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# It is the community's tax system

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(check against delivery)

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Thank you for the opportunity to share with you the exciting challenges I see in my new role as Australia's eleventh Commissioner of Taxation.

I am delighted to deliver my first formal address in my new role to the Australian Tax Teachers' Association, an organisation which has provided me with a valuable forum for sharing perspectives and fostering a common interest in taxation. I place tax teachers high on the hierarchy of strategic influences in our society, and of the society we want to be. As taxation is the price we pay for a civilised society it is important that our citizens have the wherewithal to understand the choices available to them about taxation. These choices find voice in a policy context at the ballot box, and in a personal context in the propensity of taxpayers to voluntarily comply with their tax obligations. In short, if we as a society are to publicly fund roads, schools, hospitals and defence, and if we are to have a social safety net, then the community makes a contribution to that, in accordance with the law, through taxation. The shape and rate of taxation also impacts on social equity and the competitiveness of our economy.

Just as taxation is important in economic and social terms, the way the tax system is administered also reflects the nature of our society. For example, it could reflect public fiat over the rule of law or disengagement by the general public from the law and its administration. Fortunately, that is not the case in Australia.

In order to safeguard the community from administrative abuse and to nurture and foster a community that is law abiding it is important that taxpayers or their advisers have a clear understanding of their rights and obligations.

Moreover, the Australian Taxation Office (ATO) can only play a minor role in shaping social norms about taxation – a greater responsibility rests on other community institutions including Parliament and politicians, academia, the judiciary, the tax profession, and the media.

Tax teachers also have the onerous responsibility of influencing their students on these weighty matters.

The importance of tax teachers to our society was driven home to me by the lifelong commitment of the late Justice Hill to the teaching of taxation.

Not only was Justice Hill an inspiration to tax teachers in Australia but he also worked with other jurisdictions to promote the rule of law. All this in addition to the enormous contribution Justice Hill made to our jurisprudence. I like many was deeply saddened by his passing. As Justice Edmonds has observed:

“I doubt that we will see the likes of Graham Hill in the revenue law area again, however, if I am wrong, then it will be a long time before we do.”<sup>1</sup>

### **Old taxes in a new world**

The theme of this conference is “Old Taxes in a New World”. Be that as it may, there is some constancy in taxation – two things are certain so the adage goes, death and taxes.

There are also some enduring fundamentals to good tax administration. For example, throughout the 96 year history of the ATO we have emphasised our dedication to assisting taxpayers. Indeed Australia's second Tax Commissioner, Robert Ewing, is best remembered for his credo that:

“The principle rule of the Department is to assist taxpayers in every possible way.”<sup>2</sup>

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<sup>1</sup> Justice Richard Edmonds, Law Council Workshop, Sydney, 22 October 2005.

<sup>2</sup> Robert Ewing, 1921

While we have come a long way from our beginnings with just a dozen employees based in the Department of the Treasury in Melbourne in 1910, the goal of assisting taxpayers in every possible way remains a source of inspiration for us.

### **Vision for a world class tax administration**

I am often asked how I am going to put my stamp on my new role, following in the footsteps of such a successful Commissioner as was Michael Carmody.

When I first thought about this, I reflected on my time working with Michael Carmody, of the things we, and the organisation, had achieved together.

I have worked with Michael for many years to make our tax administration one of the best in the world - so yes, big shoes to fill.

I think the fundamentals of the ATO built on fairness in accordance with the law, integrity, accountability and transparency, are sound. While I will have my own style and emphasis, these values remain the same.

My starting point is that a good tax system and a good tax administration is vitally important to our economy and to our community. How well we administer the tax laws impacts on the economy and on the social fabric of our society.

We are very fortunate in this country in that by and large we have a culture of doing the right thing and the great bulk of Australians voluntarily comply with their tax obligations.

I believe it is critical for a tax administrator to instil high levels of community confidence in its administration and it must do this by:

- operating effectively and efficiently
- providing excellent service
- listening to the community and making the task of tax compliance as simple and convenient as possible
- dealing with people with respect, professionalism and fairness, and
- supporting honest taxpayers that want to do the right thing by having effective deterrent strategies against those that don't.

The complexity of our society is reflected in the laws that govern it – and tax laws are no exception. In the policy debate notions of equity often bring with them complexity.

In a self assessment system it behoves the administration to help taxpayers or their agents understand their rights and obligations, and to do everything possible to make it easy for people to comply with the tax law.

Following the example of Robert Ewing, my credo is that we must be an externally focussed and community driven organisation.

By looking at our operations or the implementation of new tax laws from an external perspective, and genuinely listening to taxpayers and taking on board their suggestions, we can enhance the community's trust in our administration and reduce deadweight compliance costs for taxpayers.

