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Bag Issues Log Item 07-007: The minutes of ATO's Tax Practitioner Forum (ATPF) meeting held on 10 August 2007 and related issues

Log Item sent: 09/11/2007

The ATO recently released the draft minutes for the ATPF meeting held on 10 August 2007. Some key issues discussed at the meeting included the outsourcing of tax work and BAS preparers.

The agenda items were as follows:

1. Outsourcing of tax work

Current trends in the outsourcing of Australian tax work were discussed in an article published in the Australian Financial Review published on Friday 13th July 2007, "India puts its hand up to do Australia's taxes".

The article's authors noted that "...the Australian Taxation Office is yet to publicly discuss the issue...", noting also, however, that the Minister for Revenue and Assistant Treasurer was of the view that "...[provided] the arrangements come within our legislative requirements...then I think it's appropriate".

As a result of concerns reported by the Australian National Audit Office in this article (including warnings from the Auditor-General of possible risks to the integrity of the Tax Office systems in the context of work performed abroad), would the Tax Office:

- a. in light of apparent inconsistencies in its approach to this issue (e.g., ATPF Issues Log Items A250 and A256), clarify its position on how offshore outsourcing comes within current legislative requirements; and
- b. indicate where the integrity of the Tax Office systems may be at risk and its capacity to take remedial action if necessary?

Response:

Background

The issue of outsourcing is clearly part of an overall globalisation trend and has been triggered by a number of drivers including:

- The reported shortage of accountants
- Salary competition
- Accountancy practices wanting to focus on the more lucrative aspects of their work
- Overall business competitive advantage
- Management of workload peaks In countries such as India, Malaysia and the Philippines it is reported that there is a large accounting graduate pool and lower salary expectations.

What type of work is outsourced?

Australian outsourcing service providers state on their websites and brochures that the range of work that can be outsourced includes general bookkeeping, tax return preparation, financial statement preparation and reconciliation. Currently, it does not appear that these providers offer lodgment of tax returns.

There are 3 key methods of outsourcing that have been identified by the Tax Office:

1. Tax practices employing or contracting with accountants sited overseas;
2. Tax practices contracting with a local service provider who then employ or contract with accountants sited overseas.
3. Multinational firms using staff in their overseas offices.

The Tax Office is aware of three Australian organisations that offer outsourcing services (but there may be more). The work set up is Internet based using various software and encryption packages and may involve the overseas-based worker dialling in to the tax practice's server or accessing work uploaded by the tax practice to the Australian service provider's server.

Issues with outsourcing

1. It is questionable whether Australian registered tax agents who outsource offshore income tax return and BAS preparation work are complying with ss 251L and 251N of the ITAA 1936. Note that under the change in focus in the tax practitioner legislative framework the position may alter since the focus is on supervision and control. However, it is accepted that there may be a range of work subject to outsourcing arrangements that does not fall within the definition of income tax return or BAS preparation. There is therefore a need to identify the scope/range of such arrangements to determine whether they fall within (or outside) the ambit of ss 251 L and N. The practical difficulty is in identifying the arrangements so that a decided view can be reached as to whether there has been a breach of either of these sections.
2. Australian outsourcing service providers highlight the training and continuing professional development of the overseas accountants but also remind the Australian firm that they have the responsibility to check the work. Selecting the right kind of work to outsource offshore and controlling/managing the arrangement appear to be the keys to success. The Tax Office is unable to detect problems with the quality of work unless a particular practice is known to outsource tax return preparation work or a taxpayer makes a complaint.
3. It is unknown whether overseas accountants are lodging the tax returns they prepare via the Tax Agent Portal either directly or through a tax practice's server. However currently, based on advertising material the Australian outsourcing service providers do not appear to be offering a lodgment service.
4. There is a heightened risk of identity theft and fraud resulting from offshore tax return preparation. This could impact in the future on professional indemnity and indemnity insurance costs in Australia.
5. There is the added problem where primary source documents are sent outside of the jurisdiction and the access issues that may arise as a result both from the Tax Office and the taxpayer's perspective.



