



Commissioner's address to the CTA Heads of Tax forum

Commissioner of Taxation, Rob Heferen's address to the Corporate Tax Association National Heads of Tax forum.

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*Rob Heferen, Commissioner of Taxation
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Thank you for the kind introduction and for having me at this event.

I'd like to also acknowledge the traditional owners of the lands that we meet on today, and pay my respects to Elders, past, present and emerging.

I have enjoyed the interactions I've had with many of you since commencing as Commissioner and I'm really looking forward to today's session.

Having just passed my first 3 months in the role, I can say the question people ask me most is 'what is my priority for the ATO?'. This is a big question. The ATO is a large institution with a transformation arc that spans many decades.

I am still early in my tenure as Commissioner – about 4–4.5% into my time – and while I am not standing here today claiming to have all answers, I do have a strong sense of 3 foundational elements that must be front and centre.

First is integrity in how we operate

We must operate with a foundation in integrity.

As individuals, this means being honest, being accountable, being authentic and keeping our commitments.

As an organisation, this means being clear with the Australian community about our values, and ensuring those values guide our decisions and behaviours.

And in our service to the community, this means ensuring that our products and processes achieve the right balance of accessibility with the appropriate checks, security, and safeguards, including against fraud.

Beyond this, we also know that a number of factors influence voluntary compliance including perceptions of fairness and institutional trust.

It is entirely reasonable for the community to hold the ATO to a high standard – both in our behaviours and actions, and also in the role we have in collecting the revenue that is owed to the Government.

Second is collecting and protecting the revenue

At the highest level this is about administering the tax system in a way that is fair, reasonable and conformant with the law. Collecting the right amount of tax under the law for the least cost to the Government and the taxpayer.

There are a number of mechanisms that support us in doing this in an efficient and informed way – ensuring we focus our support and interventions in those areas that require it the most.

One of these mechanisms is our **tax gap analysis**.

Through this analysis we have been able to better understand overall tax system and superannuation guarantee system performance – not just the ATO's direct impact through raising assessments in audits, but having a better way to measure and report on how the whole system is operating and our specific impact.

One example is being able to measure the impact we have in improving voluntary compliance – extra revenue the Government receives that appears on the face of it to be voluntarily paid, but that we are confident is due to actions we have taken to improve the tax system and improve the future compliance of taxpayers.

In the large market (entities that are part of an economic group with a combined turnover greater than \$250 million) we see this with the overall improvement in gross tax performance, where the measure of voluntary compliance has increased from 91% in 2013–14 to 93.5% in 2020–21. That might not sound like much, but it is almost \$2 billion of additional tax per year that the Government receives.

For historical context it's interesting to note that when the voluntary compliance rate was sitting at 91% we saw community and political concern about the tax performance of large multinationals.

In response there were multiple senate inquiries, the introduction of various **base erosion and profit shifting (BEPS)** related reforms, and the establishment of the **Tax Avoidance Taskforce**. What this tells us is that gross performance rates of 91%, do not meet community expectations and are 'out of tolerance'.

Our tax performance program continues to be integral to informing our decision-making, measuring our effectiveness and informing future approaches. Programs such as **justified trust** have driven improvements in tax performance, but the job is not done. Our company income tax rate means that the incentive for profit shifting out of Australia is significant. We need to remain vigilant to ensure that tax performance remains strong.

Whilst tax gap is a measure of how well we are doing enforcing the boundary line for the past, sustaining tax performance into the future is a priority.

The Government has specifically funded us through the Tax Avoidance Taskforce to ensure the tax from large market is collected, and the revenue protected. This, and the recently announced funding to counter fraud (\$187 million over 4 years from 1 July) will ensure the ATO continues to strengthen its ability to prevent and mitigate risks in the tax system.

And third is working with Government for Government

To do our jobs well we need to understand our obligations to the people of Australia.

The ATO is the agent to administer the system and key to our function is ensuring we are providing the right information and advice to

Government to inform policy design and decisions.

And we are uniquely placed to do this, with our interactions and engagements providing deep insights into the system in operation.

Company income tax in Australia

It's no secret that company income tax is a significant contributor to Australia's balance sheet.

As a percentage of GDP, company income tax collections in Australia have historically been significantly higher than other OECD countries, averaging around 5% over the past 20 years, and reaching over 6.6% in 2021, around double the OECD average.

