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Office of the Inspector-General of Tax and Tax Ombudsman
Sydney NSW 2001

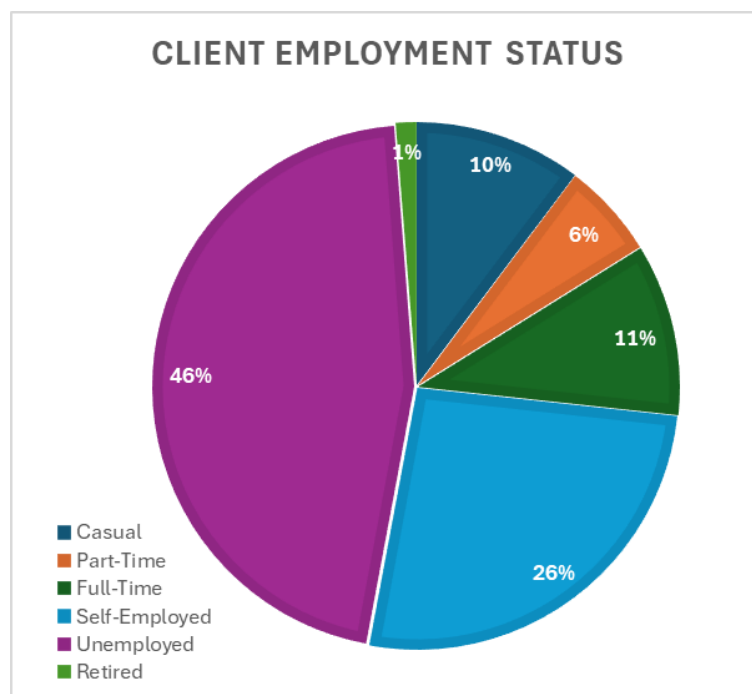
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Review of ATO's Remission of General Interest Charge – Submission of UNSW Tax and Business Advisory Clinic

Thank you for the opportunity to make a submission in relation to the Tax Ombudsman's review of the ATO's Remission of General Interest Charge (GIC).

Background

This submission is guided by a combination of our clinical observations and research findings. Critically, our clinical observations reflect the most financially distressed cohort of taxpayers; typically microbusiness with long-term overdue tax returns (on average, 6 years behind on income tax returns and 5 years behind on BAS returns). This is not a sophisticated cohort of small business – but unfortunately the ATO does not currently have a way of distinguishing between these two cohorts. A snapshot of our clients' employment status is illustrated below:



Insurmountable tax compliance barriers

Microbusinesses are an important part of the economic landscape, representing 89% of total businesses in Australia and employing 2.9 million people. However, if a business is cash-strapped and the owner is struggling both financially and psychologically, a visit to a tax accountant tends not to be high priority, if indeed the business has the cash to pay the tax agent. This is coupled with clinical observations that our clients are typically unable to afford basic living expenses such as food and basic medical care – and report feeling ashamed of, and overwhelmed by, the state of their tax affairs.

Challenges with ATO's application of GIC

While some elements of the ATO's approach to its application of GIC are commendable (notably, the ATO's policy of remitting any GIC that has accrued while a non-economical to pursue debt was on hold), significant challenges remain, specifically:

- **Hidden GIC** – In practice, our clinic supervisors typically support financially vulnerable sole traders with long-term overdue tax returns – and, in turn, 'hidden' GIC. Once the taxpayer's lodgements are brought up-to-date, we typically find that the amount of the GIC is often significantly larger than the original tax debt.
- **Tax debt cycles** – Whilst the taxpayer is on a payment plan, they will continue to incur GIC (but the ATO won't actively pursue that debt unless the taxpayer defaults on the payment plan). While the ATO does allow interest free payment plans there is very little awareness amongst taxpayers in severe financial distress that this is even an option.
- **Policy-induced poverty** – Future tax refunds can be used to offset the debt on the payment plan; however, the refund is not included as a payment plan instalment amount (so the taxpayer will still need to make a payment for that period).