Tax Office activity

At the last CEO Forum (July 2007) the issue of outsourcing was discussed with the CEOs of the Professional Associations.

At that meeting it was conceded that the risks associated with outsourcing tax work overseas included:

- Community confidence issues;
- Compliance with tax laws and obligations;
- Lack of capability to educate emerging tax professionals in Australia;
- Supervision of overseas workers.

It was noted that the Tax Office and the professional associations have not finally determined their position on this issue.

Further work was recommended to gain a greater understanding of the issues and to share certain experiences from the working models that the group had knowledge of. The Tax Office agreed to provide some potential scenarios to the next CEO meeting.

Meeting discussion:

Members requested some clarification on the Tax Office's position in relation to outsourcing of accounting work overseas.

A response was provided in the agenda papers as a lead into further discussion.

Members agreed that we need to get the facts first regarding exactly what work was being outsourced, what the implications might be for the Taxation Office, and the professional associations will respond after that. Outsourcing tax work is a problem due to tax agent registration jurisdiction issues and privacy concerns.

Whilst many of the issues are matters for the professional associations and the accounting profession, the Tax Office's primary concern is where the outsourcing involves work with a taxation aspect. Agents are looking for guidance on what they are legally able to do in relation to outsourcing work both overseas and within Australia. There may be professional indemnity insurance issues as well.

Members agreed some factual situations need to be explored so guidance can be provided on what is acceptable. Australia is one of the few countries where tax agents are regulated, so other countries don't face all the same issues. A member suggested that the Tax Office needs to conduct a study on how we will deal with outsourcing in the future.

Action item ATPF0708/06:

The Tax Office will prepare a paper to bring together the different aspects of 'outsourcing' for distribution to ATPF as a basis for discussion.

The Tax Office will provide an update at the next ATPF meeting and then for referral to the next CEO meeting.



2. BAS Service Provider update

Bookkeepers are a recognised important intermediary due to the influencing nature of their role on micro and SME business compliance. Over the last 18 months the Tax Office has implemented a range of products and services to support and build the capability of bookkeepers – particularly those satisfying the eligibility criteria to charge fees for BAS related services.

Those products delivered to date –

- Bookkeeping essentials pathway page on ato.gov.au
- Essential references for bookkeepers - a handy publication containing telephone/email contact entry points
- guidelines to clarify the meaning of 'working under the direction of a registered tax agent'
- access to Electronic Commerce Interface (ECI) for online lodgment of activity statements
- The BAS service provider email subscription newsletter, and
- BAS service provider advisory program.

BAS service provider view of the Portal

The Tax Office has also been exploring the introduction of a BAS service provider (BSP) view of portal to further encourage electronic interaction. In recognising the limitations of the self assessed nature of s251L(6) ITAA 1936, a proposal has been developed offering a limited 'BSP view' of the Tax Agent Portal.

The functionality for eligible BSP users will be limited to:

- Add/Delete client – with appropriate assurances
- View, lodge and amend BAS
- View client registration information
- Access to interact with the Tax Office using secure portal mail, and
- Access to downloadable payment slips

Eligible BSP users will not be able to:

- View or update client account information
- Update client financial institution information
- Update client registration information, or
- Change client permissions in the Tax Office online facilities.

Design features for the BSP view of the Portal include:

- evidence of BSP eligibility to be supplied with the portal access application form
- a letter will be sent to each client added to the BSP's client listing to advise of BSP authorisation, and
- tax file numbers and non-BAS information will be suppressed from all portal screens.

Improved telephony for BAS service providers

Research on bookkeepers (in business) informs us that BSPs do not automatically refer to the Tax Office to seek responses on their tax issues. One of the disincentives to using our Client Contact centres has been the duration 'on hold' before being attended to by a customer service representative.

For those eligible BSPs who are granted access to the Portal (refer above), an IVR telephony solution has been developed for use in conjunction with the general Business Infoline number (13 28 66). The proposed solution will incorporate a service standard (viz 90% response within 3 minutes) for eligible BSPs. The IVR options will focus on Portal support and accounts enquiries (as client account information has been excluded from the online BSP view of the Portal).



