompasses implementation of a number of measures initiating the Government's 'A New Tax System' and 'New Business Tax System.'

¹⁵ Such as the Taxation Institute of Australia and the National Tax and Accountants Association.

and the ATO's compliance demands on tax agents, and threatening to abandon electronic lodgement of tax returns as of 28 October 2002 unless members perceived improvements in the ATO's quality of service and support.¹⁶ The campaign prompted the Commissioner of Taxation to call a meeting with a number of the tax and accounting professional bodies on 3 September 2002 and provided added impetus for the ATO to continue to strive to improve services for tax agents. The meeting resulted in: a cooperative agreement about improvements required to the services provided by the ATO; identifying initial priorities for attention in improving services for tax agents; and foreshadowing regular meetings between the Commissioner and the professional bodies to exchange ideas on administrative issues and to review progress on improved services to tax agents.¹⁷ On 29 October 2002, the ICAA decided to extend the deadline for the possible abandonment of the electronic lodgement of tax returns until 28 January 2003 (the date by which the next BAS must be lodged). The ICAA indicated that it had decided to extend the process of monitoring ATO efforts to improve services while allowing the ATO more time to implement specific undertakings, meet identified deadlines and to maintain the momentum of change.

Consultative forums

47. The ATO's machinery for consultation and information sharing with the professional associations representing tax agents and other tax and accounting practitioners is one of its main devices to maintain and develop its relationships with the tax practitioner community. This includes a system of consultative committees for liaison at the national and regional levels. The ATO has formally reviewed the operations of some consultative committees but not others. Nor does it collate the costs of the liaison and consultation aspects of its relationship with tax agents and members of the tax and accounting professional bodies in order to quantify its efforts in this regard.

ATO Services to Tax Agents—Chapter 4

48. The ATO supports tax agents by providing extensive education, communication and technology support to them. The provision of service support by the ATO to tax agents is designed to complement tax agents' own resources and those of the professional associations or other bodies to which

¹⁶ See Appendix 1 and Appendix 2 for the ICAA media release and open letter to the Commissioner on the campaign, respectively.

¹⁷ See Appendix 3 for the joint media statement announcing the cooperative agreement between the ATO and the professional bodies about improvements required, priorities for attention and ways to exchange ideas and to monitor progress.

they belong. In providing service support, the ATO also seeks to support tax agents to 'help themselves'. The fact that some tax agents are not technologically proficient or have been slow to embrace technology in their businesses, impacts on the ATO's support delivery approach (especially its efficiency and cost-effectiveness) and these tax agents' ability to obtain the service support they need. However, a continuing concern for tax agents is the limited capacity and complexity of some of the ATO's technological and administrative systems (e.g. limitations around the phone systems, delays in mail processing and the complexities of the ATO's administration of the PAYG instalment system, causing variable levels of ATO service).

Management of technology support programs

49. Technology support for tax agents is managed by the PTax Technology Support Section.¹⁸ Given the importance of technology across the ATO and its significance for tax agents, there is merit in the ATO having a coordination capacity to ensure the interests of tax agents and the impacts on tax agents are taken into account in ATO considerations on technology.

Telephone services for tax agents

50. Telephone services such as those provided by call centres are a key way by which the ATO provides service support to tax agents. However, there have been many service problems such as in access to services, protocols regarding call handling, staff skilling and abilities. These difficulties have been a major cause of dissatisfaction for tax agents.

51. Some tax agents use the phone services very heavily. ATO records show that, where individual tax agents could be identified, some tax agents call the ATO's call centres up to five to 10 times per day. We have seen evidence of tax agents' frustration in having to call the ATO even much more frequently than that.

52. While the ATO has sought to remedy the many problems in telephone services for tax agents, these services require ongoing, specific attention (including technology and service management) to derive consistent improvements in performance in terms of access, timeliness and quality of service.

¹⁸ The PTax Technology Support Section also handles the provision of technology support relevant to the operations of the rest of the PTax line, including technology systems relevant to PTax's public assistance, compliance, tax technical and interpretation functions, and business support systems for the line as a whole.

Strategic direction in providing services to tax agents

53. The ATO's implicit strategy in service provision is to top-up the skill base of the agents who are registered and provide ongoing information about breaking developments over which the ATO has privileged knowledge. That implicit strategy is, however, consistent with a wide range of service provision options. At present, the ATO does not have a clear strategic position as to the extent to which it expects tax agents to be self-reliant and the nature and extent of its supplementary role. The ATO has been working on developing a possible 'relationship management prototype' for tax agents that focuses particularly on how the ATO might assist tax agents with their practice management issues. The ATO's work on developing such a relationship management prototype underscores the need for it to have a clear strategic position in relation to the provision of services for tax agents (spanning for example, education and communication and technical support, practice management assistance and regulatory services).

Performance management—planning, implementation and review of services

54. Although the ATO provides extensive services to support tax agents, it has not established an overall, strategically-focussed plan for its tax agent-related education, communication and technology support programs and processes. It actively uses its complaints process specific for tax agents (the Complex Case Resolution service), as a source of operational intelligence to contribute to its implementation processes.¹⁹

55. In examining timeliness and quality aspects of services we found that although the ATO is not fully meeting the service standards for tax agents that it has set for itself (for correspondence and phone calls to the Issues Resolution Unit in TPG&A), it is exceeding its timeliness standards for tax agent phone calls to the dedicated Tax Practitioner Business Infoline (TPBIL). The ATO does not conduct regular, specific, Quality Assurance (QA) review exercises on calls made by tax agents, or regular QA reviews focusing on TPBIL specifically. A one-off QA review process conducted in January 2002 relating to calls from tax agents to various ATO telephone contact points (including TPBIL) suggests that improvements in the quality of telephone responses deserve the ATO's ongoing attention. To achieve this, ongoing national QA review processes, specific to tax agents' contact with the various ATO telephone services, are required to provide

¹⁹ The ATO's September 2002 discussion paper on its relationship management prototype for tax agents proposes the Complex Case Resolution service be replaced by other issue management mechanisms. The discussion paper does not explain how issues raised would be captured as a source of operational intelligence in the ATO managing the tax agent relationship. See Chapter 4.

more comprehensive QA data for tax agent calls. TPBIL advised in September 2002 that in future it will produce monthly reports on its tax agent QA assessment results.

56. The ATO has not evaluated the effectiveness of its ongoing communication processes relevant to tax agents²⁰ or that of its tax agent-relevant technology support programs to the same extent as some of its significant education deliverables. The ATO's management of its various tax agent-related support services would be enhanced by evaluating the effectiveness, including, to the extent possible, the cost-effectiveness, of major education, communication and technology support programs.

Regulation of Tax Agents—Chapter 5

Performance issues and improvements

57. The statutory regulatory scheme focuses on the tax agent segment of tax practitioners. The current regulatory scheme for tax agents is of long standing. Its features have been little changed since the 1940s without substantial review. Policy-level attention has been directed at the scheme from time to time, most recently in the early 1990s with the Report of the National Review of Standards for the Tax Profession.

58. Stakeholders and the ATO expressed concerns about the current regulatory scheme (e.g. exclusion of important participants in the tax system, the limited sanctions powers available, the limited practical guidance for tax agents as to what constitutes appropriate professional conduct and the scope for the State-based Tax Agents' Boards (TABs) to apply different administrative processes, resulting in uneven application of regulation procedures across States and Territories in regard to registration processing and monitoring activities).

59. The performance of the ATO staff providing secretariat services to the TABs, in terms of the timeliness of their services has been of a very high standard. In fact, they have exceeded their performance targets.

60. Rather than pursuing large-scale change that would necessarily involve legislative initiatives, the ATO has, particularly over the last 12 months, sought to improve the efficiency and consistency of practices amongst TABs within the current framework. These initiatives are sound. There is also scope for the ATO to undertake work to address some key issues in the functioning of the system that would facilitate progress on considering the administrative aspects of any regulatory reform (such as seeking data on relevant segments of the tax

²⁰ e.g. *the Tax Agent* newsletter.

practitioner population and working on a comprehensive, strategic approach to the ATO's relationship with tax agents and the pursuit of the ATO's objectives in regard to tax practitioners other than tax agents).

Proposals for reform of the system

61. While progress on reforming the regulatory framework for tax agents and possibly other types of tax practitioners has been slow, we recognise that the ATO has recently taken sound measures to secure administrative efficiencies within the current regulatory framework. The ATO's efforts since late 2001 with tax practitioner representatives as part of the National Tax Liaison Group Regulatory Framework Working Group to reactivate work and discussion around the required reforms of the regulatory framework, are timely.

62. Significant work has been done since the Working Group was formed. The June 2002 version of the draft discussion paper proposes a replacement framework of regulation which would address many concerns of stakeholders. However, as drafted in June, that discussion paper does not clearly specify the objectives of the regulation of the providers of 'taxation services', called in the discussion paper 'registered tax practitioners'. Nor does it specify the ATO's role in the draft new regulatory arrangements, including whether the Tax Agent Investigation Unit, which provides support to the regulatory authority under the current framework, would continue to have a role in supporting the proposed national board. The ATO advised in September 2002 in response, that recent versions of the new regulatory framework discussion paper have defined the intent of the proposals. It also advised that it was difficult to define at this stage, the extent of the role of the ATO in the proposed regime.

63. As of 1 July 2002, responsibility for the design of tax law and regulations, including for the review of standards for the tax profession, was passed from the ATO to the Treasury. Given that the ATO will continue to provide a view on administrative impacts of any reform proposals and given its relationship management interest with tax agents, it will be required to take a close interest in the appropriate involvement of the tax agent and tax professionals' groups in the design processes for any new regulatory scheme and be attentive to how the regulatory system and possible changes to it impacts on its relationships with tax agents. Resolution of the longstanding matter of reform of the regulatory framework may help to improve the ATO's relationship with tax agents.

Recommendations

Set out below are the ANAO's recommendations aimed at improving the ATO's management of its relationship with tax practitioners. Report paragraph references are included here. Recommendations 2 and 8 focus on strategic matters; Recommendations 1, 3, 4 and 10 focus on issues of planning and determination of roles; and Recommendations 5, 6, 7 and 9 focus on issues of implementation and review. The ANAO considers that the ATO should give priority to Recommendations 2, 4, 5, 8, 9 and 10. These recommendations complement the action the ATO agreed in September 2002 with the tax and accounting professional bodies to undertake to improve services to tax agents.

**Recommendation
No.1
Paragraph 2.14**

The ANAO recommends that, to enhance its management of the tax agent relationship, the ATO specify more clearly the responsibilities and expectations of the Tax Practitioner Group and Alliances Branch and other ATO areas involved in managing the various aspects of the ATO relationship with tax agents.

ATO response: Agreed.

**Recommendation
No.2
Paragraph 2.48**

The ANAO recommends that, to enhance the development of a strategic framework for its relationship with tax agents and the wider group of tax practitioners, the ATO:

- further develop its strategies for its relationship with tax agents by developing an integrated, consistent and visible statement of its ATO-wide strategic framework, including the ways success in the management of the relationship can be assessed; and
- ensure that its strategies relating to tax practitioners (other than tax agents) specify its objectives and clarify how these objectives will be pursued.

ATO response: Agreed. Strategies are in place to pursue these objectives as part of the ATO corporate planning processes.

**Recommendation
No.3
Paragraph 2.53**

The ANAO recommends that, to supplement its high-level statements on tax agent relationship management, the ATO develop a tax agent roles and responsibilities statement that makes the ATO's operational expectations and undertakings more apparent.

ATO response: Agreed. The development of a tax agent roles and responsibilities statement, by its very nature, should be developed collaboratively with tax agents and their professional associations.

**Recommendation
No.4
Paragraph 2.65**

The ANAO recommends that, to improve its governance planning and reporting of tax agent relationship management, the ATO:

- clarify the scope and objectives for its 'Tax Practitioner Program' and identify how the program's activities contribute to those objectives; and
- reflect those objectives and performance measures in its corporate planning and reporting framework.

ATO response: Agreed.

**Recommendation
No.5
Paragraph 2.82**

The ANAO recommends that, for improved knowledge of tax agents and better management of the relationship, the ATO refine its work to:

- identify and analyse the characteristics of the tax agent population; and
- consolidate its assessment of its performance in managing the relationship by drawing together qualitative and quantitative information, to prepare an overall assessment of the relationship; and communicate this and subsequent plans to internal and external stakeholders.

ATO response: Agreed. The recently appointed First Assistant Commissioner has initiated a research and analysis program into issues confronting the profession. The professional bodies are working cooperatively with the ATO on this program.

**Recommendation
No.6
Paragraph 3.35**

The ANAO recommends that, for appropriate assurance on the relevance and cost-effectiveness of the investment the ATO, tax agents and the tax and accounting professional bodies make in their consultative relationship, the ATO periodically assess the costs and benefits of the consultative committees and their performance, at least in broad terms.

ATO response: Agreed.

**Recommendation
No.7
Paragraph 4.18**

The ANAO recommends that, to enhance its management of tax agent technology matters, the ATO establish a technology support coordinator to:

- liaise across the ATO on matters that relate to the interaction of information technology and tax agents; and
- participate as an ongoing member of the Tax Practitioner Relationship Forum.

ATO response: Agreed.

**Recommendation
No.8
Paragraph 4.48**

The ANAO recommends that, to clarify its strategic direction in providing services to tax agents, the ATO:

- clarify the extent to which it expects tax agents to be self reliant in generating the knowledge they require to operate successfully; and
- establish the most effective supplementary role it can perform through targeted education, communication and appropriate technology support services.

ATO response: Agreed. This would appropriately be done in collaboration with tax agents and their professional associations.

**Recommendation
No.9
Paragraph 4.83**

The ANAO recommends that, to improve the effectiveness of its provision of telephone support services to tax agents, on an ongoing basis, the ATO:

- assess tax agent-related telephone service performance against timeliness standards;
- conduct national quality assurance reviews of tax agent calls to ATO telephone services and report results of such reviews to senior management; and
- regularly report publicly on tax agent-relevant telephone support service performance levels, particularly on timeliness and quality.

ATO response: Agreed. The ATO is already assessing tax agent-related telephone service performance against timeliness standards. We are already undertaking quality assurance reviews of tax agent calls and are further developing our quality assurance capability. We report weekly on telephone service performance levels (and other performance statistics) on our Tax Agent Portal.

ANAO comment: We note the ATO's advice. As well as addressing the timeliness aspects of tax agent telephone services, it is important that the ATO continues to take action to address quality aspects of tax agent phone services because they are of fundamental importance to the ongoing relationship.

**Recommendation
No.10
Paragraph 4.89**

The ANAO recommends that, to enhance its planning and review of tax agent-related service support functions, the ATO, consistent with its overall service support strategy for tax agents:

- establish, and act in accordance with, an overall plan for its tax agent-related education, communication and technology support programs and processes, including setting out clearly:
 - objectives to be pursued for meeting the needs of tax agents;
 - appropriate strategies for achieving objectives; and
 - realistic performance measures against which the outcomes of the programs and processes can be evaluated; and
- assess the overall costs and implement an ongoing program of reviews of the effectiveness, including cost-effectiveness, of major education, communication and technology support programs and processes.

ATO response: Agreed. An Education and Communication Working Group has already been established with practitioner representatives to co-design, review and prioritise education programs.

Audit Findings and Conclusions

1. Background and Context

This Chapter provides background on the Australian tax system, the activities of tax practitioners in the tax system and relationships between the ATO and tax practitioners. It also describes the audit objective and methodology.

The Australian taxation system and the place of tax practitioners in it

1.1 The Australian Taxation Office (ATO) is responsible for the administration of Commonwealth taxation law and for the collection of Commonwealth taxation revenue.²¹ In 2001–02, the ATO's desired outcome was 'effectively managed and shaped systems that support and fund services for Australians and give effect to social and economic policy through the tax system.'²²

1.2 Tax practitioners function as intermediaries between taxpayers and the ATO and they have become an integral part of the tax system in assisting many taxpayers to deal with their taxation responsibilities.

Who are 'tax practitioners'?

1.3 There is considerable imprecision in the terminology relating to 'tax practitioners'. Illustrative of this, ATO internal and external communications often use the term 'tax agent'²³ and 'tax practitioner' interchangeably. Yet sometimes the ATO also uses the term 'tax practitioner' to encompass the broad range of individuals and groups whose profession or occupation involves working on taxation matters for clients. Following advice from the ATO, we adopt the latter approach in this audit and therefore include in the term 'tax practitioner', tax agents and the wider group of professionals working on taxation matters for clients.

²¹ In 2001–02, the ATO's taxation revenues were \$173.5 billion (net of refunds and rebates). This calculation is based on the Economic Transaction Crystallisation Method of recognising administered revenue. See Commissioner of Taxation, *Annual Report 2001–02*, p. 261.

²² The ATO's desired outcome changed for 2002–05 to: 'effectively managed and shaped systems that fund services for Australians and give effect to social and economic policy through the tax, superannuation, excise and other related systems.' *Portfolio Budget Statements 2002–03*, Treasury Portfolio Budget Related Paper No 1.16, pp. 170–171 outlines the old and new ATO outcome and output framework.

²³ Registered tax agents are, broadly, the only registered parties who can legally charge for providing taxation services: e.g. preparing or lodging with the ATO an income tax return or objection on behalf of a taxpayer; giving advice about a taxation law; initiating appeal or review proceedings and/or dealing with the Commissioner on behalf of a taxpayer. Providers of Business Activity Statement (BAS) services and solicitors and barristers acting in the course of their profession, may also charge fees for tax services. The regulation of tax agents is described briefly later in this Chapter and, in detail, in Chapter 5.

1.4 The activities of the various types of tax practitioner²⁴ differ, as do their relationships with their clients and the ATO. For example, for tax lawyers and advisers, their relationship may be primarily one with their taxpayer client²⁵ (although some may interact with the ATO when representing their clients in particular matters).²⁶ This is quite different from the relationship tax agents and Business Activity Statement (BAS) service providers (such as bookkeepers and people providing payroll services to an employer) have, because tax agents and BAS service providers not only relate to their client, but also relate to the ATO as direct suppliers, to the ATO, of information about taxpayers' affairs. Despite the diversity in their activities and relationships, tax practitioners play important roles as intermediaries between the ATO and taxpayers because they variously interpret the law, advise taxpayers and 'educate' taxpayers in tax law matters and in some cases, as noted previously, submit information to the ATO on behalf of their clients (i.e. taxpayer information). That said, our main focus in this audit is on the ATO's management of tax agents because they are the core element of the tax practitioner grouping and because their role is fundamental to the effective operation of the tax system.

The growth of the profession of tax practitioner in a changing environment

1.5 Tax practitioners have been important intermediaries between the taxation administration and some taxpayers for a long period, but the significance of tax practitioners in the operation of the tax system has increased very considerably in recent decades. Factors leading to this increase include:

- rapid expansion of the scope and complexity of tax law,²⁷ accompanied in recent years by shifts in reporting obligations on taxpayers flowing from the New Tax System;
- growth in complexity of business operations in the economy;
- more involvement of individual taxpayers in investment activities and income sources other than personal exertion;

²⁴ e.g. tax agents, bookkeepers lodging BASs and lawyers and accountants working in the taxation area.

²⁵ For example, a chartered accountant practice providing accounting, taxation, consulting and financial advisory services may employ tax specialists to provide specialist advice to clients, or some enterprises may have a corporate tax adviser to undertake tax compliance functions for the firm (e.g. reviewing the firm's tax income tax and fringe benefits returns) and to undertake major tax projects including taxation planning.

²⁶ See discussion in Chapter 5 of this report noting that the June 2002 draft discussion paper on a new regulatory framework for 'registered tax practitioners' proposes that the current regulatory framework be expanded to include professionals representing a person in dealings with the Commissioner about that person's obligations, rights or entitlements under a taxation law.

²⁷ A current (2002) publication of income tax legislation comprises more than 8800 pages in four volumes.

- increased use of the tax system to make social payments as well as to collect revenue; and
- the shift towards self-assessment as the guiding principle of tax administration.²⁸

1.6 As a result, a high and growing proportion of taxpayers use tax practitioners to assist them with their tax affairs. These developments make the role of tax practitioners significantly more relevant to the ATO in its efforts to achieve its desired outcomes than would have been the case two decades ago.

The participation of tax practitioners in the tax system

1.7 The activities of tax practitioners (the grouping of professionals practising in the taxation field) impact on the administration of the tax legislation by the ATO. In many important ways the ATO has built into its planning, its systems and its operations the expanding role of tax practitioners. It has formally noted that tax practitioners are critical to the efficient and effective operation of the tax system.²⁹

1.8 From its own reviews, and discussions with ATO personnel and external stakeholders, the ANAO considers that the participation of tax practitioners within the tax system has mutual benefits for the participants as follows.

To the public administration of taxation law:

(a) Efficiency advantages

1.9 Tax practitioners enhance efficiency of the ATO's administration of the bulk of tax returns, especially those involving business taxpayers who are heavy users of tax agents.

²⁸ Self-assessment, introduced in the mid 1980s, requires taxpayers to calculate their taxable income, to exercise reasonable care in keeping records, to follow instructions and to interpret the taxation law correctly. Previously, taxpayers submitted required documentation with their returns, and the ATO made the assessment of tax payable.

²⁹ See for example comments made by the Commissioner of Taxation in his May 1997 speech to the Taxation Institute of Australia on ATO issues affecting the practitioner that 'tax agents and other tax practitioners play a very significant role in the operation of this country's tax system', as well as his February 2001 announcement of measures to further assist tax practitioners and his speech to the Public Accountants Convention on 14 June 2002.

1.10 Tax practitioners streamline the processes and linkages involved in the ATO discharging its responsibilities with regard to taxpayers. For example:

- the ATO deals with far fewer individuals and businesses (there are 21 000 active³⁰ tax agents compared to approximately 14.5 million taxpayers³¹ of various types);
- tax agents gather and assess information on behalf of their clients, checking it for completeness and conformity with tax system requirements;
- many tax agents key data in the ATO's required format and submit the majority of taxation returns electronically.

1.11 The ATO communicates more effectively with its clients when it deals with professional intermediaries who should possess a reasonable understanding of the tax system. Many individual taxpayers and business owners and operators have limited knowledge of tax legislation and how to respond to ATO requirements.

1.12 It might be noted, however, that these efficiency advantages may be at the point of levelling off. Many tax agents, some other tax intermediaries and representatives in tax and accounting professional associations commented to the ANAO that they consider that the tax system is now so complex that even trained and experienced professionals struggle to understand it, and that there is a trend for some specialisation in response.

(b) Influencing taxpayer behaviour

1.13 The activities of tax agents and other categories of tax practitioner can also bear on the effectiveness of the ATO's actions. Tax agents and other tax practitioners can influence taxpayer compliance, and therefore they are a key means by which the ATO seeks to secure taxpayer compliance.³² As a point of 'leverage' for the ATO, tax practitioners (and especially the tax agent segment) can play a significant, ongoing role in the ATO's tax collection and other administrative functions.

³⁰ The ATO defines an 'active' agent as one who is a currently registered agent with clients, who is lodging client returns in the current year or one with clients who has not (as yet) lodged client returns in the current year. This figure relates to 2000–01.

³¹ Commissioner of Taxation, *Annual Report 2000–01*, Commonwealth of Australia, November 2001, Figure 1.8, p. 7. This figure relates to 2000–01.

³² Research findings in studies undertaken by the Centre for Tax System Integrity highlight this point. See Centre for Tax System Integrity, *Preliminary Findings from the Community Hopes, Fears and Actions Survey*, Working Paper No.3, April 2001.

To the professionals involved:

1.14 Tax practitioners benefit from the arrangements (e.g., with the ATO's provision of support services and with regulated entry and conduct for some areas of the profession).

(a) Participation in a regulatory system

1.15 Entry into the tax agent segment of the profession is limited by the requirements of the current tax agent regulatory framework. Only registered tax agents (and more recently, BAS preparers) can prepare and submit returns to the ATO for a fee, and the ATO investigates and prosecutes unregistered tax agents. Registration as a tax agent brings also a marketing 'edge' for tax agents, relative to other service providers, as a 'registered professional' in promoting their services to taxpayers.

(b) Facilitated service

1.16 Tax practitioners sometimes receive priority ATO client service and support, e.g. when using particular ATO call centres or via the ATO's consultative bodies. Depending on their profession, they may receive preferred access to a range of ATO systems and facilities such as the Electronic Lodgement System (ELS)³³ which is exclusive to tax agents.³⁴

Characteristics of the tax practitioner population

1.17 The ATO does not, and nor can it be expected to, have comprehensive data on the total number or make-up of the tax practitioner population in Australia. In many instances, the ATO will not be aware of tax practitioners' interactions with taxpayers or their advice because it is not a relationship that necessarily involves the ATO at all. These interactions may, however, bear on the ATO's administration of the tax system. The number of tax practitioners is understood to be increasing, but the ATO does not have comprehensive data about them.³⁵

³³ ELS allows tax agents to lodge their clients' tax returns and other tax statements electronically via a modem. It operates 24 hours a day, all year round and allows a faster turn-around of tax assessments than lodgements made on paper. The ATO aims to process electronically lodged returns within 14 days. For more information on ELS see Appendix 6.

³⁴ One of the advantages to taxpayers of using tax agents is the timing advantage in lodging their tax returns. For example, 31 October 2002 is the due date for the lodgement of 2001–02 returns by individuals, trusts and partnerships, but special extension arrangements apply to returns for individuals, trusts and partnerships lodged by tax agents.

³⁵ The ATO advised that the 'tax industry' is growing but it does not know the numbers of participants. As a very broad indication of the upper limit of numbers of tax practitioners, the combined membership of the six major professional tax and accounting associations is 170 000. This would overstate the number of tax practitioners as many professionals belong to more than one professional association, and only a proportion of the associations' members would be involved in tax affairs (as opposed to say general accounting and other financial services). On the other hand, some tax practitioners do not belong to professional associations.

1.18 Within the overall population of tax practitioners, the ATO maintains substantial information about the tax agent segment. The tax agent segment is the core element of the tax practitioner grouping for the ATO because tax agents are of fundamental importance to it and are a critical leverage point to provide information and service to the taxpaying community. The tax agent group is subject to statutory regulation (see paragraphs 1.25 and 1.26).

Tax agents

1.19 At approximately 25 000 registrations in 2001–02, tax agents are considered by the ATO to be the largest component of the tax practitioner population.

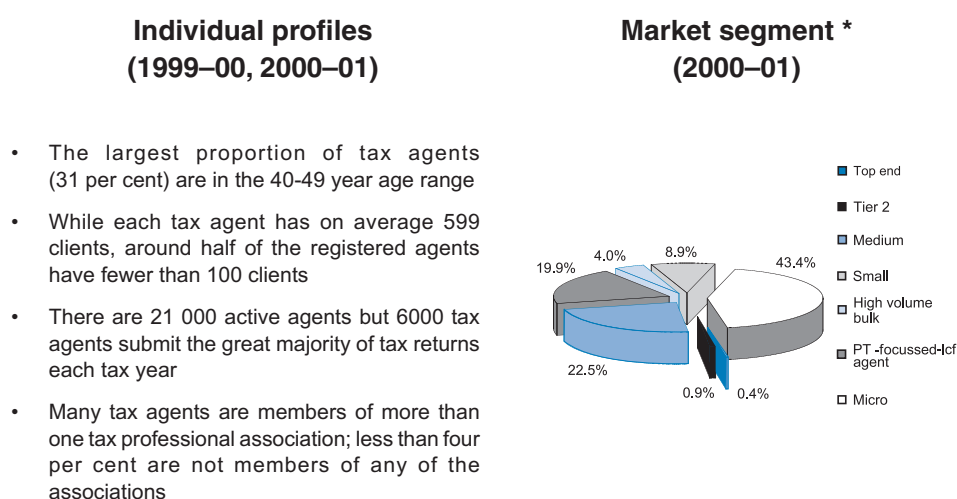
1.20 Tax agents operate in a wide range of circumstances. There are specialised tax practices, tax agents working as part of accountancy practices, and tax agents who perform their functions lodging tax returns as an adjunct to their main, unrelated occupation. Tax agents may perform non-tax roles for their clients also, e.g. providing accounting services and general business and financial advice to clients.

1.21 The use by taxpayers of registered tax agents has grown over time. In 1980, approximately 20 per cent of individual taxpayers sought professional assistance from tax agents to prepare income tax returns. By 2001, the proportion had risen to 76 per cent. The significance of tax agents' involvement in the tax system is shown by ATO processing statistics.

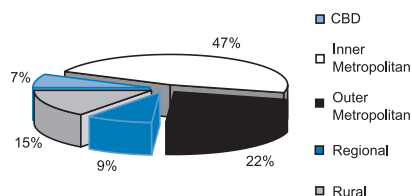
1.22 Figures 1.1 and 1.2 highlight some of the characteristics and activities of tax agents drawn from several ATO sources at different points in time, as noted.

Figure 1.1

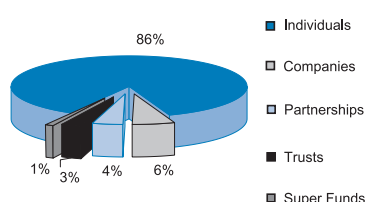
Characteristics of tax agents



Geographic segment (2000–01)



Client base (2001–02)



Internal ATO research indicates that the total tax agent client base is 11.2 million clients.

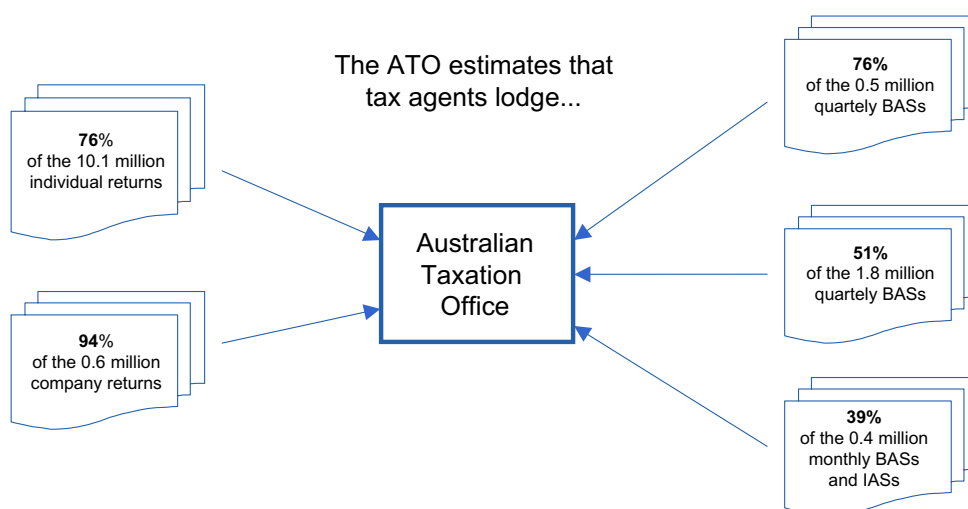
* Market segments

Top end:	'Top 4' accounting groups; greater than 9000 clients; large business represents more than 9 per cent of clients; group net tax 2000 liability greater than \$1.1 billion and group net taxable income greater than \$8.5 billion.
Tier 2:	number of clients greater than 1000; greater than 10 large business clients; net tax 2000 liability greater than or equal to \$10 million.
Medium:	total client base greater than 500.
Small:	total client base less than or equal to 500.
High volume bulk:	70 per cent of total client base is individual taxpayers; total personal income tax client base greater than 1000.
Personal Tax-focussed:	greater than or equal to 70 per cent of total client base is individual taxpayers.
Micro:	lodge less than or equal to 100 returns (all types) annually.

Source: ANAO depiction of information from ATO, *Tax Agent Survey Report 2000* and other ATO data

Figure 1.2

Tax agents' activities in the Australian taxation system in 2001–02



Source: ANAO depiction of ATO data

1.23 Tax agents' involvement in the preparation of tax returns might be even higher than would be suggested by the statistics on lodgements in Figure 1.2. This is because tax agents often have a quality assurance or verification role on BASs and/or Instalment Activity Statements (IASs) for a number of clients who prepare the documents and then lodge them themselves.

1.24 As noted previously, the ATO has stated that as a priority it invests in strategies to support the interaction of tax agents with the tax system because of their important roles as intermediaries (in terms of the processing functions they perform, as illustrated in Figure 1.2, and in terms of their role as one tax agent linking to many taxpayer clients). Therefore, the ATO sees tax agents as a key leverage point for its education and communication efforts. Further highlighting the special significance to the ATO of tax agents within the larger tax practitioner grouping, tax agents have legal obligations under the *Income Tax Assessment Act 1936* regarding their tax interactions (as outlined in the following section).

Regulation of tax practitioners

1.25 Various regulatory arrangements apply to the occupations and professional groupings constituting tax practitioners, but the ATO does not regulate tax practitioners.³⁶ One sub-set of tax practitioners, *tax agents*, is regulated through the *Income Tax Assessment Act 1936* (the ITAA).³⁷ The regulatory regime involves a registration process and is designed to ensure that persons who charge a fee for providing taxation-related services are 'fit and proper' to provide such services.³⁸ Agents may have their registration terminated if they fail to comply with their statutory requirements. This again highlights the particular significance of tax agents within the tax system. Tax agents, within the broader tax practitioner community, have a legislated role which is regulated through the ITAA, and accordingly can charge a fee for preparing and lodging tax returns and activity statements.

