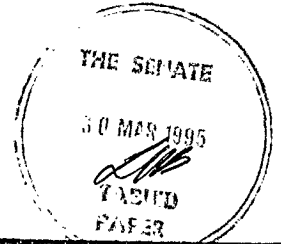


The Parliament of the Commonwealth of Australia
Joint Committee of Public Accounts



DEPARTMENT OF THE SENATE
PAPER No. 9458
DATE PRESENTED
30 MAR 1995
<i>Mary Evans</i>

REPORT 335

Finance Minutes Tabled in 1994

March 1995

Australian Government Publishing Service
Canberra

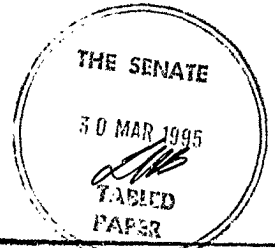
PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA



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ISBN 0 644 43055 9

MEMBERSHIP OF THE COMMITTEE

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DUTIES OF THE COMMITTEE

The Joint Committee of Public Accounts is a statutory committee of the Australian Parliament, established by the *Public Accounts Committee Act 1951*.

Section 8(1) of the Act describes the Committee's duties as being to:

- examine the accounts of the receipts and expenditure of the Commonwealth including the financial statements transmitted to the Auditor-General under sub-section (4) of section 50 of the *Audit Act 1901*;
- examine the financial affairs of authorities of the Commonwealth to which this Act applies and of inter-governmental bodies to which this Act applies;
- examine all reports of the Auditor-General (including reports of the results of efficiency audits) copies of which have been laid before the Houses of the Parliament;
- report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- report to both Houses of the Parliament, any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question.

The Committee is also empowered to undertake such other duties as are assigned to it by Joint Standing Orders approved by both Houses of the Parliament.

CONTENTS

	Page
Membership of the Committee	iii
Duties of the Committee	iv
Introductory Comments	vi
Finance Minutes on:	
<i>Report 326, An Assessment of Tax - A Report on an Inquiry into the Australian Taxation Office</i>	1
<i>Report 330, Review of Auditor-General's Reports May 1991 - September 1992</i>	55
Appendix I - Responding to reports of the Committee	71

INTRODUCTORY COMMENTS

What is this report about?

This report contains copies of the two Finance Minutes which were presented to the Joint Committee of Public Accounts, in 1994. The Finance Minutes contain the Government's responses to the recommendations made in the following reports of the Committee:

- *Report 326, An Assessment of Tax - A Report on an Inquiry into the Australian Taxation Office* (tabled 17 November 1993); and
- *Report 330, Review of Auditor-General's Reports May 1991 - September 1992* (tabled 22 March 1994)

The Finance Minutes contain responses only to those recommendations which address matters of an administrative nature. Recommendations on matters of policy are responded to separately by the Government. A paper at Appendix I explains further the distinction between Finance Minutes and government responses.

Finance Minute on *Report 326, An Assessment of Tax*

The Finance Minute on *Report 326* was presented to the Committee on 19 September 1994 and tabled in Parliament by the Chairman on 20 October 1994.

Report 326 was the result of the first major public examination of the administration of taxation laws in Australia since the enactment of the *Income Tax Assessment Act 1936*. In its report the Committee sought to introduce balance to a system which it saw as having grown to ignore the people it serves.

In *Report 326* the Committee made 88 recommendations in relation to the management and operation of the ATO. The Finance Minute provides detailed responses to each of these recommendations from the Australian Taxation Office, the Department of Finance and other relevant agencies.

When tabling the Finance Minute the Chairman reported that the vast majority of the Committee's 88 administrative recommendations had been accepted and were being implemented. Some of the most significant administrative recommendations accepted by the Government were to:

- provide explanatory information which is well targeted, accurate and up-to-date; and
- improve the quality of training for staff involved in tax audits.

Such measures will go a long way to ensuring that ordinary taxpayers are treated fairly, are clearly informed of their rights and have access to appropriate forms of administrative review.