Design features for the BSP improved telephony solution include:

- eligible BSPs will contact the Business Infoline number (13 28 66)
- BSPs will enter their ABN which will be validated as an active 'BSP view of portal' user
- BSPs will be offered an IVR menu of three options – portal technical support, portal client support and accounts/ other enquiries, and
- the BSP/client link established through the portal will enable a more efficient process when satisfying POI requirements.

While not a premium service, this tailored solution for BSPs does recognise their intermediary role, and the need for timely access to BAS related information to support them and their clients. Access to this improved telephony solution is only available to those BSPs who have evidenced that they meet the s251L(6) requirements by being granted access to the BSP view of portal.

Implementation of the portal and improved telephony service for BSPs is currently scheduled to commence from late September 2007.

Meeting discussion:

There was no discussion on this response.

Update following the meeting:

Implementation of the BSP view of the Tax Agent Portal is currently scheduled to commence with the Portal Version 11 upgrade occurring in early October 2007".

AAPB has received many telephone calls from business owners and bookkeepers raising similar concerns in relation to the outsourcing of BAS services. AAPB is pleased to see that the ATO is undertaking further research into this matter. In addition it was outlined in the minutes that the "The Tax Office will prepare a paper to bring together the different aspects of 'outsourcing' for distribution to ATPF as a basis for discussion. The Tax Office will provide an update at the next ATPF meeting and then for referral to the next CEO meeting".

AAPB would like this issue to be added to the BAG agenda and for similar updates to be provided at the BAG committee. AAPB would also like for all associated papers and material to also be distributed to the BAG committee for comment and for an opportunity to make a submission.

A further issue that was discussed was the improved telephony for BAS service providers. AAPB would also like for this matter to be added to the BAG agenda and for updates and a progress report to be provided at each meeting.



ATO response received 9 November 2007

The ATO response outlines that at the next BAG telephone hook-up in December is "*shall also include some information updates which I have just received including a BAS Service Provider (BSP) update, BSP telephony service update and BSP view of the portal update which directly address some of your issues below.*

Regarding the outsourcing of tax work, this is an area we are still investigating and there's not too much that can be said. The most recent discussion about outsourcing issues was at the last TPAG meeting and I have attached a copy of those minutes for your information.

As far as the agenda for the December phone hook-up goes, we will be inviting BAG members to put forward for discussion any major systemic issues affecting the industry and inclusion will be at the discretion of the chair".

AAPB responds to the ATO on 9 November 2007

Dear Agu

Thank you for your response.

I believe that these issues should still be added to the issues register and this should be attached to the agenda with updates provided as they emerge i.e. as is the practice for ATO's ATPF committee.

Please see below link: for example: summary of actions page, item 3, and the register attached to the minutes.

<http://www.ato.gov.au/taxprofessionals/content.asp?doc=/content/00107555.htm>

Could you please also provide reference and a copy of the internal ATO document or policy which outlines that agenda items submitted by professional associations to an ATO committee *re: "inclusion will be at the discretion of the chair"*.

I am certainly not aware of any policy or document that states this and the agenda item certainly fits within the Charter of the BAG committee.

AAPB followed up this item with the ATO on 31 December 2007

To date no response has been received. We now note in the recent draft ATPF minutes for the meeting held on 9 November 2007 that some of the above issues were discussed further and a draft paper was issued for comment on the outsourcing issue.

Please below link for discussions:

http://www.ato.gov.au/content/downloads/TP_00114362_ATPF9Nov.doc
<http://www.ato.gov.au/taxprofessionals/content.asp?doc=/content/00114362.htm>

Could the ATO please provide an update and a response to the above issues. AAPB would also like an opportunity to comment on the draft paper and would like to receive a copy.

Disclaimer

This document provides general information current at the time of writing. It is not intended that the information provide advice and should not be relied on as such. Professional advice should be sought prior to actions on any of the information contained herein.

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