1.26 The ATO does not administer directly the registration of tax agents. This is the function of independent statutory bodies, Tax Agents' Boards (TABs), in each State. However, the ATO does provide a secretariat function to support the TABs' operations.

³⁶ For example, the providers of financial services, such as providers of financial product advice, are regulated under the *Corporations Act 2001*, tax professional associations have professional standards that apply to their memberships and some types of tax practitioner, such as solicitors and accountants, also have practice standards attaching to their profession.

³⁷ Part VIIA of the ITAA, and Part 9 of the *Income Tax Regulations*.

³⁸ The 'fit and proper' test includes components of general character, appropriate qualifications including knowledge of Australian tax law and relevant accounting principles, and relevant practical experience.

The relationship between the ATO and tax practitioners

1.27 In introducing the relationship between the ATO and tax practitioners, we outline some of the features of the relationship and the relevant ATO management structure.

1.28 Key features of the ATO's relationship with tax practitioners are that it:

- is dynamic and multi-dimensional;
- requires the ATO to balance different (even divergent interests) between itself and tax practitioners; and
- is affected by the myriad of interactions between the ATO and tax practitioners and by matters that are not under the control of either party.

Multi-dimensional and dynamic

1.29 The ATO's relationship with tax practitioners is necessarily a multi-dimensional one that must balance different (and even, at times, divergent) interests. The tax practitioner community is itself very diverse. Even the segment of tax agents interacts operationally with many different parts of the ATO. Also, the ATO engages in a number of different functions under its legislation when it deals with tax practitioners (or particular segments, such as tax agents). These functions determine a range of different types of interactions. These interactions include:

- Client support—providing legislation, policy and systems;
- Service support—providing information, technical and procedural assistance;
- Active compliance—monitoring the quality and timeliness of the information provided by agents in lodging taxpayers' returns with the ATO, checking records, auditing clients, possibly even taking some prosecution action and also through examining agents' own compliance as taxpayers, including the lodgement, timing and accuracy of their own returns; and
- Regulatory support—supporting the tax agents' regulatory boards, seeking out unregistered tax agents.

1.30 The ATO also relates to tax practitioners because they are crucial stakeholders in tax administration, with practical expertise in the tax systems the ATO shapes and administers. The ATO uses its interactions with tax

practitioners' representative bodies³⁹ to maintain and promote the relationship it has with tax practitioners, and the bodies also help to shape the tax system in which tax practitioners are engaged. Such bodies undertake a range of roles for their members (such as representation, lobbying and provision of professional and business support to help tax practitioner members at a practical level). Moreover, professional associations have a role in promoting the interests of their members and they provide feedback at both strategic and operational levels directly to the ATO and through the various consultative and liaison forums in which they participate.

The interests of the ATO and tax practitioners are not identical

1.31 The interests of the ATO (in sound public administration) and of tax practitioners (in generating services to their clients that provide remunerative and satisfying work) interact in the relationship. Within such interaction:

- the ATO has made it clear that it wants taxpayers to be able to choose whether to use a tax practitioner or to look after their tax affairs themselves; this desire is the basis for much service design in the ATO's public communications programs; and this affects the extent of ATO activities in respect of tax practitioners, especially the tax agent grouping, vis-a-vis taxpayers who do not use tax practitioners;⁴⁰
- the ATO's interest in streamlined and cost-effective programs stands against tax practitioners' interest in high quality ATO service delivery to them in a comprehensive way at all times—service delivery which comes at a cost; and
- the ATO is involved in a regulatory scheme in which the tax agent group of practitioners is the regulated party.

1.32 These considerations ensure that the relationship between the ATO and the tax practitioner community will be complex and necessarily involve ambiguity, despite the mutual recognition that each party depends on the other to play its various roles within the tax system.

³⁹ Tax professional and representative bodies include the Taxation Institute of Australia, The Institute of Chartered Accountants in Australia, CPA Australia, National Institute of Accountants, National Tax and Accountants Association, Association of Taxation Management Accountants and Taxpayers' Australia. The Law Council of Australia is another important stakeholder with which the ATO consults. The tax practitioner professional associations are powerful and influential interest groups. See, for example, their input to the Board of Taxation on the approach and legislation for the Tax Value Method, one of the measures under consideration as part of business tax reform. Most tax practitioners are members of a professional representative association (over 96 per cent of respondents to an ATO survey in 1999 stated that they were members of at least one professional association).

⁴⁰ See, for example, the speech of 22 May 1997 by the Commissioner of Taxation to the Taxation Institute of Australia, regarding the ATO's perceived responsibility to the community as providing as level a playing field as possible for the choice as to whether to use a tax agent or not.

The relationship is affected by many factors

1.33 Many factors in the numerous interactions in the relationship bear on how well the overall relationship is perceived to operate (from specific operational matters, to high-level strategic issues such as the balance in the ATO's activities between education and active compliance).⁴¹

1.34 Adverse perceptions can also come into play. An example is the perception by tax agents that the ATO is undermining their established position by: reducing the provision of paper forms to them in some circumstances; removing personalised support with the closure of dedicated Tax Agent Liaison Centres and promoting call centres; and encouraging taxpayers to prepare and lodge their tax returns using the Internet or even the phone, in some cases, and undertaking to process these returns as quickly as they do the returns lodged electronically by tax agents using ELS.

1.35 Also, not all factors that affect the relationship are within the control of either the ATO or tax practitioners. For example, government policy influencing the design of the tax system and implementation of tax legislation has had a profound effect on the ATO's tax practitioner relationship. However, this is not within the control of the parties to the relationship.⁴²

1.36 The ATO has established a range of high level and operating-level consultative groups to seek to maximise the value of consultation and dialogue with the tax practitioner community. That infrastructure offers the opportunity for the ATO and tax practitioners jointly to address the ambiguities of the relationship and to maintain and develop the relationship so as to fully realise the benefits it can bring to tax administration.

1.37 There is clearly significant dissatisfaction in the current relationship between the ATO and tax agents and other practitioners. As well as looking at the status of the relationship, Chapter 3 looks at the ATO's liaison and consultation machinery in engaging with tax practitioners as parties to the relationship *in a relationship* and the adequacy of the machinery in allowing the ATO to service its interests in the relationship.

⁴¹ Examples of the wide range of factors are ATO processing problems; the intensification of the ATO's compliance efforts with increased prominence to be given to penalties for late lodgement of returns and other tax information; and more resources devoted in the 2002–03 Budget context to ATO auditing of large and small businesses.

⁴² Furthermore, as from 1 July 2002, responsibility for the design of tax laws and regulations was transferred from the ATO to the Treasury, but the design and implementation of tax administrative systems remains with the ATO.

ATO management structure and resourcing

1.38 Reflecting the comprehensive roles of tax practitioners as they have developed in recent decades, tax practitioners' work is embraced in the activities of all 13 of the ATO's business and service lines—the ATO's organisational divisions.

1.39 As noted previously, the tax agent segment of tax practitioners is the particular focus of the ATO's relationship management efforts, because of the role tax agents play in the presentation of taxpayer information to the ATO in a self-assessment environment. To manage and coordinate the tax agent relationship, including aspects of compliance and integrity issues with the tax agent community, the ATO has established a dedicated unit in the Personal Tax (PTax) business line. This is called the Tax Practitioner Group and Alliances (TPG&A) Branch. Although the Branch, and many of the ATO's services and facilities include 'tax practitioners' in their titles, they are heavily directed to the segment 'tax agents'. Management issues and governance are discussed in Chapter 2.

1.40 TPG&A also has a role in regard to the external liaison arrangements established by the ATO to deal with the representatives of tax agents and the representatives of the tax, accounting and legal professional bodies. These are discussed in Chapter 3.

1.41 In addition to TPG&A's relationship management activities with tax agents, the ATO also consults and interacts with many other categories of tax practitioners as stakeholders who may represent or influence taxpayers (e.g. via its consultative bodies representing the personal tax, small business and large business 'market segments', its key client manager relationships with large business participants in the financial advisory industry, and consultations with tax agents and professional associations with a special interest in GST matters). Tax practitioners are also among the groups the ATO consults on specific tax measures, such as the recently-introduced consolidation arrangements.⁴³

1.42 Aspects of the relationship between the ATO's various organisational elements, and tax agents and other tax practitioners including members of the professional bodies, are illustrated in Figure 1.3.

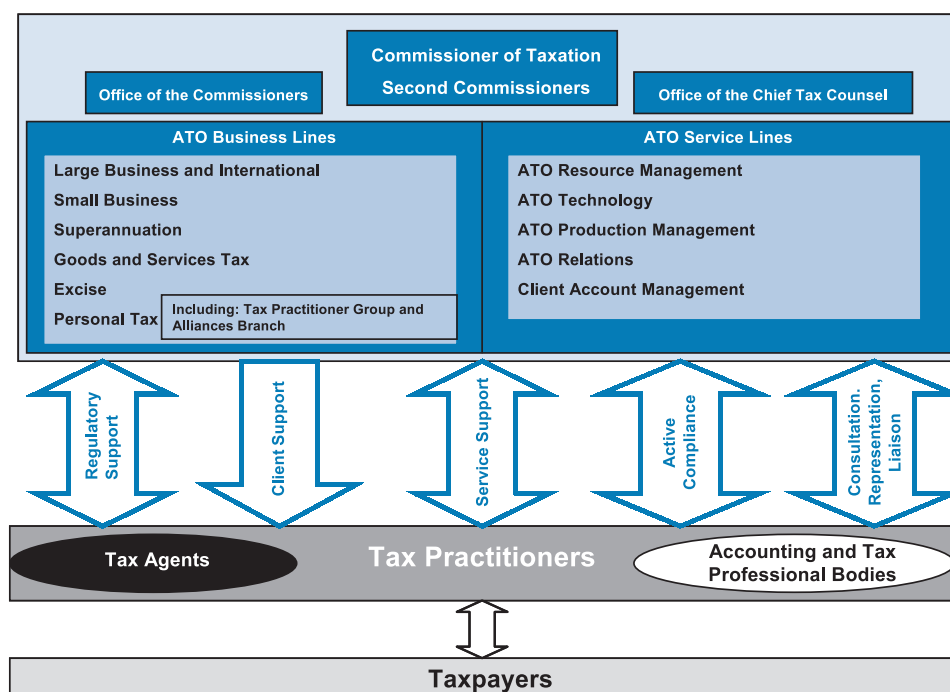
1.43 The ATO does not attribute and collect data on the total costs of it managing its relationships with tax practitioners, or the tax agent segment which is its core focus, as relevant expenditure is diffused throughout the lines. An insight

⁴³ The consolidation arrangements are designed to allow wholly-owned corporate groups to be treated as a single entity for income tax purposes. Tax practitioner participants consulted included professional associations, representatives of large accounting firms and the Law Council of Australia (as well as some specific corporate entities).

into the costs of management of the relationship had to be based on resource outlays committed to the tax agent-dedicated units, obtained from the ATO's financial system, reflecting resource figures for TPG&A and the main call centre used by tax agents.

Figure 1.3

Aspects of the relationship between the ATO and tax practitioners



Source: ANAO depiction of ATO information

1.44 TPG&A's expenditure on direct costs in 2001–02 was \$11.7 million (\$16.3 million in 2000–01). As at 30 June 2002, it had 144 staff (230 in 2000–01).⁴⁴ These figures include the TPG&A's costs in supporting the ATO's main, formal peak consultative bodies with tax agent and tax and accounting and legal professional bodies, providing education and communication support for tax agents and support for the regulation of tax agents, including funding for the regulatory authorities, the TABs. The ATO spent \$1.2 million in 2001–02 on the TABs on direct costs (\$1.9 million in 2000–01). The ATO's key consultative, service support and regulatory support activities are examined in Chapters 3, 4 and 5, respectively.

⁴⁴ As well as the effect of general resource tightening across the ATO following the implementation of the New Tax System, staff reductions for TPG&A reflect, in part, the transfer of transactional lodgement functions to the Client Account Management line in the first quarter of 2001–02 and the absorption of TPG&A's tax practitioner technology support area into other technology support teams within PTax in late 2001 to become the PTax Technology Support area.

1.45 Of the four ATO public call centres that may be used by tax agents and other tax practitioners, the one most used by tax agents is the ATO Business Call Centre (BCC), managed by the Small Business line. The BCC had total staffing of 968 in 2001–02 and cost \$56.4 million in direct costs. The Tax Practitioner Business Infoline (TPBIL) in BCC, which is a dedicated, priority service for tax agents, is resourced with approximately 110 staff. Call centres are discussed in Chapter 4 as part of the services the ATO provides to support tax agents.

Audit objective and methodology

ANAO audit objective and scope

1.46 The objective of the audit was to assess how well the ATO manages its relationship with tax practitioners. The ANAO was interested in the management of the relationship because tax practitioners are a key part of the ATO's operating environment. Importantly, the relationship bears directly on the efficiency and effectiveness of the operations of the tax system. Our main focus was on the tax agent segment because this group is a priority for attention for the ATO given its fundamental importance to the tax system and their place as a critical leverage point for the ATO to provide information and service to the taxpaying community. However, we also looked at the overall relationship with the wider group of tax practitioners practising in the taxation field. This is because the activities of the wider tax practitioner grouping also have varying impacts on the administration of tax legislation by the ATO. The audit focused on:

- the ATO's provision of service support to tax agents;
- the consultation and liaison relationship with tax agents and other tax practitioners in the professional bodies as stakeholders in tax administration; and
- the regulatory relationship with tax agents.

1.47 The aspects selected broadly map the major functional areas of TPG&A, which has current responsibility for management of the ATO/ tax agent relationship.

1.48 In looking at the service support aspect of the relationship, we also examined aspects of ATO call centre service support relevant to tax agents. Call centres are an important mode of service support to tax agents and the performance of ATO call centres has been contentious in recent years.⁴⁵

⁴⁵ We did not undertake an audit of ATO call centres.

1.49 While appreciating that assessing a relationship must be a subjective matter, in seeking to answer the audit question ‘how well does the ATO manage its relationship with tax practitioners?’ the audit, in the main, examined TPG&A’s administrative processes and systems (which concentrate on tax agents⁴⁶). We did this to provide an insight into key aspects of the ATO’s relationship management practices concerning a segment which, quite understandably, is of core interest to the ATO. We also examined whether the ATO has an overall goal and strategic view for the relationship and whether it has processes and structures to manage it well at the operational level.

1.50 Given the nature and many dimensions of the ATO’s relationship with tax practitioners, the audit did not attempt to cover every aspect of the ATO’s relationship with tax practitioners. We did not examine the effectiveness of the ATO’s activities in providing client support via the ATO systems and legislation, nor did we review the compliance activities administered by areas of the ATO other than TPG&A.

1.51 Further, we did not audit the performance of tax agents and other tax practitioners. However, we did seek to understand broadly tax agent and other tax practitioner roles and characteristics (in their diversity).

Audit methodology

1.52 The audit process was designed to:

- set out the elements of the ATO/tax practitioner relationship;
- examine the constraints on the ATO in managing its interactions with tax practitioners;
- recognise areas of good practice and identify areas for improvement; and
- while recognising that the assessment of a relationship is necessarily a subjective exercise focusing on a range of only partial indicators of the relationship, place these assessments in the context of the ATO’s strategic objectives for the relationship, by examining whether activities contribute to the achievement of the ATO’s strategic objectives in this area.

1.53 The selected interactions comprising aspects of the ATO’s relationship with tax practitioners (service provision, regulation and liaison and consultation) differ significantly in nature. In examining how well the ATO manages its

⁴⁶ However, TPG&A does not deal exclusively with tax agent relationship matters. It also deals with elements of the larger tax practitioner grouping via the provision of administrative and secretariat support for the ATO’s key consultative bodies with the tax, accounting and legal professional groups.

relationship with tax practitioners, we had regard to the principles of good management and relationship management.⁴⁷

1.54 Audit fieldwork was conducted from December 2001 to March 2002. In addition to review of documents, including in relation to practices in overseas tax jurisdictions, we conducted interviews with key ATO staff at various levels, across most ATO business and service lines, at ATO National Office in Canberra, and at ATO offices in Melbourne and Sydney.

1.55 We consulted also with key stakeholders during the audit. These included:

- individual tax practitioners (tax agents and accountants and a lawyer working in the tax area) in metropolitan, suburban and rural areas;
- representatives of tax, accounting, legal and financial planning professional bodies;
- representatives of two large, high volume Personal Tax client-focused firms providing tax agent services; and
- the Taxation Ombudsman's Special Tax Adviser.⁴⁸

1.56 The ATO's relationships with tax agents and the wider tax practitioner group are dynamic. Our audit process can only seek to capture 'a snapshot' of the changing environment and activities affecting the ATO's management of its relationship with tax practitioners. We have sought to reflect the major developments bearing on its relationship management, particularly in relation to the ATO's priority group, tax agents. For example, the campaign mounted by The Institute of Chartered Accountants in Australia (ICAA) in August 2002 culminated in September 2002 in a joint agreement by the ATO and the tax and accounting professional bodies around improvements in ATO services to tax agents. The agreement established initial priorities for ATO attention and flagged ongoing efforts by the ATO to continue to improve its services to tax agents.

1.57 The audit was conducted in accordance with ANAO auditing standards at a cost of \$429 000.

⁴⁷ A relationship involves interactions between more than one party. In an effective relationship each party:

- feels it can rely on the other to deliver on its commitments;
- understands the key interests of the other;
- listens to the other;
- respects the other's strengths and differences and can engage in genuine consultation and collaboration; and
- shares a commitment and a method for solving problems.

For information on the principles of relationship management see, for example, F Buttle (ed), *Relationship Marketing Theory and Practice*, 1996; D Ertel, 'Alliance Management: A Blueprint for Success', *Financial Executive*, v17, n9, 2001, pp. 36–41; and J Anderson and J Narus, *Business Market Management Understanding, Creating and Delivering Value*, 1999.

⁴⁸ The Special Tax Adviser assists the Taxation Ombudsman investigate complaints about the ATO, including complaints from tax practitioners as well as from individual taxpayers.

Related reports

ANAO audits

1.58 Tax practitioners are a fundamental component of the tax system in Australia. Every line in the ATO either deals directly with tax practitioners or supports the ATO's dealing with them and virtually all the ATO's activities impinge on, or involve, tax practitioners. Previous ANAO audits of tax administration have covered matters that are relevant to tax practitioners, such as the provision of technical advice and ATO auditing,⁴⁹ but no other audit has examined how well the ATO manages its relationship with tax practitioners.

External review

1.59 There has not been a previous external review of the ATO's management of its relationship with tax practitioners as such. However, Parliamentary reviews, and reports of the Commonwealth Ombudsman, that relate to the activities of tax practitioners and the ATO's work with them include:

- the Senate Economics References Committee's inquiry into Mass Marketed Tax Effective Schemes and Investor Protection,⁵⁰
- the Senate Economics References Committee's inquiry into the Operation of the ATO;⁵¹
- the then Joint Committee of Public Accounts' inquiry into the ATO, *An Assessment of Tax*;⁵² and
- the Ombudsman's report on Budplan.⁵³

⁴⁹ For example:

- *Administration of Taxation Rulings* (Audit Report No.3 2001–02);
- *Use of Audit in Compliance Management of Individual Taxpayers* (Audit Report No.37 2000–01);
- *High Wealth Individuals Taskforce* (Audit Report No.46 1999–2000); and
- *Administration of Tax Penalties* (Audit Report No.31 1999–2000).

Although Audit Report No.22 1996–97 *Client Service—Australian Taxation Office*, focussed on some relevant matters in assessing the ATO's approach to client service and its provision of client services directly to individual taxpayers, it did not examine in depth the ATO's relationship with, or servicing of, tax agents and other tax practitioners.

⁵⁰ Senate Economics References Committee, *Inquiry into Mass Marketed Tax Effective Schemes and Investor Protection*, Interim Report 25 June 2001, Second Report 26 September 2001 and Final Report February 2002.

⁵¹ Senate Economics References Committee, *Operation of the Australian Taxation Office*, March 2000.

⁵² Joint Committee of Public Accounts, *An Assessment of Tax*, Report No.326, November 1993.

⁵³ Commonwealth Ombudsman, *The ATO and Budplan: Report of the Investigation into the Australian Taxation Office's handling of claims for tax deductions by investors in a tax-effective financing scheme known as Budplan*, June 1999.

1.60 The Mass Marketed Schemes inquiry, and the Ombudsman's report that preceded it, highlight the various roles of tax practitioners in tax administration in a self-assessment system. The Committee Report into Mass Marketed Tax Effective Schemes and Investor Protection also considers the question as to whether a tax practitioner's responsibilities are to their client or to the community, in terms of the advice that they provide and the conduct that they undertake. This issue has implications for the ATO's tax practitioner relationship management because it influences what conduct can reasonably be expected of tax practitioners such as tax advisers and tax planners in providing advice to their clients on a commercial basis.

1.61 The Taxation Ombudsman has an external review role to investigate complaints about the ATO, including complaints from tax practitioners.

1.62 Given the scope of its functions, the position of Inspector-General of Taxation, to be established in 2002–03, may also have review responsibilities in respect of tax agents and other practitioners.⁵⁴

Overseas practice and reviews

1.63 While appreciating that there are differences between the Australian tax system and those in other countries, our examination of overseas practices produced some interesting points of comparison. We reviewed the regulatory frameworks that apply to tax practitioners in selected overseas jurisdictions and we refer to this as relevant in the report.

⁵⁴ In September 2002, the Government introduced the Inspector-General of Taxation Bill into Parliament, outlining the Inspector-General's role as reviewing tax administration systems and advising Government on improving tax administration for the benefit of Australian taxpayers.

1.64 As to tax practitioner relationship management issues in other jurisdictions, we found that in the UK, Inland Revenue and the professional associations have a program called 'Working Together'. The program is designed to identify administrative areas in which the tax system is not working satisfactorily and to try to develop practical solutions. The objectives, progress and results of this initiative have some parallels with the Australian relationship management experience.⁵⁵

1.65 Although audit agencies in other jurisdictions have not done audits of tax agency/tax practitioner relationship management, aspects of relationships with intermediaries are of interest and highlight some issues that are common to the challenges the ATO faces in tax practitioner relationship management in Australia.⁵⁶

⁵⁵ The objective of the Working Together program is to enhance current working systems to improve customer focus and efficiency of the operations of the taxation system. Similarities to the Australian approach to relationship management are the emphasis in the program on having agreed processes and having a code of practice on consultation between the relevant government agencies and representative bodies and taxpayers.

Source: UK Inland Revenue, *Working Together: the Original Agreement* at www.inland.revenue.gov.uk/working-together/agree.htm.

Other similarities between the Australian tax practitioner relationship management situation and that of the UK are evident in the issues being debated, such as the range of perceptions about the value and achievements of the program and the extent to which the professional association representatives actually reflect the views of practising tax practitioners (both being issues which have currency in the ATO's tax practitioner relationship management efforts). For example, on one hand the President of the Chartered Institute of Taxation has praised the Working Together program saying that as a result, Inland Revenue now appreciates the importance of agents as a group of customers, but tax practitioners still complain that the practical problems remain despite the rhetoric. Some tax practitioners are also concerned that the professional bodies are not representative because they know so little of 'coal-face reality.'

Source: UK Inland Revenue, *Working Together*, Newsletter No 5, June 2001, pp. 1, 3.

⁵⁶ For example, the United States General Accounting Office examined the Internal Revenue Service's (IRS's) oversight of paid preparers of tax returns, asking in particular whether the IRS could assess their impact on tax compliance and it found that the IRS lacks data on their compliance impacts. See US GAO, Report to Designated Congressional Committees Tax Policy and Administration 1995 *Annual Report on GAO's tax-related work*, Paid Tax Preparers and Tax Software, p. 72.

In the United Kingdom, the National Audit Office found in its audit of employer compliance reviews by Inland Revenue that while 75 per cent of tax agents surveyed were satisfied with the way the compliance reviews were conducted, just over half were critical of perceived lack of business and commercial awareness of Inland Revenue's review officers.

Source: UK National Audit Office, *Inland Revenue: Employer Compliance Reviews*, Press Notice, 27 June 1997 at <www.nao.gov.uk>.

Audit report structure

1.66 The structure of the report is:

- Chapter 1: sets out the context of the topic, provides basic information about the participants and concepts involved, and outlines the audit objective and methodology;
- Chapter 2: reviews the ATO's internal management framework and governance arrangements applicable to tax agents and other tax practitioners;
- Chapter 3: discusses how the ATO uses and develops its relationship with tax agents and some other tax practitioners via its external consultative committees;
- Chapter 4: examines the provision of ATO services to tax agents (education and communication, technology support and call centres) and relevant strategic planning, performance management and evaluation matters; and
- Chapter 5: covers the regulation of tax agents.

2. The ATO's Management Framework and Governance Arrangements

Although this Chapter concentrates on the tax agent segment, it also deals with aspects of the management framework and governance in respect of the wider tax practitioner grouping. In examining the ATO's overall management and governance arrangements in relation to tax agents, it sets out the ATO's internal management arrangements, coordination and liaison structures comprising the ATO's management framework for the relationship. It also examines the corporate planning principles, the strategic framework and reporting elements constituting the ATO's tax agent governance arrangements.

Introduction—terminology

2.1 Although this Chapter's main focus is the tax agent grouping (the core grouping with which the ATO seeks to interact, to support and to maintain a relationship), it also deals with aspects of the ATO's management framework and governance arrangements in respect of the wider tax practitioner grouping.

The ATO management framework

2.2 The ATO is continually engaged in relationships with tax agents and other categories of tax practitioners across most of its functional areas. Each of the ATO's business lines and some of the ATO's corporate service lines has *direct* contact with tax agents and other types of tax practitioners. However, the activities of *all* of the ATO's business and service lines bear directly or indirectly on the ATO's relationship with tax agents and other tax practitioners to the extent that the activities enhance or impede the effective operations of the ATO and the tax system.

2.3 A focus of responsibility for management and coordination of the relationships between the ATO and tax agents (and support for the ATO's main formal consultative bodies with tax agents and the tax, accounting and legal professional bodies) lies with TPG&A. TPG&A's functions include:

- ATO coordination of contact and liaison with tax agents, especially through its provision of support to the Tax Practitioner Relationship Forum (TPRF);
- education and information provision;
- management of day to day administrative issues affecting tax agents and their clients;

- support of the Tax Agents' Boards through the provision of secretariat services; and
- management of the unit that investigates tax agents and unregistered tax agents.

2.4 TPG&A also had responsibility for technology support for tax agents, but this function was transferred to another area of PTax (that of Technology Support) in the latter part of 2001. This important change is relevant to our discussion in Chapter 4 of the ATO's coordination of technology support for tax agents.

2.5 While TPG&A has the dedicated function of managing relationships with tax agents, the strategic framework in operation across the ATO in undertaking liaison and delivering services has a much broader span than that under the control of TPG&A alone. The strategic framework for the relationship is outlined in a later section of this Chapter.

Co-ordination arrangements across the ATO lines in managing the relationship

2.6 The key body in the ATO for coordination of activities with tax agents is the TPRF. The role of the TPRF is to facilitate the coordination of all ATO activities that may impact on the workload of tax agents and thereby order and harmonise ATO efforts supporting them. For example, the TPRF considers ATO initiatives and administrative changes before they are put to tax agents. It tries to resolve any cross-line difficulties and inconsistencies, and to establish ATO administrative systems. Membership of the TPRF comprises senior officers from all ATO lines that deal with tax agents. The head of TPG&A chairs the TPRF and TPG&A provides administrative support.

2.7 The TPRF is a valuable vehicle in the ATO managing its relationship with tax agents. Its role of ensuring tax agents receive adequately-developed, coordinated and timely instructions is of ongoing importance. However, this body and other coordination arrangements have not been able to prevent administrative problems arising for tax agents.⁵⁷ Given its functional importance and the dynamic nature of the tax administrative environment (for both the ATO and tax agents) we suggest that the ATO reviews the TPRF's scope, membership and operational arrangements from time to time to ensure that the TPRF continues as an effective coordination mechanism. The possible expansion of the membership of the TPRF to enhance its consideration of the technology support aspects of tax agent relationship management is considered in Chapter 4.

⁵⁷ Two topics frequently mentioned in our stakeholder discussions included the ATO's Running Balance Accounts system for taxpayers and an agent's ability to enquire about their clients' activity statements (issues relating to the agent's 'proof of identity' and 'authority to act'). The ATO is acting on these issues.

Unspecified responsibilities for the relationship

2.8 Several lines in the ATO undertake specific tax agent relationship management activities or have developed infrastructures for relationship management. These lines are Large Business and International, Small Business and ATO Relations.⁵⁸ The ANAO could not ascertain where the responsibilities and expectations of these lines are specified, relative to those of TPG&A which has broadly defined corporate responsibility for managing the ATO's relationship with tax agents. This poses risks to the effective coordination, and sound evaluation of activities.

2.9 Important activities of TPG&A revolve around acting as 'trouble-shooter' to respond to particular problem 'hotspots' with tax agents, such as investigating the reasons for delays in lodgements by tax agents and scrutinising some aspects of tax agents' conduct that reflect on tax agent integrity.⁵⁹ We understand why TPG&A could be involved in such projects because it can make a worthwhile contribution in undertaking these discrete projects. It can assist by focussing attention on particular matters bearing on tax agents that can have broad impacts on the ATO's administration of tax. We also understand that TPG&A may assume an additional role in 2002—that of being a 'gatekeeper' in relation to the ATO's compliance work relating to tax agents.⁶⁰

2.10 In the interests of ensuring coordination and clarity of responsibilities and reducing the risk of overloading TPG&A with discrete problems to investigate and projects to manage, there is merit in having a greater measure of clarity around the strategies, roles and operational limits of TPG&A.

2.11 We found that the potential problems associated with the lack of clarity around responsibilities for tax agent relationship management activities and coordination and clearance have been reduced in practice. This had been achieved by *ad hoc* management arrangements and careful interaction drawing on the high motivation of, and the effective networks and working relationships among, the ATO officers involved, including via the TPRF.

2.12 TPG&A also has a role in regard to the external liaison arrangements established by the ATO to deal with the representatives of tax agents and the representatives of the tax, accounting and legal professional bodies. That role involves providing secretariat support for the high-level consultative and liaison

⁵⁸ The goal of ATO Relations, a line created in late 2001, is to develop and consolidate the ATO's overall communication and relationship strategies. The communication stream in the line includes media, issues management and stakeholder management.

⁵⁹ e.g. in terms of receipt of welfare benefits and lodgement of their own tax returns.

⁶⁰ A 'gatekeeper' performs an overall monitoring and directing role.

committees and ongoing involvement in coordinating consideration and resolution of the issues raised in those forums. Chapters 3 and 4 deal with specific matters relating to these liaison structures.⁶¹

2.13 We consider that the motivation and efforts of managers in the ATO lines would be better supported if the tax agent relationship responsibilities of TPG&A were spelt out and the tax agent relationship responsibilities of other lines, including their responsibilities in relation to TPG&A which has corporate responsibility for the relationship, were more clearly defined.

Recommendation No.1

2.14 The ANAO recommends that, to enhance its management of the tax agent relationship, the ATO specify more clearly the responsibilities and expectations of the Tax Practitioner Group and Alliances Branch and other ATO areas involved in managing the various aspects of the ATO relationship with tax agents.

ATO response

2.15 Agreed.

The strategic framework

2.16 The ATO is applying a range of corporate principles to guide the strategic direction of its relationship with tax agents and tax practitioners more generally. These corporate principles have been developed for different purposes and with different audiences in mind. When they impact on tax agents and members of the wider tax practitioner group, they may suggest quite different lines of approach to handling the relationship, depending on the circumstances or the starting point of concern. The ANAO identified a number of different corporate principles or management models in operation, each relevant to specific functional concerns arising out of the ATO mission, but having diverse impacts on relationship management:

- *ATO-wide corporate charters*

A number of these corporate principles are applicable to the ATO's overall client community, with tax agents and other practitioners being one

⁶¹ The National Tax Liaison Group and the ATO Tax Practitioner Forum are the ATO's highest-level liaison and consultation committees, with representatives of tax and accounting professional bodies and of the Law Council. An example of other consultation mechanisms particularly relevant to the delivery of service support to tax agents is the Software Producers Forum. The Forum is an opportunity, twice yearly, for tax agents, software producers and the ATO to discuss ATO service initiatives, ELS products and software development issues. Other liaison and consultation efforts include the ATO's meeting with tax agents in several regions across three States in 2001 and 2002 and the ATO's current 'Listening to the Community' program which involves extensive community consultation, including with tax agents and other tax practitioners.

unspecified grouping among the numerous other groupings to which the principles are intended to apply. These principles are set out in the ATO Compliance Model and the Taxpayers' Charter.

- *Tax agent-specific principles*

The ATO has developed one set of corporate principles to relate uniquely to the tax agent group of tax practitioners. These are set out in the statement 'Relationship Management: Tax Agents.'

- *Service delivery models*

The ATO is developing a new model for its service delivery role to tax agents—the differentiated service delivery model. Although the ATO has endorsed the adoption of this service delivery model, arrangements for its implementation are still being completed. Elements of the old model of client service coexist with the new.

