14 August 2026

Lodged via engage.dss.gov.au

Department of Social Services
71 Athllon Drive
Greenway ACT 2900

Dear Second Action Plan team,

Consultation to develop the Second Action Plan under the National Plan to End Violence against Women and Children 2022–2032

The Tax Ombudsman is pleased to lodge this submission to support the Department's work to develop the Second Action Plan under the National Plan to End Violence against Women and Children 2022–2032.

Our submission draws upon work that we have undertaken over the past two years, and continue to undertake, in identifying opportunities for the tax and superannuation systems to better support people experiencing vulnerabilities, including victim-survivors of gender-based violence, financial abuse and coercive control. Our 2025 report into the *Identification and management of financial abuse within the tax system* surfaced a number of issues within the tax system that are addressed by way of recommendation, but which are not unique to the tax system itself. Our recommendations to the Australian Tax Office (ATO) have all been accepted, implemented or are in progress. However, our report also highlighted that the ATO's powers are limited in the options available for them to remove a tax debt from a victim-survivor's account, even when there is evidence of financial abuse.

Since that report, we have been developing advice to Government on where aspects of financial abuse within the tax system continue to cause victim-survivors to be held liable for debts for which they are not responsible. We continue to work with Government, Treasury, the ATO and other agencies to explore what alternative solutions are available through administrative routes or legislation to provide relief from the debt for the victim-survivors and, where possible, to hold the perpetrator liable.

We are pleased that our work has already contributed to broader government initiatives to combat weaponisation of government systems and to provide support for people experiencing financial abuse and family, domestic and sexual violence. In the 2026–27 Budget, the Government announced that:

> *In this Budget, the Government is taking action by investing $182.6 million to strengthen the Child Support System against weaponisation and make it safer and more effective for all parents and children in the system. This builds on operational changes underway in Services Australia and the Australian Taxation Office to address financial abuse and support customers experiencing FDSV in the child support and tax systems. It also responds to recommendations made by the Commonwealth Ombudsman and Tax Ombudsman in 2025, such as educating staff to help them to better identify, escalate and manage financial abuse risks.*

The remainder of our submission focuses on some key areas that we believe could be usefully considered for inclusion in the Second Action Plan. A number of the comments below emerge from our observations about the ATO. However, as a large, community-facing agency, we believe that some of these observations are equally applicable to similar agencies that engage with or provide services to the community.

Summary of our recommendations

We have provided a summary of our recommendations below, which are followed by more fulsome submissions based on our previous review and engagements with a broad section of community stakeholders and organisations supporting victim-survivors.

The Second Action Plan consider:

1. administrative, policy and legislative options to empower agencies, such as the Australian Taxation Office, to transfer debts arising from abuse to the perpetrator.
2. options to empower agencies to permanently release debt for victim-survivors of financial abuse and apply their hardship provisions where the victim-survivor has multiple Commonwealth debts arising from the same financial abuse.
3. options to provide a statutory discretion for the Commissioner of Taxation to extend the timeframe for victim-survivors to comply with a Director Penalty Notice or otherwise to lodge a defence to such a notice.
4. including requirements or recommendations for agencies to implement clear, accessible channels or forms specifically to report abuse or suspected abuse.
5. requiring relevant, community-facing agencies to develop dedicated, internal capabilities or teams to provide trauma-informed engagement and support to victim-survivors.

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6. options to develop a suite of shared definitions for abuse and coercive control, including financial abuse, that may be readily adopted by agencies and whether the establishment of a taskforce to combat abuse, coercive control and financial abuse may be appropriate.
7. options to develop a framework for evidentiary requirements in relation to family and domestic abuse, coercive control and financial abuse that agencies may adopt.

Transferring tax debts from the victim-survivor to the perpetrator

Tax debts created through financial abuse are actual debts. The ideal solution is for the person responsible to be held accountable and for the debt to be enforced, thus avoiding revenue loss. Transferring liability to the perpetrator also removes perverse incentives for abusers to inflict debt on their partners or for partners to collude.