Report 326 also contained 60 recommendations addressing matters of policy. The Government's response to these recommendations is contained in a document released by the Assistant Treasurer, the Hon George Gear MP, on 10 August 1994. Copies of this document are available on request from the following address:

Committee Secretary
Joint Committee of Public Accounts
Parliament House
CANBERRA ACT 2600

Finance Minute on *Report 330, Review of Auditor-Generals Reports*

The Finance Minute on *Report 330* was also provided to the Committee on 19 September 1994 and tabled by the Chairman on 20 October 1994.

Report 330 contained the results of the Committee's review of 72 reports of the Auditor-General. The Committee made 12 recommendations directed at encouraging specific agencies to respond in a more timely and effective manner to the concerns identified by the Auditor-General.

The Finance Minute reveals that ten of the recommendations were accepted or accepted in principle, and that two were rejected. The Committee considers that, in relation to the two rejected recommendations, no further action is required at this point in time.

Possible Future Action

The Committee reserves the right to examine further any of the issues canvassed in these Finance Minutes.



Les Scott, MP
Chairman
1 March 1995

FINANCE MINUTE ON REPORT 326



Minister for Finance
Parliament House, Canberra, ACT, 2600

19 SEP 1992

Mr L Scott, MP
Chairman
Joint Committee of Public Accounts
Parliament House
CANBERRA ACT 2600

Dear Mr Scott

In accordance with the agreed arrangements I enclose the Department of Finance Minutes on the Committee's 326th report entitled "An Assessment of Tax" and the 330th report entitled "Review of Auditor-General's Reports May 1991 - September 1992."

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kim C. Beazley', with a long horizontal flourish extending to the right.

KIM C. BEAZLEY

**DEPARTMENT OF FINANCE MINUTE ON JCPA REPORT 326 - AN
ASSESSMENT OF TAX**

This Minute has been prepared on the basis of responses received from the Australian Law Reform Commission, the Australian Bureau of Statistics, the Australian Taxation Office (ATO), the Office of Parliamentary Counsel, and the Department Finance. The Department of the Treasury has indicated that it is in agreement with the responses provided by the ATO in respect of those recommendations impacting on the Treasury and would not be providing a separate response.

General Comment

Comment by the Australian Taxation Office (ATO)

2. In his preface to the Report, the Chairman, Mr Les Scott MP, noted that the public perception of the ATO remains one of the organisation's greatest challenges.
3. Initiatives announced in response to the Report by the Assistant Treasurer, the Hon. George Gear MP, together with the administrative responses outlined in this minute will go a long way to addressing this challenge by:

Promoting and respecting the rights of taxpayers

- establishment of a Taxation Ombudsman
- development of a Taxpayers' Charter
- establishment of a Small Taxation Claims Tribunal

Supporting taxpayers and others in meeting their responsibilities

- further enhancement of the public taxation rulings system
- restructuring of the ATO along business lines which reflect particular segments of the community
- better targeting of information to those segments

Reducing compliance costs

- introduction of Taxation Administration Briefs and Taxation Impact Statements for all future tax law change
- implementation of the Tax Law Improvement Project

Supporting consistent approaches by the Tax Office

- new work practices and technological and other tools to support accuracy and consistency of technical advice
- creation of Tax Law Services group with ultimate responsibility for establishing the ATO position on any aspect of the law
- establishment of databases to support dissemination of rulings and other information

Involving the community in ATO operations and decision making

- consulting more with the professions, business and community groups including through a range of advisory panels to address specific issues
- establishment of a rulings panel with external experts to ensure a community view is better reflected in significant ATO rulings

4. The ATO is committed to grasping the opportunities offered by the Report.

5. Full responses to the administrative recommendations made by the Committee are provided in this Finance Minute.

6. In paragraph 3.24 of the Report the Committee noted that the organisational arrangements of the ATO were under review and that the development of functional groups aligned to taxpayer segments was an appropriate advancement. Many of the recommendations and responses are impacted by these new organisational arrangements. Details of the arrangements, which came into operation from 1 July this year, are contained in Appendix A.