My vision is for the Australian Taxation Office to continue to develop as a tax administration that is recognised as world class and which works with the community in the care and management of the tax system.

To achieve this, our guiding principles will be consultation, collaboration and co-design:

- we will consult with the community and be responsive to evolving demands
- we will actively engage the community in administrative design and work very closely with representative bodies to identify problems and to jointly develop solutions where possible, and
- we will play our part in driving improvements for the community through a collaborative approach to whole-of-government initiatives aimed at reducing red tape.

For example, we are working with Commonwealth and State agencies to better link our systems via the Australian Business Register so that businesses have a one-stop shop for changing their address and other details. This also opens the possibility for a single 'authenticated' entry point or portal for business to government.

Similarly, we are working with the IT industry so that they can build software products that help people manage their financial records in a way that reflects the underlying law. These natural systems should make it easier for taxpayers to comply with their tax obligations and further reduce their compliance costs.

In addition we are taking a lead in working with government agencies (Department of Family and Community Services, Centrelink and Health Insurance Commission) to make it easier for people to claim their 30 per cent child care rebate and medical expenses and to dramatically ease their compliance burden by pre-populating tax returns with external data.

You will also see high levels of transparency and accountability from the ATO.

We are funded by Government and accountable to Government and Parliament in relation to the efficiency, effectiveness and fairness of our operations. This level of accountability is critically important to good tax administration. However, it is also vital that the ATO maintains its independence in the application of the tax law to the particular case. This requires a high level of integrity and courage where the proper application of the law produces an inconvenient result, complimented with advice to Government (through Treasury) for changes to the tax law where such anomalies occur.

We also have the benefit of scrutiny via agencies such as the Australian National Audit Office, the Inspector General of Taxation and the Ombudsman. Constructive scrutiny is to be welcomed and plays a complementary role in improving tax administration.

### **Consultation, collaboration and co-design**

Consultation and the engagement of stakeholders in the care and management of the tax system embeds trust and confidence and so should be the hallmark of a world class tax administration.

In Australia intermediaries such as tax agents have a symbiotic relationship with the tax administration. These intermediaries provide a key leverage point to influence taxpayer behaviour and to facilitate streamlined and increasing online dealings with the ATO.

At the strategic level, it is important that they are capable of carrying out this role and that they are well regulated.<sup>3</sup>

### **The right mix of help and enforcement**

The right mix of help and enforcement necessitates the existence of effective deterrence strategies to support those that try to comply with their tax obligations. We have engaged with the community through our published Compliance Program by making public our analysis of risks to the tax system and encouraging feedback on the choices we have made.

### **Reducing red tape**

It is important for any tax administration to minimise the compliance burden and costs to the community and business of complying with the taxation system, subject to the legislative requirements of that system. However where compliance costs outweigh or are disproportionately large relative to the policy intent of any measure the tax administration can play a role in bringing this to the attention of the Government.

For the ATO, the improvements we are delivering through the *Easier, Cheaper, More Personalised (Change)* program provide an opportunity to reduce red tape.

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<sup>3</sup> While the ATO was slow to respond to the mass marketed investment schemes of the 1990's, the emergence of these schemes was attributed in part to deficiencies in the capability and regulation of those that advised the participants.

We are investing \$400 million in a major program which will fundamentally change the way we deal with the community, improve our internal processes and update our IT systems – a vital investment in running a world class tax administration. The prospect of delivering a greater range of on-line channels for people to deal with us – and preferably on a whole-of-government basis – is very exciting.

To date the ATO has upgraded its phone services and introduced online services so tax agents and businesses can register for tax, lodge statements and returns, and manage accounts. We also continued to develop our e-tax on-line lodgement facility and introduced new services like lodging tax returns over the phone.

The change program has already made strides in making it easier and cheaper for people to meet their obligations:

- the overwhelming majority of tax agents are now using the Tax Agents Portal – and in a recent survey of agents who use it 84 per cent said they use the portal daily and 98 per cent rated it “useful” or “very useful”<sup>4</sup>
- more than 1.3 million Australians are using e-tax to do their annual tax return<sup>5</sup>, and
- nearly 40 per cent of business activity statements are being lodged electronically<sup>6</sup>.

This year we will be significantly improving the quality of our phone services, through the roll out of a new Client Relationship Management (CRM) System.

<sup>4</sup> In the November 2005 tax agent portal survey conducted by independent researchers, 84 per cent of surveyed tax agents said they use the portal daily with 98 per cent rating it as “useful” or “very useful”

<sup>5</sup> As at January 2006 more than 1.3 million e-tax lodgements had been received by the ATO for 2004-2005

<sup>6</sup> As at January 2006 the number of activity statement lodgements via the Business Portal, Electronic Lodgement Service or Electronic Commerce Interface had increased by 3.8 per cent compared to the same time last year to 39 per cent of all activity statement lodgements

Once all the technology is introduced, people won't have to go through their full history when they ring and they won't have to repeat their details if they are transferred. Instead, the potential exists for a faster and more efficient service, more certainty and more satisfaction from dealing with a tax officer who understands their situation.