Where both partners are company directors, existing laws operate to enable the ATO to pursue either or both directors. Where the perpetrator has falsified records or used coercion to make the victim-survivor (but not themselves) a director, there is little that the ATO can do other than the potential consideration of shadow directorships. The current laws do not empower the ATO to pursue a non-director and where the ATO chooses not to pursue the victim-survivor, the revenue and other victims (eg employers who did not receive their entitlements) are left to bear the loss.

Tax law does not provide many options for the ATO to transfer a liability from one party to another. Some examples include section 100A of the Income Tax Assessment Act 1936 and those that empower the Commissioner to take action to combat sham contracting arrangements. These are complex provisions and not readily applied to address financial abuse.

The Second Action Plan consider administrative, policy and legislative options to empower agencies, such as the Australian Taxation Office, to transfer debts arising from abuse to the perpetrator.

Enhance hardship provisions and consider circumstances where multiple debts arise from the same abuse

Financial abuse within the tax system results in victim-survivors being made liable for tax debts for which they are not personally responsible. The ATO has limited powers to permanently extinguish the debt, generally with reference to the individual’s serious hardship. If the tax debt is business or withholding debts (such as GST, PAYG, or Super Guarantee charges), then the release provision cannot be applied. Alternative options such as a lodgement of an objection or appeal to the Administrative Review Tribunal or Federal Court are prohibitively expensive and stressful. Financial abuse is not currently typically a ground to sustain an objection or appeal absent other factors that might lead to a finding that the assessment was incorrect or excessive.

Alternative options will be needed to enable a victim-survivor to provide evidence (see separate section on evidencing abuse) of financial abuse as a defence to a tax debt, which can then be extinguished from their account. We consider this will require legislation and some clear guardrails. In the United States, the revenue code provides for an "innocent spouse relief" provision that operates in some circumstances to relieve spouses from liabilities arising from the understatement of another spouse on joint tax returns. While the US measure does not readily translate to Australian tax law, an equivalent measure could apply within the Australian tax system to achieve the same outcome. This was also raised in recommendation 54 of the Parliamentary Joint Committee's report.

Another option for consideration is specifying financial abuse as a criterion for consideration under the ATO's provisions for serious hardship. This may also be a shorter-term option while the development of an "innocent spouse relief" type option is developed and tested. However, it is important to note that whilst most victim-survivors of financial abuse are left in serious financial distress through the acts of the perpetrator, not all are. And not all would qualify for the existing definition of serious hardship.

An ancillary issue exists with the current provisions to release taxpayers from debt if requiring payment of that debt would result in serious hardship. The serious hardship (or lack of capacity to pay) needs to be proven and a relevant factor to be considered is whether the release of debt would alleviate the serious hardship. This means that where a taxpayer has other liabilities or creditors including other government liabilities, the ATO may not release the tax debt. In cases of financial abuse, the perpetrator can manipulate the tax and welfare systems so that the victim-survivor has debts with both the ATO and Services Australia (and potentially others), thus removing the opportunity for them to claim hardship release and trapping them in debt.

Options need to be considered to enhance the hardship policy position for the ATO, enabling a tax debt to be released if the victim-survivor has multiple government debts created through the same financial abuse and this can be evidenced. The highest priority would be for victim-survivors to be released from tax debt where they have Family Tax Benefit (FTB) linked to the manipulation of tax return lodgement.

The Second Action Plan consider options to empower agencies to:

- permanently release debt for victim-survivors of financial abuse
- apply their hardship provisions where the victim-survivor has multiple Commonwealth debts arising from the same financial abuse

A defence of financial abuse to director penalty notices and additional time to respond

This part of our submission concerns Director Penalty Notices (DPNs) which are peculiar to the tax system. DPNs are a tool available to the Australian Taxation Office to collect certain debts of a company directly from directors of that company. In cases of coerced directorships where a victim-survivor of financial abuse is made a director of a company without their knowledge or without being given any control, DPNs can be devastating.

Current defences to DPNs do not presently include a defence of financial abuse. Rather, they include situations where, by reason of the director "suffering from a severe illness or had 'some other good reason', that makes it unreasonable to expect you to have properly managed your company". This is not generally interpreted to include having been a victim-survivor of financial abuse.

