Systemic reviews: draft work plan for consultation

August 2026

Tax Ombudsman

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Acknowledgement of Country

We acknowledge the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, sea and community. We pay our respects to First Nations people and their Elders past, present and emerging.

Artwork used with permission from Tarni Jarvis, a Djab Wurrong, Kirrae Wurrong and Peak Wurrong artist.

About our work plan

Deciding what to review

One of the core statutory functions of the Tax Ombudsman is to "improve the fairness and integrity of the taxation and superannuation administration through [...] review investigations of systemic and broader community issues, reporting issues that are in the public interest and independent advice to the Government and its relevant entities."

We aim to complete four systemic reviews per year. Stakeholders from across the community, government and tax profession will be invited to contribute to each review.

Our work plan sets out the areas that we have identified as suitable for broad, systemic reviews over the next 12 months. There are two types of reviews that we may undertake in respect of the Australian Taxation Office (ATO) or Tax Practitioners' Board (TPB):

- issues reviews which seek to address specific issues of concern that have been identified; or
- assurance reviews which examine key topic areas with a view to providing assurance to the Government and broader community about the ATO's administration of those areas.

The topics have been identified following comprehensive research, analysis and consultation that have included examination of:

Complaints

Trends and issues emerging in our complaints and dispute investigations.

Environment

Social and economic factors affecting the community.

Policy

Areas of priority and interest for Government and Parliament.

Stakeholders

Feedback from our key stakeholders.

Principles of good tax administration

We will select topics for systemic review in accordance with the principles of good tax administration. These principles include:

Ease of access	**Consistency** (and prescribed discretion)	**Getting it right**
Clarity of communications	**Humanity, empathy and respect**	**Putting it right**
Certainty	**Simplicity and low cost of compliance**	**Transparency**

Consultation

We will consult with a range of stakeholders about the topics identified in this draft work plan. These stakeholders will include:

- Public sector
  - Australian Taxation Office
  - Tax Practitioners Board
  - The Treasury
  - Australian National Audit Office
  - Commonwealth Ombudsman
  - Australian Small Business and Family Enterprise Ombudsman
- Private sector and not for profit organisations
  - Tax practitioners, professional and industry bodies
  - Community organisations
  - Academics
- Taxpayers and members of the community

The purpose of the consultation is to ensure that we have identified topics that are most important and likely to be of the highest impact to the broadest segments of the community. Ultimately, the issues included in the final work plan will be those determined by the Tax Ombudsman to be most relevant and impactful.

This draft work plan contains 10 topics for consideration, from which the Tax Ombudsman will select 4 for the forthcoming year.

We welcome feedback on the list as well as suggestions for any issues not currently on the list.

We will refresh and update our work plan every 6 months to ensure that it remains relevant and responsive to changing environmental, social and policy priorities.

We are looking to expand the range of tax administration topics we cover each year. Where topics are not selected for a review, we may choose to undertake a short project, consultation or produce a discussion paper outside of our usual review cycle. These will not include formal recommendations to the ATO and will be published on our website.

Our draft work plan at a glance

ATO's administration of release from tax debts

TPB's management of complaints and alleged breaches of the *Tax Agent Services Act 2009*

ATO's consultation arrangements

ATO's administration of early release of superannuation on compassionate grounds

ATO's management of deceased estate

ATO's management of compromised accounts

ATO's administration of the first home super saver scheme

ATO's management of the test case litigation program

ATO's management of employee notifications of unpaid super

Proposed list for consultation

Issues review: ATO’s administration of release from tax debts

The Commissioner is empowered to permanently remove certain tax debts of an individual, in whole or in part, if requiring them to pay the debt would result in them suffering serious hardship. This is generally referred to as release from tax debt. This power differs from other debt-related discretions available to the Commissioner because a decision to release a tax debt means that it no longer appears on the taxpayer’s account and cannot later be recovered in any circumstances.

In recent years, following the pandemic and with a changing economic environment, the ATO has reported an increase in contact to its hardship helpline and financially counselling organisations around Australia are also observing similar trends.

Although it is not the panacea for all instances where a taxpayer is unable to pay their tax debts, the appropriate and consistent operation of the release provisions is important to support taxpayers who are experiencing genuine hardship to get back on track. Feedback received by the Tax Ombudsman has suggested that ATO communications and guidance about release are not clear, decisions may be inconsistent and may not always take into account the taxpayer’s circumstances.