The roll-out of the CRM system will take place in two stages. Stage one, was implemented last year and gave our call centre staff a single consolidated view of a taxpayer's information and their history (including phone calls and letters). Stage two, due to commence later this year, will provide the technology to automatically transfer details of your enquiry with the call. This should end the frustration people experience when they have to repeat their details if they are transferred to another officer.

Other major improvements we have delivered this year include:

- a secure messaging function - so people can send enquiries and requests for tax technical assistance and advice and get a response via the portals, and
- a pilot of an electronic record keeping tool so people can load this stored information directly into e-tax.

In May (2006), building on the CRM system, correspondence will be imaged, tracked and sent electronically to all front-line staff. As well as providing a complete picture of a taxpayer's client contact history for contact staff, our people will be able to advise taxpayers of the progress of enquiries and requests as we progressively introduce an organisation-wide case management system. This will enhance our ability to ensure consistent treatment and recording of all dealings with the ATO.

Beyond 2006-07 will see real time processing of more forms lodged electronically. For example, people will be able to get real time assessments for lodgments including income tax returns and fringe benefits tax returns, in addition to activity statements. Importantly, people will get an immediate response when lodging these forms online, with refunds deposited directly into their bank accounts.

Online forms will be increasingly pre-prepared with information held by the ATO and other government and non-government organisations. Forms will also be tailored to the taxpayer's circumstances. For example, where a taxpayer does not have a GST obligation, they will get a shorter form without the GST boxes.

The work we are doing with other government agencies focussing on 'whole of government' opportunities also has potential to reduce red tape and compliance costs.

### **Treating taxpayers with fairness, integrity and honesty**

Procedural fairness, courtesy and integrity underpin a world class tax administration. This is important because the success of any tax system is highly dependent on people's propensity to voluntarily comply with their tax obligations.

Factors that shape community attitudes and behaviour include:

- the community's belief that the Tax Office is fair, certain and legitimate
- perceptions of fairness including:
  - the assistance people receive in relation to their responsibilities under the tax system
  - the ease with which people can deal with the Tax Office
  - issues of respect and natural justice, and
- the perceived effectiveness of deterrence strategies.

The recurring themes of:

1. excellent service to taxpayers
2. efficient and effective management of risks to the tax system
3. making it easier for people to comply, and
4. building community confidence in our tax administration  
remain our goals today as they were in the past.

While independent professionalism surveys conducted on our behalf suggest that 70 percent of Australians think that the Tax Office is doing a good job<sup>7</sup> that suggests that a lot more work is necessary to acquire the confidence and trust in us of the remaining 30 percent.

The surveys suggest that taxpayers are most satisfied that our employees have respect for them, but many believe we need to be more accountable. To address these concerns the ATO must listen to and respond to community concerns and be more transparent and accountable for our actions.

<sup>7</sup> Community Perceptions Survey, Millward Brown, June 2005, p35.

## **Developing our people**

A tax administration's people can be its greatest asset and it is their professionalism and judgement that influences the views of those that interact with them.

It is essential that tax people are competent in their duties and exhibit the professional culture that underpins the Taxpayers' Charter.

Therefore, the ATO will continue to make a significant investment in our people's capabilities and values, and in ensuring that they are well supported with up-to-date systems and well considered policies and procedures.

## **A capable and well regulated tax profession**

Tax agents and the tax profession generally do an excellent job in helping people understand their rights and obligations under the tax law and making it easier for people to meet their tax responsibilities.

In terms of the ATO's immediate priorities, we will seek to provide tax agents with excellent service including:

- a premium telephone service
- continuing enhancements to the Tax Agent Portal which has revolutionised the practices of many agents and simplified their dealings with us, and
- collaborative and consultative working arrangements so tax agents (and other intermediaries) can provide the best possible services to their clients and continue to make a positive and constructive contribution to the running of the tax system.

A further priority is continuing to support tax agents through Tax Time and we will keep promoting the benefits of lodging activity statements and accessing reports online, eLink and tax agent broadcasts. We are encouraging tax agents to use digital certificates and the online access manager to provide greater security and control over access and use of the Tax Agent Portal. Significantly, we will continue to have the Tax Agent Portal available for registered tax agents 24 hours a day, seven days a week.

Into the future, we will engage constructively with the tax profession to co-design working arrangements with the ATO that best suits their needs, and explore ways of improving capabilities and the effective regulation of the profession, including ATO scrutiny of tax agents that operate outside industry norms.

