



Minister for Revenue and Financial Services
Minister for Women
**Minister Assisting the Prime Minister for the Public
Service**

The Hon Kelly O'Dwyer MP

Mr Ali Noroozi
Inspector-General of Taxation
GPO Box 551
SYDNEY NSW 2001

Dear Mr Noroozi

A handwritten signature in black ink, appearing to read 'Ali'.

Thank you for your letter of 16 March 2018, providing me with a copy of your report, *GST Refunds*.

I am writing to ask that you make this report available on your official website by 16 August 2018. As you are aware, pursuant to section 18 of the *Inspector-General of Taxation Act 2003*, I must arrange for this report to be released publicly within 25 sitting days of receipt.

I would like to extend my sincere thanks to you and your staff for your efforts in producing this report.

Yours sincerely

A large, stylized handwritten signature in black ink, appearing to read 'Kelly O'Dwyer'.

Kelly O'Dwyer



Australian Government

Australian Government response to the
Inspector-General of Taxation report:

GST Refunds

JUNE 2018

INSPECTOR-GENERAL OF TAXATION

GST REFUNDS

Background

The Inspector-General of Taxation (Inspector-General) commenced a review on 5 April 2017 into the Australian Taxation Office's (ATO) approach to verifying GST refund claims before issuing them. The review arose out of concerns raised by both individuals and businesses through the Inspector-General's complaints handling service as well as by stakeholders during public consultation for the Inspector-General's 2017 work program.

The Inspector-General invited and received submissions to this review from a wide range of stakeholders, and also engaged with a number of stakeholders including government agencies, professional bodies, taxpayers, tax practitioners and their representative bodies.

The Inspector-General's recommendations can be divided into those for Government, which involve policy considerations and would normally require legislation, and those for the ATO, which involve administrative considerations and can be implemented by the ATO as part of the Commissioner's administration of taxation legislation.

The Inspector-General's report makes five recommendations specifically for the ATO and one for the Government. The complete list of recommendations is at Attachment 1.

Response to Inspector-General's recommendations to Government

The Government thanks the Inspector-General for the work he has done in producing this report on an important issue.

The Government notes that the Commissioner of Taxation has statutory independence to administer, through the ATO, the principal Australian government taxation legislation. Consequently, how the ATO responds to its recommendations is a matter for the Commissioner of Taxation.

Recommendation 6.1

The Inspector-General recommends that the Government consider amending section 8AAZLGA of the TAA 1953 to allow the Commissioner, in appropriate cases, to effectively investigate and address risks of fraud the seriousness of which has been established by means such as obtaining a Federal Court order.

The Government notes this recommendation.

The Government considers it is important that GST refunds are issued promptly. The Government notes that in all cases, taxpayers who have refunds retained under section 8AAZLGA have statutory objection, review and appeal rights regarding the decision to retain the refund. The decision to retain a refund must be made within an administratively reasonable period. Where an amount has been retained, the Commissioner must notify the taxpayer within the statutory period, and the taxpayer has 60 days from the last day of the statutory period to object as set out in Part IVC of the TAA.

The Government also supports the ability for the Commissioner to effectively investigate and address risks of fraud, and where appropriate, prosecute those who exploit the system by falsifying claims for GST credits. However, to require the Commissioner to obtain a Federal Court order to investigate and address the risks of fraud would place an administrative burden on both the ATO and Federal Court. As the report notes, there would be time and costs issues with the Commissioner obtaining a Federal Court order to investigate and address the risks of fraud, including placing an administrative burden on the ATO.

The Government will consider options that will balance the integrity of the GST system and the prompt issuing of GST refunds. Careful consideration will be given to any impact on the ability of the ATO to conduct covert taxpayer reviews in cases of deliberate and egregious taxpayer fraud.

ATTACHMENT 1 – Full list of recommendations by the Inspector-General

The ATO's case selection process for retaining GST refunds for verification purposes

Recommendation 3.1

The Inspector-General recommends the ATO:

- a) develop a formal framework of continuous improvement for its risk assessment tools which includes:
 - (i) periodic reviews with clear milestones;
 - (ii) ensuring that case officers are consistent and accurate in reporting case related data and other pertinent matters in all relevant cases;
 - (iii) improving intelligence capture through greater engagement between risk managers and operational teams across different business lines such as Indirect Tax and Smarter Data;
 - (iv) developing a suite of performance reports for use within the Indirect Tax business line and ATO Executive Committees; and
- b) prioritise the deployment of the On-Line BAS Check tool.

Engagement with taxpayers and tax practitioners during GST refund verification

Recommendation 4.1

The Inspector-General recommends that, in respect of pre-issue GST refund verification, the ATO:

- a) consolidate and streamline its guidance to its officers with an emphasis on adhering to the statutory requirements;
- b) ensure that interactions between its officers and taxpayers as well as its officers' consideration of statutory requirements are accurately and consistently documented and that team leaders use such documentation to assess the performance of officers and the taxpayer experience;
- c) provide a mechanism to automatically alert its officers and team leaders to notify taxpayers of the retention of their refunds within the statutory period; and
- d) improve its communication with taxpayers by ensuring that they are provided with sufficient reasons for the retention of their refunds and the other information provided to them is accurate and up to date.

Recommendation 4.2

The Inspector-General recommends that, in undertaking pre-issue GST refund verification, the ATO:

- a) periodically review its information requests templates with input from stakeholders, including industry experts, to ensure that those requests are appropriately focused on addressing the risks identified; and
- b) consider allowing taxpayers and tax practitioners to pre-emptively provide information online to assist in the timeliness of the verification process.

Recommendation 4.3

The Inspector-General recommends that the ATO:

- a) make effective use of its automated system to calculate the 60—day period within which taxpayers may lodge an objection and inform them accordingly; and
- b) provide information to assist taxpayers in lodging such objections effectively.

Impacts on taxpayers

Recommendation 5.1

The Inspector-General recommends that the ATO:

- a) improve access to and raise awareness of taxpayers, tax practitioners and its own officers about assistance available in serious financial hardship cases including full or partial release of GST refunds;
- b) ensure that the appropriate consideration of the financial impact on taxpayers, as required by paragraph 8AAZLGA(2)(c) of the TAA 1953, and serious financial hardship claims are carefully documented; and
- c) develop an automated system for the partial release of GST refunds

Refund verification in the precious metals industry

Recommendation 6.1

The Inspector-General recommends that the Government consider amending section 8AAZLGA of the TAA 1953 to allow the Commissioner, in appropriate cases, to effectively investigate and address risks of fraud the seriousness of which has been established by means such as obtaining a Federal Court order.