We believe that a defence of financial abuse to a DPN should be recognised and will provide an avenue for victim-survivors to raise these issues for consideration. This outcome may be achieved administratively by clarifying the interpretation of existing defences within the legislation, or legislatively by either expressly including a new defence or by enhancing definitions within existing defences to include financial abuse.

A defence to a DPN that actively enables a victim-survivor to raise financial or other abuse is critical because the debts that may be subject of a DPN – PAYG withholding, GST, and superannuation guarantee charge – are not able to be released. As such, if a victim-survivor cannot make out a defence against the DPN, the Commissioner does not have discretion to release them from the debt even if they are able to demonstrate financial hardship.

An ancillary issue for consideration is the timeframes under which a victim-survivor who receives a DPN has to take action or lodge a defence. In the main, the timeframe operates in two stages: an initial 21 day period for the victim-survivor to take certain actions to comply with the DPN, and a further period of 60 days thereafter to lodge a defence to the DPN.

Based on our consultations and feedback from key community organisations assisting victim-survivors, we believe that the timeframes to comply with or respond to a DPN are not sufficient. There is a risk that the notice is never received as due to leaving the abusive relationship and fearful they may be found by the abusing partner, their mail is not forwarded or the addresses on ATO or ASIC systems may not be updated in a timely manner.

Similarly, while acknowledging that each case will be different, the 60-day period may not be sufficient for a victim-survivor to engage advice, gather information and lodge a defence with the ATO. Recognising the victim-survivor may have experienced trauma and that community services (such as financial counsellors or tax clinics) are often fully booked for weeks in advance, we consider the 60 days will need to be extended in some circumstances to provide fair and reasonable access to create a defence.

While we do not consider that a blanket extension of the 21-day period is warranted as this would defeat the intent of the DPN provisions to address these debts in a timely manner, we believe it is appropriate to consider whether a statutory discretion for the Commissioner of Taxation to grant an extension of time may be appropriate. A statutory discretion would be analogous to the Commissioner's discretion to accept objections out of time (see section 14ZX of the *Taxation Administration Act 1953*). Such discretion should include relevant criteria to be applied when considering such extension requests, including the likelihood that with additional time to seek advice that the victim-survivor may be able to take appropriate action to comply with the notice.

The Second Action Plan consider options to provide a statutory discretion for the Commissioner of Taxation to extend the timeframe for victim-survivors to comply with a Director Penalty Notice or otherwise to lodge a defence to such a notice.

Implement clear reporting channels

We highlighted in our financial abuse report that there is presently no dedicated helpline or form for taxpayers to report financial abuse (including suspicion of coerced directorships). From our review, we identified some instances of taxpayers using other ATO online forms to raise awareness about abuse that they had observed.

A dedicated channel or form developed by agencies specifically to enable reporting of abuse or suspected abuse would assist victim-survivors and their representatives to report these issues and ensure they are received and routed specifically for the purpose of addressing coerced directorships and not for other ancillary purposes. This is particularly important as evidence shows that victim-survivors are very reluctant to disclose their abuse due to shame or embarrassment and often struggle to unambiguously describe what has happened to them.

One of the areas of feedback we received in consultations for our financial abuse review was the very real concern from victim-survivors that approaching the ATO on a financial abuse issue might lead to it identifying issues such as prior non-lodgements or legitimate tax debts being pursued. They also raised that their fear of retribution from the perpetrator might lead them not to alert other authorities such as the ATO. This may similarly be true of people who believe they have welfare-related or other Commonwealth debts.

The Second Action Plan consider including requirements or recommendations for agencies to implement clear, accessible channels or forms specifically to report abuse or suspected abuse.

Develop dedicated, trauma-informed specialist teams or capabilities

As we also highlighted in our recommendations to the ATO, improvements can be made in how they provide advice and support to victim-survivors. Most victim-survivors will contact the ATO through the public helpline. These calls are routed to staff in the ATO contact centre. It is not realistic to expect all contact centre staff to be expertly trained in trauma-informed practice. It is essential, however, that all contact centre staff are trained to be aware of financial abuse, to be able to identify possible cases and sensitively refer them to a specialist team.

