Law Council
OF AUSTRALIA
Business Law Section

25 November 2024

Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Sir/Madam,

Consultation: management of complaints by the Australian Taxation Office

The Taxation Committee of the Business Law Section of the Law Council of Australia (the **Committee**) welcomes the opportunity to comment on the Australian National Audit Office (**ANAO**) audit (**Audit**) of the management of complaints by the Australian Taxation Office (**ATO**).

The ANAO website says that the Audit proposes to examine:

- Does the ATO have fit for purpose arrangements to support the effective handling of complaints?
- Does the ATO report on complaints, seek to improve processes and service delivery, and effectively review its complaints management framework?
- Were agreed recommendations from the Inspector-General of Taxation regarding ATO complaint handling effectively implemented?

Comments on the Audit

The Committee does not have any comments on the management of complaints by the ATO. However, we are aware of instances where ATO officers are recommending making complaints as a way of resolving delays in processing matters. Some examples of this are below.

While these issues are outside the scope of the Audit, the Committee considers that one should not have to resort to making a complaint to resolve an issue relating to ATO processes. In particular, as these matters are often relatively straightforward to resolve once allocated a resource by the ATO, there is the risk that such “complaints” may positively skew the statistics released in respect of complaints made, both in terms of time to resolve, and satisfaction with the result.

Non-resident proof of identification (POI) Australian Business Number (ABN) applications

This relates to ABN applications where there are non-resident associated parties (e.g. shareholders or directors) and POI documents must be provided. There used to be a central ATO phone number for the non-resident registrations team.

Now, for non-resident POI ABN applications, applicants must wait until the POI documents have been processed through the ATO system. Even if the ATO confirms that they have received the POI documents, the ATO is unable to provide an estimate as to how long it takes for a POI document to be processed once received as they are unable to see how many documents are in the queue but can say that there is a "significant backlog".

When a period passes before the POI documents are processed, the ATO has been 'cancelling' the application. The recommendation was to make a formal complaint in this instance to have the matter resolved.

Questions about superannuation guarantee contribution (SGC) refunds

On occasion, after lodgment of SGC statements and payment of the associated amounts, the ATO issues a refund without explanation. If the client is unable to reconcile the refund, the ATO is unable to provide an explanation because, after the original lodgment of SGC statements and payments, an ATO officer is no longer allocated to the matter.

The ATO then recommends making a complaint as a means of having the matter looked at.

<u>Further contact</u>

The Committee would be pleased to discuss any aspect of this submission. Please contact Chair of the Committee Justin Byrne [redacted] if you would like to do so.

Yours faithfully

Professor Pamela Hanrahan
Chair
Business Law Section