Responses to Recommendations

7. Recommendations 1-13, 15-19, 21-26, 32, 33, 35, 37, 40, 41, 45, 62, 76, 77, 103, 113, 114, 119, 120, 124, 127, and 130-148 involve matters of policy which were addressed in a separate response by the Government which was tabled in the Senate on 23 August 1994. In the following paragraphs each of the Committee's recommendation is reproduced in turn and followed by the relevant responses.

Administrative Structure

Recommendation 12 (paragraph 3.100)

The functions of the current Deputy Commissioners of Taxation be couched in terms of branch or regional establishment management.

Response by ATO

8. This recommendation is supported and implementation will begin in 1994/95. Under the new organisational arrangements Deputy Commissioners will be responsible within a branch office for supporting the human resource management environment necessary for

achievement of ATO objectives. Operational performance is now to be managed at a regional level by allocating particular business or service line responsibilities within a region to a particular Deputy Commissioner. The nominated Deputy Commissioner will form part of the national executive of the business or service line. This realignment of responsibilities is designed to achieve more effective and consistent translation of national strategies and approaches to operational performance while also enabling more direct input of operational experience into strategy development. Details of these arrangements are at Appendix A.

Recommendation 14 (paragraph 3.119)

The Australian Taxation Office require all complaints against individual case auditors be put in writing.

Response by ATO

9. This recommendation is supported and implementation will begin in 1994/95. The ATO agrees that taxpayers should feel confident that they can raise matters of concern about the behaviour of any taxation officer. It is accepted that taxpayers may not always understand that they may complain or know to whom a complaint should be directed. To address this, a taxpayer will be advised, except in a limited set of circumstances, of the name of the auditor's manager and his or her contact number at the commencement of the audit. The information booklets that are provided to taxpayers prior to the commencement of an audit will be revised to include further information about the ability of taxpayers to deal with concerns about the actions of ATO officers. These publications will stress that, while taxpayers can orally raise any concerns, formal complaints need to be in writing. They will also indicate how to go about making a complaint. This matter will be considered further in the development of the Taxpayers' Charter foreshadowed by the Assistant Treasurer.

Self Assessment

Recommendation 20 (paragraph 4.44)

The Australian Taxation Office develop and make publicly available appropriate information for taxpayers on their obligations under a self assessment system.

Response by ATO

10. This recommendation is supported. The ATO has an ongoing commitment to providing taxpayers with information on their tax obligations. This is reflected in the work being done to upgrade ATO publications and clarify the law on matters that affect a significant number of taxpayers, eg. it is currently reviewing and consolidating its rulings on the deductibility of work related expenses and other topics which urgently require clarification. And under new organisational arrangements business lines will work with taxpayers and their advisors to determine how best to help taxpayers meet their obligations.

11. Additionally, the Tax Law Improvement Project announced by the Government last year - with ATO and private sector participants working in consultation with the community -

has already begun the task of rewriting the income tax law to make it more easily understood and easier to work with.

Legislative Framework

Recommendation 24 (paragraph 5.51)

Where legislation is foreshadowed in an administrative announcement, the Commissioner of Taxation be required to release significant details of the proposed legislation and the Government commit itself to the introduction of enabling legislation within six months of the announcement or before the end of the relevant taxation year, whichever is the sooner.

Response by the Office of Parliamentary Counsel (OPC)

12. OPC points out that the achievement of the aims included in this recommendation could not be guaranteed in every instance, since the timing of the implementation of foreshadowed legislation would always depend on the combined impact of the following factors:

- the size and complexity of the relevant legislative proposals, and the likely drafting time required;
- the amount of assistance that ATO is likely to be able to give OPC during the drafting process;
- the need for consultation on the details of the relevant legislative proposals;
- the status of the relevant legislative proposals within the Government's total legislation program; and
- the political and parliamentary considerations that may affect the timing of introduction of legislation.

Recommendation 27 (paragraph 5.72)

Officers of the Office of Parliamentary Counsel responsible for the drafting of taxation legislation be located in the Australian Taxation Office for the purpose of drafting taxation legislation.

Response by ATO

13. This recommendation is being trialed in the context of the Taxation Law Improvement Project where staff of the Office of Parliamentary Counsel are physically located in the ATO. These arrangements will be evaluated progressively so that the best general working arrangements can be implemented.