2.17 The following sections examine these different strategic principles in more detail.

Compliance Model

2.18 The Compliance Model is a key methodological basis for the ATO's approach in undertaking its various activities, including its activities relating to tax agents and other tax practitioners. The Compliance Model posits that the majority of taxpayers comply voluntarily with their tax obligations, with no need for ATO intervention. Others will not comply in the first instance but will, if prompted further. A smaller proportion will not comply voluntarily and may need enforcement action. Effective application of the model requires the ATO to identify the various causes of compliant and non-compliant behaviour, and to respond to those attitudes and behaviours with appropriate compliance products and responses.

2.19 Application of the Compliance Model requires the ATO to encourage voluntary compliance of tax agents and other tax practitioners (as well as taxpayers who lodge their own returns and look after their own affairs), through education and the provision of convenient and efficient service delivery. Escalation of action by the ATO occurs where voluntary compliance is not obtained.

2.20 The Compliance Model underpins the approach the ATO uses in dealing with tax agents and other tax practitioners and the approach TPG&A uses in managing tax agent relationships, (i.e. education, assistance and support and only more careful monitoring, checking and escalation of action when

circumstances suggest it is necessary).⁶² The ATO advised that its strategies for the wider tax practitioner grouping are based on both their risk and leverage (influence) in the system to encourage compliance in the taxpayer community. In other words, the ATO's interactions with the wider tax practitioner grouping are designed to increase the ATO's understanding of issues facing taxpayers in meeting their responsibilities and to support them in doing that. The ANAO considers that the ATO's broad methodological approach to compliance management of tax agents and other tax practitioners is sound. The main challenges for the ATO are to know the (very diverse) tax agent and larger practitioner population well enough⁶³ to identify behaviours and attitudes to compliance and to be able to assess the effectiveness of the compliance response and product(s) adopted.

Taxpayers' Charter

2.21 The Taxpayers' Charter, launched in 1997, sets out taxpayers' rights and obligations in relation to the ATO and the ATO's values and basis for conduct (externally with taxpayers and internally).⁶⁴ The ATO does not differentiate its client service arrangements under the Taxpayers' Charter to have specific regard for tax agents or other tax practitioners.

2.22 Service standards designed to reflect the commitments to service in the Taxpayers' Charter apply to all ATO lines. The service standards encompass commitments by the ATO to process tax returns, reply to correspondence, review objections, answer telephone calls, supply rulings, process registrations, advise the results of audits and deal with complaints within specified timeframes. These service standards apply to the ATO's activities with tax agents and other tax practitioners as much as to its activities with taxpayers.

2.23 There are, however, no Charter standards relating specifically to the ATO's management of its relationship with tax agents and other tax practitioners.

⁶² The structure of the tax agent lodgement program in 2001–02 was an example of the application of this approach for tax agents. The ATO schedule specifying due dates for the lodgement of returns and information from the various categories of taxpayer by tax agents takes account of the tax agent's previous lodgement performance. Less leeway in timing for submitting returns is allowed to tax agents with a weaker lodgement performance historically. The lodgement program in 2002–03 has reverted to using common dates to help tax agents by simplifying their administrative task.

⁶³ e.g. knowing the business profile and the industry, sociological, economic and psychological factors bearing on them. The ATO abbreviates the name of this analysis to BISEPs.

⁶⁴ The ATO is reviewing the Taxpayers' Charter.

ATO's relationship management statement for tax agents

2.24 The ATO's statement of principles on relationship management was released in 2001. It focuses on tax agents specifically, highlighting the value basis of relationship management for the ATO, its broad expectations of the good conduct of tax agents (with reciprocal expectations of probity, professionalism and contribution in the way each operates) and resolutions by the ATO as to the way it will operate to sustain and build the relationship.

2.25 As well as acknowledging the clear stresses on tax agents and their relationship with the ATO, and the importance of tax agents in an effective and efficient tax system, the relationship management policy statement also underscores the challenges for the ATO to have the relationship an enduring one that produces lasting benefits for the community. In putting the relationship with tax agents into the context of 'benefits to the community', the paper highlights an important point as to what might be the ATO's underlying and main purpose in managing the tax agent relationship.

2.26 The tax agent relationship management policy statement indicates that the rationale for the ATO's relationship with tax agents is to achieve the effective and efficient operation of the tax and other systems and it says that the ATO's relationship with tax agents will depend on the extent to which tax agents adopt or further this purpose. It also states that the ATO will differentiate between individuals and groups based on their contribution to the effective and efficient operation of the tax and other systems. This relationship management policy is reflected in the ATO's strategic framework for dealing with tax agents, particularly in relation to its recently-endorsed service delivery strategy of 'differentiated service'. The concept of differentiated service provision is discussed later in this Chapter.

Competing service delivery management models

2.27 Two broad service delivery management models appear to be in operation in the ATO in respect of tax agents and some other tax practitioners. These are the models of client service⁶⁵ and purchaser-provider.⁶⁶

2.28 Underlying these two models are two concepts that have particular relevance to shaping the ATO's strategies in relation to the monitoring of tax agents and its regulatory support activities. These concepts are the tax agent as an agent of the taxpayer and the tax agent as an agent of the ATO.

⁶⁵ Client service refers to the interaction between the agency and those in the community who want or need a product or service from the agency.

⁶⁶ Key features of the purchaser-provider model relevant to this discussion are the notions of defining levels and the quality of the service or good to be provided and the notion of a contract or agreement between the parties.

2.29 The ATO's concept of 'service support' for tax agents has changed over time as the application of the service delivery management models has evolved. Until April 2002, the ATO took the approach that tax agents were its 'clients'. This concept influenced the ATO's approaches to the nature and extent of service support provided to tax agents (and it would also have affected tax agents' expectations of the support services provided). For example, the concept of tax agents as 'clients' of the ATO promotes the idea of allowing common access across all tax agents to support services, as sought.

2.30 In April 2002, the ATO adopted a different approach to service support, reframing its role as more of a 'provider' of services to tax agents (because tax agents in supplying taxpayer information to the ATO are a key intermediary between the ATO and taxpayers—and taxpayers are the ATO's clients). The 'provider' approach gives increased prominence to the ATO assessing tax agents (and other tax practitioners such as bookkeepers preparing activity statements) as users of those services and to the ATO making choices and judgements about the terms and extent of the provision of service support. These models underpin the ATO's activities and approaches in the delivery of services to support tax agents, which are examined in detail in Chapter 4.

2.31 In the context of regulation, the model that sees the tax agent as an agent of the taxpayer makes the agent primarily responsible to the private client. It suggests that the agent should therefore seek to maximise the taxpayer's commercial benefit from having engaged a professional tax agent to handle their tax affairs, consistent with the tax agent's reasonable interpretation of the law, even if this reduces revenue collections by the ATO. In contrast, the model that sees the tax agent as an agent of the ATO introduces responsibilities on the agent for the integrity of the tax system and the efficiency and effectiveness of its operation. These models guide various approaches to the monitoring and regulatory support functions which the ATO has in regard to tax agents, examined in Chapter 5.⁶⁷

⁶⁷ There are two points to note when considering the application of the strategic models in service support and regulation, namely the notion of a continuum of activity and their application in a dynamic environment. There is a continuum of service or activity in each type of relationship. For example, in respect of regulation, at one extreme there is a 'low' level of regulatory activity/ self-regulation and at the other extreme a 'high' level of regulatory control. In terms of service support, a 'low' level of activity might involve just providing client systems support in terms of the systems tax agents need to use. A 'high' position on the continuum of service support might involve more extensive, client-specific help and facilitation.

For a range of reasons, including cost reasons, the ATO takes a particular position on the continuum in relation to each type of relationship it has with tax agents. This position is not static and may change as circumstances alter even though the strategic model may continue to apply. An example may be the ATO's continued high degree of education and communication support service to tax agents in response to the demands of the tax reform period.

Service delivery and the model of differentiated service provision

2.32 One of the key strategic elements of the ATO providing services to tax agents is the model of differentiated service. The 'differentiated service' or 'preferred supplier' model involves the tailoring of service delivery to particular markets or market segments according to the characteristics of the customer (e.g. clients of a certain size or clients with certain systems). For the ATO, application of the model would involve the ATO differentiating services to tax agents with particular capabilities and operational characteristics and performance (e.g. electronic interfaces, good compliance record, particular type of client base).

2.33 Since April 2002, when the ATO Executive agreed that the ATO should adopt the model of differentiated service provision in dealing with tax agents, it has been examining its tax agent support, compliance and lodgement approaches with tax agents to establish how it should apply the differentiated service model in service provision. The ATO's work to date has been to investigate the market segmentation of tax agents and other closely related types of tax practitioners such as bookkeepers lodging activity statements and the tailoring of services for the various segments (e.g. the 'top end', the 'medium' and 'high volume bulk' segments).

2.34 The ATO advised in September 2002 that the ATO's differentiated service model is being designed in conjunction with the tax and accounting professional associations and will only succeed with their support and willingness to promote high quality practice management processes and thereby obtain much improved service from the ATO.

ANAO comment on the differentiated service model

2.35 The development and wide application of a differentiated service model will have significant implications for the way the ATO supports tax agents, involving a large relationship management shift, with implications throughout the ATO for culture, people and systems.

2.36 Although the ATO's planning on the application of the model of differentiated supply is incomplete, the ANAO considers that a number of questions are raised in its implementation. Key ones are as follows:

- The ATO suggests that the differentiated service model reflects the notion that the ATO is predominantly a service provider for its clients (taxpayers) and tax agents are suppliers of taxpayer (client) information. That may be the case, however, the model has not fully reconciled the distinct positions of the two parties to the ATO/ tax agent relationship. As is implicit in the

ATO's suggested rationale above, the ATO is not predominantly a service provision agency for tax agents; it provides services to facilitate the collection of revenue from taxpayers, via taxpayers' intermediaries. However, the ATO and tax agents have quite distinct responsibilities (the ATO to manage the tax system, to collect revenue and make payments efficiently and effectively; tax agents to act for their clients and to ensure they only pay the minimum amount of tax duly payable). While many tax agents and their advocates highlight problems undermining the ATO's efficient and effective administration of the tax system on an ongoing basis (e.g. problems with inconsistent advice, problems with phones, delays in mail processing and problems with systems for the administration of the Pay As You Go⁶⁸ (PAYG) tax system), these matters are not their responsibility. The efficient and effective conduct of the tax system is clearly the ATO's responsibility. While (as the ATO acknowledges) tax agents provide valuable and constructive feedback on areas requiring attention, tax agents have little leverage over the efficiency and effectiveness of the ATO's practices in administering the systems which they must use. The public frustrations culminating in the ICAA's threat in August 2002 to abandon electronic lodgement of tax returns unless members perceived improvements in the ATO's quality of services and support, illustrate this.⁶⁹

- Implicit in the ATO's model of differentiated service appears to be the notion that, either the new model will provide efficiency gains (savings), enhanced effectiveness (better compliance) or some combination of these outcomes. The ATO advised that the model will provide benefits to both tax agents and the ATO, but that there will not be much scope for efficiency gains in the short or medium term.⁷⁰ The task of assessing the compliance effect of the differentiated service model will be a challenging one for the ATO.

2.37 Having adopted a new service delivery model based on differentiation of supply, it is important that the ATO continues to develop its ideas around its practical application and its anticipated benefits. It is also important that the ATO communicate its expectations to stakeholders.

⁶⁸ The PAYG system commenced on 1 July 2000 replacing various instalment and withholding income taxes.

⁶⁹ See Chapter 3 and Appendices 1-3 for more information on the context and outcomes of the campaign.

⁷⁰ There may be scope for some efficiency gains later on as tax agents move from high cost ways of doing things to lower cost practices, making their service support a cheaper proposition for the ATO.

Creating a coherent and consistent strategic framework for the relationship

2.38 As noted previously, the ATO is applying a number of different principles in its management of the strategic framework for its relationship with tax agents and other practitioners. Different areas in the ATO have responsibilities in implementing the elements of this strategic framework. Because these elements are separate and the ATO has not formulated a statement of its ATO-wide strategy for tax agents and other practitioners that is consistent and integrated, opportunities for confusion arise for ATO in developing its approaches to managing issues in its relationship with tax practitioners that could be avoided.

2.39 A starting point for clarification of the framework would be the identification of the different circumstances and needs of the populations that make up the broad 'tax practitioner' community. It is unlikely that the ATO would want or need to have a similar type of relationship, or provide similar services or exercise similar regulation in respect of each type of tax practitioner. It would be useful to consider in a structured way what those groups need and what the ATO might provide.

2.40 The value in having an integrated statement of the ATO-wide strategy is that it would distil the ATO's thinking on fundamental questions relating to the shape and purpose of the relationship (including for the community). It would allow the ATO to consider what it seeks to do in respect of, say, service support, consultation and regulation, and how these elements might interact. From this point the ATO might then consider what its 'basic' level of activity might be for that function, the 'above-basic' level of activity, the expected cost and compliance implications. The answers to these questions would then become the strategic and operational guides for the ATO in managing its relationships with tax agents and other tax practitioners.

2.41 It would also be appropriate for the statement of the ATO-wide strategy to be given the widest practicable publication among stakeholders. Having the statement externally visible would help to promote understanding, effective communication and commitment (which are key requirements for a healthy relationship). The ATO advised in September 2002 that it sees the model of differentiated service delivery for tax agents, that it is currently developing, as contributing to the formulation of an overall strategic view of the ATO's relationship with that segment of the tax practitioner population.

Why a clearly expressed, coherent view of the strategy is needed

2.42 The ATO will never be able to satisfy fully all the demands on its resources.⁷¹ A coherent strategic framework will help the ATO to clarify how it can use its limited resources to best effect in managing the relationship and be a reference point in its choices about the resource allocation to support tax agent and other practitioner relationship activity as against other activities (e.g. support for individuals who do not use a tax practitioner, and other possible systems improvements that may reduce the compliance costs for other taxpayers, such as small business).

2.43 The absence of a clear road map for the tax agent relationship means that it is hard for the ATO to put into an overall strategic context the significant numbers of operational measures it is undertaking, including the shift of the Technology Support Section from TPG&A, the ATO's recently-proposed relationship manager model for tax agents and other measures evident in Chapters 4 and 5. Without the specification of a clear strategic direction for the relationship including in relation to service delivery, it is more difficult for the ATO to ensure that activities are coordinated, purposeful, effective and efficient, that progress can be monitored and results assessed against the strategy and plans, and accountabilities discharged.

2.44 Our discussions with ATO staff and tax agents on their perceptions of the relationship and the ATO's own consultations⁷² highlight the need for the ATO to make a clear, consistent statement outlining the shape of the relationship that it is seeking strategically. It was made clear to us and to the ATO that there is uncertainty in some tax agents' minds that the ATO really wants tax agents and what the ATO expects of them, given the way the ATO deals with them.

Conclusion regarding strategic view for the relationship

2.45 We recognise that the development of a coherent, strategic view of the relationship will take some time and is not straightforward given the range of stakeholders and elements involved. We realise, too, that the strategic view must be able to accommodate change (and indeed may change over time), and that

⁷¹ When the ATO asked tax practitioners in 2001 what service enhancements they would like the ATO to deliver, their responses included improved phone service, access to client accounts and more eForms, consistency in advice, leniency with extension requests and the lodgement program and increased discrete services for tax practitioners. Source: TPG *Optimising Technology* Final Accountability Report (internal report).

The ATO did not canvass cost issues with tax practitioners in these consultations, but cost is a major factor affecting what can be provided.

⁷² This includes ATO work reviewing the Taxpayers' Charter and its consultations around the Enhanced Client Service initiative called 'Listening to the Community'. See *the Tax Agent* newsletter, June 2002, p. 38.

there will be tensions within this strategic view. However the risk of not having a broad strategic view thought-out and articulated, is that the considerable activity being taken across the ATO will be misdirected or misinterpreted. Not having a clearly-developed and clearly-articulated strategic view of the relationship also risks undermining the relationship—to the extent that the other party (tax agents) cannot be clear about how they fit in with the ATO's view of their world.

2.46 Building on its work developing guidance for the strategic direction of the ATO's relationship with tax agents, an integrated and consistent strategic framework would identify the means by which the ATO would deliver the services it intends to provide for tax agents as relevant. It would draw the boundaries between where the ATO will facilitate the business of tax agents and where formal regulatory and compliance requirements will be imposed on them. It would then be the basis for the ATO to achieve further operational efficiencies, improve service delivery and manage infrastructure such as information technology (IT). It would also support the ATO's pursuit of innovative ways to make the relationship with tax agents serve ATO ends in a comprehensive way, reflecting the various requirements of the ATO desired outcome.

2.47 Tax agents are of prime concern to the ATO. The ATO's most developed support and relationship management frameworks are, quite appropriately, most highly developed for the tax agent grouping. The ATO's strategies for the wider tax practitioner group are based broadly on the notion of risk and leverage to the tax system to encourage compliance in the taxpayer community. However, objectives for the ATO's various relationships with the wider tax practitioner group are not necessarily clearly specified. The ATO's development of its strategic framework for its relationship with the wider tax practitioner group would be enhanced by the ATO ensuring its strategies specify its objectives in dealing with the wider tax practitioner group and clarifying how these objectives will be pursued.

Recommendation No.2

2.48 The ANAO recommends that, to enhance the development of a strategic framework for its relationship with tax agents and the wider group of tax practitioners, the ATO:

- further develop its strategies for its relationship with tax agents by developing an integrated, consistent and visible statement of its ATO-wide strategic framework, including the ways success in the management of the relationship can be assessed; and
- ensure that its strategies relating to tax practitioners (other than tax agents) specify its objectives and clarify how these objectives will be pursued.

ATO Response

2.49 Agreed. Strategies are in place to pursue these objectives as part of the ATO corporate planning processes.

A tax agent roles and responsibilities statement

2.50 The Taxpayers' Charter and the tax agent relationship management principles statement contain useful material relating to principles and mutual expectations. It would be useful to supplement those high-level statements with a tax agent 'roles and responsibilities statement'. In many instances it would enunciate many of the practices and approaches that the ATO is already applying or seeking to apply, but it would also outline what could be expected of tax agents dealing with the ATO. It would tease out the detail of some of the elements of the ATO-wide strategy statement for the tax agent relationship that we recommend the ATO prepare.

2.51 For example, in a tax agent's roles and responsibilities statement the ATO might specify that it will:

- make clear its interests (e.g. to provide services to assist tax agents at a specified level, such as 'basic/ above basic or very high level'; to get tax information from tax agents that is accurate and timely—i.e. a compliance responsibility);
- work through identified tax agent and tax and accounting professional associations or representative bodies as much as possible;
- run consultative bodies and provide opportunities for input, listening and problem solving;
- in the interests of economy and efficiency, seek to deal electronically with tax agents as much as possible; and
- give advance notice of things that may affect tax agents' practices and clients operationally (e.g. to tell tax agents if there are problems with systems and processes in the ATO lines which have heavy responsibility for the operational dealings with tax agents, or problems with call centres which are such an important service support mechanism to tax agents).

2.52 The value in such a statement of roles and responsibilities would be to clarify and make explicit many of the ideas that at present are only implicit in the ATO's interactions with tax agents. It would be a basis for mutual understanding in the relationship (setting out key interests, mechanisms for two-way listening and collaboration and problem solving). Such a statement of roles and responsibilities would underpin the sorts of agreements that the ATO

and the tax and accounting professional associations might make from time to time regarding priorities for service improvement for tax agents and subsequent action.⁷³

Recommendation No.3

2.53 The ANAO recommends that, to supplement its high-level statements on tax agent relationship management, the ATO develop a tax agent roles and responsibilities statement that makes the ATO's operational expectations and undertakings more apparent.

ATO Response

2.54 Agreed. The development of a tax agent roles and responsibilities statement, by its very nature, should be developed collaboratively with tax agents and their professional associations.

Governance reporting and evaluation

2.55 The ATO has identified relationship management, including the relationship with tax practitioners, as one of its corporate priorities. According to the ATO's corporate planning documents for 2001–02, the relationship with tax agents is relevant to the ATO achieving its overall desired Government outcome of 'strong, sustainable economic growth and improved wellbeing of Australians' because the relationship bears on community confidence and overall compliance.⁷⁴ The objective for relationship management (as specified in the ATO's tax agent relationship management statement) is to contribute to the effective operation of the tax and other systems.

2.56 The ANAO examined how the ATO applies its governance arrangements to ensure that its detailed corporate planning, and the organisation's performance in achieving this corporate priority, is monitored and evaluated.

Corporate planning and review

2.57 The hierarchy of ATO plans for 2001–02 relevant to tax agent relationship management are the ATO Strategic Statement 2001–03 and the four plans comprising the ATO Corporate Plan,⁷⁵ the PTax Delivery Plan 2001–02 and the

⁷³ See Appendix 3 for the terms of the September 2002 statement outlining ATO agreed priorities for improved services for tax agents.

⁷⁴ Other ATO performance measures against the Government required outcome are minimising compliance costs and having an efficient, adaptive organization.

⁷⁵ The four sub-plans comprising the ATO Plan 2001–02 are Compliance, Operations, People and Place and Information Technology (IT).

TPGA Delivery Plan 2001–02. This hierarchy cascades from ATO-level objectives, outcomes and risks to linked plans dealing with the business line’s or work area’s plans.

2.58 The ATO provided us with draft versions of the TPG&A Delivery Plan 2001–02 in February 2002. One version described TPG&A as ‘a shared service providing support services for tax agents and other tax professionals on behalf of the ATO’ and a later one describes it as ‘the corporate custodian for the relationship with tax agents’. Despite the change in the description of TPG&A’s role and the terminology used, both versions of the draft TPG&A Delivery Plan 2001–02 refer to the ‘tax practitioner program’, but do not set out the program’s scope or objectives.

2.59 There are strong linkages between the TPG&A Delivery Plan, the PTax Delivery Plan and the objectives specified in the ATO Compliance sub-plan. The linkages follow from the fact that the vast majority of PTax’s activities have a compliance focus,⁷⁶ and that the entire ‘tax practitioner program’ run by TPG&A has a compliance orientation.⁷⁷

2.60 As well as not specifying the scope or objectives of the ‘tax practitioner program’, the planning framework we observed for 2001–02 does not include relevant benchmarks to assist in assessing performance. Under the ATO’s outcomes and outputs framework for 2001–02, the output to which the ‘tax practitioner program’ is directed is the ‘maintenance of community confidence’. The draft TPG&A Delivery Plan 2001–02 states that the ‘tax practitioner program’s’ two key outcomes are ‘relationships are rebuilt through the delivery of practical support, ease of access to products and services and co-design’ and ‘ATO initiated contacts are coordinated to smooth peaks and rationalise practitioners’ work loads’. The formulation of these outcomes for the ‘tax practitioner program’ is not such as to permit rigour in capturing the ATO’s desired outcomes from its activities in specific terms that relate to the ATO’s own statements of purpose made elsewhere.⁷⁸

2.61 Moreover, the draft TPG&A Delivery Plan 2001–02 lists activities to be done by the various work areas, but with very limited attention given to benchmarks or indicators for their performance (in their own right as activities or in contributing to the program). For example, one element in the TPG&A draft Delivery Plan 2001–02 concerning the regulatory support aspect of the

⁷⁶ The balance of PTax activities relate to the People and Place and the IT sub plans (and account for approximately 6 per cent of its resources)

⁷⁷ In its compliance planning work, the ATO takes a broad view of ‘compliance’ (including in the concept the notion of not only paying the right amount of tax or complying with other requirements, but also the notion of improving the tax system by minimising costs, improving confidence in the tax system, and ensuring ATO administration is flexible and responsive to changes in the environment, for example.)

⁷⁸ Such as maintaining community confidence and overall compliance.

Branch's functions lists 'progress on the creation of a National Tax Agent Board and changes to the regulatory framework' but does not include ways performance can be assessed for this activity. Similarly, for the delivery of education and communication deliverables by TPG&A, although the performance measure listed is 'product evaluation', the draft Delivery Plan does not include a relevant benchmark or indicator that would assist in allowing performance to be assessed.

Management reporting

2.62 The ATO's governance reporting framework requires ATO lines to report monthly on an exception basis to the relevant, cross-line executive group, and to report quarterly in full governance reports, information relating to business outcomes, expenditure against budget and major improvement opportunities. Information from these reports (from all ATO lines) is used in the quarterly preparation of the four sub-plan reports that relate to the ATO sub-plans constituting the ATO Plan.

2.63 We examined the TPG&A, PTax and ATO-level governance reports. While the TPG&A and PTax Governance Reports outline activities and progress, they do not make it clear how PTax and TPG&A assess their activities that contribute to managing the relationship with tax agents and any effect relationship management has in contributing to the effective operation of the tax and other systems or maintaining community confidence.

Conclusion

2.64 At this stage, the ATO's corporate planning, monitoring and evaluation arrangements do not adequately address the ATO relationship with tax agents or reflect an appropriate recognition of the role such a well-trained tax professional group plays in efficient and effective tax administration. The ATO's governance arrangements do not provide ATO operational units and staff with sufficient guidance on how they should approach dealings with tax agents. Further, the governance system does not allow the ATO to assess adequately the effectiveness of its own activities.

Recommendation No.4

2.65 The ANAO recommends that, to improve its governance planning and reporting of tax agent relationship management, the ATO:

- clarify the scope and objectives for its 'Tax Practitioner Program' and identify how the program's activities contribute to those objectives; and
- reflect those objectives and performance measures in its corporate planning and reporting framework.

ATO Response

2.66 Agreed.

Evaluation of relationship management efforts in the governance framework

2.67 The ATO evaluates its activities with tax agents using measures of activity and assessments of satisfaction. The main source of performance information on the ATO's relationship with tax agents is its quantitative performance against the service standards contained in the Taxpayers' Charter and performance against other corporate targets. These assessments focus largely on the timeliness of handling administrative activities (such as correspondence, telephone calls and processing of electronically lodged returns). As noted previously, the ATO has not specified Taxpayers' Charter responsibilities in respect of tax agents and other tax practitioners as a unique group.

2.68 The ATO also assesses its relationship performance via the Quality Assurance exercises it undertakes on some of the services tax agents use (e.g. the call centres) and assessment of complaints. These are noted, where relevant, in our analysis of service support and regulation in Chapters 4 and 5. These statistics show that while the ATO is meeting its service standards in relation to tax agent registration matters and conducting general telephone inquiry operations of the Tax Practitioner Business Infoline, which is a dedicated phone service to assist tax agents, the ATO is not fully meeting the service standards that it has set for itself for tax agents in relation to handling correspondence. Its performance in relation to the processing of electronic income tax returns also does not meet the standard it has set itself.

2.69 Another measure of relationship performance is the qualitative assessment of tax agent perceptions via community surveys. The ATO does these assessments from time to time.⁷⁹ Our consultations with tax agents, other tax practitioners

⁷⁹ e.g. in consultations with tax agents as part of its initiative to help tax agents optimise their use of technology support services from the ATO and its consultations during its current review of the Taxpayers' Charter.

and their representatives and the ATO's own consultations show that there is a perception prevalent among tax agents and other tax practitioners that the ATO is not meeting the principles of the Taxpayers' Charter.⁸⁰

2.70 Data in Figure 2.1 from the ATO's review in 2001 and 2002 of the Taxpayers' Charter highlights the ongoing challenge for the ATO in improving its services and interactions with tax agents, especially in relation to tax agents being confident about ATO information and advice. This issue of perceived confidence in ATO information and advice is highly significant, given the nature and the extent of the activities tax agents perform in the tax system, as outlined in Chapter 1.

2.71 The ATO surveyed tax agents and other practitioners as a specific group on their perceptions of ATO service quality in 2001.⁸¹ The survey showed some negative results, e.g. in terms of satisfaction with overall ATO services, the overall relationship and aspects of the service provided by ATO staff such as staff having broad commercial knowledge and providing reliable and accurate information. On the more positive side, the perception of the courtesy and respectfulness of ATO staff towards tax agents and other types of tax practitioners was more highly regarded. In considering these results it is worth noting that the survey was conducted in the context of a period of immense change in the tax system for the ATO and tax agents and other tax practitioners (the introduction of the Goods and Services Tax and other significant changes in the tax system).

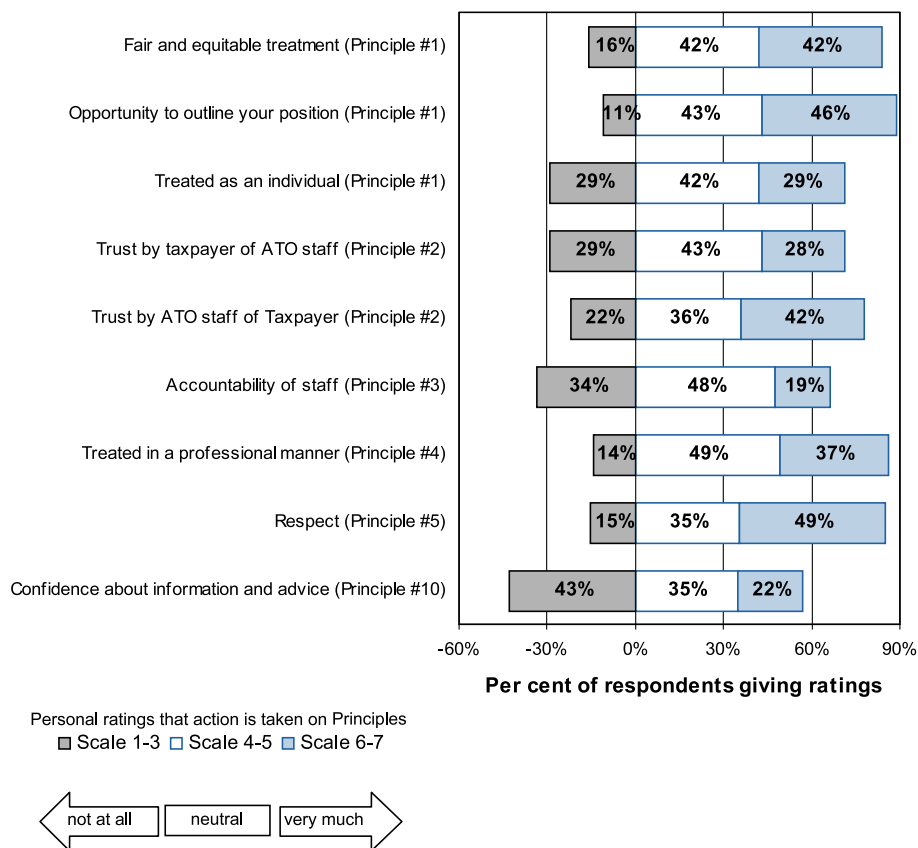
2.72 Our stakeholder contacts and discussions with ATO staff indicate that there are significant, in some cases increasing, tensions in some areas, but there is also goodwill in many areas and an interest in working together to improve performance. It was apparent that the parties appreciate that they have a lot to gain if the relationship works well and a lot to lose if it does not. This is encouraging because it suggests a level of mutual understanding and commitment that is necessary to make the relationship a durable one that can better withstand the inevitable pressures placed on it.

⁸⁰ The Taxpayers' Charter commits the ATO, among other things, to act fairly and equitably and to act professionally with taxpayers. For example, during the ATO's contact with tax agents in 2001 as part of its optimising technology initiative, only 222 of the 1688 tax agents consulted (13.15 per cent) said that they thought the ATO was meeting the Taxpayers' Charter. Source: TPG *Optimising Technology For Your Practice Contact Program Final Accountability Report* (internal report).

⁸¹ Tax Practitioner Perceptions of Service Quality, Wave 2, 2001 (internal report).

Figure 2.1

Tax agents' rating of ATO performance against Taxpayers' Charter Principles



Taxpayers' Charter Principles (as measured by the diagram above):

- Principle #1: treat you fairly and reasonably
- Principle #2: treat you as being honest in your tax affairs unless you act otherwise
- Principle #3: be accountable for what we do
- Principle #4: offer you professional service and assistance to help you to understand and meet your tax obligations
- Principle #5: respect your privacy
- Principle #10: give you advice and information that you can rely on

Source: ATO, drawn from report on the Taxpayers' Charter Review (internal report)

ANAO comment on ATO's performance reporting

2.73 We found that the ATO's assessments of relationship performance with tax agents were:

- very specific in focus (mostly related to timeliness of processing);
- not brought together for ATO senior management in a consolidated report with a tax agent focus;
- did not appear to be used explicitly by the ATO's relationship management mechanisms (see Chapter 3); and
- did not appear to be used in a consolidated way for relationship governance to improve performance.

2.74 Most of the relationship performance assessments the ATO undertakes relate to assessments of the timeliness of ATO processing. At this stage, the ATO does not consolidate its quantitative performance assessments into a report that focuses on tax practitioners, especially tax agents and members of tax, accounting and legal professional bodies. This means that the view they permit of the ATO's relationship with tax agents is somewhat segmented and therefore limited in scope, and this inhibits their use for both management purposes and use in the governance framework.

2.75 The ATO's relationship management capacity would be improved if, on a regular basis, it brought these various quantitative indicators together into a consolidated report that spanned the various dimensions of the relationship. This report would necessarily focus most heavily on ATO assessment of its multi-dimensional relationship in respect of tax agents, because this is the segment of tax practitioner with which the ATO has most operational dealings. However, assessments of the ATO's relationship with other key members of the tax practitioner group such as members of tax, accounting and legal professional bodies, would also have a place, depending on their perceived significance to the ATO's tax administrative responsibilities. These quantitative assessments could be supplemented with qualitative assessments of the relationship from satisfaction surveys and complaints data, from time to time, and could be the basis of a more holistic assessment of the ATO's various activities for this particularly significant group.