The creation of a specialist team within the ATO is essential to ensure victim-survivors can be dealt with by appropriately skilled officers, whose practice is trauma-informed and who have the right knowledge and experience to support a victim-survivor through their engagement with their tax obligations. The team should be suitably skilled to steer the victim-survivor through their options in addressing the tax debt inflicted upon them, while ensuring they feel heard and believed. The ATO has agreed to establish such a specialist team and has already created a much broader Vulnerability Framework, within which the support for victim-survivors of financial abuse is set.

The Second Action Plan consider requiring relevant, community-facing agencies to develop dedicated, internal capabilities or teams to provide trauma-informed engagement and support to victim-survivors.

Enhance information sharing across government

Information sharing across government continues to be a challenge to effectively combating family and domestic abuse, and financial abuse. In our review of the ATO, we observed that the ATO is rightly bound by strict secrecy and privacy provisions within the *Taxation Administration Act 1953* and the *Privacy Act 1988*. We acknowledge the importance of maintaining public confidence that protected and personal information will be managed carefully and only used and disclosed where authorised and necessary.

Within the tax context, there is no express legislative provision to compel or permit the ATO to report financial abuse to law enforcement or corporate regulators. The main exception to these provisions is for the purposes of preventing or lessening a serious threat to life, health and safety. We observed that the exception is being applied narrowly, with only a very small number of referrals being made and, in those cases, the evidence and information relating to those referrals indicated serious or severe physical abuse being perpetrated.

The Explanatory Memorandum of the Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009 states that "a threat to life or health includes threats to safety and would include bushfires, industrial accidents and direct threats to individuals or groups. Health includes mental as well as physical health, although a threat of stress or anxiety would generally not be sufficiently serious."

We recommended that the ATO needs to clarify the definition of "serious threat to life, health and safety" to ensure it includes financial abuse. We note that the Parliamentary Joint Committee on Corporations and Financial Services made a similar recommendation in its report *Financial abuse: an insidious form of domestic violence* (recommendation 7):

> *That the Australian Government undertake appropriate action, including legislation, to clarify that circumstances of family violence, elder abuse and homelessness constitute a serious threat to the life, health and safety of an individual. This may include amendments to the Privacy Act 1988.*

Another exception in tax law relates to disclosures to an authorised law enforcement agency, a court or tribunal for the purposes of investigating a serious offence or enforcing a law, the contravention of which is a serious offence. For the purposes of this exception, a serious offence is defined to be an offence against an Australian law that is punishable by imprisonment for a period exceeding 12 months. The nature of gender-based violence and the different forms that it may take pose a challenge to determining whether any aspect of the violence or abuse, taken separately or as a whole, would constitute a serious offence, as defined. As State and Territory legislation is being enacted to combat gender-based violence and abuse, it is likely that over time these definitions will become clearer, as will the punishments.

We note that since the release of our report and the Parliamentary Joint Committee's report, the Treasury has undertaken consultation to inform its *Review of tax regulator secrecy exceptions*. One area of consultation as part of that review was whether any changes were needed to be made to the tax secrecy regime to address gender-based violence and to support victim-survivors. We understand that submissions to this review are still being considered.

We understand that similar strict secrecy obligations exist across a number of pieces of legislation. While important, we also recognise that these obligations without clear exceptions may either prevent, or create some degree of uncertainty about, information sharing across agencies, or with law enforcement in cases of abuse or suspected abuse.

We believe that consideration should be given to options that would create greater certainty and channels for information sharing. One area that could be addressed is to develop a suite of shared definitions for the abuse and coercive control sought to be addressed, including financial abuse. This would provide greater certainty for agencies seeking to share information.

In addition to clarifying legislative frameworks and exceptions, it may also be appropriate to consider whether a taskforce arrangement could be considered to bring together subject-matter expertise and to enable greater and open information sharing between participant agencies within the taskforce.