This review would examine:

- whether ATO’s public guidance on the release provisions is sufficient to help inform taxpayers about the release provisions, how to apply and evidence they may need to provide;
- ATO policies and procedures for receiving, considering and determining release applications including any internal reconsideration or review processes; and
- the ATO’s policies and processes for managing release of debts less than $10,000.

Assurance review: TPB's management of complaints and alleged breaches of the *Tax Agent Services Act 2009*

Under the *Tax Agent Services Act 2009*, the Government has issued a determination to extend the ethical obligations of tax practitioners under the Code of Professional Conduct. This arose from an independent review into the TPB in 2019 which recommended new powers to address emerging or existing behaviours and practices.

There have also been recent consultations to enhance the TPB's sanctions framework building on earlier consultations following the PwC matter as well as recommendations in the 2019 review. Proposed new sanctions include new criminal offences for unregistered preparers, new and increase civil penalty amounts and the introduction of infringement notices, contingent suspensions and interim suspensions.

Members of the community may also lodge complaints with the TBP about the actions and conduct of agents.

Given the TPB's responsibility to regulate tax and BAS agents, it is essential that it has stringent processes in place for the management of referrals, including investigating potential Code breaches and the imposition of sanctions. This is crucial in upholding professional standards, providing protections to taxpayers and maintaining the integrity of the profession and tax system.

Stakeholders have raised concerns about the TPB's approach and whether it is responsive and proportionate. Accordingly, this review will consider whether the TPB's management of Code of Professional Conduct referrals and complaints are consistent, transparent and in imposing sanctions, whether the TPB is getting it right and putting it right.

This review would examine:

- whether the TPB's processes for managing complaints and referrals about potential breaches on the *Tax Agent Services Act* 2009, including the Code of Professional Conduct, are appropriate;
- whether the TPB's current approach to determining whether there has been a breach of the *Tax Agent Services Act* 2009, including any potential Code of Professional Conduct breaches, strikes an appropriate balance between addressing major and minor breaches; and
- whether the TPB's processes and systems support appropriate and consistent sanctions being applied in response to breaches of the *Tax Agent Services Act 2009*.

Issues review: ATO's consultation arrangements

The ATO adopts an extensive approach to consultation that currently includes nine stewardship groups, twelve stakeholder relationship groups, five special purpose working groups and a supporting network of open consultations, webinars and other engagement activities. The breadth of these arrangements aims to canvas key stakeholders alongside the broader community to inform good decision making, mitigate against unintended results and improve the ATO's overall service delivery.

The Tax Ombudsman has received feedback that despite its expansiveness, current consultation arrangements are not always fit for purpose. Some of these concerns include where consultation is conducted through groups that may not adequately represent those most directly affected by a policy, process or service change, particularly end users and smaller stakeholders. There is also a perception that consultation can become focused on informing stakeholders of decisions rather than genuinely testing options and incorporating feedback into final outcomes.

These concerns are particularly relevant given that the ATO's consultation framework expressly commits to identifying the right stakeholders, enable considered contributions, and provide feedback demonstrating how stakeholder responses have been considered. Consultation arrangements are valuable, but where stakeholders do not see evidence that their views have considered, confidence in the value of consultation and, by extension the ATO as a whole, can diminish.

This review would examine:

- whether the ATO's consultation framework remains fit for purpose and effective in supporting meaningful stakeholder engagement and better administrative outcomes;
- whether the existing structure and membership of consultation groups are sufficiently representative of the diversity of the tax and superannuation system; and
- the ATO measures to assess the effectiveness and outcomes of its consultation activities.

Issues review: ATO's administration of early release of superannuation on compassionate grounds

There are limited circumstances in which the Commissioner may grant a taxpayer early access to their superannuation on compassion grounds to meet expenses for them or their dependant. Such grounds often relate to medical treatment or transport, palliative care, and preventing foreclosure or forced sale of a home.

The Commissioner does not set the criteria for eligibility for early access to superannuation but rather applies the law to determine whether a taxpayer's circumstances fall within the established criteria. Concerns have been brought to the Tax Ombudsman's attention about the ATO's administration of these provisions, including timeliness of consideration and decision-making, consistency of decisions and whether officers are appropriately taking taxpayer's circumstances into consideration.