2.76 The consolidated relationship performance report would facilitate the ATO reaching some broad overall assessments of the relationship, in a unified statement of relationship governance. The ATO would then be in a better position to formulate plans and priorities for activities to improve the relationship and to communicate these assessments and plans internally and externally to stakeholders. Such measures could not only enhance the effectiveness of the ATO's relationship management efforts, but may also enhance tax agents' and

other relevant practitioners' perceptions of the relationship by providing greater clarity around the ATO's activities and plans and greater transparency in its results.

Knowing tax agents in order to manage them effectively

2.77 Tax agents have a strategic role in the administration of the tax system and the tax agent segment of tax practitioners is the core grouping with which the ATO seeks to interact, to support and to maintain a relationship. The ATO has information about the tax agent population, in part, as a by-product of the tax agent registration process and because the ATO has very close operational contact with them because they lodge specific tax documentation on behalf of their clients. The ATO uses its National Tax Agents' Profile Tool to help it analyse its tax agent population. The Profile Tool is a business intelligence tool that provides a consolidated view of a tax agent's interaction with the ATO (drawing together information from the ATO data warehouse regarding a tax agent's registration information, performance in lodging clients' income tax forms and activity statements, agent integrity information and PTax compliance information).

2.78 The ATO has done some initial research on the population's characteristics and is developing this as part of its work looking at segmenting and tailoring services for particular tax agent market segments (and other tax practitioner market segments such as bookkeepers who prepare activity statements) around the characteristics of management of practice, compliance, technological capability and people. It is doing this as part of its work to clarify the application of the model of differentiated service provision to tax agents and other tax practitioners such as the providers of BAS services.

2.79 The ATO is to develop the Profiling Tool to better support the PTax active compliance work and it advised in April 2002 that it is looking to enhance the Profiling Tool as part of its work on the application of the differentiated service model. Such analytical work around the characteristics and behaviours of tax agents is crucial to the ATO being able to apply the Compliance Model effectively as it intends. This work will assist the ATO to undertake analytical, risk management and relationship management work across ATO lines and functional areas. It can enhance the ATO's use of information and allow it to make coordinated responses. In this way it allows the ATO to better manage its relationship with tax agents.⁸²

⁸² One of the outcomes of the meeting on 3 September 2002 between the ATO and the professional associations which agreed priority areas to improve services for tax agents, was a plan for the ATO to conduct market research to better understand the world of tax agents and how to improve service delivery and relationships. The ATO intends that this research will be designed in conjunction with the professional associations. We would expect that this research would help the ATO to appreciate better the working environment and the characteristics and behaviours of tax agents.

2.80 Although the ATO consults and interacts with many other categories of tax practitioners as stakeholders (e.g. relationships with large business participants in the financial advisory industry, and consultations with industry participants with a special interest in GST matters), quite reasonably, the ATO does not have the same approach to its dealings with these groups as it does for tax agents. The ATO does not seek to provide the same level of support across the provision of broader tax advice by members of the wider tax practitioner grouping as it does in respect of tax agents, and indeed in many instances, the ATO will not be aware of the tax practitioner's interaction with the taxpayer or their advice.

2.81 The ATO maintains substantial information about the characteristics of the tax agent segment, which is its deliberate focus within the larger tax practitioner grouping because of their fundamental importance in the tax system. However, its knowledge of characteristics highlighting possible risks of non-compliance is less comprehensive. It is important that it continues to seek to improve its knowledge of the compliance characteristics of tax agents. It also needs to enhance its information about the characteristics of the wider tax practitioner population relevant to it, including especially tax practitioners lodging activity statements and intelligence about other types of tax practitioners relevant to it. Information about them and their compliance characteristics is important because they can bear on ATO activities such as the management of Aggressive Tax Planning, priorities in the provision of technical advice to clarify the law (e.g. via public rulings) and the scoping and targeting of its other support and compliance efforts.

Recommendation No.5

2.82 The ANAO recommends that, for improved knowledge of tax agents and better management of the relationship, the ATO refine its work to:

- identify and analyse the characteristics of the tax agent population; and
- consolidate its assessment of its performance in managing the relationship by drawing together qualitative and quantitative information, to prepare an overall assessment of the relationship; and communicate this and subsequent plans to internal and external stakeholders.

ATO Response

2.83 Agreed. The recently appointed First Assistant Commissioner has initiated a research and analysis program into issues confronting the profession. The professional bodies are working cooperatively with the ATO on this program.

3. Maintaining and Developing the Relationship with Tax Practitioners

This Chapter examines the way the ATO maintains and develops its relationship with tax agents and the wider tax practitioner group. Against the backdrop of the principles of effective relationship management, it outlines views on the current state of the relationship and then examines the ATO's consultative forums and working parties with representatives of tax agents and the tax, accounting and legal professional bodies. These consultative forums and working parties are the main formal vehicles the ATO uses to manage liaison and information flow with such tax practitioners.

Introduction

3.1 An important aspect of the ATO seeking to maintain and develop its relationship with tax agents and other tax practitioners such as the members of the tax, accounting and legal professional bodies is the way it engages with their representatives to obtain their input on issues in tax administration, industry views and intelligence, while providing information to them about ATO strategies and activities. The effectiveness of these activities depends on the effectiveness of the liaison and consultation activities of both parties to the relationship. This aspect of the ATO/ tax practitioner relationship involves a two-way flow in the activities between the ATO and the representatives of tax agents and other tax practitioners; it therefore is clearly a case in which the parties are dealing *in a relationship*.

3.2 The focus of the ATO's efforts in the context of its liaison and information provision is a broader grouping than that of tax agents alone. The ATO's liaison efforts relate to the tax practitioner grouping, since the ATO seeks to canvass the views of the wide range of stakeholders in the administration of taxation (e.g. lawyers specialising in tax law, accountants working in the tax area in large and small business, tax planners and advisers, as well as tax agents). We therefore talk of the ATO/ tax practitioner relationship, in this Chapter.

3.3 We concentrate on the consultative forums and working parties with tax agent and tax and accounting professional body representatives because these bodies are the main formal vehicle the ATO uses for consultation.⁸³ These bodies carry out a range of functions, such as:

- exchanging information between ATO staff, representatives of the tax professional associations plus, in some cases, individual tax agents, on a wide range of matters relevant to the ATO's relationship with tax agents and some other members of the wider tax practitioner grouping, e.g. industry intelligence on current issues;
- allowing the ATO to test its initiatives, for example on administrative processes and tax agent support measures, for suitability, timeliness and content before the initiatives are introduced;⁸⁴
- dealing with problem issues and concerns of members or the industry in general, with the benefit of input from a range of interested parties; and
- providing an opportunity for the ATO to report its progress in resolving a problem issue, i.e., 'accounting for its actions'.

3.4 In addition to the broad consultations that the ATO undertakes on issues in tax administration such as in the 'Listening to the Community' exercise or consultations on particular tax regimes such as the consultations in the development of the 'consolidations' regime⁸⁵ which impacts particularly on large business, the ATO also undertakes more targeted consultative approaches, particularly around measures to improve the support services the ATO provides to tax agents. The ATO calls this process 'co-design'.⁸⁶ It often involves the ATO conducting focus groups of tax agents to seek views and suggestions on perceived problems and/or administrative initiatives. The provision of ATO services to tax agents is discussed in Chapter 4.

⁸³ In addition to these formal consultative mechanisms with tax agents and tax and accounting professional representatives, the ATO also consults widely with other types of tax practitioners as part of its ongoing tax administrative responsibilities. Such consultations include interactions with representatives of large business and small business and tax practitioners with a particular interest in GST matters. The ATO also has gatherings with tax agents that are less formal than those in the long-established consultative forums. For example, in 2001-02, the head of TPG&A had 'town-hall' meetings with tax agents in centres in most states, in addition to the ATO-wide program of visits by senior ATO staff to tax agents (see the entry 'visits to tax practitioners by senior executives of the ATO' in Appendix 5). The ATO also consults with tax agents, provides information to them and receives information and intelligence from them via local discussion groups run by some tax agents.

⁸⁴ The ANAO was informed by tax agent and tax and accounting professional body representatives that the ATO is getting better at giving prior notice of its administrative intentions, although there have been some problems in the past affecting the degree of consultation possible. Representatives noted that such problems arose particularly due to Government timing of the introduction of legislative change affecting the tax system.

⁸⁵ As noted in Chapter 1, the consolidations regime is designed to allow wholly-owned corporate groups to be treated as a single entity for income tax purposes.

⁸⁶ Examples of ATO work in this area are targeted consultations with tax agents as part of the Commissioner's 'Listening to the Community' initiative and consultations on, and piloting of, downloadable calculators to help tax agents calculate certain tax benefits such as the Family Tax Benefit.

3.5 In the next two sections we outline some of the principles of effective relationship management and overall views on the state of the current relationship between the ATO and tax agents and tax practitioners such as those in the tax and accounting professions with whom the ATO deals in its formal consultative bodies.

Principles of an effective professional relationship

3.6 A relationship involves interactions between more than one party. In an effective professional relationship each party:

- feels it can rely on the other to deliver on its commitments—therefore the parties can plan on the basis of those commitments;
- understands the key interests of the other—therefore the parties can anticipate concerns and take them into account when making choices;
- listens to the other—therefore one party learns what it did not know, while letting the other party feel heard and taken into account;
- respects the other's strengths and differences and can engage in genuine consultation and collaboration; and
- shares a commitment and a method for solving problems—therefore parties are able to find solutions that work for both parties, to consider how the relationship could be improved and to work on necessary changes.

3.7 From our research and interviews with ATO staff, tax professional organisations and tax practitioners, it appeared that these parties consider the following features in the relationship to be important:

- trust;
- understanding;
- effective, two-way communication;
- real respect for the other's capabilities;
- effective problem solving; and
- commitment.

3.8 The ANAO considers that these principles are relevant to the effective management of the ATO's relationship with tax practitioners.

3.9 The ATO advised in September 2002 that, although it interacts with a wide range of stakeholders on certain topics, it does not seek to establish and maintain a relationship with relevant stakeholders. The ATO observed that there was a significant difference between broad consultation at certain times and the

maintenance and management of an ongoing relationship. The ANAO agrees. We note that there are some groups and interests with broader constituencies than tax agents which are of particular importance to the ATO. These groups' representation on leading ATO consultative forums bears this out.

The current state of the ATO/tax practitioner relationship

3.10 Overall, the current relationship between the ATO and tax agents and the tax and accounting professional bodies, can generally be described as strained and tense. This is over and above the 'normal' tensions that arise from the fundamental differences in roles of the parties: the ATO as 'revenue raiser' and 'compliance monitor', the tax practitioner as an intermediary operating for the benefit of the taxpayer client.

3.11 Both the ATO and tax practitioners (especially tax agents and members of tax and accounting professional bodies) consider that the present situation has arisen largely because of pressures placed on practitioners (and tax agents in particular) and on the ATO's operational systems, by tax reform. The term 'tax reform' encompasses implementation of a number of measures initiating the Government's 'A New Tax System' and 'New Business Tax System.' Tax reform involved, among other things:

- the introduction of the Goods and Services Tax (GST) and related wine equalisation and luxury car taxes;
- the introduction of the PAYG system for instalments and withholding taxes;
- registration of businesses with an Australian Business Number and the establishment of the Australian Business Register; and
- a number of measures relating to the taxation of business entities and business investments.

3.12 For the ATO, tax reform meant:

- new technical matters to resolve;
- new administrative and processing systems to develop and implement;
- big demands in staff recruitment and training;
- vastly increased activity in informing and supporting taxpayers and tax practitioners (with phone services, visits, seminars and explanatory material); and
- increases in the volume and complexity of work.

3.13 The significant pressures imposed on tax agents and some members of the wider practitioner group included:

- an increase in the number of interactions that many tax practitioners (especially tax agents) have with the ATO; and
- considerable added work in preparing additional returns associated with the GST.

3.14 The role of tax practitioners (especially the tax agents segment) in the new system is evolving. Tax agents, the tax and accounting professional bodies and the ATO, agree that tax reform also led to significant adjustments in their working practices and considerable extra work for tax agents. The ATO acknowledges that tax reform would not have been accomplished without the efforts of tax practitioners (and tax agents in particular) in adapting to revised processes and practices, and continuing to handle taxpayer client affairs while they were dealing with some administrative and processing problems in the ATO.

3.15 The demands of tax reform have stretched the capacity of many tax agents, in some cases, to breaking point. For instance, we heard frequent reports of tax agents being:

- overworked, and pressed by tighter timing expectations from the ATO and clients; and
- unable to find staff, and faced with downward pressure on fees,⁸⁷

such that they were considering leaving the tax profession.⁸⁸ The ATO acknowledges this, too, but it also advised in September 2002 that, in considering the impact of tax reform on tax agents and other categories of tax practitioners, it should also be noted that ‘the tax industry is growing’. Parties we consulted during the audit conceded that some tax agents and other tax practitioners appear to be coping better than others with some introducing new business systems to streamline their compliance and record keeping work and educating their clients to maintain better records.⁸⁹

⁸⁷ Because taxpayer clients were unwilling and/or unable to pay the higher fees that tax practitioners considered that they ought to charge due to their additional work on client affairs, such as:

- more returns are required under tax reform;
- client records required updating and/or re-organising before the tax agent could make use of them for example for preparing returns; and
- additional time seeking advice or assistance from the ATO and in resolving ATO administrative and processing mistakes.

⁸⁸ These issues are highlighted in ‘Accountants take GST strain’ *Australian Financial Review*, 3 July 2002 and many issues of the associations’ newsletters, such as *TaxVine* by the Taxation Institute of Australia.

⁸⁹ As part of its current work on identifying the characteristics of the various tax agent segments, the ATO is working with a group of tax agents who appear to be performing well to try to identify, for example, the particular technology, people and practice issues that contribute to the evident good performance. The ATO hopes to use this in developing its ideas for the practical application of its model of differentiated service to tax agent. This model is discussed in Chapter 2.

3.16 The ANAO's discussions with both the ATO and representatives of stakeholders showed that the parties perceive a considerable measure of dissatisfaction with the relationship between the ATO and tax practitioners, especially tax agents. The indications were that although there is goodwill in some areas, this dissatisfaction is deepening, rather than lessening, and that the completion of the period of rapid change brought by the introduction of the New Tax System may not bring to an end the disenchantment and frustrations experienced by the parties in the relationship. Yet the objective 'weight' of the role of tax agent and other types of tax practitioner in the smooth and effective operation of the tax system seems unlikely to be reduced in the foreseeable future.

3.17 In these circumstances the ANAO considers that the ATO needs to take further initiatives comprehensively (as outlined in Chapters 2, 4 and 5) to restore sound relationships with the tax practitioner community (and especially tax agents and members of the tax and accounting professional bodies) as a basis for building durable foundations for further improvement in the effectiveness of the tax system.

3.18 In August 2002, the ICAA, supported by other tax and accounting professional bodies,⁹⁰ commenced a public campaign highlighting members' concerns and frustrations with the complexities of the tax administrative system, the extent of ATO service support and the ATO's compliance demands on tax practitioners and threatening to abandon electronic lodgement of tax returns as of 28 October 2002 unless members perceived improvements in the ATO's quality of service and support.⁹¹ The campaign prompted the Commissioner of Taxation to call a meeting with a number of the tax and accounting professional bodies on 3 September 2002 and provided added impetus for the ATO to continue to seek to improve services for tax agents. The meeting resulted in: a cooperative agreement about improvements required to the services provided by the ATO; identifying initial priorities for attention in improving services for tax agents; and foreshadowing regular meetings between the Commissioner and the professional bodies to exchange ideas on administrative issues and to review progress on improved services to tax agents.⁹²

3.19 On 29 October 2002, following the monitoring of ATO services by members, the ICAA decided to extend the deadline for the possible abandonment of the electronic lodgement of tax returns until 28 January 2003 (the date by which the next BAS must be lodged). The ICAA indicated that it had decided to extend

⁹⁰ Such as the Taxation Institute and the National Tax and Accountants Association.

⁹¹ A copy of the ICAA's press release outlining their complaints and proposed campaign is at Appendix 1. The ICAA's open letter to the Commissioner of Taxation, foreshadowed in the press release, is at Appendix 2.

⁹² A copy of the joint statement by the Commissioner of Taxation and accounting and tax professional bodies is at Appendix 3.

the process of monitoring ATO efforts to improve services while allowing the ATO more time to implement specific undertakings, meet identified deadlines and to maintain the momentum of change.

3.20 The ATO's machinery for consultation and information sharing with tax agents and the professional associations representing agents, and members of tax and accounting bodies is one of its main devices to maintain and develop its relationships with this element of the tax practitioner community. The various groups making up this machinery are considered in the following section.

Consultative forums—roles

3.21 The ATO has a framework of consultative forums with tax agents and the tax, accounting and legal professional bodies at the national and regional levels. These bodies include the National Tax Liaison Group (NTLG), its sub-committee the national ATO Tax Practitioner Forum (ATPF), regional ATPFs⁹³ and working parties of the ATPF.⁹⁴ These bodies provide formal and extensive avenues for 'coal-face' intelligence for the ATO, consultation, decision-making and accountability.

3.22 The NTLG is the ATO's peak consultation forum for discussion and resolution of broad issues of procedures and policy in tax administration.⁹⁵ Its focus is a strategic one—on how the ATO administers the taxation system (e.g. the interpretation and application of tax laws and the implementation of Government policy) with a view to influencing the major, broad directions of the ATO. Its basis is that members of the tax practitioner community (and particularly members of the professional bodies) are seen to possess expertise and information about the tax system on which the ATO should be in a position to draw.

3.23 The ATPF⁹⁶ has a more 'operational' focus than the NTLG, its role being to identify, discuss and jointly resolve significant tax administration issues. As such, it is more closely linked with the ATO's operational relationship with the tax and accounting professionals, and especially the tax agents, who advise ATO clients on tax issues. The ATPF is the main forum for the ATO's tax agent and tax and accounting professional body consultation. The ATPF is supported by a number of working groups. Like the NTLG, the ATPF reflects, and can influence, the extent to which there are good relations between the ATO and tax

⁹³ A regional forum exists in each State, plus the ACT. There are two regional forums in Qld.

⁹⁴ Appendix 4 depicts the hierarchy of tax practitioner joint consultative forums and working groups.

⁹⁵ The NTLG is chaired by the Commissioner of Taxation and members comprise senior ATO executives and representatives of the major tax, accounting and legal professional associations.

⁹⁶ The ATPF is chaired by a senior ATO executive and membership includes senior ATO officers, representatives from the tax, accounting and legal professional associations represented at the NTLG, major tax agent firms and individual tax agents.

practitioners. To the extent that it contributes to the shape of administrative practice, it can also shape the other aspects of the ATO's relationship with tax agents and other tax practitioners (e.g. compliance activities).

Operations of consultative committees

3.24 The scope of matters covered in the NTLG and the ATPF is extensive.⁹⁷ A significant element of the NTLG and ATPF processes is the ATO responding to issues or problems raised by the stakeholder representatives. However, in addition to this accountability focus, there is also a significant amount of discussion on current issues and a sharing of views between the various participants. The input and advice from representatives provide the ATO with invaluable insights into tax issues for the tax professional community and the community at large. For the ATO's part, it is able to convey to representatives strategic and operational information that it is in its interests (as the party responsible for administering the tax system) for taxpayers and their advisers to know.

3.25 The high level consultative bodies can be influential.⁹⁸ Indicative of the ATO's use of the high level consultative forums are:

- the discussions around aggressive tax planning and mass marketed schemes;
- the circulation of the draft tax agent relationship management principles statement to both the NTLG and the ATPF for comment; and
- provision of the results of the survey conducted in 2001–02 as part of the ATO's current review of the Taxpayers' Charter.⁹⁹

3.26 Much of the operational work that is the practical expression of the liaison relationship between the ATO and tax practitioners occurs in the working parties of the NTLG and ATPF. These bodies are highly active, practical in focus and can be effective (in terms of both practical problem solving as well as enhancing the relationship between the ATO and tax practitioners). A notable example was the major effort by the Accounting Working Group of the ATPF with members of the ATO and the professional associations to work together at a practical

⁹⁷ For example, at its December 2001 meeting the NTLG addressed matters ranging from the timing of resumption of work relating to the national review of standards for the tax profession, administration of the Private Bindings Rulings register by the ATO to matters before the OECD in relation to eCommerce. The March 2002 meeting of the ATPF addressed matters ranging from the role, structure and membership of the ATPF forums to ATO call centres and the First Child Tax Refund (Baby Bonus).

⁹⁸ The Commissioner of Taxation referred to 'feedback from consultative forums' as contributing to his decision in February 2001 to provide greater ATO assistance to tax agents. Source: Commissioner of Taxation's letter of 2 February 2001 to tax agents, 'Greater Assistance for Practitioners.'

⁹⁹ The survey canvassed a wide range of parties, including tax agents, other tax and accounting professionals, stakeholders in large and small business and individual taxpayers.

level to improve the ATO's management of Running Balance Accounts (RBAs). Its activities led to enhanced mutual understanding and operational improvements around RBAs and other taxpayer accounting issues.¹⁰⁰ Another example is the NTLG Regulatory Framework Working Group, which has representation from the ATO and professional associations for the purpose of producing a discussion paper on a new regulatory system for tax agents and other tax practitioners. This matter is discussed in Chapter 5.

3.27 One of the factors influencing how well the liaison aspect of the ATO's relationship with tax practitioners works is the membership of the consultative committees. A particular issue is how representative is the consultative committee membership of the tax and accounting profession and tax agents.¹⁰¹ The size of the NTLG and the bodies represented on it have been stable, but in 2002 the ATO introduced a number of changes in the ATPF to broaden the representation of its membership. The ATO increased the size of the ATPF by increasing the representation from individual tax agents and introduced a two-year tenure system for individual tax agent members, to allow for change in input into this consultative forum.

3.28 In 2002 the ATO finalised changes in the structure and membership of the ATPF regional forums.¹⁰² The ATO introduced three-year tenure for tax agent members, a consistent pattern of meetings for each region (to be quarterly) and a consistent pattern of ATO representation (senior ATO executive).

3.29 The ANAO observed that committee activity is particularly effective in maintaining the relationship with tax agents and members of the tax and accounting professional bodies when the work involves joint participation in problem solving, not just problem raising and complaints. During the audit, our discussions with members of the consultative forums and individual tax agents and other tax practitioners included coverage of the operations of these bodies. Stakeholders' views differed on how well the NTLG and ATPF operate. Some stakeholders were negative, seeing them reflecting and exacerbating the tensions and problems between the ATO and tax practitioners. Others were more positive, recognising that with the many different participants, the different

¹⁰⁰ RBAs record a taxpayer's tax liabilities and credits that are notified on an activity statement. The ANAO is aware that, while the problems for tax agents in dealing with RBAs have not been entirely overcome, action is under-way within the ATO that will result in:

- an ATO technology change to provide call centre staff with access to all client accounting details in order to be able to answer queries from tax agents in a more detailed and comprehensive manner; and
- an Internet-based system, with appropriate levels of security, to allow tax agents to access, on-line, taxpayer details for their clients such as RBA information.

¹⁰¹ The issue of the representativeness of committee membership is not limited to the ATO and tax practitioners alone. See, for example, complaints that the new advisory panel to the Board of Taxation favours big business and does not represent small business and the average taxpayer in 'New tax advisory panel just 'a gentleman's club' *Sydney Morning Herald*, 16 July 2002.

¹⁰² The ATO expects these changes to be implemented by the end of 2002.

interests and the complexity of the tax administrative issues being managed, the consultative forums operate reasonably overall and that consultative relationships were reasonably well-managed by the ATO.

Resourcing and review

3.30 Secretariat support for the NTLG, the ATPF and its sub-committees is the responsibility of the Professional Associations Liaison Unit (PALU) in TPG&A. PALU has an allocation of 7.8 staff for 2001–02 and total funding of \$630 000. This group coordinates agenda items, organises and provides administrative support at the meetings and prepares minutes. These minutes are placed on the ATO website once they are agreed. From our observation of processes, the supporting infrastructure for the NTLG and the ATPF works well and stakeholders commented favourably on the efficiency of its operations and the professionalism of the staff involved.

3.31 The PALU costs cited above do not represent the total costs to the ATO of its liaison and information-provision aspects of its relationship with tax agents and members of the tax, accounting and legal professional bodies. As is apparent from the preceding discussion, there is an extensive commitment of resources by the ATO for its staff participating in the consultative forums and associated processes and the ATO also meets the direct costs of some of the tax agent participants in the consultative forums and consultative processes. However, the ATO does not collate the costs of the liaison and consultation aspects of its relationship with tax agents and the tax, accounting and legal professional bodies at the peak level, or the costs that the external participants incur.

3.32 The ANAO considers that, in an environment of overall resource restraints but increased interest in stakeholder participation and consultation, there would be merit in the ATO broadly identifying and assessing the magnitude of the ATO's costs of providing such consultation services.

3.33 Another necessary element of the ATO management of the liaison aspects of its relationship with tax agents and members of the tax and professional accounting bodies, is for it to assess the effectiveness or performance of these liaison arrangements, particularly given the dynamic nature of the tax systems, technology, industry and even the institutional frameworks. Examples of the dynamic nature of the tax 'institutional' environment are the July 2002 removal from the ATO of responsibility to contribute to tax policy development and design, the intended creation of an additional administrative review body such as the Inspector-General of Taxation and the formation in 2002 of a new stakeholder body which has bookkeepers as its target membership, the Association of Accounting Technicians.¹⁰³

¹⁰³ The merits of periodic review of performance is reflected in the NTLG's draft charter which proposes that: 'An evaluation of the effectiveness of the NTLG and its subcommittees will take place on a regular basis.'

3.34 We found that the ATO had reviewed aspects of the consultative arrangements with tax agents and the professional bodies, particularly the operations of some consultative committees. The ATO reviewed the membership and operational practices of the national and regional tax practitioner ATPF committees in 2001 and 2002,¹⁰⁴ and has introduced quite significant changes to broaden representation and regularise operations. However the working arrangements of the NTLG have not been reviewed since its establishment.¹⁰⁵ Although the ATO has assessed the working arrangements of some of its consultative bodies, it has not formally assessed their effectiveness.

Recommendation No.6

3.35 The ANAO recommends that, for appropriate assurance on the relevance and cost-effectiveness of the investment the ATO, tax agents and the tax, accounting and legal professional bodies make in their consultative relationship, the ATO periodically assess the costs and benefits of the consultative committees and their performance, at least in broad terms.

ATO Response

3.36 Agreed.

Using the liaison machinery to maximum effect for the relationship

3.37 As noted above, the ATO has well-developed mechanisms to consult and engage with tax practitioners such as tax agents and members of tax, accounting and legal professional bodies, and the supporting infrastructure for the NTLG and the ATPF works well. While we recognise these positive achievements, we consider that there is scope for the ATO to use its current relationship management infrastructure more robustly to service its important relationship with these tax practitioners. This would allow the ATO to obtain more comprehensively the benefits to tax administration that the relationship can produce (as outlined in Chapter 1 and explored in other Chapters).

¹⁰⁴ The review of the regional ATPFs recommended measures to put a greater measure of discipline around the scope of operations of the committees and suggested periodic evaluation of them. The review of the national ATPF led to changes in membership composition and operational practices (e.g. including representation from innovative/best practice and rural/regional tax agents and conducting meetings outside Sydney and Melbourne).

¹⁰⁵ Illustrative of the need for review of the scope of committees and their formal arrangements, we found that the role and charter of the NTLG, established in 1984, was still only in draft form.

3.38 TPG&A, which is responsible for managing and coordinating the tax agent relationship, provides secretariat support for the NTLG and the ATPF, coordinates responses from the ATO lines to issues raised by members (representing, for example, tax agents and the tax and accounting professional bodies and the Law Council of Australia) and, from time to time, becomes a ‘trouble shooter’ resource to explore, assess and advise on particular issues in the relationship raised by such tax practitioners or the ATO. TPG&A is thus integral to the ATO’s process of relationship management and to senior management’s understanding of the current state of the relationship and needs for its development.

3.39 In our view, the ATO has much to gain by TPG&A developing its performance management role in respect of the relationship, capitalising on the established infrastructure. For example, the ATO could draw on, and develop, the established tax agent and professional body liaison and information-sharing mechanisms that are facilitated by TPG&A, so that they can better assist the ATO to inform itself of the quality of the relationship that the ATO has with these key members of the tax practitioner group. The established liaison and information-sharing mechanisms could also help the ATO to assess where it needs to develop its procedures to ensure that the most productive relationship with tax agents and other relevant tax practitioners, meeting mutual interests, is maintained and enhanced.

3.40 The ATO’s information on the state of the relationship is segmented (see our comments in Chapter 2 regarding ATO performance reporting). A key way in which TPG&A can enhance its performance management focus would be by it assuming responsibility for providing to the ATO Executive, consolidated reports on the tax practitioner relationship (especially with tax agents and members of the tax and accounting professional bodies) and areas requiring attention to ensure its effective operations (as we recommend in Recommendation 4).

3.41 These consolidated relationship reports would pull together not only the more significant insights and information from the established liaison and information sharing infrastructure but also information and performance data relevant to the many other ATO activities that have a tax practitioner focus.¹⁰⁶ In

¹⁰⁶ Consolidated information on the relationship could cover, for instance,

- the timeliness and quality of ATO processes for tax practitioners (correspondence, telephone services, private binding rulings);
- compliance aspects (timeliness and quality of returns and other material lodged by tax agents);
- issues management (from complaints and telephone data analysis, comments from stakeholders such as the Ombudsman and the Inspector-General of Taxation, formal liaison and information avenues such as the NTLG and ATPF);
- satisfaction survey results (from community and tax practitioners);
- adequacy of IT systems (telephony, tax agent profiling and intelligence gathering); and
- cost of relationship management activities (e.g. service support, regulation, liaison).

this way the ATO Executive could be better informed of the state of its relationship with tax agents and members of the tax and accounting professional bodies and be in a better position to address areas requiring attention and to identify opportunities for development and enhancements in the relationship. Versions of these tax practitioner relationship status and opportunity reports may also enrich the discussions with tax agents and representatives of the tax, accounting and legal professional bodies in the liaison and information sharing forums, thereby adding further benefit to the ATO's tax practitioner relationship management activities.

3.42 As of early October 2002, the ATO has been making public some performance information regarding processing of tax returns and activity statements and statistics on telephone performance. This follows the ATO's commitment to the professional bodies in early September 2002 to act on priority areas to improve service delivery to tax agents.¹⁰⁷ We see the suggested consolidated relationship report as complementing these statistics with other, more detailed information and as providing analysis and comment.

¹⁰⁷ See Appendix 3 for the terms of the agreement.

4. ATO Services to Tax Agents

This Chapter examines education and communication, and information technology services that the ATO provides to tax agents. We comment also on the operation of ATO call centre lines used by tax agents. We report on relevant ATO performance management issues and outcomes, and on means by which the ATO can improve its performance management of services to support tax agents.

Introduction

4.1 Tax agents are the focus of discussion in this Chapter, since this segment of tax practitioners is the main beneficiary of the ATO's service support examined in the audit.

4.2 Successful ongoing management of the ATO's relationship with tax agents requires the provision of effective, practical service support and ease of access to products and services. The ATO offers tax agents specific, in some cases priority, service support. Agents may also make use of those ATO support facilities that are provided to taxpayers in general.

4.3 The ATO's strategic approach for the provision of service support to tax agents includes:

- developing and promoting the use by tax agents of 'self-help' products and services, in the provision of information through education and communication processes and in implementing technology support programs; and
- involving tax agents and their representatives in the design and implementation of service support programs. The ATO considers this to be a critical element in the quality and relevance of services provided to tax agents and in the enhancement of the ATO's relationship with tax agents.

4.4 In our discussion of the ATO's services to tax agents, we set out the ATO's education, communication and IT services and the many operational matters in call centres which have been the subject of complaints from tax agents and the ATO's responses to these issues. We then review some of the ATO's performance management processes in relation to these services to tax agents.

Education and communication support

4.5 The ATO provides extensive education and communication services aimed at tax agents. These include nationwide information seminars at 'Tax Time,' a regular newsletter directed at tax agents and technical and tax system information provided in a CD-ROM and on the section of the ATO website for tax agents and other tax practitioners, called 'Portfolio.' Examples of the ATO's education programs and communication processes for tax agents, are listed in Appendix 5.

4.6 The ATO's education and communication support services assist tax agents to perform their role as intermediaries providing client (taxpayer) services within the tax system, particularly in preparing and lodging returns.¹⁰⁸ However, the ATO cannot, because of resource constraints, and should not, be expected to meet all tax agent education and communication needs. Tax agents operate as commercial businesses and, as professionals with skills and knowledge to sell, the onus is on them to be informed and educated in the requirements of their profession. For example, tax agents can and do access various education and training materials and resources from sources other than the ATO, e.g. through tax and accounting professional associations.

