

7 November 2025

Ms Ruth Owen
Inspector General of Taxation and Taxation Ombudsman
Office of the Inspector-General of Taxation
GPO Box 551
Sydney NSW 2001

By email: consultations@igt.gov.au

Dear Ms Owen,

Systemic reviews: refresh of the Tax Ombudsman's 2025–26 financial year work plan

The Tax Institute welcomes the opportunity to provide feedback in response to the Tax Ombudsman's systemic review of its 2025–26 financial year work plan refresh (**work plan refresh**).

In developing our feedback, we have worked closely with our National Technical Committees to prepare a considered response that represents the views of our broader membership.

We are pleased to see that the Tax Ombudsman is undertaking an own-motion review of matters that involve sensitivities and serious allegations. This is important in order to examine potential maladministration and address any underlying systemic issues, as well as identifying any opportunities for improvement.

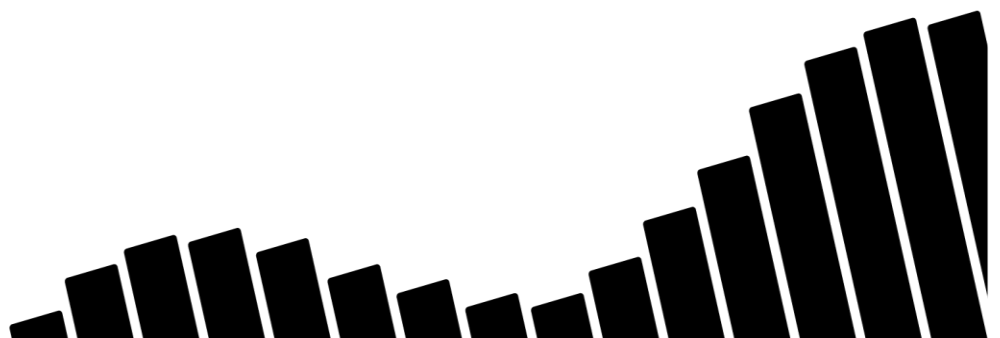
Feedback from our members indicates that the review into Online Services for Agents (**OSfA**) is important, and should continue as scheduled. We are pleased to see that the Tax Ombudsman will not be deferring this review, as our members have expressed a number of areas of concern and where there can be improvements in the dealings between the Australian Taxation Office (**ATO**) and tax agents. In particular, members have expressed concern about the ability of tax agents who are engaged on a single matter to correspond with the ATO where there is more than one tax agent engaged by a taxpayer. Relevantly, these tax agents are unable to use general correspondence channels as they do not have access to the clients' portal. This results in lodgments being passed over and agents needing to repeatedly follow up with the ATO in order to have these tasks allocated.

The Tax Institute recognises that the Tax Ombudsman has limited resources and does not have immediate concerns with the deferral or delayed commencement of the review of ATO's management of compromised accounts and the review of the ATO's engagement with First Nations taxpayers. We look forward to working with the Tax Ombudsman to support these reviews in due course.

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In line with feedback from our members, we consider that there are other reviews which should be taken into account in the Tax Ombudsman's workplan to address more current and pressing concerns in the tax system.

We consider that the Tax Ombudsman should, as a matter of high priority, commence a review into the ATO's administration of family trust elections (**FTEs**) and related issues. The legislative provisions are outdated and, in relation to family trust distribution tax (**FTDT**) are not time-limited, and feedback that we have received from our members indicates increasing ATO activity in this space. Members are increasing reporting of taxpayers becoming liable for FTDT in amounts in the millions of dollars, even for honest or inadvertent mistakes, exacerbated by the now non-deductible general interest charge (**GIC**) component dating back, in some cases, several decades. Feedback from our members also indicates that the ATO's management of its systems has resulted in practitioners and taxpayers being unaware that an FTE had previously been made due to inconsistencies in ATO records. This has resulted in significant adverse outcomes for taxpayers, with liabilities that are not only unexpected, but that in some cases cannot be met, resulting in the collapse of small and family businesses. The Tax Institute is of the view that legislative amendments are required and that the administration of these provisions should be scrutinised.

In addition, our members consider that the Tax Ombudsman should commence a review into the ATO's readiness for Payday Super. Following the recent passing of the [Treasury Laws Amendment \(Payday Superannuation\) Act 2025](#) and [Superannuation Guarantee Charge Amendment Act 2025](#) (the **Acts**) by both houses of Parliament, and the ATO's draft [PCG 2025/D5](#) Payday Super - first year ATO compliance approach, there is widespread concern among the tax profession about the ATO's readiness for this significant change.

The Acts set out a number of substantial changes to the administration of superannuation, including how businesses pay their superannuation, and the penalties associated with errors or omissions. Similarly, mandating the payment of superannuation within seven business days of an employee's payday will increase the payment of superannuation, in some cases, from four quarterly payments per year, to 52 weekly payments per year. While this is an increased burden on small businesses and employers, it is also a steep increase for the ATO as the administrator and government agency responsible for the regulation of employers in respect of paying superannuation on time.

It is particularly concerning to our members that the enabling legislation has been tabled with less than eight months before Payday Super's proposed start date on 1 July 2026. The Institute considers that the Tax Ombudsman should conduct an assurance review to examine the ATO's preparedness for Payday Super and identify any gaps that need to be addressed before the legislation comes into effect on 1 July 2026. Given the proposed start time for Payday Super, we suggest that consideration is given to prioritising such a review.

We trust that these comments are helpful to the Tax Ombudsman's refresh of the 2026 work plan. We welcome the opportunity to discuss these matters further and to provide additional examples or case studies if required.

The Institute is the leading forum for the tax community in Australia. We are committed to shaping the future of the tax profession and the continuous improvement of the tax system for the benefit of all. In this regard, The Institute seeks to influence tax and revenue policy at the highest level with a view to achieving a better Australian tax system for all.

If you would like to discuss any of the above, please contact our Tax Counsel, John Storey on (03) 9603 2003.

Yours faithfully,

Julie Abdalla

Head of Tax & Legal

Tim Sandow

President