A concerning issue in this area has been the inappropriate access to superannuation for unnecessary or overly expensive medical treatments, particularly in relation to dental services.

A review in this area would examine both the ATO's current processes for considering and determining access applications and its efforts to combat inappropriate access.

This review would examine:

- whether the ATO's processes for assessing early access to superannuation applications on compassionate grounds are timely, efficient and fit for purpose;
- whether decisions on early access to superannuation being made consistently and in accordance with the legislative criteria, with appropriate consideration of each applicant's individual circumstances; and
- the effectiveness of the ATO's controls in identifying, preventing and responding to inappropriate access to superannuation, including for unnecessary or excessively costly medical and dental treatments.

Assurance review: ATO's management of deceased estates

In 2020, the Tax Ombudsman published a report examining the legislative bases and administrative approaches adopted by the ATO to administer tax laws insofar as they applied to deceased estates. Since that review, the ATO implemented a range of improvements in this area and has undertaken a post-implementation review of its work in this area.

Notwithstanding this significant body of work, the Tax Ombudsman continues to receive complaints and community feedback that the ATO's administration of deceased estates remains inefficient, inconsistent and difficult to navigate. A new review into the ATO's practices around managing deceased estates would examine processes that it has implemented since the last review as well as how it has improved its services in relation to receiving and processing death notifications, its telephony service and guidance materials to taxpayers managing deceased estates and the consistency with which its officers are sharing information to help people manage deceased estates.

This review will not be re-examining the legislative framework underpinning the ATO's secrecy obligations and the associated need or requirement to obtain probate or letters of administration. Those issues were examined our earlier review and fundamentally turn on legislative settings in the tax law and the range of state and territory laws governing wills and estates. However, our review would examine how the ATO's current processes are applied to meet the needs of next of kin within its existing frameworks without breaching the secrecy provisions.

This review would examine:

- whether the changes implemented by the ATO since 2020 improved the experience of taxpayers managing deceased estates;
- whether the ATO's services, communications and guidance are accessible, clear and responsive to the needs of people administering deceased estates;
- whether the ATO has appropriate processes and controls to ensure consistent administration and advice in relation to deceased estates, including disclosure of information to people managing deceased estates.

Issues review: ATO's management of compromised accounts

In April 2024, the Tax Ombudsman published a report of our examination of one aspect of tax identity fraud. That investigation and report focused on the importance of bank account integrity and the ATO's risk management controls to prevent fraudsters from changing bank account details in legitimate taxpayer accounts. That aspect of the tax identity fraud investigation has been concluded and the ATO's response to our recommendations has been published online.

Another key aspect of tax identity fraud is the experience of taxpayers (and their representatives) where they have been affected by tax identity fraud and their account is compromised. The ATO has made significant improvements, mostly through the development of its app. But not all taxpayers can use the app. Feedback from some community members and practitioners indicate that taxpayers are experiencing difficulties when their accounts become compromised, including long wait times on phone calls to unblock accounts. Accordingly, this review will seek to investigate whether the ATO's management of compromised accounts are consistent with the principles of good administration, such as ease of access, low cost of compliance and putting it right.

This review would examine:

- whether the ATO provides timely and adequate support to taxpayers and their representatives in assisting them to secure their account;
- whether the ATO's current processes to prevent future occurrences of compromise are effective and sustainable; and
- opportunities for the ATO to improve its collaboration with other agencies on operational matters to address identity fraud and the weaknesses exploited by fraudsters.

Issues review: ATO's administration of the first home super saver scheme

The first home super saver scheme (FHSSS) helps taxpayers to save for their first home by letting them put extra money into their superannuation by way of personal voluntary contributions and allowing them to withdraw the money to contribute to a home deposit at a later date.

Due to lower tax rates applicable to superannuation, this helps taxpayers to save more quickly.

Although it is a welcomed scheme to help taxpayers save for their first home, the scheme is also complex in its application with strict legislative requirements regarding the amount of payments, classification of payments and processes needing to be followed to seek approval for release of funds. Small errors, even inadvertent errors, can result in irreparable adverse outcomes to the taxpayer.

Further concerns have also been raised with the Tax Ombudsman that the current ATO guidance on the FHSSS is fragmented and difficult to navigate, contributing to the risk of errors.