4.7 The ATO's strategy in providing education and communication support is to ensure that it provides the information and materials tax agents require that only the ATO can provide (e.g. to inform tax agents of new requirements of any new tax measures or to provide appropriate forms and stationery for their use) and also to offer additional information to 'top-up' the skills base of tax agents. Tax agents are required to possess certain educational and experience qualifications in order to be registered and therefore it is appropriate that the ATO strategy should be one directed to augmenting the skills and knowledge of tax agents or facilitating their self-education in particular areas. The need for ATO education and communication services addressed to tax agents, and for agents to 'self-educate,' has increased since the onset of tax reform, given the volume and pace of change in tax law and tax administrative processes, with demands for education and information that the ATO could not alone fulfil.

Management of education and communication support by TPG&A

4.8 ATO education programs and communication processes established to provide information to tax agents are the responsibility of the Education and Communication Section of TPG&A. This Section focuses on design, development,

¹⁰⁸ Education and communication processes would help the tax agent to know the ATO's administrative processes such as dates for required lodgement, the systems to be used and the information required.

coordination¹⁰⁹ and enhancement of education ‘deliverables’ and communication processes to support tax agents. For 2001–02 this Section was allocated some 13 staff and \$1.5 million. While this funding figure covers TPG&A direct costs, particularly for staffing, the ATO does not calculate the overall cost of its tax agent-related education and communication support programs and processes.

Information technology support

4.9 The ATO provides extensive IT support for tax agents ranging from the electronic lodgement service exclusive to tax agents (ELS),¹¹⁰ to Web sites providing extensive technical and procedural information.¹¹¹ Examples of IT support programs relevant to tax agents are listed at Appendix 6.

4.10 ATO staff, representatives of professional associations and individual agents commented during the audit that the ATO’s technology support program and processes have been especially important with the onset of tax reform and that they are valued by tax agents and professional associations.

4.11 The ATO’s intention to provide better technology support to tax agents has been reflected in the Commissioner’s broadcasts in February and November 2001 covering greater assistance for tax agents. For example, a range of Internet-based ‘self-help’ facilities, allowing direct access to lodgement, account and assessment information, as well as on-line calculators to assist tax agents preparing clients’ returns, are being implemented progressively by the ATO. The ATO continues to make progress on the provision of technology-based services and support—including as part of the ATO’s current consultation exercise, the Listening to the Community Program.¹¹² The ATO is moving away from the handling of paper, towards the Web-based provision of information and electronic communication between the ATO and tax agents, and indeed

¹⁰⁹ As part of TPG&A’s coordination function it considers joint ATO/professional association education and communication programs. The arrangements for such programs are made through the Education and Communication Working Group, which has representatives from the ATO, professional associations and individual tax agents.

¹¹⁰ The ELS facility is a good example of the critical importance of technology in the ATO’s administration of the tax system. This is demonstrated by the fact that ELS returns comprise over 73 per cent of the 9.6 million tax returns lodged in 2001–02 to end-May 2002 and that ATO reporting in 2001–02 shows that a relatively low proportion (61 per cent) of tax agents that are ‘ELS-capable’ lodge 98 per cent of all agent-lodged returns.

¹¹¹ The ATO provides other forms of technology support to tax practitioners, involving telecommunications technology, such as ATO call centres. Call centres are discussed later in this Chapter.

¹¹² See, for example, the suggestions from tax agents and what the ATO is doing to improve and expand technology-based services outlined in *the Taxagent*, Issue 17, September 2002. Another example is the ATO launching the Tax Agent Portal on 3 October 2002. The portal is a secure site for tax agents through which they can obtain tailored access to client information, ATO facilities and administrative systems. The ATO envisages that the features and functions of the portal will be expanded over time.

between the ATO and taxpayers, both business and personal.¹¹³ The ATO has moved to curtail some services to agents who are not 'electronically-enabled,' such as not mailing information that is available electronically, due to the costs of providing ATO services other than by electronic means.

4.12 In seeking to provide effective technology support to tax agents, the ATO has to contend with the fact that some agents have not embraced technology, and that the gap between technology-capable and other agents is widening as the ATO seeks to enhance its IT service support. For example:

- many tax agents are not using the electronic system that will help them manage mail from the ATO;
- a small but unknown number of tax agents do not have access to a computer;
- some 39 per cent of tax agents do not use ELS and still lodge returns on paper;¹¹⁴ and
- ATO data¹¹⁵ show that, while up to 90 per cent of tax practitioners have access to the Internet, and while 60 per cent of tax agents cite the ATO Web sites as a major source of technical and procedural information, only some 16 per cent of them access the ATO Web sites daily, and 5 per cent access them less frequently than monthly.

4.13 The ANAO agrees that increased application of IT, including the use of 'self-help' technology products, allows the ATO and tax agents to carry out more efficiently and effectively their respective responsibilities for the operation of the tax system. The ANAO supports the ATO's intention to advocate use of cost-effective technology support systems to tax agents, and indeed, to the extent possible, to involve tax agents and their representatives in the design and implementation of the IT component of tax administrative systems (the notion of co-design noted in Chapter 3). The ATO advised that it seeks to address the issue of some tax agents not embracing technology, with visits and education efforts (such as the Optimising Technology Program)¹¹⁶ and consultation with professional associations.

¹¹³ e.g. the ATO's Australian Business Register initiative for tax agents and other users such as businesses involved setting up a Web platform outside the ATO 'firewall' and allowing users to register on-line and in 'real time' for an Australian Business Number (ABN) through the Internet. The Australian Business Register was introduced in mid-2002. The intention is also to allow an on-line maintenance facility for users to maintain their ABN records, on-line and in 'real time'.

¹¹⁴ Based on ATO data in 2001–02.

¹¹⁵ *ATO Communications with Tax Practitioners*, Survey 2001–02 (internal report).

¹¹⁶ For an outline of this, and other ATO technology services, see Appendix 6.

Management of technology support programs

4.14 Technology support for tax agents is managed by the PTax Technology Support Section.¹¹⁷ Technology support for tax agents was provided previously by the TPG&A Technology Support Section. The 20 staff of this Section were transferred to PTax Technology Support in January 2002.

4.15 The ATO advised the ANAO that the revised organisational arrangement will give the ex-TPG&A staff, and thus their major clients/stakeholders (tax agents), access to greater levels of expertise and more resources to carry out required technology support initiatives (although the ATO does not calculate the overall cost of its tax agent-related technology support programs). ATO also advised that the PTax Technology Support Section would continue to have a strong working relationship with TPG&A's functional units and their tax agent-related responsibilities. Given the significance and the wide range of technology responsibilities that the PTax Technology Support Section has in PTax, this arrangement for tax agent technology support may be less satisfactory than the previous dedicated, agent-focussed capability.

Coordination of technology support

4.16 The ANAO considers that it is important that provision of technology support for tax agents retains a clear focus within PTax's competing priorities, so that tax agent technology support needs are given appropriate consideration and resourcing. Especially with the ATO shifting its attitude to agent service provision so that it increasingly disfavours agents who do not use IT facilities to the extent it considers appropriate, technology support is necessary to support tax agents in carrying out their roles within the tax system.

4.17 Moreover, the ATO needs to ensure that it has a capacity for considering, consulting on, and managing across the ATO IT matters that relate to the ATO's relationship with tax agents. Otherwise there is the possibility of lack of coordination of tax agent-relevant systems with technology support programs run by the ATO as a whole. The ANAO considers that a coordinator should be appointed to take both a strategic and an operational focus on:

- maintaining coordination of ATO IT/technology support processes that impact on tax agents (e.g. through participation as a member of the TPRF—discussed in Chapter 2);
- liaising on tax agent-related IT issues across ATO business and service lines; and

¹¹⁷ The PTax Technology Support Section also handles the provision of technology support relevant to the operations of the rest of the PTax line, including technology systems relevant to PTax's public assistance, compliance, tax technical and interpretation functions, and business support systems for the line as a whole.

- providing an information avenue between those ATO areas that are ‘tax agent-focussed’ and those that are ‘technology-focussed’ to ensure that the interests of tax agents are taken into account in the ATO’s use and development of IT systems.

Recommendation No.7

4.18 The ANAO recommends that, to enhance its management of tax agent technology matters, the ATO establish a technology support coordinator to:

- liaise across the ATO on matters that relate to the interaction of information technology and tax agents; and
- participate as an ongoing member of the Tax Practitioner Relationship Forum.

ATO Response

4.19 Agreed.

Registration of ELS software providers

4.20 Tax agents must have ELS software available to allow them to submit client tax returns electronically to the ATO. The ATO registers the providers of commercially-available ELS tax return software, but the ATO is not responsible for the ‘useability’ of the software. The ATO’s responsibilities in the registration process are limited to:

- the provision of information to software providers on legislative or administrative modifications¹¹⁸ to the tax system, so that providers can take account of tax return changes, for example, in developing their tax return software; and
- advising providers of the ATO’s technical data integrity and format specifications to be met so that a return can be transmitted correctly through the ATO’s ‘gateway.’

4.21 However, often when software problems arise, such as affected one software provider’s 2000–01 return software, they are still seen by tax agents as an issue for which the ATO is responsible.¹¹⁹ In the result, tensions created by this ‘third party’ factor, have been caused in the ATO’s relationship with tax agents.

¹¹⁸ Passage of legislation late in a tax year may impact adversely on the ability of software producers to prepare, in a timely fashion, software needed for submission of returns through ELS.

¹¹⁹ Software problems may delay lodgements of returns that tax agents are required to make by due dates.

4.22 Following the problems experienced in 2001, the ATO acted to improve its working relationship between the ATO and ELS software providers. The creation of the Software Developers' Forum exemplifies a sound ATO approach to addressing this problem—not of its own causing—in the interests of both tax agents and its own operations.

Call centres

4.23 The ATO receives some 17 million telephone calls per year. The ATO operates a number of call centres¹²⁰ to handle telephone inquiries from taxpayers and other callers, including from tax agents.¹²¹ The main ATO call centres are:

- PTax Public Assistance;
- Small Business (SB) Business Call Centre;
- Excise Diesel Fuel Infoline; and,
- Superannuation Infoline.

The ATO's provision of telephone information services to tax agents

4.24 As well as using the ATO telephone information sources such as the call centres listed above, the ATO has established dedicated facilities to provide specialised, priority service to tax agents. Flowing from the Commissioner's February 2001 announcement of measures to assist tax agents, the ATO has centralised and 'streamed' its telephone assistance to tax agents. The ATO has sought to encourage the use of (mainly) two telephone services, comprising:

- the Tax Practitioner Business Infoline (TPBIL),¹²² part of the Business Call Centre, run by the SB business line; and
- the Tax Agent Infoline, run by TPG&A.¹²³

4.25 The ATO's approach to the provision of telephone support for tax agents, and also for other callers, arises from its intention to support the provision of 'self-help' rather than to provide staff to deal with particular inquiries face to face. This approach has efficiency and convenience advantages for both the ATO

¹²⁰ A telephone call centre is 'an operation that uses telephone and computer technology in sophisticated ways to assist people to deliver services to customers.' Source: ANAO, 'Telephone Call Centres,' *Better Practice Guide*, December 1996, p. 1.

¹²¹ The ATO also runs information lines in some work sections to provide answers to queries over the phone on the particular matter dealt with in their area. The audit did not examine the operation of information lines other than TPG&A's Tax Agent Infoline.

¹²² The operations of TPBIL are outlined in Appendix 7.

¹²³ The operations of the Tax Agent Infoline are described in Appendix 8.

and callers. For example, the ATO can service inquiries across Australia without having to be physically located close to those tax agents and others wishing to raise queries, and inquirers can receive service without having to travel to particular ATO locations.

Tax agents' use of ATO telephone services

4.26 Telephones are an important tool supporting the ATO's relationship with tax agents, and one whose importance is growing. The Commissioner of Taxation noted in 2002 that 'tax agents have increased their reliance on the ATO with telephone enquiries rising by over 900 per cent to an annual rate of 1.3 million over the last three years'.¹²⁴ He also observed that there have been major shifts in the patterns of use over time by tax agents. Whereas the demand in the lead up to tax reform was for information and advice, now the vast majority of the calls relate to client transactions, especially client account transactions and reporting obligations.¹²⁵

4.27 ATO survey¹²⁶ figures show that some 62 per cent of tax agents use telephones as a major source of procedural information and 45 per cent use telephone support as a major source of technical information. Some tax agents use the phone services very heavily. ATO records show that, where individual tax agents could be identified, some tax agents call the ATO's call centres up to five to 10 times per day. We have also seen many comments in tax agent newsletters of tax agents' frustration at having to call the ATO frequently (one mentioned 20 calls a day as one of the reasons for their contemplating retirement from the profession).

ATO telephone service problems raised by tax agents

4.28 The ATO's telephone services have been and remain a contentious element of the relationship between the ATO and tax agents, especially with the introduction of tax reform and the pressures that arose since 2000–01. Individual tax agents and professional associations we consulted stated that the performance of ATO call centres¹²⁷ was a major problem for tax agents in their dealings with the ATO.

4.29 The main types of problems that tax agents have raised with the audit team and the ATO about the performance of ATO telephone services are noted in Table 4.1. Also noted in that Table are the ATO's action on those problems.

¹²⁴ Michael Carmody, address to the Public Accountant's Convention, 14 June 2002.

¹²⁵ *ibid.*

¹²⁶ *ATO Communications with Tax Practitioners*, Survey 2001–02 (internal report).

¹²⁷ The ATO's TPG Optimising Technology for your Practice Contact Program Final Accountability Report 2001 (internal report) noted that some 55 per cent of the 1688 tax agents surveyed identified phone enquiries as a current issue affecting agents.

Table 4.1**Problems with Telephone Services and ATO Action**

<i>Access to ATO Telephone Services</i>	
<u>Issues</u>	<u>ATO Action</u>
<ul style="list-style-type: none"> • Tax agents experienced long delays in getting through to ATO services. • Sometimes the ATO services were not available at all. 	<ul style="list-style-type: none"> • The creation of call centres dedicated to tax agents, such as TPBIL and the Tax Agent Infoline, gives priority to tax agents when they use such services. (The ATO believes that tax agents' complaints about delays in getting through relate to tax agents using other phone services where priority services are not provided.) The ATO has reminded tax agents of the priority, dedicated services on several occasions. • For TPBIL, the ATO acknowledged that there were difficulties in the April quarter 2002 accessing the dedicated service, but once accessed, there were not excessive delays in the call being answered. • For the Tax Agent Infoline, the ATO acknowledged that on occasions there had been excessive delays in tax agents being able to contact ATO telephone facilities, caused, in part, by limitations in the telephony technology such that calls to very busy sites could not be readily shifted to less busy ones and the ATO's inability to stream calls to use available staff resources. • Some tax agents sought the return of Tax Agent Liaison Centres (TALCs) where dedicated ATO resources were available to handle general tax agents' queries on a regional basis, and one person would deal with the query. The ATO is working with the tax professional bodies on the shape of the ATO's model for practice management support services to tax agents. In September 2002, the ATO circulated prototype arrangements for tax agent relationship management, involving different services depending on the number of clients in the tax agent practice. However, the draft model would not reinstate TALCs as these were too resource intensive. The Tax Agent Infoline allows a degree of personal handling in matters such as ELS start-up and communication problems.

Table 4.1**Problems with Telephone Services and ATO Action (continued)**

<i>Staff Skilling and Abilities</i>	
<u>Issues</u>	<u>ATO Action</u>
<ul style="list-style-type: none"> • Responses were not consistent; tax agents needed to call back to check information and/or to check with other sources such as tax professional associations. • Staff did not seem to have adequate training skilling and or experience, such that their advice on technical matters in particular could be relied upon. • Some call centre staff did not have adequate language skills to understand the query and/or to respond with appropriate information. 	<ul style="list-style-type: none"> • The answers to technical questions may differ because agents provided different circumstances in their queries. Consistency of staff responses is supported with a national reference material system and TPBIL staff have extensive skilling with national, technically cleared information. • TPBIL advice calls are staffed by higher level staff than are made available in other call centres and staff complete an extensive skilling program involving client service and tax technical matters. Continuous review via the National Quality Assurance program and the National Coaching framework are designed to review the quality of advice provided and to provide feedback to individual staff members. • As a matter of course, the ATO recruits people with effective language and communication skills for call centre entry points; quality assurance and coaching practices are in place to ensure such skills remain utilised in call centres.
<i>Protocols Regarding Call Handling</i>	
<u>Issues</u>	<u>ATO Action</u>
<ul style="list-style-type: none"> • Staff did not provide their full names on request, contrary to ATO staff instructions and the Commissioner's direction, and the ATO's advice to tax agents. • Staff did not call back if they could not deal with the request at the time of the call. • Staff did not provide a specific call back number on request but only a general call centre number. 	<ul style="list-style-type: none"> • For TPBIL, quality assurance reviews assess compliance with this ATO telephone protocol (and information at hand to the ATO suggests non-compliance is isolated). For the Tax Agent Infoline, the policy is regularly reinforced with staff. • Regarding call backs, for the Tax Agent Infoline, the ATO has introduced a more structured procedure for handling escalations and call back requests. Staff are trained to arrange a call back if the tax agent has already been transferred incorrectly unless the agent prefers to be transferred on. • TPBIL staff cannot call back as staff do not have dedicated personal lines; however, staff in other areas to which TPBIL calls are transferred and/or escalated should, and do, provide a call back to tax agents as required. For the Tax Agent Infoline, staff provide the Tax Agent Infoline number as the call back number for call management purposes rather than a specific call back number, because, for example, the particular member of staff may not be available when the tax agent calls again.

Table 4.1**Problems with Telephone Services and ATO Action (continued)**

<i>Protocols Regarding Call Handling (continued)</i>	
<u>Issues</u>	<u>ATO Action</u>
<ul style="list-style-type: none"> • Staff were reluctant to 'escalate' a query to supervisors or technical staff. • Queries that could not be answered by the initial operator were transferred around the ATO to various contact points in an attempt to find the correct staff member to answer it. • Staff did not have access to adequate resource material/scripts or taxpayer information on-line. • ATO requirements around proof of identity (POI) (ie the authority that the tax agent is required to have to be able to act on behalf of the client or seek client information) were inconsistently applied and/or were onerous. 	<ul style="list-style-type: none"> • TPBIL staff provide information on matters where the ATO's view is clearly established. Staff may ask callers to make a written request where specific advice is required. Where, for specified advice topics, escalation of the call is required to a Centre of Expertise staff member, the protocol to be followed is contained in the TPBIL reference system. TPBIL staff also escalate specified 'transaction/ account' related calls. The ATO is reviewing the TPBIL escalation arrangements to ensure that first call resolution is available to tax agents, where appropriate. • TPBIL staff are supported with a comprehensive database of information (including policy and procedural information and frequently asked questions) and 'scripts' supplied by the business lines and technically cleared prior to use. For the Tax Agent Infoline, the ATO has a project to update and expand resource material and to consolidate into one reference site for improved accessibility and consistency. The ATO is upgrading its information and telecommunications technology to provide call operators with appropriate taxpayer information on-line, and the ATO also intends to make client lodgement and account information directly available to tax agents through 'self-help' facilities. • ATO POI processes for tax agents seeking access to much-requested client information have been revised so that agents have only to quote their tax agent number and certain client information for access. ATO work, including with tax agents on POI requirements, continues. • The ATO is piloting a process in call centres in which agents key in their tax agent number before they get in a queue, allowing the ATO to identify the agent, to establish whether the agent is calling many times and, in response, to offer particular assistance, and to ensure that the service is only used by tax agents (not the general public). This may enhance service to agents (and the management capacity of the ATO). The ATO intends to develop the tax agent identifier system in call centres to be able to identify the caller and the subject matter, to be better able to target its education effort.

Source: ANAO audit evidence

ATO responses on telephone services to tax agents

4.30 The ATO acknowledges the additional demands, on top of 'business as usual' work, that had been imposed on tax agents since the introduction of tax reform, with consequential increases in tax agents' demands on ATO telephone services. The ATO has introduced measures to address problems arising from increased use of telephone services by tax agents and to provide a better telephone service to them, including:

- creation of dedicated tax agent call centre elements and information lines, e.g. TPBIL; and
- as part of the 'Listening to the Community' initiative, allocation of over 160 additional staff to the ATO's business call centres to improve the timeliness of telephone services to tax agents (and business people).

4.31 Overall, while the ATO has sought to remedy the many difficulties in phone services for tax agents, it recognises that telephone services require ongoing, specific attention (including regarding technology and service management) to derive consistent improvements in performance in terms of access, timeliness and quality of service.

ANAO comment

4.32 The ANAO is aware of the ongoing problems in tax agents' use of ATO telephone support services. We reviewed relevant issues during the audit, with particular concentration on the operations of TPBIL. We considered that TPBIL was particularly relevant because it was established to provide priority services for tax agents and because the ATO could provide us with some tax agent-related data on TPBIL's performance, particularly covering the timeliness of call-handling.

4.33 The ANAO recognises that the ATO's provision of telephone support services to tax agents has a number of particular features. These are noted below.

Demand management

4.34 The ANAO considers that the telephone service problems raised by tax agents, as listed at Table 4.1, impact adversely on the ATO/tax agent relationship. It is clear that the ATO has faced large challenges in providing acceptable levels of service to tax agents through call centres.

4.35 As noted previously, tax agents seek information on both technical and transaction matters and while tax agents have no alternative at present other than to telephone the ATO on a range of procedural queries relating to client affairs,¹²⁸ part of the reason for the demand for technical information is that they are provided free to the user. This differs from the practices elsewhere, such as some professional associations, which charge for the provision of technical advice after a limited number of queries per annum (say, five).¹²⁹ It could be argued that, as qualified tax professionals, agents should be expected to make reasonable efforts to seek out technical information themselves from other sources, including ATO Web sites which provide extensive reference material, before telephoning an ATO call centre. Such a move would reduce pressure on the ATO's free telephone enquiry services.

4.36 The ATO does not at present control directly the type, or limit the number, of calls being made by tax agents to its call centres.¹³⁰ If the ATO were able to reduce the number of calls from tax agents, e.g. through the provision of education and communication services and 'self-help' facilities that were taken up by tax agents, the return to the ATO could be lower long-term costs and improved performance in call-handling.¹³¹ The ATO advised, in September 2002, that its direction for some time has been to provide education and self-help technology initiatives to reduce the number of calls from tax agents. It also advised that its recently-introduced system to require and to capture the tax agent numbers of callers to dedicated ATO call centre services will greatly enhance this approach and enable a much more targeted education and support program for tax agents.

Supply management

4.37 The 2002–03 Budget allowed for an additional 160 staff resources to be allocated to business call centres to provide better service to tax agents and business clients. While these resources will be a very valuable addition to the capacity of the ATO to support tax agents with phone services, it is unlikely that

¹²⁸ As noted in Table 4.1 and in the technology support section of this Chapter, the ATO is working to reduce the need for tax agents to call the ATO on procedural matters by working to provide secure Internet sites and a wide range of on-line facilities, covering, for example, administrative detail on their clients' affairs.

¹²⁹ In contrast, usage of TPBIL in the 2001–02 year peaked at more than 31 000 calls per week (in May 2002)—from around 21 000 active tax agents, an average of nearly 1.5 calls per week per agent.

¹³⁰ Moreover, it was possible, until recently, for people other than tax agents to use the tax agent call centre services if they knew the phone number because callers were not required to provide an identifier to gain access. The ATO advised in September 2002 that it recently introduced a system whereby callers have to provide their tax agent number in order to use TPBIL and the Tax Agent Infoline services.

¹³¹ Of course, in total, tax agents would also make cost and time savings in terms of their own business operations if the number of calls that they felt that they had to make to the ATO were reduced.

the ATO will ever be able to meet all tax agents' wishes for phone support service. Further, the extent to which services can meet demands will vary from period to period, reflecting both fluctuations in demand and in supply. As noted previously, the ATO recognises that telephone services, including the supporting technology require ongoing attention.

ANAO conclusions

4.38 The ATO has, or is putting, in place a number of initiatives to respond to the challenges inherent in the provision of telephone advice to tax agents. Given the importance of the ATO's telephone services function to tax agents, the ANAO considers that the ATO needs to continue to work on a range of aspects that would enhance the level of client service that it now provides.

4.39 Acceptable telephone client service to tax agents requires the provision of consistent, accurate and timely responses. A key tool here is well-documented procedures for staff to follow in responding to the queries. The ATO has established internal protocols to describe the way in which calls should be handled. However, these protocols are not consistent across the phone services that tax agents use (e.g. in respect of the ATO's 'call back' policies, as they relate to tax agents)¹³² and this is clearly a source of confusion and frustration for tax agents. We consider that to the extent that these protocols relate to the provision of telephone services provided to tax agents, it would be desirable to make these protocols as consistent as possible. Most particularly, this needs to be done for those practices about which tax agents have complained.

4.40 Further, once the protocols relating to handling of calls from tax agents, to the extent possible, have been made consistent, tax agents need to be informed of these and the protocols then need to be uniformly applied by the ATO's telephone service operators. Closer management oversight than has been applied to date within call centres may be required to accomplish this.

4.41 In the light of ongoing complaints from tax agents, despite the ATO's ongoing efforts to train staff and to provide appropriate scripting support to them, the ANAO considers that the ATO should make renewed efforts to ensure that the training and skilling levels of staff servicing tax agents meet the requirements of the roles in which they are placed. For example, call centre

¹³² For example, PTax Public Assistance instructions provide that 'if it is likely that the client will need to make further contact, ... you are expected to provide your ... direct phone number. This applies to both individual client and tax agent enquiries.' On the other hand, as the ANAO understands it, Business Call Centre policy provides that where a tax agent needs to call back, staff do not provide a direct telephone number other than the tax agent priority number for the TPBIL. The ATO explained in September 2002 that staff in the Business Call Centre, (and TPBIL is part of the BCC), do not have dedicated, personal phone lines as the information these staff provide is of a general, non-binding nature. In situations where issues are more complex or require ongoing contact, the call would be escalated to staff who could be contacted directly by the tax agent.

operators require adequate skilling on the functions that are carried out throughout the ATO and the key contacts that carry them out, so that any transfers of callers from the initial contact point in the call centre to other parts of the ATO can be as well directed as possible. At the same time, the staff to which the calls are transferred need to be adequately trained and equipped to be able to answer the calls directed to them. The ATO acknowledges that this is not always the case now.¹³³

4.42 In summary, the ANAO sees the need for implementation across all ATO telephone service points handling enquiries from tax agents, of ongoing management oversight to ensure that call answering protocols¹³⁴ and ATO client service commitments are met. The ATO advised in September 2002 that it supported the ANAO observation about the need for on-going management oversight of all ATO telephone service points for tax agents. It advised that the Telephony Reference Group, established during the course of the audit, with representatives of all ATO telephony areas, was set up to provide this management oversight.

Strategic direction and performance management of ATO services

4.43 In this section we examine the ATO's strategic direction in providing services to support tax agents and its performance management measures. Performance management is the set of processes to ensure that goals are met in an efficient and effective manner. In reviewing performance management in relation to the ATO's provision of service support to tax agents, we look at aspects of planning, implementation and review.

Strategic direction in providing services to tax agents

4.44 As noted previously, the ATO cannot be expected to meet all tax agent education, communication and technology support needs. As commercial businesses and as professionals, the onus is on tax agents to be informed and educated in the requirements of their profession. The ATO's implicit strategy in service provision is to top-up the skill base of the agents who are registered and to provide ongoing information about breaking developments over which the ATO has privileged knowledge.

¹³³ In his address to the Public Accountants' Convention in 2002, the Commissioner admitted that 'calls are transferred internally, sometimes to staff who are not always in a position to help with the whole issue.'

¹³⁴ e.g. in the provision by call centre staff of full names to callers on request and in ensuring that call backs to callers are made when a query cannot be handled initially.

4.45 That implicit strategy is, however, consistent with a wide range of service provision options. It is important for the ATO's management of its services and important for its relationship management, that it has a clear strategic position as to the extent to which it expects tax agents to be self-reliant and the nature and extent of its supplementary role. At this stage the ATO does not appear to have such a position clearly enunciated. There would be benefit for the ATO and tax agents in the ATO clarifying the extent to which it expects tax agents to be self-reliant in generating the knowledge they require to conduct their business and to stay up to date on law and procedures; and it establishing the most effective supplementary role it can perform through targeted service support.

4.46 On 6 September 2002, the ATO released a discussion paper on the 'Tax Agent Relationship Management Prototype'. The relationship management model outlined there is, according to the ATO, designed to respond to tax agents' desire for a more personalised relationship with the ATO; with the ATO having a better understanding of tax agent practice issues and being in a better position to offer some help to tax agents when they needed extra help. The ATO's relationship manager model focuses on ways the ATO can improve practice management support for tax agents.

4.47 The relationship management prototype came about from tax agent input to the ATO's 'Listening to the Community' initiative and it reflects an issue that is clearly important for the ATO to manage, given the significance of tax agents in the tax system. This model gives increased prominence to the ATO assisting tax agents to improve their practice management and helping to promulgate good practice among tax agents. In this context, with the extra pressures on the ATO to better understand and to assist tax agents in practice management issues, it is also important that the ATO ensures that it has a clear strategic position as to the extent to which it expects tax agents to be self-reliant and the nature and extent of its supplementary role in providing service support (spanning, for example, education and communication and technical support, practice management assistance and regulatory services).

Recommendation No.8

4.48 The ANAO recommends that, to clarify its strategic direction in providing services to tax agents, the ATO:

- clarify the extent to which it expects tax agents to be self-reliant in generating the knowledge they require to operate successfully; and
- establish the most effective supplementary role it can perform through targeted education, communication and appropriate technology support services.

ATO Response

4.49 Agreed. This would appropriately be done in collaboration with tax agents and their professional associations.

Planning

4.50 The ANAO considers that good management practice would require the ATO to formulate, and act in accordance with, overall plans or direction statements for the tax agent education, communication and technology support programs, consistent with the ATO's strategic position for service delivery. Such planning documents should set out:

- objectives to be pursued, including meeting the needs¹³⁵ of tax agents;
- strategies for achieving them, such as 'create x number of self-help products;' and
- performance measures against which the achievements of the functions can be evaluated.

4.51 While the ANAO has seen relevant operational planning documents, and is aware of the overall ATO-level of guidance provided in the ATO Compliance sub-plan 2001–02 (as discussed in Chapter 2), the ATO has not established an overall, strategically-focussed plan for its tax agent-related education, communication and technology support programs and processes. The planning documentation examined during the audit does not provide for outcomes of the various support programs and processes to be assessed against strategic, ATO-level goals and objectives. The ATO advised in September 2002 that while it considered that it makes substantial efforts regarding the strategic direction and planning and evaluation of ATO services, there was scope for further progress in terms of the articulation and implementation of overarching direction and strategies.

4.52 The ANAO considers that the development of such planning documents would be particularly desirable for the ATO's technology support program. In this area, the ATO has to balance the needs of tax agents, the levels of technology support they are demanding and/or can make use of and what the ATO, and

¹³⁵ The ATO monitors tax agent needs, and technology capabilities, through:

- the ATO's consultative forums and working groups;
- the information obtained from the Tax Agent Surveys;
- feedback from call centres, the Complex Case Resolution (CCR) service, etc;
- programs such as the 2001 SES Visits program;
- on-line tools such as ATOassist feedback; and,
- specifically-convened product reviews.

tax agents, can pay for.¹³⁶ There will always be a 'gap' between the expectations of some tax agents and the ATO's technology capability, because of the lead time required to build systems and the need for the ATO to balance competing priorities within set resource parameters.

Implementation

4.53 Two performance management topics we reviewed with an implementation focus were complaints and their use as a source of intelligence, and the ATO's use of telephone queries as a source of intelligence.

Complaints

4.54 The numbers of complaints by agents are a basic barometer of the health of the relationship between the ATO and tax agents and they can highlight for management some of the problem areas requiring their attention to improve the relationship.

4.55 The stakeholder forums and consultation opportunities discussed in Chapter 3 allow tax agents and other participants from the professional bodies to comment about problems in their relationship with the ATO. In addition to these periodic consultation opportunities, the ATO has a formal complaints handling mechanism to deal with the concerns of taxpayers who are not satisfied with the decision the ATO has made about their tax affairs or their treatment by the ATO. This mechanism is targeted broadly: to taxpayers as well as their agents.

4.56 All ATO lines receive, record, manage and consider complaints made by ATO clients, including tax agents, and respond to complainants on the matters that they have raised. Complaints may be dealt with at various levels within the ATO's lines: by the original staff member dealing with the client, or, through escalation of the matter, by the supervisor of the staff member or by more senior management within the line. Some complaints are referred by the lines to ATO Complaints¹³⁷ in the ATO Relations line where they are recorded on a dedicated IT database, but then dealt with by the relevant line.¹³⁸

4.57 The Issues Resolution section in TPG&A assists in managing the ATO's relationship with tax agents by handling the day-to-day issues affecting tax

¹³⁶ The provision of technology support to tax agents as an alternative to other forms of support may imply or impose a cost on tax agents to purchase technology products such as computer hardware and software. The ATO must take account of this consequence of its program of technology support.

¹³⁷ Previously called the Problem Resolution Service.