Response by OPC

14. OPC has no objection to locating drafters in the ATO where this would seem to be more efficient for specific projects. This is being done for the recently announced tax law improvement project.

15. OPC does not favour the routine location of tax drafters in the ATO.

16. Location of tax drafters in the ATO would do nothing to improve the comprehensibility of tax legislation:

- There is already close integration of the roles of instructing officers and drafters, including drafter involvement in legislative policy-making and on-going consultations between ATO officers and OPC drafters throughout the drafting process.
- The involvement of drafters in consultations with industry groups and professional associations raises resource issues (ie is it efficient to use scarce drafting resources for these consultations?); if such involvement is considered desirable, it need not be constrained by the location of the drafters.
- Problems with the comprehensibility of tax legislation are due to factors such as the complexity of policy, the need for precision, the lack of drafting time and the need to develop policy during the drafting process. It is difficult to see how location of tax drafters in the ATO will do anything to address these factors.

17. Location of tax drafters in the ATO could reduce the quality of tax drafting:

- Assignment of drafters to the ATO for short periods (up to 2 years) would actually result in a loss of quality in tax drafting - most tax drafters find it necessary to work in the area over several years before they develop high-level expertise, and also find that more than 6 months away from tax drafting reduces their background knowledge considerably, because of the constant developments in tax law.
- Assignment of tax drafters to the ATO for longer periods or permanently would deprive the drafters of career options and of the job satisfaction to be gained from working with other professionals in the same field. These factors would make ATO placements very unattractive to many drafters, and would reduce the pool of talented drafters available to draft tax legislation. It would also make it difficult to train new tax drafters.
- Tax drafters would lose the benefits of contact with drafters working in other fields. They would be less likely to keep abreast of developments in general legal and drafting theory, and developments in plain language drafting.
- Tax drafters would lose access to a variety of specialist drafting resources currently shared with the rest of OPC, which would be expensive to duplicate in the ATO.
- Tax drafters located in the ATO (even though nominally still part of OPC) could be deterred from giving independent advice on matters such as:

- policy proposals involving breaches of human rights or of criminal or administrative law policy;
- whether draft legislation submitted for introduction complies with the relevant Cabinet or other authority.

18. Location of tax drafters in the ATO would reduce flexibility in the use of the Government's total drafting resources:

- Currently, a tax drafting team that is not fully occupied can be given other drafting work.
- If Government priorities so require, tax drafting can be suspended to allow the tax drafters to be assigned to more urgent work.
- If Government priorities so require, tax drafting can also be assigned to drafters with less experience in tax drafting, who can rely on their more expert colleagues for advice as necessary.

Rulings

Recommendation 28 (paragraph 6.26)

The Commissioner of Taxation acknowledge in a public Ruling the existence of alternative interpretations of the law to that which has been taken in the Ruling.

Recommendation 29 (paragraph 6.26)

Where an acknowledgment of alternative interpretations of the law is included in a public Ruling, the Commissioner of Taxation outline the basis of those alternative views.

Response by ATO

19. These recommendations are supported and implementation will begin in 1994/95. Steps are being taken to formalise a methodology to give effect to these recommendations.

Recommendation 30 (paragraph 6.26)

Where the Commissioner of Taxation is provided with arguments evidencing a serious doubt as to the validity of an interpretation in a Ruling, the Commissioner refrain from making a public Ruling pending the clarification of the law.

Response by ATO

20. This recommendation is supported in part and has been put into effect. The ATO has never, and will not in the future, adopt a position that is contrary to the law. However, there

will be occasions where the interpretation or application of the law is unclear and the ATO and some taxpayers may take different but equally tenable positions. In these cases the ATO will seek to have the issue clarified by the Courts.

21. The ATO should not refrain from issuing a ruling merely because there is conjecture about the correct application of the law. The ATO has a responsibility to communicate its view of the law but, as outlined at paragraph 19 in response to recommendations 28 and 29, accepts that alternative views should be acknowledged in the ruling. Where the policy intention of the law is unclear, or where the ATO's view of the law is inconsistent with the policy intention, the ATO will bring the issue to the attention of the Government.