This review would examine:

- the ATO's current processes for receiving and approving applications for an FHSSS determination;
- the ATO's governance of the FHSSS, including how it assures itself of consistency of decisions and guardrails against inappropriate access.
- whether the ATO's guidance on the FHSSS is clear and accessible to enable taxpayers to confidently navigate the scheme and meet their obligations, including relevant rules relating to recontribution.

Assurance review: ATO's management of the test case litigation program

The ATO's test case litigation program was established to provide funding for cases that have broader implications beyond the immediate dispute between the taxpayer and the ATO. It is an important program to ensure that uncertainties in the operation of the law needing to be tested and clarified through the courts are able to progress without being hampered by lack of funding for the taxpayer.

Funding may be provided following an application by the taxpayer or self-identified and initiated by the ATO itself. The ATO is supported in its decision by a panel of internal senior officers as well as external experts.

This review would examine the operation and governance of the program and provide assurance that it is operating as intended, identifying and funding the right cases, and obtaining benefit for the community through law clarification.

This review would examine:

- the ATO's processes for identifying, assessing and approving funding;
- the governance and management of the test case litigation program, including ATO and taxpayer engagement with the panel; and
- the benefits yielded by the program and how impacts of funded cases are evaluated and reported.

Issues review: ATO's management of employee notifications of unpaid super

Superannuation is one of the most important aspects of a person's salary and wages and directly impacts their overall retirement income, quality of life in later years, and reduces the need to rely on government pensions. Unpaid superannuation can therefore have significant, long-term impacts on employees and on the social welfare system as a whole.

However, for employees who may not have been paid superannuation prior to 1 July 2026, there is limited recourse beyond notifying the ATO (through an employee notification), which can then investigate the employer, make an assessment, and recover the unpaid monies. For many employees, this process can be long and often opaque due to strict secrecy obligations that prevent the ATO from sharing information about actions taken against the employer.

The introduction of payday superannuation should help to reduce the incidence of prolonged unpaid superannuation and enable non-compliance to be identified and addressed early. However, there remains a volume of cases that predate the introduction of payday super and this is an area in which the Tax Ombudsman has received high levels of complaint.

This review would examine the ATO's processes for working through the remaining body of work from employee notifications and examine the new processes it has developed to identify and take action against non-compliant employers both prior to and after payday super being introduced.

This review would examine:

- the ATO's processes for managing the current workload of employee notification cases for unpaid super that predates payday super;
- the ATO's communications with employees about its investigation and outcomes; and
- new processes implemented by the ATO to identify and enforce superannuation obligations from 1 July 2026 onwards.

Issues review: ATO's administration of the Research and Development Tax Incentive

The Research and Development Tax Incentive (R&DTI) is the Australian Government's principal program for encouraging businesses to undertake research and development. It is jointly administered by the ATO and the Department of Industry, Science and Resources (DISR). Broadly, DISR is responsible for registering and assessing R&D activities, while the ATO administers the tax offset and assesses the expenditure claimed.

The R&DTI involves significant government expenditure and has historically presented substantial compliance risks. The ATO manages these risks, including reviews and audits and has recently increased its focus on arrangements involving associated entities and foreign related parties. Effective administration requires the ATO to protect the integrity of the incentive while providing taxpayers with certainty and ensuring its compliance activities are targeted and proportionate.

Previous reviews and stakeholder feedback have identified a range of issues with the administration of the R&DTI, including review timeframes, engagement with taxpayers, the clarity and consistency of decisions, and duplication and additional compliance costs arising from the involvement of two administrators. The Australian National Audit Office's 2021 report also identified shortcomings in how the ATO monitors and reports on the effectiveness of its R&DTI compliance activities. Given changes to the ATO's compliance approach since that report, it is timely to examine whether its current administration strikes an appropriate balance between maintaining the integrity of the R&DTI and supporting taxpayers to comply.

We do not have jurisdiction over DISR and therefore the review will only examine ATO policies and processes. We may consult DISR and other stakeholders in the conduct of the review.

This review would examine:

- whether the ATO's processes for identifying, reviewing and addressing R&DTI compliance risks are effective, timely, consistent and proportionate;
- whether the ATO's guidance and communications provide taxpayers with sufficient clarity and certainty about its requirements and expectations;
- whether the ATO's coordination with DISR supports timely and efficient administration of the R&DTI and minimises unnecessary compliance costs for taxpayers; and
- whether the ATO effectively measures the outcomes of its R&DTI compliance activities and uses this data to improve its administration.

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