¹³⁸ The criteria for the lines referring a complaint to ATO Complaints are: taxpayer not satisfied with the resolution of a previous business line-managed complaint; complaint about a manager or a director; breach of privacy or confidentiality which indicates a potential systemic issue; and taxpayer threatening to go to the media.

agents (mainly resulting from a failure of ATO processes). One of the main functions of Issues Resolution is to resolve complaints from tax agents.¹³⁹

4.58 The ATO also set up the Complex Case Resolution (CCR) service¹⁴⁰ in TPG&A in April 2001 expressly for tax agents. As at mid October 2002, CCR still exists¹⁴¹ as an additional complaints management service for tax agents, designed to provide a focus for resolving difficult or complex administrative issues that tax agents have not been able to settle by other means. CCR supplements the ATO's other escalation and issue resolution processes.

4.59 Table 4.2 provides the ATO's statistics on complaints from tax agents to the ATO.

4.60 The ANAO notes that the number of complaints and problems raised by tax agents in 2000–01 was not large, relative to the number of tax agents dealing with the ATO and the number of interactions tax agents have with the ATO (e.g. an average of 1.3 million telephone calls annually over the past three years and submission of more than 7 million ELS returns annually). However the number of reported complaints rose significantly in 2001–02. We understand that, in part, this increase reflects a different practice in recording tax agent issues.¹⁴² Even with the much higher numbers of complaints and problems recorded by the ATO in 2001–02, the numbers are still not large in relative terms. But quite diverse conclusions could be drawn from these statistics, not all reflecting favourably on the ATO's performance. For example, the relatively low level of formal complaints might suggest that the relationship is not performing too badly overall, but it could also mean that tax agents perceive the formal complaints handling system to be ineffective and/or as indicating that tax agents are too overwhelmed by their workloads to make a formal complaint to the ATO.

¹³⁹ Other main functions of Issue Resolution are providing a phone service to assist tax agents with practice issues and assisting agents to contact the correct area of the ATO.

¹⁴⁰ See Appendix 8 for details of the operations of the CCR service.

¹⁴¹ The prototype of the ATO's relationship manager model for tax agents, noted earlier in this Chapter, proposes the replacement of the CCR. The discussion paper proposes that tax agents with less than 100 clients will have relationship management offered by a national 'Tax Practitioner Troubleshooter team' to assist them with any administrative issue, and, if necessary, to case manage the issue to resolution. Tax agents with more than 100 clients will have more personalised relationship management with a dedicated team to assist agents providing services such as troubleshooting, ownership and resolution of practice management issues and additional services. The discussion paper does not explain how issues raised will be captured as a source of operational intelligence. See 'Tax agent relationship management prototype' Discussion Paper, 6 September 2002, on the ATO website *ATOassist*.

¹⁴² As mentioned in the note to the Issues Resolution item of Table 4.2, for 2001–02 over 12 000 matters were recorded in the last quarter of that period concerning tax agent problems with gaining access to TPBIL. Excluding these problems, recorded complaints and problems to Issues Resolution numbered 1764. The increase in complaints between 2000–01 and 2001–02 also appears more dramatic than otherwise would be the case, because the figures for ATO Complaints in 2000–01 understate the complaints figures in the period because some data is not available. See the note to the ATO Complaints item of Table 4.2.

Table 4.2**Complaints to ATO from tax agents**

ATO area handling complaint	2000–01	2001–02
TPG&A Issues Resolution (IR) [^]	762	1764 [*]
ATO Complaints	590 ^{**}	5 093 ^{**}
Complex Case Resolution (CCR) [#]	90 [#]	709

[^] IR statistics include not only formal complaints but also 'escalations', e.g. instances where the ATO is required to do further work to resolve the tax agent call, such as calling the tax agent back.

^{*} One of the reasons for the increased complaints was the ATO's strategy of reducing the number of return forms that tax agents can order. In addition to these tax agent complaints to IR, in the final three months of 2001–02 staff recorded over 12 000 calls to IR from tax agents who had been unable to get through to TPBIL. The ATO advised that although these reported calls reflected tax agent 'dissatisfaction', they were not 'complaint' calls. These calls are not included in the statistics for 2001–02.

^{**} The figure in 2000–01 includes only two months of data relating to the two levels of less serious complaints, because that data for other months is not available. Note also that some tax agent complaints to IR are recorded in the ATO Complaints figures.

[#] The CCR service was set up in April 2001.

Source: ANAO depiction of ATO data

4.61 Some of the key issues raised in complaints from tax agents were:

- processing issues (including phones and use of electronic forms);
- application of penalties; and
- confusing or conflicting advice.

4.62 The Taxation Ombudsman also receives complaints from tax agents about the administration of the ATO. The Taxation Ombudsman advised the ANAO that, in his experience, complaints to that office from tax agents and taxpayers have similar areas of focus and that the issues raised are akin to those listed above.

4.63 The ATO's complaint recording systems allow complaints (and subsequent contacts between the ATO and the complainant) to be documented, facilitating effective case management, analysis and performance management. We saw that the CCR team devotes considerable effort to resolving matters raised, analysing the issues raised and providing feedback to the relevant areas of the ATO and the ATO Executive as part of the governance process. In this way the CCR is a useful source of operational intelligence for the ATO, showing when new problems appear to be emerging or established ones are recurring.¹⁴³

¹⁴³ An example of the usefulness of this analysis is the administrative irritants identified by CCR relating to PAYG, income tax, registrations, Proof of Identity, telephony and escalation processes. These have been targeted by the ATO for priority remedial attention as part of the 'Listening to the Community' project.

Intelligence from phone calls from tax agents for performance management

4.64 The systematic collection of data on particular issues and problems raised in telephone calls and the consolidated reporting of such issues to management, provides a basis for management to obtain valuable information and intelligence on issues of possibly a systemic nature. Such intelligence can contribute to improved performance in the future by helping to prevent problems rather than just address them after they have arisen (and thereby contribute to an improved relationship between the ATO and tax agents). The ATO undertakes analysis of issues in respect of some call centres. For example the Business Call Centre, which includes TPBIL, provides monthly intelligence reports to ATO business lines on technical and product issues identified from its business clients and also a weekly report to the Small Business line executive management on issues identified during the previous week.

4.65 We consider that the ATO's relationship with tax agents is of sufficient importance to its effective operations as to warrant the ATO taking considerable care to analyse and assess calls from tax agents. The purpose of such assessment would be to generate data around the type of caller as well as the issue raised. However, at present, the ATO does not have the technology to capture consistently data on the identity of the caller and of the specific issue being raised (although, as noted in Table 4.1, the ATO is piloting a process in ATO call centres in which tax agents key their tax agent number as an identifier before they get in the call answering queue).

4.66 We see the adoption of technology for the call centres to record the identity of the tax agent caller and the issues raised, as a valuable first step towards undertaking the specific analytical work that is needed and generating useful information for management decision-making. The material could also be used to shape further information and education for tax agents and their representative bodies in a regular, targeted and structured way. For example, the analysis of callers and issues could lead to the preparation of quite targeted responses by the ATO and professional associations¹⁴⁴ including preparing and publishing 'Frequently Asked Questions,' and answers or structured guidance on matters to be considered in resolving those questions.

4.67 The ATO has a readily-available model within its own operations of the ongoing analysis of queries and structured feedback to the ATO and industry. The GST Referral Service provides written answers to questions from tax agents,

¹⁴⁴ Professional associations have a role currently in supporting the ongoing development of their members. Under the draft new regulatory framework for tax agents and other providers of taxation services, there will be enhanced requirements for Continuing Professional Development. The Recognised Professional Association will have a major role in this. The draft framework is discussed in Chapter 5.

public accountants, GST advisers and lawyers on the interpretation of the law. In addition, from its analysis of questions, it provides consolidated feedback on issues to the ATO and on issues and answers (to industry and to the public generally) on the ATO website. Although perhaps less structured and comprehensive in its analysis and feedback, the TPBIL area of the Business Call Centre also contributes to ATO publications regarding tips and issues for tax agents, based on matters raised on the phone services.

Review—performance information on ATO services to tax agents

4.68 We examined the ATO's performance in providing service support to tax agents in terms of timeliness and technical quality.

Timeliness

4.69 The ATO has not specified overall Taxpayers' Charter timeliness standards and targets for tax agents as a discrete group. We adopted the approach in this audit of examining the ATO's performance in those specific areas that directly support tax agents, namely the services provided by TPG&A's Issues Resolution unit and the dedicated TPBIL telephone call centre run by the Small Business line. Most, if not all, of the clients of these services are in fact tax agents. In Chapter 5 we report on the activities of the Tax Agents' Boards and the ATO's performance in supporting the registration of tax agents.

4.70 Table 4.3 provides information on the ATO's timeliness standards and performance in relation to activities with tax agents. The Table includes also data on the ATO's performance against its service standard in processing tax returns that have been lodged electronically.¹⁴⁵ We did not examine processing functions such as this in the audit, but because the timely processing of tax returns is a crucially important process bearing on the larger picture of the ATO's tax agent relationship, we include data on the ATO's performance in relation to this activity, as important context.

¹⁴⁵ Electronic lodgement processing performance covers the processing of electronic lodgements from both tax agents and 'self-preparers' (using *E-Tax*). However, tax agent lodgements account for by far the majority of electronically-lodged returns (to the end of May 2002, over 7 million ELS returns compared to 280 000 *E-Tax* returns).

Table 4.3**Performance against standards for services to tax agents**

<i>Service Standard Description</i>	<i>Performance 1999–2000 %</i>	<i>Target 2000–01 %</i>	<i>Performance 2000–01 %</i>	<i>Target 2001–02 %</i>	<i>Performance 2001–02 %</i>
Taxpayers' Charter Service Standard - Electronic Lodgement					
-Electronic Income Tax					
Processing of returns within 14 days*	93.9	93.9	91.0	95	95
Taxpayers' Charter General Standards**					
—as applied by the Issues Resolution Unit within TPG&A for services to tax agents					
General correspondence to be completed within 28 days	90.8	100	91.3	84	80.4
Calls on the telephone general inquiry line to be answered within two minutes	92.6	90	89.9	80	77
TPBIL Taxpayers' Charter Call Service Standards					
Charter service standard - in non-busy times (2 minutes target)	n.a. ***	80	88	80	82
Charter service standard - in busy times (5 minutes target)	n.a. ***	80	92	80	93

* Processing of electronic income tax returns occurs in a number of lines in the ATO. The target is set corporately.

** PTax sets targets for application of the Taxpayers' Charter General Standards within the Issues Resolution Unit.

*** TPBIL was established in February 2000; however the scope of its functions in 1999-00 was different from that in 2000-01, and subsequently.

Source: ANAO depiction of ATO data

4.71 These statistics show mixed, but generally positive, performance by the ATO in terms of its timeliness performance for tax agents. The ATO is not meeting the service standards for tax agents that it has set for itself in relation to correspondence and general telephone inquiry operations. Its performance in 2000-01 in relation to the processing of electronic income tax returns also did not meet the target standard, although it did so in 2001-02.

4.72 Of particular significance given the frequency of tax agent complaints about the timeliness of ATO call centre services is the timeliness performance of TPBIL phone services. TPBIL has two Taxpayers' Charter service standards, one reflecting the performance standard for answering calls in busy times (80 per cent of calls in 5 minutes) and one for answering calls in non-busy times (80 per cent of calls in 2 minutes). As shown in Table 4.3, TPBIL's performance statistics exceeded its Charter service standards in both 2001-02 and 2000-01.

4.73 However in obtaining these figures from TPBIL, we found that aspects of its approach to performance assessment and reporting required improvement. We found that although TPBIL had sought to *plan* its staffing requirements taking account of events projected to make particular months 'busy' or 'non-busy' for it, it had not determined or informed relevant staff which were the 'busy' or 'non-busy' months it would use to *assess and report its performance*, as per the Taxpayers' Charter standard. The fact that the basis for the relevant periods for assessment was not clearly established and understood means that the performance results reported may be affected as much by the months chosen for inclusion in any calculation as by the results achieved in the particular month. The fact that TPBIL had not established its relevant periods for performance analysis for 2000–01 or 2001–02 when we sought figures in September 2002 would indicate that it could not have analysed its performance for these time periods against the Charter standard nor informed senior management in the Business lines, as would be the expected practice.

4.74 The problem with call timeliness to ATO call centres generally, was repeatedly raised to the ATO by tax agents throughout the audit. While recognising the favourable performance results TPBIL provided for 2000–01 and 2001–02 against the Charter standards, the ANAO considers that the level of service TPBIL provides to tax agents in terms of timeliness, against the target standards that have been set, deserves its continued attention. Also requiring TPBIL's attention, for reasons of operational improvement and accountability, is its performance assessment and reporting arrangements. Having the performance framework clearly set out and applied transparently is likely to be of particular importance for TPBIL, given the Commissioner's September commitment, among other things, to publish performance information relating to tax agents.¹⁴⁶ This commitment is discussed in the following section of this report.

4.75 The ATO advised in September 2002 that it established a corporate target for tax agents' telephone calls to TPBIL with effect from July 2002. That corporate timeliness target is to answer tax agents' calls within 2 minutes, 90 per cent of the time. This is an ambitious target for TPBIL, but one that it showed in July 2002 that it can meet (the ATO having recruited approximately two hundred additional staff to deal with tax agent calls). As shown in Appendix 7, TPBIL's performance against a standard of a 2 minute call waiting time was on average

¹⁴⁶ In October 2002, the ATO started putting performance statistics, including response rates to telephone calls, on its website for tax agents. However, this information does not appear to explain the performance framework or to refer to the 'busy times' as part of the performance evaluation framework.

82 per cent of calls in 2000–01 and 79 per cent of calls in 2001–02.¹⁴⁷ (The ATO announced that in July 2002, 90 per cent of tax practitioner calls were answered in 2 minutes—thereby achieving its corporate target.)

4.76 The ATO's service standards relating to timeliness of response to tax agents calls are broadly in line with those found in call centre environments elsewhere¹⁴⁸ and they provide an acceptable target to aim for, given the nature of the ATO's activities in administering the tax system. A sound relationship between the ATO and tax agents on the services offered by telephone must have as its starting point an agreement on what constitutes realistic service standards and an acknowledgement that the timeliness of service provided will inevitably change (e.g. as tax agents' operational demands change during the tax year and as ATO capacity alters with changes in technology and staffing resources). Unrealistic expectations by either party as to what should be provided can undermine the relationship by engendering frustration and hostility.

Quality assurance

4.77 One of the key requirements for sound relationships is to have the parties feeling that they can rely on the information provided to them by the other party. To test the ATO's performance in this area, we sought to examine the performance of ATO telephone support services in terms of the quality of responses provided to tax agents. The results of Quality Assurance (QA) assessment exercises provide a robust indication of this. Under the Business Call Centre (BCC) National Quality Assurance Program, the ATO conducts monthly QA review exercises¹⁴⁹ for the BCC covering calls from tax agents and other business callers. However, it does not conduct regular QA review exercises on calls made by tax agents, or regular QA review exercises focusing on TPBIL, specifically.

¹⁴⁷ TPBIL's timeliness performance during 2001–02 was much better than had been achieved by the ATO as a whole elsewhere in answering general telephone enquiry calls, which showed that (to end-November 2001) only 65 per cent of calls were answered within 2 minutes. As a more up to date picture of relative timeliness performance of TPBIL compared to the ATO as a whole, in the week ending 4 October 2002, 93 per cent of calls to TPBIL were answered in 2 minutes, compared to 82 per cent in 2 minutes for the ATO as a whole.

¹⁴⁸ A scan of relevant industry Internet sites confirmed that, as for the ATO, call centre industry service level objectives involve answering a certain percentage of calls within a certain delay, accepting that some calls will be abandoned by callers. Depending on the industry, service level objectives may range from 90 per cent in 20 seconds (90/20) for very competitive industries such as mail-order companies to 80/300 (or 5 minutes) for software support companies and government organisations.

¹⁴⁹ These QA exercises in respect of the BCC commenced in October 2001. In addition to that QA program for the BCC, the ATO also conducts QA processes (mainly revolving around coaching of staff, but also involving the identification of errors in responses) for one aspect of the Tax Agent Infoline—that of the Issues Resolution unit. The ATO advised during the audit that it was seeking to improve and expand its QA coaching processes in that area of the Tax Agent Infoline.

4.78 Although the ATO does not conduct regular QA review exercises focusing on TPBIL specifically, it was able to supply results from a one-off QA review conducted on 162 calls from tax agents to various ATO telephone contact points (including TPBIL) in the period 2 to 31 January 2002. This exercise is very limited in scope, and therefore it may not be indicative of ongoing quality performance levels achieved in call-handling. Further, the ATO has not set a target for quality to be achieved in the answering of telephone service requests from tax agents and so there is not a benchmark against which to assess the result from that exercise.

4.79 The QA results from the one-off exercise recorded that 92 per cent of the calls examined achieved a pass grade.¹⁵⁰ This pass rate shows that a troubling proportion of enquiry calls from tax agents (roughly 1 in 12) was not answered satisfactorily, possibly contributing to some of the problems raised by agents and recorded at Table 4.1.

4.80 This exercise suggests that improvements in the quality of telephone responses deserve the ATO's ongoing attention. To achieve this, ongoing national QA processes, specific to tax agents' contact with the various ATO telephone services, are required in order to provide more comprehensive QA data for tax agent calls. Because of the importance of the ATO's relationship with tax agents, the results of these more regular and specific QA exercises should be reported to ATO management.

4.81 The ATO intends to publish the monthly results of its QA processes for the BCC on the ATO's web site *ATOassist*. We support this step. The ANAO considers that a similar arrangement could be used for publication of performance information on timeliness (covered in the previous section of this report) and quality levels achieved across the ATO in the handling of tax agent calls, where they can be separately identified. Because of their provision of a service only to tax agents, this would be particularly valuable in recording the performance of TPBIL, and the Tax Agent Infoline operated by TPG&A. The ATO advised in September 2002 that TPBIL had not been producing monthly reports on the tax agent QA assessment results, although this was possible, and was done on request. TPBIL advised that in future it will produce monthly reports on the tax agent QA assessment results.

¹⁵⁰ The ATO's Judgement (or QARE) Model for quality assurance assesses the quality of staff actions against an objective five point ('A' to 'E') standard of quality on four elements—the Question asked, the Answer given, the Reasoning followed and the Expression used. A 'pass' mark ('C') means that the answer provided is technically correct and that it addresses the client's question.

4.82 Publication¹⁵¹ of these important performance results would be a useful accountability step (and it is important for the ATO in its relationship with tax agents to show transparency and openness). It could also be an effective way of shaping expectations and changing perceptions because tax agents would be able to draw on statistical performance information, not just anecdotes and impressions. In September 2002, as part of the cooperative agreement between the ATO and the tax and accounting professional bodies about priority improvements to services for tax agents and the business community, the Commissioner undertook to publish performance statistics and information relating to tax agents regularly on the ATO website. In October 2002, the ATO started providing information on its website about the processing of tax returns and activity statements and response rates to telephone calls (specifically daily and weekly statistics regarding the timeliness of calls to TPBIL and the Tax Agent Infoline).

Recommendation No.9

4.83 The ANAO recommends that, to improve the effectiveness of its provision of telephone support services to tax agents, on an ongoing basis, the ATO:

- assess tax agent-related telephone service performance against timeliness standards;
- conduct national quality assurance reviews of tax agent calls to ATO telephone services and report results of such reviews to senior management; and
- regularly report publicly on tax agent-relevant telephone support service performance levels, particularly on timeliness and quality.

ATO Response

4.84 Agreed. The ATO is already assessing tax agent-related telephone service performance against timeliness standards. We are already undertaking quality assurance reviews of tax agent calls and are further developing our quality assurance capability. We report weekly on telephone service performance levels (and other performance statistics) on our Tax Agent Portal.

¹⁵¹ Other means of releasing telephone service performance statistics include tabling information at meetings of a relevant tax practitioner liaison committee, such as the ATO Tax Practitioner Forum, and publishing performance data in the quarterly *the Tax Agent* newsletter.

ANAO Comment

4.85 We note the ATO's advice. As well as addressing the timeliness aspects of tax agent telephone services, it is important that the ATO continues to take action to address quality aspects of tax agent phone services because they are of fundamental importance to the ongoing relationship.

Review—Evaluation of effectiveness

4.86 Formal evaluation provides information about the achievements of a program or process, against aims set at the beginning of the project.¹⁵² Evaluation of past programs can contribute to the sound planning of new programs.

4.87 The ATO has prepared evaluation reports on a number of its most significant tax agent-related education deliverables in recent years.¹⁵³ The ANAO found that these reports exhibited good evaluation techniques, and that they were comprehensive in their coverage of relevant issues, including identification of lessons learnt for future, similar programs. However, the ANAO found that the ATO had not evaluated the effectiveness of its ongoing communication processes relevant to tax agents¹⁵⁴ or that of its tax agent-relevant technology support programs to the same extent.

4.88 The ANAO considers that the ATO's management of its various tax agent-related support services would be enhanced by evaluating the effectiveness, including, to the extent possible, the cost-effectiveness, of major education, communication and technology support programs. The outcomes of such reviews would assist the ATO to decide on how tax agents' needs should be addressed in the future. Evaluation would add to the extensive, though not necessarily structured, input that the ATO receives by other means such as feedback from focus groups,¹⁵⁵ professional organisations, consultative committees and working groups, call centres and information lines, the CCR service and on-line comments on Web sites.

¹⁵² Of course, this depends on the operational planning for the project having set performance measures that can be, and are, quantified at the completion of the project.

¹⁵³ Such as:

- Tax and Technology Expo 1999;
- Tax Reform and Technology Expo 2000;
- ATO Tax Practitioner Satellite Seminars 2000 and 2001;
- SES National Tax Practitioner Contact Program 2001; and
- Optimising Technology for your Practice Contact Program 2001.

¹⁵⁴ e.g. *the Tax Agent* newsletter.

¹⁵⁵ The ATO's TPG&A stream conducts focus groups regularly as part of its consultative arrangements with tax practitioners.

Recommendation No.10

4.89 The ANAO recommends that, to enhance its planning and review of tax agent-related service support functions, the ATO, consistent with its overall service support strategy for tax agents:

- establish, and act in accordance with, an overall plan for its tax agent-related education, communication and technology support programs and processes, including setting out clearly:
 - objectives to be pursued for meeting the needs of tax agents;
 - appropriate strategies for achieving objectives; and
 - realistic performance measures against which the outcomes of the programs and processes can be evaluated; and
- assess the overall costs and implement an ongoing program of reviews of the effectiveness, including cost-effectiveness, of major education, communication and technology support programs and processes.

ATO Response

4.90 Agreed. An Education and Communication Working Group has already been established with practitioner representatives to co-design, review and prioritise education programs.

5. The ATO's Regulatory Relationship with Tax Agents

This Chapter examines the ATO's regulatory relationship with tax agents. It looks at the present regulatory scheme and administrative machinery, the reform process and ATO compliance activities.

Introduction

5.1 Regulation of tax agents, though not a direct responsibility of the ATO, is nonetheless an activity which significantly influences the ATO's relationship with tax agents. This is because:

- the shape and content of the regulatory scheme directly impacts on how tax agents interact with the ATO as the administering authority of the tax legislation;
- while decision-making within the regulatory scheme is in the hands of independent regulatory bodies, the regulatory scheme provides an important dimension for ATO compliance activity;
- the ATO has statutorily-based membership of the regulatory bodies, provides their secretariats and is the channel through which their public funding takes place;
- the ATO provides coordination services for the regulatory bodies' contacts with the ATO and provides particular assistance in the regulatory bodies' investigatory activities; and
- how far the regulatory system operates in practice to deliver appropriate levels of integrity to the work of tax agents is of direct interest to the ATO and engages the involvement of a number of ATO work units.

5.2 The ATO has a clear interest in the integrity and effectiveness of the regulatory system. Regulation, and the compliance requirements which flow from it, are an important dimension to the ATO's significant compliance program. Regulation accordingly comprises an area of the relationship between the ATO and tax agents where the interests of the ATO and those of some tax agents may not closely correspond. The tax agents are the regulated; the ATO is in a position close to that of the regulator.

5.3 The regulatory relationship influences tax agents' perceptions of the ATO. It is an important reason for the ATO to be attentive to questions of how the regulatory system impacts on its relationships with tax agents. The ATO's views on the regulatory system, on how it might be reformed and how the ATO's administrative processes might be brought to bear to improve the functioning of the regulatory system are therefore directly relevant to the ATO's management of its relationship with tax agents.

5.4 Under the current scheme of regulation involving the ATO, this aspect of the relationship only involves the tax agent segment, though there are moves to widen its scope so that the regulatory scheme would cover a wider grouping than at present. This is dealt with as part of the review of reform proposals later in this Chapter.¹⁵⁶

5.5 The ANAO notes that, while policy development work on tax agent regulatory matters was re-allocated from the ATO to the Treasury in July 2002, the ATO will continue to be required to provide a view on administrative impacts. As well, the ATO will, because the regulation of tax agents significantly influences the ATO's relationship with tax agents, take a close interest in the appropriate involvement of the tax professionals' groups in the design processes for any new regulatory scheme.

5.6 Some of the ATO's compliance activities in relation to tax agents¹⁵⁷ are integral to the ATO's regulatory relationship with tax agents and these are examined in this Chapter. The focus is on TPG&A's compliance work as part of the tax agent regulatory framework; not the compliance operations on tax agents in the ATO lines.¹⁵⁸

¹⁵⁶ Various regulatory arrangements apply to other groupings of tax practitioners but they are not administered under the *Income Tax Assessment Act 1936* and are not considered in this report. For instance, providers of financial product advice are regulated under the *Corporations Act 2001* and professional and practice standards apply to solicitors and accountants in the Commonwealth or in several States and Territories.

¹⁵⁷ Of course, the ATO also seeks to 'regulate,' via its compliance activities, the conduct of other categories of tax practitioners, such as the tax lawyers advising on tax effective schemes and advisers engaged in the field of what the ATO might call Aggressive Tax Planning. The ATO's compliance efforts for these categories of tax practitioner are not within the scope of this audit. The ATO's management of aggressive tax planning is scheduled for ANAO audit in 2002–03. When talking here about 'compliance', we mean activities to ensure payment of the right amount of tax or compliance with other requirements; not the wider notions of compliance such as minimising costs and improving confidence in the tax system and ensuring flexibility in ATO administration, canvassed in the ATO Compliance Plan 2001–02.

¹⁵⁸ We are aware, for example, that the ATO analyses statistically the pattern of deductions claimed in tax returns and follows up practices by tax agents that appear to depart significantly from the expected pattern. Opinions on this ATO compliance process vary. Some stakeholders see it, along with follow-up visits with tax agents, as a useful process that helps to constrain non-compliance and exerts a positive influence toward tax agents and their clients applying reasonable practices. Others see the statistical analysis process as painting an inaccurate picture of their practice and the ATO compliance visits as threatening.

The regulatory scheme

5.7 Part VIIA of the *Income Tax Assessment Act 1936* (the ITAA) and the *Income Tax Regulations* (the Regulations) regulate persons providing professional taxation services to taxpayers.¹⁵⁹ The regulatory scheme set out in the legislation establishes a framework for ensuring that persons acting on behalf of taxpayers in filling out returns are competent and reputable ('fit and proper') to perform such services for the public.¹⁶⁰ The regulatory scheme provides sanctions for unregistered practice and against those assessed not to be fit and proper. It establishes a system of decision-making bodies in all States and Territories—the Tax Agents' Boards (TABs)—to administer the scheme and make all case decisions.

Tax Agents' Boards

5.8 Some 25 000 tax agents are registered across Australia.¹⁶¹ The TABs in each State/Territory,¹⁶² set up under the ITAA, deal with the registration of tax agents. They have the task of monitoring performance, receiving complaints and signalling the need for compliance investigations arising from the operations of tax agents carrying on their businesses in the respective State/Territory. The TABs are responsible for:

- determining the suitability of applicants to be registered,
- dealing with complaints about tax agents; and
- ensuring that proper standards are maintained across the tax agent profession.¹⁶³

5.9 The TABs are statutorily independent of the ATO in their decision-making. Although an ATO officer is a member of each TAB, and the ATO is entitled to place submissions before the TABs, the deliberations of TABs are not determined by the ATO.

¹⁵⁹ Part VIIA, section 251L (1) of the ITAA prohibits persons other than registered tax agents from preparing or lodging income tax returns or objections for a fee or from transacting any income tax business for a taxpayer. Section 251JA contains the requirements for registration of tax agents. Subsections 251L (6) and 251L (8) exempt those providing a BAS service ('BAS preparers') and barristers or solicitors acting in the course of his or her profession from the provisions of section 251L (1).

¹⁶⁰ The 'fit and proper' test includes an integrity aspect and also specifies that the tax agent must hold prescribed academic qualifications and experience, including appropriate experience in income tax matters. The requirements for regulation of tax agents and the responsibilities of tax agents are outlined in Appendix 9.

¹⁶¹ ATO data 2001–02.

¹⁶² Tax agents domiciled in the ACT are registered with the NSW TAB; those in the Northern Territory with the South Australian TAB.

¹⁶³ As well as administering the registration of tax agents, TABs also monitor tax agents' continued fitness to be registered—through the re-registration process and investigation of complaints from the public and the ATO about tax agents. Unsatisfactory tax agents can be sanctioned by suspension or cancellation of registration.

The role of the ATO

5.10 Notwithstanding the statutory independence of the TABs, the TAB system operates under the oversight of the ATO and is funded by appropriations to the ATO. The direct cost of the TABs in 2001–02 was \$1.2 million, compared to \$1.9 million in the previous period.¹⁶⁴ The ATO provides the secretariats for the TABs, the staff of which are employed under normal Public Service Act provisions, and administrative coordination including corporate services for the TABs.¹⁶⁵ Some 19 full-time equivalent positions were funded for these secretariat purposes in 2001–02. These officers are included in the staff complement of the ATO as staff of TPG&A. They undertake their duties at the direction of the respective TAB Chair in relation to matters for which the Board is statutorily responsible (such as considerations of registration and re-registration).

5.11 The Tax Agent Investigation Unit (TAIU) within TPG&A supports the TABs by undertaking investigations at their request, subject to the TAIU assessing them as important within the context of its overall work priorities. As part of the divisional structure of the ATO, the TAIU is, of course, quite separate from the TABs. The ANAO noted that although the TABs can, and do, directly request tax agents to explain their actions, the TABs are required to rely heavily on the TAIU to undertake the investigative work the TABs might consider necessary to perform their functions. This TAIU role is part of the wider compliance responsibility of TPG&A, examined later in this Chapter.

5.12 Other than secretariat and administrative support work noted earlier, most of the ongoing TPG&A work in regard to the TABs is undertaken by the TAIU. The TAIU's staffing in 2001–02 was 27.5 full-time equivalent staff, but staffing was increased to 36.5 full-time equivalent staff in the 2002–03 Budget context.

5.13 TPG&A is the unit responsible for dealing with proposals for reform of the regulatory scheme. Reform aspects are examined in more detail later in this Chapter.

Performance and effectiveness issues in the operation of the TABs

5.14 The current regulatory scheme for tax agents is longstanding: its features have been little changed since the 1940s. Policy-level attention has been directed

¹⁶⁴ The ATO advised that the direct costs of the TABs in 2001–02 was lower than in 2000–01 because the latter period was a triennial re-registration year when the vast majority of tax agents apply for re-registration. The higher workload during re-registration years is reflected in higher direct costs.

¹⁶⁵ The secretariats' activities include: arranging Board meetings, preparing cases to be brought to the Board, assisting applicants regarding registration, dealing with complaints about tax agents and maintaining a register of tax agents.

The ATO's supporting activities include: coordinating statistical reporting mechanisms for secretariats, disseminating to the Boards and secretariats information on legislative and procedural matters, consulting and advising on secretariats' systems matters and maintaining budget, staffing and funds for secretariats.

at the scheme from time to time, most recently in the early 1990s.¹⁶⁶ Consideration of the matters is currently being undertaken in the ATO (we examine the current, broad review directions later in this Chapter). The ATO is aware of the need for review of the regulatory system and it has itself sponsored or supported significant review proposals which have been circulating for some years. However, the ANAO recognises that, pending decisions to proceed with further consideration of these proposals, the ATO is required to operate within the current broad legislative settings for the scheme.

5.15 Because of this background, and to avoid duplication of effort, the ANAO refrained from proceeding with a comprehensive examination of the reform requirements of the system itself. So as to ensure that we obtained a rounded picture of the relationship of the ATO with tax agents, we obtained views on the regulatory framework from stakeholders¹⁶⁷ in Australia, especially with reference to the support the ATO provides to the TABs and the ATO's conduct of its ongoing responsibilities for administration of the current regulatory scheme. To understand better the policy and management issues faced by the ATO, we investigated the regulation of other comparable service sectors in Australia and the regulatory frameworks in the tax field in selected overseas countries. A summary of the investigations and comparative analyses performed is presented at Appendices 10 and 11, respectively.¹⁶⁸

¹⁶⁶ With the implementation of many changes in the tax system during the 1980s and early 1990s, especially the introduction of the self-assessment principle, the then Commonwealth Government decided that a holistic review of the regulation of tax agents and other tax practitioners was needed. An early benchmark report was the 'National Review of Standards for the Tax Profession' published in 1994. The Committee concluded that a mandatory registration regime for those in the business of providing tax return preparation services should be retained and it recommended, among other things, streamlined registration processes in some circumstances; the establishment of a National Tax Agents' Board; clearer definition of the standards of conduct required of tax agents; and provision of protection to taxpayers who exercised reasonable care in preparing their tax affairs. See *Tax Services for the Public: Report of the National Review of Standards for the Tax Profession*, Canberra, 1994, p. xx. While work was undertaken after 1994, in 1999 the decision was taken that, with other priorities for the ATO and tax agents during the implementation of the Government's tax reform initiatives, further work should be put on hold.