It is responsible for around 22% of Federal Government tax collections – a higher portion than any other developed country – more than double the OECD average of 10%.

As a point of comparison, company income tax collections are 8% in Norway, and 10% in both the UK and the US. Compared with 22% here.

This is why proper collection of company tax matters so much more to Australia – it is such a large part of our system.

It's highly concentrated in Australia. The largest 10 corporate groups pay 30% of all company income tax. The largest 100 corporate groups pay around 50%.

But our company tax rate makes us highly susceptible to profit shifting. It is unsurprising that global profit-shifting disputes continue to make up a significant part – roughly 70% – of the audit book of work for public and multinational businesses.

The International related party dealings (IRPD) statistics 2021–22 were released last Friday and provide key statistics sourced from processed international dealings schedules (IDS) and local file – part A (LFPA) lodgments for the 2021–22 and earlier income years. These IRPD statistics:

- reflect the most accurate picture currently available of IRPDs for the 2021–22 and earlier income years
- release data tables on data.gov.au showing value of reported IRPD revenue and expenditure for each IRPD transaction type and for each counterparty jurisdiction for 2015–16 to 2021–22.

The ATO's focus on risk of 'transfer mis-pricing' and mischaracterisation of cross-border related party dealings is illustrated from one simple comparison.

Australia's 3 biggest trading partners from a 'real' trade perspective are China (27%), Japan (11%) and USA (7%).

However, in terms of contractual dealings with related parties, Singapore, with its lower headline tax rate, is at 34%, the USA is at 13% and Japan 7%. China is only 3%.

Of course, some multinationals will always try to push the boundaries of their cross-border arrangements to minimise tax. This may happen either explicitly or implicitly within an organisation. This is why we have been open and transparent about our concerns and risk parameters. Products such as practical compliance guides and taxpayer alerts, allow taxpayers to make informed choices about their tax settings.

Embedding these risk assessments in strong governance frameworks ensures that tax risk profiles are understood at board level.

The ATO's attention on profit shifting has a well understood focus on the corporate tax risks from multinationals mis-pricing goods or services.

Where multinationals choose to continue with risky behaviour, we have mature compliance programs to detect, assess and treat these risky behaviours with strong economic and legal expertise.

We continue to challenge aggressive profit shifting and will litigate disputes to test legal principles in this space.

The compliance of large business not only has direct fiscal impacts, but the perception of compliance, impacts the compliance levels of the entire system. A point which I will come back to.

Tax Avoidance Taskforce

The Government continues to commit us to the Tax Avoidance Taskforce, announcing in the recent Federal Budget an extension of taskforce funding for 2 years from 1 July 2026.

This commitment has been there since 2016 with Treasurers Morrison, Frydenberg and Chalmers each funding the ATO to establish and maintain the Tax Avoidance Taskforce, with a purpose of investigating

and challenging the most aggressive tax avoidance arrangements, and also to improve the tax performance of large business more generally.

Since the taskforce commenced, it has helped secure more than \$30.2 billion in additional tax revenue from multinational enterprises, large public and private businesses.

Importantly, we estimate taskforce funded activities have generated over 60% of that revenue.

We have continued to enhance the taskforce over the past 18 months, which has allowed us to continue to tackle tax avoidance by:

- keeping our focus on large corporate groups
 - increasing our focus on medium and emerging large businesses
- increasing scrutiny for private groups and high wealth individuals
 - The focus will improve tax governance and reduce profit shifting and failing to disclose foreign sourced income.
- pursuing intermediaries and promoters of tax avoidance schemes
 - This will allow the ATO to expand its reach, through increased population coverage and intensity of existing capabilities.
- preventing abuse of trusts and high-risk trust arrangements.
 - The ATO will invest in tools to maximise the value of data and enhance transparency in relation to trust distributions.

Voluntary compliance and justified trust

Pleasingly, voluntary compliance in the large market segment is the highest it has ever been.

What we know is that this market is highly responsive to ATO activity. We have seen this through the positive improvement the justified trust program has had in relation to improving tax compliance.

Anecdotally, I've heard many views on the justified trust program both prior to and post my commencement as Commissioner.