Please see Annexure A for illustrative client case studies.

Hurdles associated with GIC Remission

To the ATO's credit, we have not observed any reduction in their willingness to allow our GIC remission requests. However, most taxpayers in severe financial distress will not know that they can request remission of GIC – and even if they did, they would not have the resources or capacity to overcome the compliance hurdles associated with making a GIC remission request.

This is particularly problematic because demand for our service continues to far outstripping supply, leaving significant unmet need. Specifically, our research has found that each year over 80,000 Australians in severe financial distress have insurmountable tax compliance burdens.

Without targeted support (for example, with a well-functioning Vulnerability Framework coupled with significantly larger ATO-internal specialised support teams) the current design and operation of the GIC framework risks inadvertently contributing to debt cycles, policy-induced poverty and even ATO-initiated bankruptcy – which, in turn, has profound ripple effects on accommodation, employment, finance, and even child custody.

If you have any questions about this submission, please contact A/Professor Ann Kayis-Kumar at a.kayis@unsw.edu.au.

Yours faithfully,
UNSW Tax and Business Advisory Clinic



A/Professor Ann Kayis-Kumar
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Annexure A – Client Case Studies

Please note: All names have been changed.



Amy is a First Nations victim-survivor of domestic violence. She lives and works in rural NSW. She has a large family and very low levels of financial literacy. Her tax agent prepared her 2020 ITR, included gross income with no expenses taxable income overstated by approximately \$20,000. The Clinic is trying to object but Amy is well outside the amendment period. The same tax agent prepared her 2024 return, skipping all years in between, showing refund owing of over \$22,000 – which was for unpaid PAYGI included in pre-fill. The Clinic has prepared returns for 2021, 2022, 2023 years. The GIC to date is approximately \$57,020.



Belinda is a First Nations victim-survivor of domestic violence and financial abuse. She lives and works as a community nurse in rural NSW. She has a large tax debt, primarily as a result of Centrelink receipts in addition to her income from working. The last year she lodged was 30.6.2020, resulting in debt of +\$8,000. She commenced repayments of \$100/month, but defaulted. Her account balance now +\$27,000. The Clinic has prepared outstanding income tax returns resulting in an estimated further amount of tax payable +\$37,000. Belinda's mental health is too unstable to manage completion and signing declarations.



Claire lives in regional NSW and is no longer able to work. She is experiencing severe mental health illness. Her original tax debt of \$45,800 was incurred between June 22 to Nov 23 from lodging 2021, 2022 and 2023 returns, with tax liability remaining unpaid. She has had no income from 2024 and 2025 other than some Centrelink support. Her current tax debt now \$61,800.



Dominic has suffered from drug addiction since the COVID-19 pandemic. He was encouraged by his drug supplier to apply for fraudulent GST refunds, receiving approximately \$143,000 in fraudulent refunds from March 2022. The ATO detected and reversed, which Dominic became aware of since participating in live-in rehab and is now reformed. However, he has very fragile mental health. He is well aware of the need to repay his tax debt, he has considerable remorse but currently no capacity at all to repay, despite his best efforts. He is living in a shelter. Due to the compounding effect of GIC, the debt has now reached +\$202,000.



Elena lives in regional NSW and was involved in a partnership with her husband. Her husband died in tragic circumstances leaving her widowed with three young children. Her accountant had assisted her with the business returns, which resulted in a tax debt. She had thought the ATO had released her tax debt due to financial hardship. When she returned to the workforce, about 20 years later, and submitted her tax return, she discovered that the debt was only placed on hold and she had accumulated GIC of about \$38,000 based on her original debt was \$6,000. The Clinic assisted Elena to request a remission of the GIC, which the ATO remitted. Elena did not realise that she could ask for a remission of GIC which had caused her unnecessary distress. She was originally expecting a tax refund on the submitted return and had no way of paying the outstanding tax and GIC.