The Second Action Plan consider:

- options to develop a suite of shared definitions for abuse and coercive control, including financial abuse, that may be readily adopted by agencies
- whether establishing a taskforce to combat abuse, coercive control and financial abuse may be appropriate.

Clarifying evidentiary requirements and leveraging community organisations

We observed that a chilling effect for victim-survivors approaching the ATO may be due to lack of understanding or perception of the level of information and evidence required before they are believed or support is given. While it is reasonable that the ATO (and other organisations) will need some evidence from victim-survivors to enable it to assess what support and assistance may be offered, traditional tax substantiation requirements and requirements for documentary evidence, particularly when it comes to financial abuse, can be difficult for many victim-survivors and potentially re-traumatising.

We consider there are opportunities for the ATO to consider a range of options to obtain supporting evidence from victim-survivors beyond what may usually be expected of taxpayers. In addition, we consider there may also be options to leverage the work of trusted partners in community organisations and domestic violence-focused support services. There are pre-existing triage and verification processes already undertaken by these organisations in order to access their services. The ATO should explore options to rely on these processes in place of requiring victim-survivors to provide more evidence. However, care is required to carefully balance the ATO's need for supporting evidence alongside the administrative impost on the organisations that are leveraged so as not to detract from their core victim support work.

Suggestions of potential evidence may include:

(1) a report from a psychologist, psychiatrist, general practitioner, registered counsellor or hospital
(2) a letter from a financial counsellor, community legal centre, women's refuge, domestic violence or social worker
(3) a victim statement or statutory declaration

(4) documentation demonstrating receipt of a payment or vouchers under a program supported by the Commonwealth that provides assistance to individuals escaping family violence
(5) an Apprehended Domestic Violence Order or Apprehended Violence Order (AVO)
(6) a police report.

Importantly, we cautioned the ATO against relying solely on police reporting or an AVO. There are many valid reasons (including personal safety) why a victim-survivor of domestic violence or financial abuse does not report the abuse to the police. Lack of such evidence should not be interpreted as evidence that the abuse has not occurred or been significant.

It is noteworthy that within financial services, most banks have agreed an approach which does not rely on evidence to substantiate financial abuse. From experience to date, this has not led to an increase in false allegations or misuse of the supports in place for victim-survivors, including waiver of abuse-related debts. The Treasury may want to seek input from the financial services sector on their experience or consult with not-for-profit organisations, such as Thriving Communities.

In addition, it would be ideal for the ATO to work in collaboration with other government agencies. This might include the sharing of data (subject to secrecy barriers being addressed) and a shared notification system or identifiers. This is particularly relevant for data sharing between the ATO and Services Australia, given the intersection between tax, welfare and child support.

We believe that a framework for agencies to adopt in relation to evidentiary requirements around family and domestic abuse, coercive control and financial abuse would provide greater consistency across government and may also include how agencies may leverage pre-existing work by other agencies to minimise the need for victim-survivors to provide the same information at each interaction.

The Second Action Plan consider developing a framework for evidentiary requirements in relation to family and domestic abuse, coercive control and financial abuse that agencies may adopt.

If you require any further information, please contact Duy Dam, Deputy Tax Ombudsman – Reviews on 02 8239 2108 or via email at duy.dam@taxombudsman.gov.au.

Yours sincerely,

Ruth Owen CBE
Tax Ombudsman

About the Tax Ombudsman

The Tax Ombudsman is an independent, federal statutory agency. Our purpose is to improve the fairness and integrity of taxation and superannuation administration in Australia. We provide oversight of the Australian Taxation Office and Tax Practitioners Board through our complaints handling and systemic review functions.

Our office was set up by the Inspector-General of Taxation Act 2003. Under this Act the Governor-General appoints an Inspector-General of Taxation for a 5-year period. All other staff are employed under the *Public Service Act 1999*.

The agency gained the Taxation Ombudsman role in 2015 which was previously handled by the Commonwealth Ombudsman. This role allows the agency to help members of the community directly address their complaints about the administrative actions of the ATO or the TPB.

In 2025, we simplified our agency name to the Tax Ombudsman. We continue to carry out the responsibilities of Inspector-General of Taxation and the Taxation Ombudsman.