And I can assure you that the ATO is conscious of the cost of compliance for all taxpayers. We acknowledge that some aspects of our compliance programs do come with increased cost and effort.

But this reflects the increased expectation from Government and the community in ensuring that large business is fully compliant with their tax obligations.

And in meeting community expectations some stakeholders have equally called out the value in having positive affirmation from the ATO that their tax outcomes are correct. I have heard examples of how these assessments allow organisations to have influential conversations with their board and how the weight of this affirmation can assist in demonstrating the organisation's social license.

Last year ATO acting Deputy Commissioner, Faith Harako spoke at the International Tax Administration Conference about the critical role that tax plays in driving environmental, social and governance (ESG) value for businesses. In her **address** she outlined that she expected to see ATO assurance ratings being used by organisations to demonstrate their community and ESG credentials as part of their broader social licence to operate.

This notion was further discussed by ATO Second Commissioner Jeremy Hirschhorn in his 2023 AFR CFO Live Summit **address**, where he spoke about our experience showing that tax transparency (to the regulator, the board, the market and/or clients) is a key contributor to instilling confidence in a business and their ESG commitments.

The maturity of the justified trust program means that we are now entering into a new phase, where assurance ratings and tax settings will drive tailored engagements and intensity of ATO activities. For the **top 100 program** and for those taxpayers that have achieved high assurance and earned the privilege (or trust) this will also have the benefit of increased tax certainty in real time in certain areas.

Personal income tax

Recognising today's audience, I really wanted to spend a bit of time on the contribution of the large market up front, but I think it would be remiss of me not to touch on the importance of personal income tax on the proper functioning of our system.

I mentioned earlier the role that large business tax compliance plays in the broader system – not just through collections – but in influencing wider community sentiment and compliance.

We know that people are more inclined to engage and comply with their own personal tax obligations when they perceive the system to be fair.

This is something that I feel particularly passionate about. And ultimately, whether you're a large corporate, a small business or an individual, we all have skin in the game. Tax is not just the cost of doing business in or living in Australia, it is a fundamental element of the social contract.

Pleasingly for the most part, people see themselves in this system and they understand their contribution.

Like company tax, in comparison to similar OECD countries, Australia's personal income tax system plays a relatively larger role in funding essential public services such as healthcare, education, defence and infrastructure. Compared with an OECD average of around 24%, personal income tax accounted for 39% of total tax revenue in Australia in 2021, and is currently well over 50% of federal tax revenue.

One of the features of the Australian personal income tax system is its progressive nature. Unlike many countries with flatter tax rates or lower tax-free thresholds, Australia's tax structure is designed to ensure that those who earn more, contribute proportionately more. This progressivity is a consistent hallmark of our system. By way of example, our most recent tax stats data shows that the top 13.5% of income earners contribute 60.5% of total personal income tax revenue.

The ATO uses advanced digital technologies, including third party data to streamline and pre-fill tax returns. This reduces compliance costs and enhances taxpayer satisfaction. The individuals market continues to perform well, with overall tax performance at close to 94%, even during 2020–21 where we saw an increase in working from home expenses. We're getting ahead of potential future problems through advancements in our pre-lodgment work in this market, including enhanced pre-fill and locking of labels.

As we come into Tax Time 2024, we will be ensuring that the community has a clear understanding of where we will be focussing, including those areas that contribute most heavily to the individuals not in business tax gap: work-related expenses and rental property claims. We also want to encourage taxpayers to wait to lodge until the automatic pre-fill has occurred.

I hope you've seen our impressively bearded tax time spokesperson, Assistant Commissioner Rob Thomson, delivering these messages to the wider community.

Besides the occasional joke about beard care, you will hear Rob continually talk about the 3 golden rules for claiming a deduction for work related expense, being:

- you must have spent the money yourself
- the expense must directly relate to earning your income
- you must have a record (usually a receipt) to prove it.

Closing remarks

Ultimately, we all have a part to play in the tax system. From individuals to large businesses the complexity of our interactions and the nature of our direct obligations within the system will differ, but our attitudes towards participation should not.

Going back to my opening remarks I'd like to see a continued focus on integrity in how we all operate within the revenue system that supports our society.

Thank you for having me along today, I look forward to hearing from you in the Q&A session.

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Commissioner of Taxation, Rob Heferen

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