¹⁶⁷ We consulted with tax practitioners and professional association representatives and members of two TABs.

¹⁶⁸ In the five non-tax related industries in Australia we reviewed, we found that although approaches differ, most have a model of legislated (mandatory) regulation administered by a Commonwealth agency or department. Some industries, for example the medical profession and financial planners, have quite significant requirements for participants in those industries. Only one of the industries reviewed, migration agents, had an element of self-regulation but even here, although the industry association administers the processes, registration is mandatory.

As to overseas tax systems, we compared the systems in Japan, the United States of America, the United Kingdom, Canada and New Zealand. Japan is the only country reviewed with a similar requirement to Australia that tax returns for a fee be prepared by a registered professional. The other countries reviewed only require registration if the tax return preparer wants to lodge returns electronically with the tax authority. Registration in this instance, rather than regulation of a tax-related profession, is to confirm the identity of the preparer, their authority to act for the taxpayer and to protect the electronic lodgement system from unauthorised access. The US model also regulates services other than preparing tax returns. In the US, persons who represent taxpayers for a fee in dealings with the Internal Revenue Service need to be registered. The draft new model for regulation of tax practitioners in Australia contains elements of the US model.

Concerns regarding the operation of the current TAB scheme

5.16 Stakeholder comments suggest that the TABs have operated well overall, within the confines of their regulatory framework.¹⁶⁹

5.17 Features of the current regulatory scheme which drew most concern from stakeholders in the consultations conducted by the ANAO were:

- the framework does not cover important participants in the tax system who provide advice about a person's tax obligations or entitlements and other important participants such as those who provide BAS services ('BAS preparers');¹⁷⁰
- limited consumer protection effectiveness allows only limited scope for TABs to assist a taxpayer in a dispute with their tax agent;
- limited sanctions powers available to TABs allow them only to apply suspension or cancellation of registration sanctions¹⁷¹ to deal with unsatisfactory performance of agents;
- inappropriate entry standards specified for tax agents in relation to their knowledge and experience (e.g. the required 'significant involvement in a broad range of returns' can be highly restrictive);
- limited practical guidance provided for tax agents as to what constitutes appropriate professional conduct; and
- the State-based TABs are able to apply different administrative processes. This results in uneven application of regulation procedures across the States and Territories in regard to registration processing and monitoring activities. For example, some TABs are said to apply more robust

¹⁶⁹ We received few complaints about the operations of the TABs from the stakeholders we consulted, although we are aware that the TABs are the subject of legal action and public comment from time to time. One concern was that the TABs were inadequately resourced to regulate effectively the quality of tax agents and that they performed more of a tax agent 'enrolment' function with limited effective capacity for assessment.

¹⁷⁰ The current statutory scheme regulates only those who prepare and lodge income tax returns, for a fee. Recent publicity about mass marketed tax effective schemes underscores the important role of advisers in financial and tax matters in the tax system. See Senate Economics References Committee, *Inquiry into Mass Marketed Tax Effective Schemes and Investor Protection*, Interim Report 25 June 2001, Second Report 26 September 2001 and Final Report February 2002.

¹⁷¹ Suspension can occur for (amongst other things):

- preparing a return that is false in any material particular;
- neglecting the business of a client in income tax matters;
- being guilty of misconduct as a tax agent; or
- not being a fit and proper person, has been convicted of a serious taxation offence during the previous five years, or is not of good fame, integrity and character.

Cancellation of registration is required if the tax agent becomes an undischarged bankrupt or permanently ceases to carry on business as a tax agent.

investigative processes to applications than others, creating an incentive for tax agents to arrange their affairs to avoid more onerous and time-consuming requirements in particular States. These processing differences between States are illustrated by the administrative statistics of the TABs in Table 5.1.

5.18 Table 5.1 also highlights some interesting points about the current regulatory machinery, such as:

- the different TAB processes reflected in these statistics. For example in 2000–01, the disciplinary activities in Victoria and Queensland are higher proportionally to the number of tax agents registered than in other States. These States continued to be relatively active in terms of disciplinary action in 2001–02;
- the significant variation in the numbers of disciplinary activities from period to period;¹⁷² and
- the low number of complaints received by the TABs and the low numbers of referrals for ATO investigation (relative to the numbers of tax agents).

Table 5.1

Tax Agents' Board administrative statistics for 2000–01 and 2001–02

	NSW	Vic	Qld	SA	WA	Tas
Nos. of registered tax agents	9350	7112	3361	1836	2311	322
	9464	7134	3463	2310	1841	321
Disciplinary Action¹⁷³						
Written complaints received	78	245	99	11	111	3
	157	251	76	123	15	8
'Please explain' letters	14	852	641	10	129	2
	27	430	204	117	42	30
Caution/warning letters	2	73	49	26	69	3
	5	40	63	42	24	3
Show cause letters	14	20	18	4	30	0
	9	31	9	27	4	4
Referrals for ATO investigation	13	49	41	0	49	0
	64	51	15	73	1	2
Action as % of nos of tax agents	1.29	17.4	25.2	2.8	16.8	2.5
	2.8	11.3	10.6	16.5	4.7	14.6

Key: 2000–01 figures 2001–02 figures

Source: ANAO depiction of ATO data

¹⁷² e.g. the large increases in particular activities for South Australia and Tasmania in 2001–02 compared to the previous year.

¹⁷³ The focus of Table 5.1 is administrative actions of the TABs. We recognise that registrations may be cancelled or suspended for a range of reasons, including disciplinary ones. Separate figures for such types of actions are not available.

Performance of ATO secretariats

5.19 In evaluating the current regulatory relationship between the ATO and tax agents, we also examined the performance of the TAB secretariats in meeting their relevant service standards. As Table 5.2 shows, their performance in terms of the timeliness of their services supporting the TABs has been of a very high standard and they have exceeded their performance targets.

Table 5.2

Performance against standards for services to tax agents

TAB Secretariats' Service Standard	Actual 1999–00 %	Target* 2000–01 %	Actual 2000–01 %	Target* 2001–02 %	Actual 2001–02 %
Correspondence to be answered within 28 days	96.9	90	99.0	90	99.9
Telephone calls to be answered within two minutes	93.3	90	94.4	90	91.3
Applications for consideration by TABs to be prepared within 28 days	88.7	90	100	90	98.9

*The TAB secretariats' correspondence and telephone service targets are corporate-wide ATO targets. TPG&A sets targets for the TAB secretariats' processing of applications to the TABs.

Source: ANAO depiction of ATO data

ATO efforts to improve the operation of the system within the current regulatory framework

5.20 Rather than pursuing large-scale change that would necessarily involve legislative initiatives, the ATO has adopted the approach of seeking to improve administrative practices for tax agent regulation within the current framework. It has implemented this approach particularly in the last 12 months.

5.21 To improve efficiency and the consistency of practices amongst TABs within the current regulatory framework, the ATO has (with the support of the TABs):

- identified and shared better administrative practices of secretariats and sought to standardise around these where possible. Areas included forms and letters, processes around applications for agent re-registration and processes for collection of information in each TAB; and

- created a ‘virtual national secretariat’¹⁷⁴ to promote consistency in processes, and to encourage the adoption of best practice in administration from across the TABs in the future.

5.22 The ANAO considers these initiatives to be sound. While acknowledging the limitations faced by the ATO in needing to operate within the current legislative framework, the ANAO notes that the ATO has not chosen at this stage to undertake work to address some key issues in the functioning of the system that would facilitate speedy progress on regulatory reform. Although responsibility for contributing to policy development and legislative design in respect of the regulatory framework was transferred away from the ATO to the Treasury in mid-2002, the major report on the review of standards for the tax profession was completed in 1994. Progress to date on the matter has been very slow.

5.23 Initiatives such as developing an adequate and comprehensive dataset on tax agents and seeking to obtain information on other relevant members of the tax practitioner population and determining the nature and degree of services required from the ATO by different groupings, could be useful preparation to pave the way for the implementation of any major regulatory reform proposals. As other Chapters of this audit report have discussed, the identification by the ATO of a comprehensive strategic approach which brought together all the elements of ATO concerns in its relationships with tax agents and other tax practitioners such as members of tax and accounting professional bodies, would also seem to comprise important preparatory work for the ATO to undertake, for its own administrative purposes, before elements of comprehensive regulatory reform were crystallised.

Proposals for reform of the system

5.24 While proposals developed over the 1990s for fundamental reform of the regulatory system were put on hold in 1999 to make way for ATO implementation of major Government initiatives in the tax system, consideration of changes to the formal regulatory arrangements was reactivated in late 2001. The ATO initiated the formation of the NTLG Regulatory Framework Working Group to produce a discussion paper on a new regulatory framework for tax agents and other tax practitioners.

¹⁷⁴ Although TAB secretariat staff are located in their respective States, and continue to provide services to the TAB in that State, they operate as part of a national secretariat.

5.25 Significant work has been done in the ATO with representatives of professional associations, in the period since the Working Group was formed to develop the discussion paper. The June 2002 version of the draft paper proposes replacing the current regulatory framework for tax agents with one that:

- broadens and clarifies the scope of the regulatory framework by aligning registration and regulation with the provision of 'taxation services';¹⁷⁵
- introduces a code of practice for registered tax practitioners;
- creates a national board (chaired by the Inspector-General of Taxation or their delegate), with a secretariat that is part of the Office of the Inspector-General of Taxation;
- extends the range of sanctions that may be imposed on unsatisfactory, registered tax practitioners;
- widens the criteria for registration around relevant experience; and
- introduces some protections for registered tax practitioners and their clients if they take reasonable care in their tax matters.¹⁷⁶

5.26 Other notable measures canvassed in the paper are:

- proposals to separate more clearly the ATO from the formal regulatory processes, than is the case in the current arrangements;
- the proposed inclusion of recognised professional associations as a prominent part of the regulatory processes (registration as well as disciplinary processes); and
- the specification of the proposed roles of the national board, registered tax practitioners and the recognised professional associations.

¹⁷⁵ A 'taxation service' is described as any service involving:

- (a) the preparation or lodgement of a tax return, activity statement, request for self amendment, variation of a liability, or other document notifying the Commissioner about a tax debt or credit entitlement, or a similar activity where the document systematically is accepted by the Commissioner at face value (a self assessment service); and
- (b) the provision of advice or representing a person in dealings with the Commissioner, or before the AAT, about that person's obligations, rights or entitlements under a taxation law.

¹⁷⁶ These are called the 'safe harbour' provisions for taxpayers and registered tax practitioners. Safe harbour means that taxpayers who engage tax agents to assist with their taxation matters will not be penalised, providing the taxpayer has exercised reasonable care in furnishing all the relevant taxation information to their tax agent. Similarly, it is proposed that a safe harbour would apply to registered tax practitioners who meet a defined standard of reasonable care in their tax activities.

5.27 The ANAO notes that numerous elements of the draft discussion paper correspond with issues identified in our own discussions with stakeholders and that the analysis in the paper reflects key findings made by the ANAO about ATO interests in the relationships it has with tax agents and some other categories of tax practitioner. The ATO had intended to release the discussion paper for public comment as soon as possible in 2002–03 and to take account of tax practitioners' reactions to the discussion paper when considering what should be the future shape of tax practitioner regulation. However, with effect from July 2002, responsibility for the design of tax law and regulation, including for the review of standards for the tax profession, was passed from the ATO to the Department of the Treasury.

5.28 The ATO advised in September 2002 that, as a result of these changes, it was no longer responsible for contributing to policy development and design although the Commissioner would continue to provide a view on administrative impacts. It advised that in relation to the processes following the National Review of Standards for the Tax Profession (involving work on reform of the regulatory framework) that it would work with Treasury to facilitate tax agent input and the relationship with Treasury.

ANAO comment

5.29 It is widely recognised by stakeholders that the changed taxation environment over the last 20 years and limitations in the current framework of regulation, make the need for reform pressing. While progress on reforming the regulatory framework for tax practitioners is seen as being slow, the ATO has recently taken sound measures to secure administrative efficiencies within the current regulatory framework. The ATO's efforts with tax practitioner representatives to reactivate work and discussion around the required reforms of the regulatory framework are timely.

5.30 The June 2002 draft discussion document addresses issues that are seen as being important areas needing reform. It proposes a replacement framework of regulation that would appear to address many concerns of stakeholders.

5.31 However, as drafted, the discussion paper does not clearly specify the overall objectives for the regulatory framework for tax practitioners. Nor does it specify the ATO's role in the draft new regulatory arrangements, including whether the TAIU, whose functions include the provision of support to the regulatory authority (TABs) under the current framework,¹⁷⁷ would continue to have a role in supporting the national board. The ATO advised in September

¹⁷⁷ As noted in the next section of the report, the TAIU not only supports the TABs, but also has a broader role around tax agent integrity including profiling the tax agent industry and identifying compliance risks.

2002 in response, that recent versions of the new regulatory framework discussion paper have defined the intent of the proposals and what they are intended to achieve in terms of outcomes for Australia's taxation system. It advised that it is difficult to define at this stage of the development of the new regulatory framework proposals, the extent of the role of the ATO in the proposed regime, in particular, administrative arrangements such as the supporting role of the secretariats and the TAIU.

5.32 Clear statements about the overall objectives for the regulatory framework would allow assessment of the proposed framework against its stated aims. For example, if a stated overall goal of the regulatory framework were to ensure quality and professionalism in the conduct of tax practitioners and accuracy in the information they provide, it would then be possible to assess whether the proposed operations and scrutiny permitted by a national board and secretariat, professional associations and the ATO and the sanctions outlined, for example, are likely to achieve that.

5.33 In the context of any public discussions on the merits of any new regulatory framework for tax practitioners, it would also be useful for commentators to have at least a broad appreciation of the extent of resources that will be made available for the regulation of tax practitioners. This would allow them to assess whether these resources would permit effective activity (such as assessment and monitoring of registered tax practitioners) by the relevant parties.

5.34 Despite the shift in responsibilities between the ATO and Treasury, the ATO continues to have responsibilities relating to ensuring the appropriate involvement of the tax professionals' groups in the design process for any new regulatory scheme and the provision of its view on administrative impacts of any regulatory framework proposals. In order to discharge its responsibilities, the ATO, in our view would need to be in a position to appreciate and analyse the key administrative attributes of any framework being proposed for discussion, particularly:

- the overall objectives;
- performance indicators to measure success;
- the ATO's role in the regulatory framework, including that of the TAIU; and
- the resources that would be required to use this framework to achieve the objectives set for it.

5.35 Because the regulation of tax agents significantly influences the ATO's relationship with tax agents, the ATO's views on the regulatory system, how it might be reformed and how the ATO's administrative processes might be brought to bear to improve the functioning of the regulatory system are therefore directly

relevant to the ATO's management of its relationship with tax agents. Resolution of the matter of reform of the regulatory framework, now a responsibility of the Treasury may, indeed, contribute to improved relationships between the ATO and tax agents.

Compliance—TAIU and TPG&A

5.36 In addition to undertaking investigation work on request from the TABs, the TAIU undertakes also a range of compliance activities as part of its responsibilities to investigate unregistered tax return preparers and complaints involving the propriety of tax agents. This includes seeking to identify people who are acting as tax agents who are unregistered and investigating agents who are not fulfilling their obligations as registered tax agents.

5.37 TAIU compliance activities in respect of tax agents and unregistered tax return preparers arise from its own investigations of ATO data, such as tax returns, information from ATO business lines and the ATO's community information system, CISCO,¹⁷⁸ and from referrals from TABs. In undertaking its compliance activities relating to tax agents (registered and unregistered) it acts as an important point of contact for the ATO lines and external agencies relating to tax agents' conduct and practices. Its investigations may lead to a matter being referred to the relevant TAB,¹⁷⁹ the ATO Fraud section¹⁸⁰ or In-House prosecutors in the Small Business line.¹⁸¹

5.38 The ATO has given increased prominence in the last 12 months to the TAIU undertaking compliance work that focuses on aspects of the integrity of tax agents. Its priorities have been to establish benchmarks around certain activities of tax agents to support further work in future years designed to promote the integrity of tax agents. The tasks involved, for example, assessing how registered tax agents meet their own taxation obligations and activities relating to the receipt of social service benefits, to determine changes in tax agents' behaviour over time. Additional resources were allocated to TAIU in the context of the 2002–03 Budget to further its tax agent integrity work including identifying and testing additional indicators of integrity.

¹⁷⁸ CISCO deals with community information on any tax-related matter, not just matters relating to tax agents.

¹⁷⁹ Breaches of the ITAA, the Income Tax Regulations or the *Tax Administration Act* are reported to the relevant TAB.

¹⁸⁰ In respect of criminal offences.

¹⁸¹ Breaches of the ITAA, the Income Tax Regulations or the *Tax Administration Act* attracting pecuniary penalties are referred to the in-house prosecution area of the Small Business line.

5.39 The roles of the TAIU and TABs are distinct. The TAB's concern as to the accuracy or reliability of returns is to protect the public and the clients of tax agents. The ATO's purpose in carrying out the TAIU's activities is to protect the revenue and, more specifically, to examine issues or risks bearing on the integrity of tax agents. Although the roles may be distinct, their operational relationships in some areas are not clearly defined. The TAIU is the main investigative arm of the TABs, but it is not clear how demands associated with this role are assessed against the TAIU's other ATO compliance roles and associated activities. The ATO responded in September 2002 that it is developing referral and communication protocols to progressively clarify the operational relationship between the TAIU and the TABs.

5.40 Although most of TPG&A's compliance activity in relation to tax agents is done by the TAIU, other elements of TPG&A also undertake compliance activities in the sense of undertaking work to support and encourage agent compliance. An example of TPG&A's compliance activity outside of the TAIU is its work in 2002 to examine the reasons some tax agents were having difficulties in meeting their lodgement schedule.

5.41 TPG&A's education and communication service support and the various liaison and consultative groups are also designed, in part, to inform tax agents and promote enhanced compliance. The committees can highlight particular compliance priorities for the ATO and committee members can raise particular issues bearing on agents' compliance.

5.42 Some of the public presentations by senior officers of TPG&A and the ATO, more generally, making the results of some of the ATO's compliance work known in the general tax agent community, are also a vehicle for enhancing compliance.¹⁸²

ANAO comment

5.43 The TAIU's work on assessing the integrity of tax agents is an important aspect of the ATO's compliance work in its regulation of tax agents. However, it is also important that the ATO continues to ensure that there is effective investigation of unregistered tax agents. This is because the ATO, through the activities of the TAIU, is the only element of the current regulatory framework with resources to specifically enforce this aspect of the legislation.

¹⁸² Examples are addresses by the Commissioner of Taxation and the head of TPG&A to tax practitioners in 2001 and 2002 referring to the ATO's compliance strategy in tax administration in general, and to tax agent integrity issues, in particular. We understand that the ATO also intends to publish some of the results of its tax agent compliance work in *the Tax Agent* newsletter.

5.44 The TAIU is an important point of contact with ATO lines and other agencies in relation to tax agent conduct and activities (e.g. business lines as well as ATO Fraud and In-house Prosecutions). It is crucial to ensuring information is assessed from an ATO-wide perspective to identify patterns across lines that might otherwise not be apparent.

5.45 The publication of the results of compliance work such as that performed by the TAIU, helps the ATO to obtain maximum effect from its compliance effort. Public references to compliance results can help to convey lessons to the broader tax agent community and can help to change behaviour in a larger group than the one specifically examined.

5.46 Because of TPG&A's focus of responsibility on tax agents, its various compliance activities perform a critical role in discharging the ATO's obligations to ensure that the relationship it has with tax agents delivers an appropriate compliance 'dividend' in the efficient and effective administration of the tax law. It can do this both directly, in terms of ensuring tax agents themselves comply with the terms of the law; and indirectly, in assisting tax agents to meet their clients' tax obligations to pay the correct amount of tax and meet other requirements. It is clear that, when driven forward at operational levels, both these direct and indirect functions have the potential to sour relationships, especially during investigatory phases. The professionalism with which ATO officers undertake these tasks must inevitably contribute a major ingredient of the smoothness with which these operations are undertaken. However, just as important will be the attainment of high levels of mutual confidence between the ATO and the tax agent community. The ANAO considers that commitment by all parties to improving communication and understanding, will improve delivery of the ATO's compliance function. The proposed development of a statement of the respective roles and responsibilities of the ATO and tax agents canvassed earlier in this audit report could usefully give direction to such commitment.



Canberra ACT
2 December 2002

Pat Barrett
Auditor-General

Appendices

Appendix 1

Institute of Chartered Accountants in Australia: Media Release

Deadline for ATO re-design urged by ICAA members¹⁸³

13 August 2002

The country's premier accounting body today gave the Australian Tax Office a 10-week deadline to lift its game or risk facing an unprecedented "work to regulation" protest from its frustrated and angry tax practitioner members.

The threat to abandon electronic lodgement from October 28th, 2002 and swamp the ATO with paperwork was relayed to Tax Commissioner Michael Carmody by the Institute of Chartered Accountants in Australia (ICAA) on behalf of its members.

If the "electronic go slow" takes place the ATO will have to cope with the burden of inputting the data from the complex paperwork that makes up the current New Tax System. The basis of the action would be to do what the ATO currently does to tax practitioners—insist that any queries be put in writing.

Evidence of members' frustration and anger has been collected by the ICAA since mid-May. Earlier today a protest package was delivered in Sydney to the offices of the ATO and also to the office of Senator Helen Coonan. The protest package contained more than three hundred complaints—letters, emails and surveys - from unhappy members, and backed by countless hundreds other members who raised the issue at ICAA regional meetings. It was accompanied by a plea to the ATO to overhaul and re-engineer the New Tax System administration.

It will be followed up tomorrow (August 14th) by an 'Open Letter' to the Tax Commissioner which will be published in several newspapers to ensure the community and the tax practitioners' clients understand the frustrations suffered by the accountants.

ICAA CEO, Stephen Harrison, said: 'The threat by some of our members to initiate the first "work to regulation" protest in the history of accounting in Australia is unprecedented. It reflects the grassroots anger expressed by our members, who have told us that they are suffering, first hand, the inefficient, overly complex and flawed administration associated with the New Tax System.'

'If they do not see improvements emerging from the ATO, they believe they must take dramatic action. The ICAA cannot, nor will not, dictate that any action should be universally adopted by our membership. That will be a decision for the membership, but we will continue to advocate on their behalf for these changes and we will monitor progress and report back to our members.'

The major problems members claim to suffer due to bad tax law design and mal-administration by the ATO are:

- Hours wasted 'on hold', hoping for a response from the ATO Helpline
- Inconsistent and incorrect advice from ATO staff
- Lack of training for ATO staff make it impossible for them to tackle the technical queries prompted by the complex ATO process
- An avalanche of unnecessary paperwork
- Costly duplication due to lack of integration of ATO systems

¹⁸³ On 29 October 2002, the ICAA decided to extend the deadline for the possible abandonment of the electronic lodgement of tax returns until 28 January 2003 (the date by which the next BAS must be lodged). The ICAA indicated that it had decided to extend the process of monitoring ATO efforts to improve services while allowing the ATO more time to implement specific undertakings, meet identified deadlines and to maintain the momentum of change.

A more comprehensive list of areas of concern has been separately raised in a private communication that accompanied the protest package.

The ICAA members realise a 'quick fix' solution is not likely, but are demanding evidence of a rapid escalation from the ATO in the quality of service and support. There are three key improvements that members want to see achieved by the deadline of October 28th:

- No more than five minutes to get connected to the right people ATO Helpline
- An intelligent and knowledgeable answer to their question.
- Major improvement in the logic and flow of information so that paper work is not duplicated and realistic explanations are given
- A clear plan is in place to re-design the compliance program for next year

Stephen Harrison added: 'We have had constant dialogue with the ATO and we recognise attempts have been made to improve the situation, and that a number of officials are doing their best. However these efforts have been too piecemeal and too slow, and are overshadowed by a culture of penalising those who cannot cope with the often unreasonable compliance deadlines.'

'Our members are asking the Institute to remind the ATO to recognise the crucial role that tax practitioners play in the vital business of Government tax revenue collection. They go further, by considering the step of pushing back the paperwork, and give the ATO a 'taste of its own medicine'. In other words, give a dramatic, practical demonstration and insight of the workload tax practitioners are burdened with on the ATO's behalf. Tax payers due for a refund will not be disadvantaged because their affairs will continue to be handled electronically.'

'Letter after letter spells out in angry detail how the system is flawed and how the members feel let down by the inefficient and overly complex processes employed by the ATO. We are asking Commissioner Carmody and Senator Coonan to read these letters, to understand the frustration, to see past the pain they express, to learn from our members unrivalled field expertise and recognise the community reality they represent.'

The ICAA sees two other undesirable consequences that make it essential to re-engineer the New Tax System. The first is that taxpayers are carrying the major cost burden of the inefficiencies within the system. The second is the danger of a shrinking pool of tax practitioners to support the Government's revenue collection system. While the older more experienced accountants report a growing disenchantment with the work, younger ICAA members are not seeking work as tax practitioners.

For further information:

Jaqui Swan, ICAA. 0407 019 818

Belinda Wood, Love, 0416 010 977

Appendix 2

Open Letter to the Commissioner of Taxation

Open letter to Tax Commissioner Carmody

13 August 2002

Mr Michael Carmody

Commissioner of Taxation
Australian Taxation Office
2 Constitution Avenue
Canberra ACT 2601

Dear Commissioner

The Institute of Chartered Accountants in Australia (ICAA) is the longest established accounting body in Australia, with some 36,000 members around Australia. About 15,000 members work within accounting practices, and some 10,000 in the smaller or sole practitioner practices that have traditionally serviced the tax and accounting needs of individuals and the small business taxpayer community. From the commencement of The New Tax System in July 2000, these members have borne the brunt of the increased compliance obligations created by the changes that system introduced, as well as the many other changes associated with the biggest tax reform agenda in Australia's history. The ATO's attempts to educate the taxpaying community to take on these obligations has had limited success. As a consequence, both the community and the ATO are very heavily reliant on the tax profession for the efficient administration of the tax system.

The ICAA feels that the ATO has only recognised the importance of this relationship belatedly, and only after two years of agitation from the ICAA and the other professional accounting bodies. Your recent public announcements now consistently highlight that the ATO's priorities are focussing more and more on projects to protect the integrity of the new tax system, and this infers that the new system is successfully bedded in. All the communications we receive from our members tell us that is not the case.

Whilst it is right and proper that the ATO look to its revenue collection priorities, it is also imperative that your officers never lose sight of the fact that the ongoing success of the new tax system is now more than ever linked to the success of the association between the ATO and the tax practitioners.

This requires a level of support by the ATO, and standards of ATO efficiency, that currently are not evident, and some very fundamental 're-engineering' of the processes the ATO has used to administer the tax system.

The list of the tax changes for small business and their advisers has been daunting. They impose additional time and significant costs on business. I speak of changes such as the GST, the PAYG activity statement system, optional tax regimes for small business, changes to CGT, depreciation, the integrity measures for contractor business operations, and deemed non-commercial losses, and the most complicated measure of them all, the consolidation provisions. If such intrusive changes are considered essential for the better tax administration of Australia, the ATO must ensure that its support of the community, either directly or through tax advisers, is world's best practice, to ensure that the intrusion is kept to the minimum.

Whilst the ICAA and our members were prepared for a transitional introduction period with the inevitable teething problems, no one foresaw that, two years into the new regime, accountants would still be voicing the same negative messages about the viability of the New Tax System's compliance requirements, long term, and the inadequacy of ATO systems and people to support the new regime. The most worrying message is the growing disenchantment within this crucial sector of the accounting profession supporting small business. Many older accountants are looking for ways out, and not enough new accountants see any attraction for a career in tax that involves an apprenticeship dealing with the unrealistic demands of the compliance system.

The message is clear. Significant re-engineering of the tax compliance demands on the community is essential. Small business by and large does not want these responsibilities and accountants will not continue to support a system that assumes they are content to spend their days completing ATO forms, and accepting substandard support from an ATO that designed a system. Without that fundamental re-design, those compliance demands for a growing SME sector will fall to a stagnated or shrinking pool of accountants. It's a recipe for disaster.

The ICAA also calls on the Government to ensure that the legislative design processes only deliver tax law to the community that is essential for the best government of the country. Many would argue that what we now see has been over-engineered or is unnecessary, and is an attempt to deal with every eventuality that could threaten the Revenue. Realistically we feel that it will take years for the current drafting culture to change but it is within the ambit of the Commissioner's powers to 'cut some slack' for the community and implement better tax administration. These means better design of new administration arrangements, the recognition of the need to re-design existing arrangements, and energising ATO staff so that they are more committed to deliver the level of support the community requires to comply with this complex tax system we have.

While we see more evidence that the ATO is now 'listening to the community' and that the barriers are not as insurmountable as they were, there is still a long way to go.

The most recent ICAA survey of members reinforces this. To provide more evidence to the constant stream of anecdotal feedback the ICAA receives, we called upon our members to write letters outlining their areas of frustration, or answer questions which attempt to localise the problems and possible solutions. We invite you to read even a sample of the letters to gauge the level of frustration, with the same areas of ATO administration continually featuring. No summary of these letters could do justice to the extent of the problems indicated, but we advocate that they should be used to isolate the problem and implement the changes required.

We also have survey responses from members that support the feedback in the letters. Two years into the new tax system, the survey indicates:

- 87% feel that the changes were not bedded in satisfactorily for clients.
- 90% had to ask for extensions to lodge tax returns or activity statements
- 55% were granted extensions
- Only 26% thought their compliance performance would be better for the current year
- The mean average increase in fees for clients was 23% for those prepared to respond on this question.
- Clients still remain heavily reliant on their accountant to complete their activity statement.
- 72 % saw the need for this sector to grow significantly. However, the ICAA's statistics on preferred career paths for accountants leaving university suggests that many will not follow a tax practice career.

The survey questions and letters relating to the main areas of complaint with the ATO and suggestions of remedies, are not unexpectedly, closely linked, and can be summarised as follows:

- By far the biggest complaint was the standard of the skills of ATO staff, their attitude, poor English, and even their lack of understanding of the systems within the organisation they work for, such as access to a data base of officers telephone numbers to allow calls to be transferred. Even when a member was able to get a number of an officer, they report that it is normally on voice mail and they are often not rung back.
- Helpline delays, sometimes of over an hour and more are reported, with some reporting being automatically dropped off after 35 minutes, or told to go away.
- Practitioners continually asked for better access and a personal level of service. They want a dedicated service, manned by people who have the skills to answer the questions. Hopefully extreme examples—but when one member rang the FBT helpline the response from the ATO officer was—'remind me—what does FBT stand for?' And another—'our standing joke is we ring the ATO three times and take the average of the three responses.'

- ATO policy in contacting accountants is uncommercial. The demand is to talk to the partner rather than staff, even on trivial matters. Communications won't be emailed or faxed out.
- Integration of ATO systems, and on line access for agents. This will reduce the likelihood for duplication and incorrect demands for lodgements or payments, already made.
- They ask that more consideration is given to the likely implications of all changes to the law or systems, before they become a fait accompli.
- Flexibility and re-design of the compliance programs is essential to cater for differing circumstances of accountants. At present the program places unrelenting pressure on the accountant, leaving little time for value adding to the client's business. Deferral requests were seen as a 'jump through hoops' exercise.
- Better monitoring and co-ordination of all the communication to accountants from the many areas of the ATO, to cut down on junk mail, or mail sent directly to clients that then has to be explained to them.
- 'Focus on the abusers of the system, not those who are trying to make it work' was a regular theme.
- Consider ways to alleviate the ever- increasing complexity of the tax returns. New schedules are added every year to cater for a rapidly increasing list of legislative changes and economic initiatives, such as the Family Tax Benefit and the Baby Bonus.
- Tax software is a vital tool for practitioners but the software doesn't keep pace with legislative change. The software producers blame the ATO for late communication of requirements.
- The ATO Electronic Lodgement Service has degenerated.
- It takes far too long to process, both correspondence and the ATO's own forms.
- Inability to confirm the basis for applying the General Interest Charge to a client.
- The length of time it takes to process refunds
- The targeting of GST refund situations for audit

The list could go on and on, and many of the letters give chapter and verse examples. We acknowledge that your officers are making changes to address some of these administrative problems, but we see from the responses of our members that some of the problems are very deep seated. They would seem to require a significant cultural shift in the work ethic of many of the ATO staff, via an extensive retraining program , and a post mortem on each and every systemic problem, not just to fix it for that taxpayer, but to reduce the likelihood of it every happening again. With that sort of disciplined approach, an improved work ethic within the ATO, and more checks and balances in the design processes for all new tax law and administration, we see there would be light at the end of the tunnel.

To ignore the many stress fractures we see every day, begs the question—how long is it before the tunnel collapses?

