

24 October 2022

Australian Taxation Office
Taxpayers' Charter Consultation Reference Group
GPO Box 9990
Canberra ACT 2601

via email: taxpayercharter@ato.gov.au

Dear Sir/Madam

Taxpayers' Charter review

We welcome the Australian Taxation Office's (ATO's) invitation to provide feedback on the Taxpayers' Charter (the Charter), and recognise the ATO's commitment in following the Charter in interactions with Australian taxpayers.

Small business taxpayers are substantial contributors to the Australian economy, making up 33%¹ of Australia's private sector input to the gross domestic product in 2020-21. The composition, structure and processes carried out by this taxpayer cohort is varied and broad, and warrants clear and bespoke consideration in the context of the ATO's interactions and application of the Charter. We also note stakeholders have identified that the Charter does not explicitly apply to tax agents. With many small business operators often engaging with the ATO exclusively through their tax agents we suggest consideration be given to the explicit inclusion of tax agents in the Charter.

Given the unique profile and significant number of small business taxpayers,² we recommend the ATO consider including explicit references to small business taxpayers in the Charter. For example:

- 1. Fair and reasonable:** The ATO should recognise that small business circumstances can be diverse, and a tailored approach should be taken in all interactions with small business taxpayers to understand their particular circumstances and the reasonableness of demands for information and response timeliness.
- 2. Professional services and assistance:** The ATO should consider the individual circumstances of different small business taxpayers when requesting they contact the ATO. For example, when the ATO has asked a small business taxpayer to call the ATO on a compliance matter, the taxpayer is only able to do this between the hours of 8:00 am and 5:00 pm Monday to Friday. The ATO commits to getting back to taxpayers when advised and at a time that suits the taxpayer. Many small business taxpayers work in their businesses during normal business hours; often attending to administrative tasks after hours.
- 3. Your right to question:** The ATO will outline options available to taxpayers where a review of a decision or action is considered, committing to also trying to resolve problems quickly and

¹ Source: *ABS Australian Industry*, Table 5, May 2022 and ASBFEO calculations, private sector industry. The ABS publish this data for selected industries, which excludes financial and insurance services.

² Inspector-General of Taxation and Taxation Ombudsman (IGTO), *The Australian Taxation Office's Administration and Management of Objections*, October 2022.

fairly. As previously recommended by this office,³ the ATO should consider timeframes and be responsive to small business taxpayer needs. This includes engaging with small business taxpayers in a timely, predictable, and responsive manner, reflecting the specific circumstances of each business. We also note information available to taxpayers on different options is not readily accessible and relies on the taxpayer understanding the ATO's terminologies. For example, the existence of ASBFEO's Tax Concierge service and the National Tax Clinics program and their usefulness in assisting aggrieved small business taxpayers is not apparent. When outlining options, the ATO should consider the particular circumstances of a small business taxpayer, who rarely have access to in-house expertise and outsource advice at considerable expense.

Consideration should also be given to the below recommendations from the October 2021 report from the Inspector-General of Taxation and Taxation Ombudsman (IGTO), *An investigation into the effectiveness of ATO communications of taxpayer rights to complain, review and appeal*:

Consistent with Recommendations and the premise or principle that the ATO will proactively inform taxpayers of their rights to question and challenge the ATO's actions and decisions, the IGTO recommends that the ATO:

- a) *ensure all ATO Officers whose responsibilities include making decisions about taxpayers' tax affairs are aware of their obligations in this respect when engaging with taxpayers and tax practitioners; and*
- b) *support its Officers to understand the range of available channels to question or challenge ATO decisions and actions, including by requiring all ATO Officers to undertake relevant training courses on these matters that are refreshed on a regular basis.*

Further, given that less than 1% of ATO staff attended training on the Charter in the 3 years leading up to a report on the effectiveness of ATO communications,⁴ we recommend the ATO consider incorporating training and/or an acknowledgement of the Charter, consistent with the IGTO's recommendation, into its existing administrative practices. For example, an acknowledgement of the Charter may be undertaken at the same time as the regular assessment and disclosure of real or apparent conflicts of interest.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mr Cameron Dyson-Smith on 02 5114 6105 or at advocacy@asbfeo.gov.au.

Yours sincerely



The Hon. Bruce Billson
Australian Small Business and Family Enterprise Ombudsman

³ ASBFEO Submission to the IGTO regarding its investigation into the ATO's administration and management of objections, 1 April 2022.

⁴ IGTO, *An investigation into the effectiveness of ATO communications of taxpayer rights to complain, review and appeal*, October 2021, pg. 48.