



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

26 June 2018

Inspector-General of Taxation
GPO Box 551
SYDNEY NSW 2001

By email: garnishee@igt.gov.au

Ali
Dear Mr Noroozi

REVIEW INTO THE AUSTRALIAN TAXATION OFFICE'S USE OF GARNISHEE NOTICES

In the short period since 16 April 2018, we have received in excess of 150 submissions from small businesses and their advisors in relation to their experiences with the Australian Taxation Office (ATO). Across these submissions, there have been 29 incidences where an allegation is made that garnishee notices have been used either inappropriately or as part of overall inappropriate conduct by the ATO.

First, a garnishee order may be used even when a tax debt is being disputed. This is clearly inappropriate.

Second, the ATO process for issuing garnishee notices is problematic since the bank is sent an electronic notice to put an order in place. At the same time, the small business is sent a paper notice via the postal system (and usually from an office in a different state) and even when the ATO has an electronic communication channel with the taxpayer. The result is that funds are regularly removed from bank accounts before taxpayers know that an order is in place. Obviously, this has serious impacts on businesses and may lead to insolvency. At best, the behaviour is likely to result in interest charges and penalties.

Third, the type of garnishee order that the ATO chooses to use is clearly not done in consultation with the taxpayer (e.g. point in time or enduring orders). Given the circumstances, there is no real ability for small business to challenge the order before it impacts a business' capacity to operate.

To avoid crippling businesses, the ATO needs to ensure that garnishee notices are used proportionately, with notice and ability to dispute, and only as a last resort. However, we question whether the ATO should have the capacity to issue a garnishee order outside a court procedure. The ability of the ATO to access bank accounts through garnishment (even before a taxpayer has knowledge that there is an issue and where a debt is disputed) is a serious concern and should at the very least be circumscribed.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact either me or my Deputy, Dr Craig Latham, on 02 6263 1506 or at craig.latham@asbfeo.gov.au.

Yours sincerely

Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman