16 May 2025

Inspector-General of Taxation and Taxation Ombudsman
GPO Box 551
Sydney NSW 2001

By email: consultations@igt.gov.au

Dear Inspector-General,

Feedback on draft work plan for systemic reviews 2025/26

Thank you for the opportunity to provide feedback on your forward work plan for systemic reviews in 2025/26.

This feedback is provided on behalf of the Economic Abuse Reference Group and the UNSW Tax and Business Advisory Clinic and draws on our collective expertise in assisting victim survivors of financial and economic abuse through the taxation system.

We strongly support the Inspector-General of Taxation and Taxation Ombudsman (**IGTO**) conducting systemic reviews into the two following topics in 2025-26. We consider these reviews would be highly impactful and would allow the IGTO to build on the important work commenced by its review into the identification and management of financial abuse within the tax system, by addressing critical gaps identified in that review.

1. ATO's response to fraud perpetrated by known third parties

As the draft work plan identifies, fraud perpetrated by known third parties is often the result of financial abuse perpetrated by an intimate partner (or other family member). However, the ATO's current position is to refuse to investigate fraud perpetrated by known third parties, including intimate partners or family members, requiring victims to pursue civil legal action at their own expense. Our members have seen cases where the ATO has declined to investigate or prosecute tax fraud even where a criminal prosecution has been successful. In such cases, victims of fraud are forced to defend prosecution by the ATO as alleged perpetrators of fraud, while also trying to recover the funds through a civil claim against the third party.

The ATO has reaffirmed in recent matters that its position is based on practice statement PS LA 2024/1 'Suspected fraud involving unconnected third parties' which provides no guidance for responding to fraud perpetrated by known parties, and no redress or remediation for the victims of such fraud. In contrast, if the same individuals were the victims of fraud by an unknown or unconnected third party, the ATO would investigate and attempt to rectify the fraudulent tax activities.

This position falls short of community expectations, harms victim survivors of family violence and financial abuse, and facilitates the weaponisation of the tax system by perpetrators of financial abuse. The case studies in Annexure A illustrate the harms caused to victim survivors and the necessity for reforms. These harms are facilitated by a lack of appropriate safeguards within ATO systems that fail to identify red flags of fraud, particularly in the case of ABN fraud, such as ABNs that have been dormant for years, 18-year-olds submitting their first tax return, and large and unexplained increases in taxable income.

Pursuing and rectifying fraud committed by known third parties would serve the ATO's interests in two important ways: it would deter people from abusing the tax system, while enhancing debt collection by targeting perpetrators rather than the victim survivors who demonstrably did not incur the debt.

2. ATO's administration of disclosure of business tax debts to credit reporting bureaus

In circumstances of financial abuse and domestic and family violence (**DFV**), victim survivors' tax debts often exceed $100,000 and are therefore above the credit reporting threshold. However, these listings can generally only be removed from the credit report if fraud is proven. The ATO's position on fraud perpetrated by known third parties (including perpetrators of DFV) makes removing these credit reporting listings challenging, as the ATO considers tax debts incurred due to financial abuse to be 'legitimate' debts.

For Director Penalty Notices (**DPNs**), removal of adverse credit reporting information would typically require either successful annulment of the directorship (via ASIC's Form 377 process) or proving a defence to the ATO under the Taxation Administration Act. This creates a compounding problem for victim survivors of DFV: if safety concerns make it unadvisable for a victim survivor to seek to annul their directorship, they will not be able to correct their credit report, because the debts will still be considered 'legitimate'. It would be worthwhile for the IGTO to investigate the ATO's administration of disclosure of these debts to credit reporting bureaus, particularly in circumstances of financial abuse.

We would welcome the opportunity to provide further feedback and look forward to assisting the IGTO with its reviews.

Yours faithfully,

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A/Professor Ann Kayis-Kumar
Founding Director, UNSW Tax and Business Advisory Clinic

ANNEXURE A

Case Studies

1. Amy was coerced to sign all documents, or her signature was applied to forms electronically using a fake email set up by her ex-husband. A DPN was issued for a company along with penalties for a non-compliant self-managed super fund (**SMSF**) she was unaware of until after husband deserted the family and she received notices. All income tax returns (**ITRs**) were prepared by a tax agent, whom she never met or spoke to, and signed electronically without her knowledge. All refunds, Centrelink receipts etc. went directly to her husband's bank account, who is now a declared bankrupt.

2. Belinda was coercively controlled and physically and mentally abused in a same-sex relationship. She was forced to set up and run a company providing NDIS services. Her partner took all funds from the company account and paid no tax debt including PAYGW, GST and super. She was provided just enough to pay basic household expenses and provide for her then young son.

3. Chloe met her partner at a drug rehab facility. He encouraged her to agree to become a sole director of his roofing company so he could provide for the family as he said there were no alternatives. Chloe had nil understanding of the obligations of a director, but started to receive collection notices from the ATO for outstanding debt. Chloe has no capacity to pay and is aware her partner is a gambling addict.

4. Full time foreign (masters) student, Deanna, was unknowingly made a director of a company prior to the introduction of Director ID requirements. She experienced serious physical domestic violence at the hands of her former partner, who was the father of her baby. She only became aware of the company when she began receiving demands for debt payment and multiple fines for unlodged monthly PAYGI and quarterly BAS.

5. Emily was a victim-survivor of severe domestic violence. She was asked by her former partner to sign some documentation at the beginning of their relationship without understanding that it would make her a director of his company. Emily received three DPNs in relation to unpaid SGC, PAYGW and GST, totalling approximately $180,000. Emily's good reasons defence was successful.

6. Greta is a victim-survivor of extreme coercive control and financial abuse. She agreed to become a director of a company her husband controlled as she was fearful of the consequences that would arise from her husband if she refused. Greta received two DPNs in relation to unpaid SGC and PAYGW, totalling approximately $150,000. Greta's good reasons defence was unsuccessful, but the ATO reduced her debt to approximately $40,000 due to the remainder being invalidly levied.

7. Hana and her ex-partner, Adam, ran a retail business. Hana was the sole director of the company as Adam said that this was normal and he didn't need to be a director. Over time, Hana was pushed out of the business. Initially, Adam said this was so she could stay at home to look after the children but unknown to Hana, Adam was making decisions about the business and was writing emails to the accountant and other organisations as if the emails were from Hana. Upon separation, Hana learned that the company had accrued PAYG withholding, superannuation guarantee and GST debt and

had outstanding tax returns. She is locked out of the business by the landlord and believes her ex-partner has phoenixed the business, as the same type of business has been set up on the same premises and continues to operate with the same employees, albeit a different owner, leaving Hana with the debts.

8. Nina is a migrant and is not highly educated. Her then husband was an accountant (in the country they migrated from) and set Nina up as a sole trader even though he also worked in the business. Nina trusted him to prepare the BAS for the business - when the ATO audited her BAS due to the high level of refunds, she trusted him to supply all the documentation for the input tax credits. When they could not be substantiated, she was left with the GST debt and penalties. The UNSW Tax Clinic assisted Nina to remit the penalties, however she is on an extended payment plan to pay off the GST debt.