Yours faithfully

Stephen Harrison
Chief Executive Officer

Appendix 3

Joint Statement: ATO and Accounting and Tax Professional Bodies

Media Release - Nat 02/79

Joint Statement from Commissioner of Taxation and Accounting and Tax Professional Bodies and Information Sheet

Information Sheet

Tax Commissioner Michael Carmody today met with accounting and tax professional bodies to assure them of the Tax Office's continued commitment to improving services for both tax agents and the business community.

The Commissioner acknowledged the role of accounting and tax professionals and the tremendous effort they have made during the biggest ever overhaul of Australia's tax system, and has introduced a number of service improvements in recognition of this (see attached information sheet).

Professional bodies acknowledged the Commissioner's Listening to the Community initiative, but stressed the need for urgent action in a number of areas. They agreed to work cooperatively with the Commissioner to continue to improve services to tax agents.

Initial priorities for attention are:

Program Coordination

- the Commissioner will appoint a senior officer, reporting directly to him, to coordinate support programs for tax agents.

Relationship Managers

- development of client relationship manager models with a paper to issue to professional bodies by Friday 6 September.

Online Services

- continued enhancement of online support tools with the objective of providing a personal secure site for tax agents (timelines are outlined in the attached fact sheet);
- professional bodies agreed to promote the uptake of technology with the members.

Lodgments

- by the end of October determine whether a major redesign of the lodgment program is possible for the 2003/04 lodgment program.

Telephone Services

- rationalise the number of access points from 16 to 5, covering superannuation, excise, transactions, advice and practice management;
- incorporate further expertise into the call centres to expand the one-stop service for agents;
- early in 2003 introduce technology to allow tax agents to get back to the tax officer with whom they last spoke, if available;
- explore new CRM technology to provide improved support tools in call centres.

Enhanced Transparency

- the Commissioner agreed to regularly publish performance statistics and information relating to tax agents on the Tax Office's website.

The professional bodies have indicated there may be areas where compliance simplification would require legislative change. They will take these up with Government. The Commissioner has agreed to explore the administrative implications of any such proposals.

The Commissioner and the professional bodies have agreed to meet regularly to exchange ideas on administrative issues and to review progress on initiatives to improve services to agents. The next meeting will be in early October.

* Participating accounting and tax professional bodies at today's meeting were -

CPA Australia
Institute of Chartered Accountants in Australia
National Institute of Accountants
National Tax and Accountants Association
Taxation Institute of Australia

CANBERRA

3 September 2002

Information Sheet

A Picture of the Tax Agent Industry

- There are 24 533 active tax agents registered to practise in Australia.
- The industry has grown—from 30 June 2001 to 30 June 2002 an additional 241 agents registered to practise.
- The median age is 40-49.
- 82% are men and 18% women.
- 75% of agents are located around cities; CBD 7%, inner metro 46%, and outer metro 22%. Rural and regional areas account for 25% of agents.

Tax Agents Lodgment Performance

- Activity statement lodgments have improved markedly since the Tax Office has made clear its intention to apply penalties more generally.
- On-time lodgments of around 97% for the June 2002 quarter are the best achieved since the introduction of the new system. This compares with around 30% on-time for the December 2001 quarter.
- In the past year requests for lodgment extensions from agents represented only 1.5% of Activity Statement clients and 4.5 % of income tax clients.
- Overall income tax lodgment rates have remained relatively steady over the last three financial years.

Service Delivery Improvements - Call Centres

- Two priority telephone lines allocated to agents.
- Agents go to the top of the call centre queues.
- Extended call centre opening hours at critical lodgment times.
- West Australian call centres used to extend eastern seaboard opening hours to 8pm at critical lodgment times.
- Following complaints in May about wait times, 200 additional call centre staff were recruited and trained—wait times now down to an average of 45 seconds.
- 130 000 calls from agents answered in July, less than 10 serious complaints for this period.

- Strong quality and assurance program to ensure high standards of service.
- Proof of identity streamlined.

Online Services

Tax agents are now able to view a range of information via the tax agents' secure website, thus avoiding the need to phone the Tax Office.

- This website currently hosts a range of products including -
 - PAYG Income Tax Instalment Summary for 2000/01 (2001/02 available 2nd week of September);
 - PAYG Exits (zero-rated companies);
 - Senior Australians Tax Offset;
 - Imputation Credits;
 - Mass Marketed Schemes;
 - Correspondence preferences; and
 - Calculators for Proportional prepayments, Transitional prepayments and complete prepayments.
- During September, extra reports will be introduced to a pilot program -
 - FTB entitlement;
 - PAYG instalment variance;
 - Account balance summaries (income tax, activity statement, excise and FBT); and
 - Year to date account summaries for 2001/02 and 2002/03 for activity statements.
- From October, the full range of reports will be available via a newly designed Tax Agent Portal. In addition to the reports, tax agents will be able to request running balance account (RBA) statements as well as use a secure on-line messaging facility with the Tax Office.
- From the start of the new calendar year, the site will be progressively piloting on-line interaction with the Tax Office's information including features such as on-line RBA statements, registration details and lodgment data.
- Full capability for these products is planned for July 2003.

Running Balance Account Improvements

- New look RBA from 1 July received overwhelmingly positive feedback from agents.
- From September new online products will include -
 - Ability for agents to request RBAs from a secure website;
 - Access to PAYG Commissioner's instalment rates, so agents have no need to call for this information;
 - Access to clients FBT information; and
 - Year to date summaries of clients accounts.

Other Tax Office Assistance Programs for Tax Agents

- Tax Time Satellite Seminars -
 - 17,081 agents attended July 2002 Seminar at 175 venues;
 - Increase on 2001 Satellite Seminars which 10 620 tax agents attended at 160 venues;
 - Very positive feedback received on new handout format.
- Tax Office fulfilled 402 speaker and seminars requests for agents.
- Tax Officers gave 20 presentations to Professional Conferences.
- Tax Officers visited 1700 agents to help with technology.
 - 93% of those visited said they better understood the use of the website and other electronic tools.
- In July the Tax Office began piloting remote videoconferencing in regional and rural Australia.

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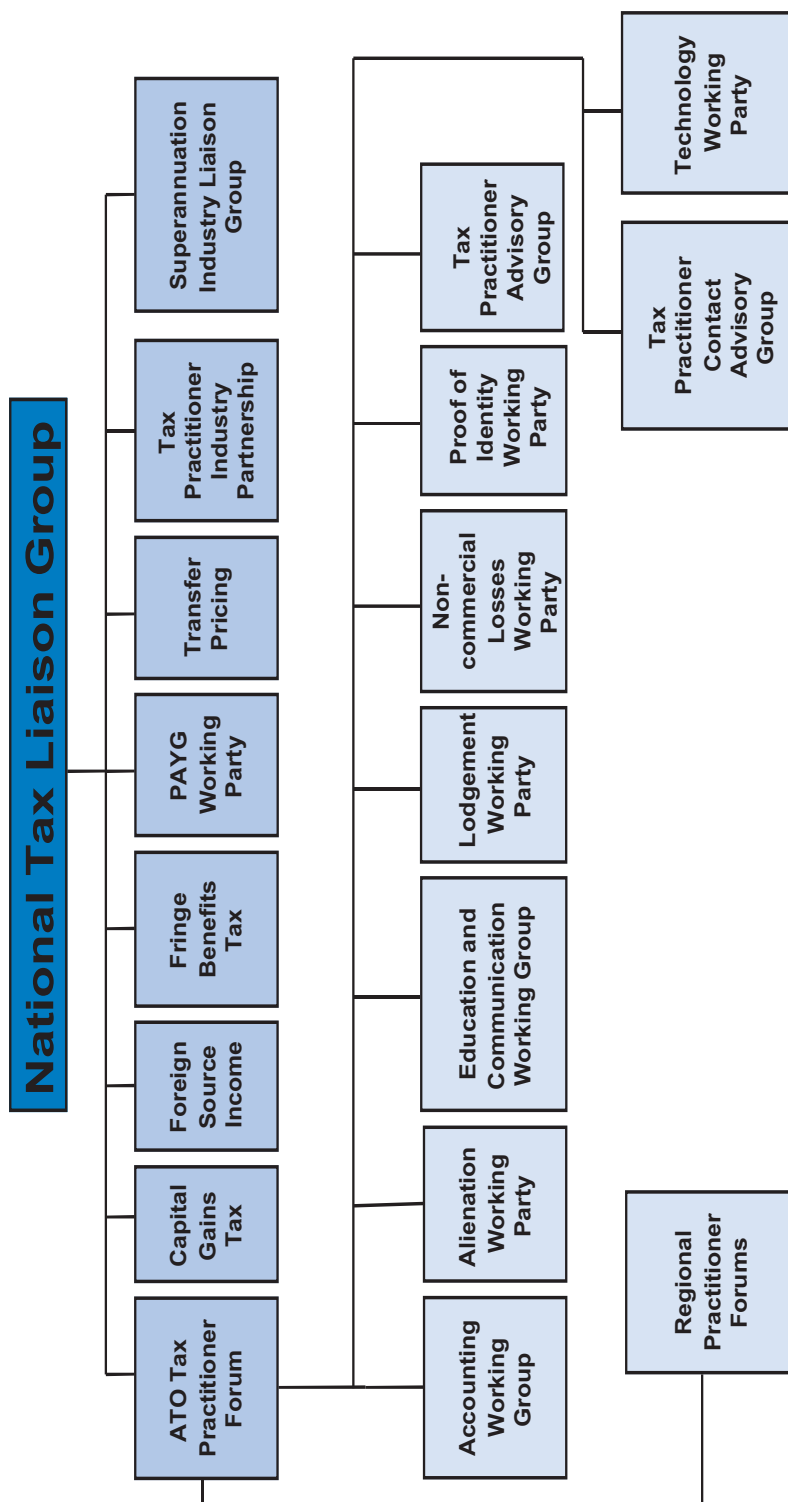
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Appendix 4

Tax Practitioner Liaison Committees and Working Parties



Source: ANAO depiction of ATO information July 2002

Appendix 5

ATO Education and Communication Processes for Tax Agents

ATO Education Programs and Communication Processes	Description
Tax Practitioner Satellite Seminars	held at TaxTime; commenced in 2000, replaced previous face-to-face seminars offered by the ATO; covers updates on new and changed requirements for completion of tax returns each year plus information on relevant topics of interest to tax practitioners; in 2001, the two satellite seminars went to an average of 160 venues, and 22 000 attended; there were in excess of 17 000 registrations for the satellite seminar held on 4 July 2002.
Tax Technology Expos	designed to introduce and promote greater and more effective use by tax practitioners of the technology available in the modern tax environment; provides tax practitioner participants with a 'hands-on' opportunity to view the latest products available from the ATO, software providers and other Government agencies; two Expos have been held in 1999 and 2000 (the latter also included workshops and presentations on tax reform); 5029 registrations were received for the 2000 Expo, and evaluations received from attendees were positive.
Tax Agent Portfolio (also included as a technology support program — see Appendix 6)	contains information on matters relevant to the responsibilities of tax agents, such as ELS, ATO compliance programs, FTB, PAYG, lodgement rules and Tax Agents' Boards; provided to tax agents on CD-ROM, as part of the Tax Practitioners Reference Library; also available on <i>ATOassist</i> .
'Optimising Technology for your Practice' Contact Program (also included as a technology support program — see Appendix 6)	visits designed to educate tax agents in the use of the ATO Web sites and related tools and products; the program involved 1770 visits in 2001, and is currently delivered on request.
ATO Tax Practitioner Broadcasts	an ATO facility to communicate information, including urgent messages, to tax agents and/or other client groups; via e-mail, facsimile or post.
The Tax Agent	quarterly national newsletter provided to tax agents and other practitioners; also available on <i>ATOassist</i> ; designed to keep tax agents aware of current issues and changes in the administration of all areas of taxation; directs agents to other sources of information for highly technical or more detailed topics.
Contact Guides	provide details of national telephone and regional telephone, facsimile and postal contact points available within the ATO for various subject matter; available on <i>ATOassist</i> .
Education visits to tax agents	the number of agents participating in educational visit programs has grown from 784 in 1999 (three programs) to 4 619 in 2001 (eight programs).

ATO Education Programs and Communication Processes	Description
Visits to tax agents by senior executives of the ATO	conducted to receive views on how the ATO can work more effectively with tax agents to assist taxpayers; review of the 2001 program of visits to 60 tax agents by ATO senior executives provided extensive feedback on, for example, the adverse effects of tax reform pressures on the profession together with information on how the industry, and its relationship with the ATO, were changing.
Tax Practitioner Induction Package	ATO telephones each newly registered agent to introduce them to the package; it provides new tax agents with information, for example on Tax Agents' Boards, ATO tools such as ELS and information sources, and basic reference material on ATO contact points etc, that they require to meet their obligations within the tax system; the package is contained within the Tax Agent Portfolio within <i>ATOassist</i> .
Tax Agent Activity Coordination (TAAC) System	IT tool the ATO uses for internal co-ordination of interactions with tax agents; an ATO mainframe application designed to record all activities by any part of the ATO that impact on tax agents (visits, audits, mail-outs, etc); TAAC requires staff to record details of planned and actual interactions between ATO areas and tax agents; TAAC enables the ATO to coordinate contact with tax agents. Note: the ATO Relations line manages another internal coordination process but with a wider focus than TAAC, using the Communication Analysis Tool (CAT); for coordination and integration of communication initiatives, it is mandatory for all areas of the ATO to enter into CAT all external communication initiatives, i.e. not just those involving tax agents and other tax practitioners.

Source: ANAO depiction of ATO information

Appendix 6

ATO Technology Support for Tax Agents

ATO Technology Support Programs	Description
Electronic Lodgement System (ELS)	<p>ELS allows participating tax agents to lodge their clients' tax returns, and other tax forms such as Activity Statements, with the ATO (through a 'gateway') electronically via modem; ELS provides an immediate acknowledgment of receipt of returns and of those not received; ELS operates 24 hours per day all year round and offers faster turnaround (95 per cent of individual assessments will be processed within 14 days); the ATO provides an ELS Tax Agents Guide, ELS Bulletins and News and ELS Activity Statement Reports to tax agents using ELS; ATO is investigating options of transmitting ELS transactions via the Internet.</p>
Internet-based self-help facilities	<p>allowing agents to directly access lodgement and account and assessment information; being implemented progressively by the ATO.</p>
ATOassist	<p>one of the ATO's Web sites; provides a category of information relevant to tax practitioners (professionals), as well as to individuals and business; developments are constantly being made to the ATO's Web sites, for example, statistics are now available on the ATO's performance in processing returns for individual taxpayers; this site received nearly 50 million hits in 2001.</p>
Tax Reform Web site	<p>another ATO Web site; commenced operation in July 1999 and usage grew rapidly due to the New Tax System advertising campaign; site received nearly 250 million hits (figures are not available to show how many of these were from tax agents) from July 1999 to end-2001; in 2001 this was the most used government Web site in Australia.</p>
downloadable calculators	<p>initiative resulting from Commissioner's broadcasts to tax practitioners in February and November 2001; various calculators, either downloadable or on-line, are available, e.g. on Capital Gains Tax and on Family Tax Benefit; others are being scoped.</p>
secure e-mail facility eLink	<p>for receiving mail from tax agents on specific issues.</p> <p>an ATO e-mail information referral service, provided to tax practitioners and others who nominate to receive the service; eLink bulletins are issued regularly about new information and contain electronic links to specific information on both the ATO and other Government Web sites; 35 eLink messages were sent in 2000 and a further 32 in 2001.</p>
'Optimising Technology for your Practice' Contact Program	<p>visits designed to educate tax agents in the use of the ATO Web sites and related tools and products; the program involved 1770 visits in 2001, and is currently delivered on request.</p>

ATO Technology Support Programs	Description
ATO broadcasts to tax practitioners	ATO corporate communication facility to communicate information, including urgent and important messages, to tax agents and/or other client groups; broadcasts sent via e-mail, facsimile or post; all broadcasts include a phone number for follow-up; while 79 tax practitioner broadcasts had been provided in 1999, 224 were sent in 2000 and 177 in 2001; 7 754 addressees received these by e-mail in 1999, by 2001 this had grown to 15 914 addressees.
Tax Agent Portfolio	provides tax agents with an overview of their role within the tax system; contains information and reference material on procedural and administrative matters relevant to the responsibilities of tax agents in their contacts with the ATO, such as ELS, ATO compliance programs, FTB, PAYG, lodgement rules and Tax Agents' Boards; provided to tax agents on CD-ROM, as part of the Tax Practitioners Reference Library; also available on ATOassist.
Tax agent stores and stationery ordering and fulfilment system electronic forms	covers all ATO stationery and publications available to tax agents.
ATO Contact Guides	provided by the ATO for external use, including by tax agents, companies and small business; forms are printable, and the ATO is working to provide a secure mechanism for transmission of forms electronically to the ATO via the Internet. lists provided to tax practitioners of national and regional ATO telephone numbers and regional postal addresses and facsimile numbers; contacts listed are information sources within the ATO.

Source: ANAO depiction of ATO information

Appendix 7

Tax Practitioner Business Infoline

Tax Practitioner Business Infoline (TPBIL)

1. TPBIL was established in 1999, as an independent telephone information line under the responsibility of the Goods and Services Tax (GST) business line, to cover tax agent queries on GST, Pay As You Go (PAYG) and other elements of The New Tax System. It has since had its functions extended to cover measures coming out of the Review of Business Taxation.
2. TPBIL handles the following subject matter:
 - activity statement and business tax return completion;
 - business registrations and client account details;
 - business tax legislative enquiries; and
 - business tax reform.
3. From 1 July 2000, TPBIL became part of the ATO Business Call Centre (BCC), managed by the Small Business line. Within the BCC, TPBIL utilises experienced staff dedicated to the TPBIL line.
4. TPBIL provides both tax interpretative and procedural advice, exclusively to tax practitioners. Staff use comprehensive scripts to answer queries, updated when new issues are likely to generate calls. Staff have access to update screens on their computers to draw attention to and instruct staff on current issues affecting clients. Technical specialists from ATO business lines are used within the BCC on an ad hoc basis, when new products or initiatives are being introduced, to support and coach call centre staff in responding to more complex enquiries.
5. TPBIL operates 8am to 6pm nationally, Monday to Friday and has a total staff of approximately 110, located in three sites—Melbourne, Penrith and Northbridge. All centres share work on hand. If TPBIL is overloaded, calls are automatically streamed to elsewhere in the BCC and are given priority over other calls.
6. Calls can be escalated¹⁸⁴ within TPBIL or transferred out of the BCC for example, to the relevant operational or technical area of the ATO.

¹⁸⁴ ATO call centres endeavour to resolve as many calls as possible at the first point of contact. When the call cannot be resolved within the call centre environment either by the client service representative or by the team technical specialist, the call is escalated either by transferring the call or by e-mailing the client's details to the relevant escalation point. That area is then responsible for ensuring that the client is contacted and the issue resolved.

7. The majority of TPBIL staff providing technical advice are tertiary qualified in relevant disciplines such as accounting, economics and law. New BCC staff are provided with one week of corporate and general induction training, followed by tailored product training dependent on identified skills requirements. Formal tax technical training and on-going training and skilling, within a framework applied across the entire BCC, is provided for TPBIL staff on the basis of needs analysis and quality assurance outcomes.

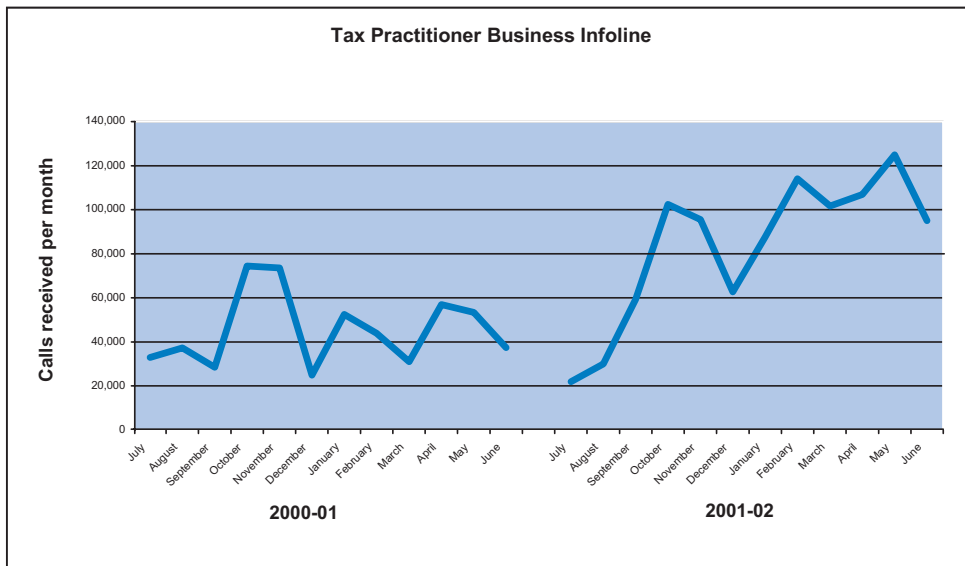
8. The quality of responses provided by TPBIL staff to callers is monitored through listening and replay of randomly sampled calls. Assessment of quality is performed by technical specialists against a comprehensive national quality assessment framework.

TPBIL workload and performance 2000–01 and 2001–02

	Tax Practitioner Business Infoline				
2000–01	Actual Calls Received	Calls Answered	Abandonment Rate %	Service Level ¹⁸⁵ %	
				120 sec	300 sec
July	32,933	31,184	5.3	84	93
August	37,289	34,552	7.3	66	84
September	28,452	27,598	3.0	85	95
October	74,421	68,244	8.3	64	84
November	73,578	71,076	3.4	85	95
December	24,885	23,807	4.3	84	96
January	52,563	51,617	1.8	95	99
February	44,001	43,297	1.6	92	98
March	30,992	30,403	1.9	93	99
April	57,006	54,954	3.6	83	96
May	53,429	51,452	3.7	82	95
June	37,426	35,517	5.1	77	91
TOTAL	546,975	523,701	4.3	82	93
2001–02					
July	21,970	21,090	4.0	91	98
August	30,030	29,176	2.8	92	98
September	59,262	57,464	3.0	88	97
October	102,478	98,504	3.9	82	94
November	95,532	91,716	4.0	81	91
December	62,698	61,247	2.3	85	95
January	87,686	85,962	2.0	92	98
February	114,079	110,608	3.0	83	94
March	101,691	95,478	6.1	64	86
April	106,917	102,137	4.5	73	87
May	124,957	120,159	3.8	77	92
June	95,020	90,649	4.6	71	87
TOTAL	1,002,320	964,190	3.8	79	92

Source: ANAO depiction of ATO data

¹⁸⁵ The ATO's Taxpayers' Charter standard for responding to telephone calls to ATO general enquiry services is 2 minutes (120 seconds), and 5 minutes (300 seconds) in busy periods. Corporately agreed performance standards for call handling are 80 per cent of calls answered in 2 minutes during non-peak periods extending to 80 per cent in 5 minutes during designated peak periods.

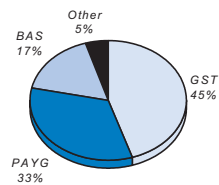


Source: ANAO depiction of ATO data

Tax Practitioner Queue Analysis

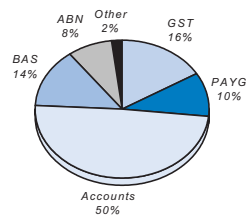
2000-2001

GST	PAYG	BAS	Other	Total
245,952	182,464	92,868	25,691	546,975



2001-2002

GST	PAYG	Accounts	BAS	ABN	Other	Total
165,128	100,823	494,280	139,108	84,147	18,834	1,002,320



Source: ATO data

Appendix 8

Tax Agent Infoline

Tax Agent Infoline

1. The subject matter handled by the Tax Agent Infoline is:
 - PTax Public Assistance—notice of assessment and progress of assessment enquiries;
 - PTax Interpretation and Compliance—law interpretation for individuals;
 - Client Account Management (CAM)—Practitioner Lodgement Support (PLS) Teams—lodgement program issues including deferral requests; and
 - TPG&A Issues Resolution (IR)/Tax Agent Unit (TAU)—other enquiries including ELS support and the Complex Case Resolution (CCR) service.
2. In 2001–02, some 473 000 calls were made to this location. Of these, 78 per cent (against the Taxpayers' Charter standard of 80 per cent) were answered within 2 minutes. The planned annual call volume to the Tax Agent Infoline for 2002–03 is 250 000 to 300 000.
3. Information is captured by operators on the type of call and the relevant issue. Operators handle most calls without escalation, but are trained to escalate the call if necessary.
4. From March 2002 the Tax Agent Infoline includes support services to tax agents previously provided on a separate number (such as stationery ordering, access to ELS reports, seminar registration and e-forms).

ELS Helpdesk:

5. The ELS Helpdesk is responsible for resolving ELS registration enquiries and transmission and validation problems, and for passwords and reports. Operators record issues raised in calls each month.

*Complex Case Resolution (CCR) service:*¹⁸⁶

6. The CCR service is not, in itself, a call centre or telephone information line. Nevertheless, CCR cases can be initiated by tax practitioners through the Tax Agent Infoline (and also by e-mail and letter). A case officer is required to contact the tax practitioner within 24 hours of CCR receiving it. CCR final responses are supplied by letter.
7. The CCR service commenced operation in April 2001. CCR is a case management system for difficult, unique and complex issues experienced by tax practitioners when conducting their business with the ATO and is involved primarily with resolving administrative or tax practice issues rather than technical ones.
8. CCR is not a 'first port of call' as tax practitioners must be able to demonstrate that they have made an attempt to resolve the issue before CCR is used.
9. CCR is a responsibility of TPG&A. CCR case managers act on behalf of the tax practitioner, researching issues and working with the necessary ATO areas to ensure that the issue is addressed. CCR is part of the ATO complaints mechanism.¹⁸⁷

¹⁸⁶ The prototype of the ATO's relationship manager model for tax agents that the ATO circulated in a discussion paper to the tax and accounting professional bodies in September 2002 proposes the replacement of the CCR. The discussion paper proposes that tax agents with less than 100 clients will have relationship management offered by a national 'Tax Practitioner Trouble shooter team' to assist them with any administrative issue, and if, necessary to case manage the issue to resolution. Tax agents with more than 100 clients will have more personalised relationship management with a dedicated team to assist agents providing services such as trouble shooting, ownership and resolution of practice management issues and additional services. See 'Tax agent relationship management prototype' Discussion Paper 6 September 2002, on the ATO website *ATOassist*.

¹⁸⁷ See Chapter 4 for the management of tax agent complaints.

Appendix 9

Regulation of Tax Agents

1. To register as a tax agent an applicant must prove that he/ she is a fit and proper person to prepare income tax returns.

Fit and proper

2. The *ITAA* does not define specifically what constitutes ‘fit and proper’ but does define several factors that generally would determine the person is not fit and proper.¹⁸⁸ To meet the ‘fit and proper person’ criteria an applicant must:

- hold the qualifications and experience prescribed in the *Regulations*;¹⁸⁹
- be at least 18 years of age;
- be of good fame, integrity and character;
- not have been convicted of a serious taxation offence during the previous five years; and
- not be under sentence of imprisonment, including being released on parole or a good behaviour security, for a serious taxation offence.

Qualifications and experience

3. The qualifications and experience requirement comprises a combination of relevant academic qualifications and relevant employment in the tax field.

4. Relevant academic qualifications can be the successful completion of a course of study in accounting or law at an Australian university or college of advanced education, or the successful completion of a diploma or certificate course of study at a college of technical and further education. Those applicants without formal qualifications must either be entitled to membership of CPA Australia, The Institute of Chartered Accountants in Australia or the National Institute of Accountants, or have completed courses of study in basic accounting principles and Australian income tax law.

¹⁸⁸ Section 251BC.

¹⁸⁹ Regulation 156.

5. Relevant employment varies in length depending on the qualifications (mentioned above) held by the applicant¹⁹⁰ and requires the applicant to:

- have been employed by a registered tax agent; and
- have substantial involvement in income tax matters, including:
 - the preparation or examination of a broad range of income tax returns;
 - the preparation or examination of objections to assessments issued in respect of such returns; and
 - the provision of advice in relation to income tax returns, assessment and objections.

6. The *ITAA* and *Regulations* provides limited guidance on these requirements, but a substantial body of law cases and appeal decisions provides assistance. For example, such decisions have determined that the condition for *substantial involvement* in preparing a *broad range of returns* requires both these elements to be met. A tax agent cannot have substantial involvement in one return type only and still meet this requirement.

7. Such judicial interpretation affects the ability of new participants to enter the industry and can affect the re-registration of existing tax agents.

Additional responsibilities and obligations of tax agents

8. In addition to the formal requirements for registration, certain obligations and expectations arise from a person, partner or company being registered as a tax agent.¹⁹¹ Although not specifically defined in legislation, these responsibilities and obligations arise as a corollary to the right of a registered tax agent to charge a fee for preparing income tax returns and undertaking other income tax-related activities for clients, and include:

- preparing returns honestly and competently, so that they are true and accurate;
- keeping up-to-date with changes in taxation laws and practice;
- acting professionally in dealing with clients, including the ATO; and
- maintaining good fame and character.

9. There is a similar expectation that a tax agent will comply with his/her

¹⁹⁰ The minimum period of relevant employment is 12 months in the preceding five years for those with university qualifications but rises to eight years in the previous 10 for those with no formal qualifications.

¹⁹¹ These responsibilities and obligations are detailed at the TAB website at <http://www.tabd.gov.au> under 'General responsibilities.'

own obligations under the tax law; i.e., tax agents will lodge their personal tax returns within the time allowed and meet their tax obligations as these fall due.

10. The Tax Agents' Boards monitor compliance by tax agents with these responsibilities and obligations. Also courts and appeal tribunals have determined that failure to meet these obligations and expectations can demonstrate that the person is not fit and proper to be a tax agent and thus lead to suspension or deregistration.

11. All the regulations, responsibilities and obligations discussed above specifically refer only to the narrowly defined *registered tax agents* and not to the broader category of *tax practitioners*. Thus many tax practitioners providing professional taxation services to taxpayers, such as lawyers and accountants, while subject to regulation within their own professions, are not specifically regulated in regard to tax-related activities.

Appendix 10

Regulation of some Non-tax Segments in Australia

Industry regulated?	Customs brokers	Financial advisers	Marriage celebrants	Medical profession	Migration Agents
Regulation model	Yes Commonwealth legislated regulation	Yes Commonwealth legislated regulation	Yes Commonwealth legislated regulation	Yes State legislated regulation	Yes Statutory self-regulation
Regulation requirements	Persons specialising in clearing imported goods for a fee must be Customs Brokers licensed by the Australian Customs Service	Persons providing financial services must be licensed or become the representative of a licensee	Persons authorised to solemnise are specified in the <i>Marriage Act 1961</i>	All medical practitioners practising in a State must be registered.	Persons providing immigration assistance in Australia must be registered
Regulator	Commonwealth agency	Commonwealth statutory commission	Registrar within Commonwealth department	Statutory independent State-based boards	Industry association
Features of regulation model	<ul style="list-style-type: none"> Qualification requirements for registration Be a person of integrity Post a security bond (if required) 	<ul style="list-style-type: none"> Licence conditions containing the types of activities and types of products licensee can be involved in Enforcement measures a mixture of statutory sanctions and industry Codes of Conduct 	<ul style="list-style-type: none"> Qualification requirements for registration Professional standards to be met including a Code of Practice Ongoing quality assurance system with regular reviews of celebrants' performance 	<ul style="list-style-type: none"> Qualification requirement for registration Abide by an enforceable Code of Ethics Continuing professional development obligations Mandatory professional indemnity insurance 	<ul style="list-style-type: none"> Qualification requirements for registration Be of good character Abide by an enforceable Code of Conduct Continuing professional development obligations

Source: ANAO

Appendix 11

Regulation of Tax-related Services in Six Countries

Segment regulated	Australia	U.S.A.	U.K	Canada	N.Z.	Japan
Provision of tax advice ¹⁹²	No	No	No	No	No	-
Regulator	n.a.	n.a.	n.a.	n.a.	n.a.	-
Preparation of tax returns	Yes—Only registered tax agents can prepare tax returns for a fee	No	No	No	No	Yes—Only Certified Public Tax Accountants can prepare tax returns for a fee
Regulator	Statutory State-based Tax Agents' Boards	n.a.	n.a.	n.a.	n.a.	Professional Association
Electronic lodgement of returns	Yes—Registered tax agent must also be registered for ELS	Yes—Preparer or transmitter must be registered for electronic lodgement	Yes—Preparer must be registered for electronic lodgement	Yes—Preparer must be registered for electronic lodgement	Yes—Preparer must be registered for electronic lodgement	-
Regulator	Taxation authority	Taxation authority	Taxation authority	Taxation authority	Taxation authority	-
Representing taxpayers before taxation authority	No	Yes—Must be registered to practice before the IRS	No	No	No	-
Regulator	n.a.	Section in U.S. Treasury Dept	n.a.	n.a.	n.a.	-

n.a. = not applicable. Note: Not all information was available for Japan.
Source: ANAO

¹⁹² Relates to taxation function only - individual professions such as lawyers and accountants are subject to regulation, but not specifically in regard to taxation matters.

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