Also, we will continue working with software developers and tax agents to ensure new legislative and administrative requirements for the new tax year continue to be incorporated in electronic lodgment service software products.

## **Priorities**

The ATO's first priority is continuing to deliver on our commitments to Government and the community.

This includes effective implementation of new tax law, and maintaining high service standards and high levels of voluntary compliance.

Second, we will be putting a major emphasis on ensuring the effective and efficient delivery of the new service improvements supported by the *Easier, Cheaper, More Personalised* program. In the implementation stage, there will be some disruptions to our services, and we ask for patience from affected taxpayers and tax agents.

In terms of broad directions the major redevelopment of our IT systems promises an integrated and robust operational platform which should deliver improved levels of service and make the taxpayer interface with the ATO easier, simpler and more personalised. It will allow a greater degree of differentiation in the way we deal with taxpayers and their agents.

Third, the work we are doing with the Australian Crime Commissioner, the Australian Federal Police and the Director of Public Prosecutions on tax evasion and abusive tax avoidance schemes, including those that make use of tax havens, should send a strong signal about the firm Commonwealth response that can be expected by the promoters and participants<sup>8</sup>.

Another priority is continuing to demonstrate the highest standards of professionalism, probity and integrity in all our decision making and activities.

We have a proud reputation for honesty and we want to keep it that way.

I also want to emphasise our commitment to external scrutiny and the value we place on constructive suggestions or criticisms of our operation. We are happy to learn from our mistakes and to improve the quality of the tax administration we provide to the community. However, if we have one plea for external scrutineers, is it that the criticism be constructive, based on facts, and linked to viable options for change, and that the excellent features of the administration be endorsed with the same vigour as any perceived shortcomings.

<sup>8</sup> We are currently working closely with law enforcement agencies on abuses of the tax system that appear to be blatant, artificial and contrived. The effective resolution of that work through the courts will send a message that the community does not tolerate egregious tax behaviour. This should reinforce the courts' disallowance of the inflated deductions claimed in mass marketed investment schemes, employee benefit arrangements and wealth optimiser facilities. See for mass market investment schemes: *Howland –Rose v FC of T* [2002] FCA 246, *Vincent v FC of T* [2002] FCAFC 291, *Krampel Newman Partners Pty Ltd v FC of T* [2003] FCA 123, *Puzey v FC of T* [2003] FCAFC 197, *FC of T v Sleight* [2004] FCAFC 94, *Calder v FC of T* [2005] FCAFC 254, (with *Cooke & Jamieson v FC of T* [2004] FCAFC 75 being a difficult to explain exception to the rule). See for employee benefit arrangements: *Harris v FC of T* [2002] FCAFC 226, *Elias v FC of T* [2002] FCA 1132, *Essenbourne Pty Ltd v FC of T* [2002] FCA 1577, *Kajewski v FC of T* [2003] FCA 258, *Prebble v FC of T* [2003] FCAFC 165, *Walstern v FC of T* [2003] FCA 1428, *Spotlight Stores Pty Ltd v FC of T* [2004] FCA 650. See *FC of T v Hart* [2004] HCA 26 in relation to the wealth optimiser.

## Challenges

The ATO faces a number of challenges as we seek to introduce major changes to make it easier for people to do business with us and to help us manage the risks to the tax system.

Delivery of our *Easier, Cheaper, More Personalised* program is not without inherent risks and if we fail to implement it properly, we may limit further opportunities for innovative and value adding change.

Key economic trends likely to influence, or be included by, taxation arrangements include heightened market competition, much greater international mobility of labour, knowledge and capital facilitated in part by the continued growth of e-commerce, an ageing population and increasing emphasis on environmental and energy support concerns.<sup>9</sup>

In dealing with risks to the revenue through our compliance strategies (both help and active compliance strategies) it is crucial that we act in a way that continues to instil community confidence.

That is why it is so important that we have a publicly articulated compliance strategy, and fair and transparent policies and processes that are a partial answer to the push-back that sometimes seems to follow even the most legitimate use of compliance activities.

However, we need to guard against being too defensive and actively listen to the community and constructively address legitimate concerns. To this end, we are refreshing our "Listening to the Community" program, by seeking to make the best possible use of the wide range of consultative forums that guide us in our operations.

<sup>9</sup> Australian Tax Research Foundation, Background Paper, ATRF Leader's Forum, 5 December 2005, p1.

## **Conclusion**

I am very honoured to have the privilege of leading the administration of Australia's taxation system. It has been said that I am "passionate about tax".

This is because taxation is a fundamental pillar of our society. While the shape of the tax system is a matter for Government and for voters at the ballot box, it is the ATO's responsibility to administer the tax laws in a way that instils community confidence. We have a vision of a world class tax administration that works with the community in the care and management of the community's tax system.