Recommendation 31 (paragraph 6.31)

All public Rulings be subject to formal approval by the proposed Australian Taxation Commission prior to their release.

Response by ATO

22. This recommendation is not supported. The Government has indicated, in its response to the JCPA Report, that it does not support the recommendation that an Australian Taxation Commission be established.

23. In making this recommendation, the Committee's underlying concerns were to establish high level supervision of the rulings program, and to obtain external advice on highly contentious subjects. These concerns will be addressed by the new arrangements for settling rulings which are discussed later in relation to recommendations 108-112.

Recommendation 34 (paragraph 6.36)

The Australian Taxation Office make available, on subscription, access to the information database on which the Commissioner's public Rulings are maintained.

Response by ATO

24. This recommendation is supported and will, so far as is possible, be implemented. At present, the ATO only retains its most recent rulings on an information database. Older rulings are committed to print in hard copy format, and copies can be obtained from the FOI Section in each Branch Office for a nominal charge.

25. From July 1994, the ATO has been progressively implementing a new tax technical database containing a range of legal and technical material, including all public taxation, Child Support, Superannuation Guarantee and Training Guarantee rulings. Until a number of technical issues preventing its wider use are addressed, this new medium is available to only a relatively small number of ATO staff, and there are a number of constraints preventing its wider use in the short term.

26. Wider internal access to this database will be provided in the medium term. At that time the ATO will investigate the technical feasibility of providing tax agent access to public

rulings and other material within the database, subject to the security constraints under which the ATO computing facilities must operate. An alternative to be considered in this context is the provision of this service by other providers eg., commercial publishing houses.

Recommendation 36 (paragraph 6.70)

All private Rulings be maintained upon a computer database and made readily accessible to the public in a format which does not identify the individual taxpayer.

Response by ATO

27. This recommendation is supported but subject to a review. The ATO supports the notion underlying this recommendation but notes that not all private rulings need to be included in any proposed database.

28. Most private rulings merely confirm a settled position under the law in relation to the specific facts and circumstances of a particular taxpayer. As such, their incorporation in a database, and access to them, would be costly and unlikely to broaden the general body of information available to the public.

29. Although they are also taxpayer specific, some private rulings may assist in improving understanding of the tax laws either because the facts are such that they could expand or further illustrate or clarify the settled position under the law, or they present new or novel issues to be resolved. By and large, these rulings form the basis for most tax determinations or, in some cases, for public rulings. However, the volume is such that only the most important can be disseminated in this way.

30. The ATO is in the process of developing a national database for these more important private rulings which will eventually be integrated into our comprehensive tax technical database. Ongoing development of these products envisages limited public access as discussed in relation to recommendation 34. However, in the case of private rulings there is, as this recommendation acknowledges, the added consideration of protecting the identity of the individual taxpayer.

Recommendation 38 (paragraph 6.72)

Income tax return forms be amended to allow taxpayers to indicate where they have not followed a private Ruling.

Response by ATO

31. The ATO does not support this recommendation. This recommendation is linked to recommendation 37 (removal of penalties for taxpayers who indicate on returns they have not followed a private ruling). The Government has indicated, in its response to the JCPA Report, that it does not support recommendation 37, in which case recommendation 38 is no longer relevant.

Recommendation 39 (paragraph 6.77)

The Australian Taxation Office have the discretion to charge for the provision of private Rulings on significant hypothetical issues where under Section 14ZAN of the Taxation Administration Act 1953, the Commissioner of Taxation would otherwise determine that insufficient resources existed to provide the requested Ruling.

Response by ATO

32. This recommendation is not supported. A fundamental responsibility of the ATO is to provide advice to taxpayers to enable them to meet their tax responsibilities. Evidence was given to the Committee that one reason for delays in the issue of private rulings was the extensive assistance provided by ATO officers to taxpayers' advisors in restructuring complex proposals in a way that allowed them to obtain a favourable ruling which would be binding on the Commissioner. Such cases cannot be regarded as hypothetical. Rather, they are generally concerned with practical business proposals where some of the detail is reframed in the light of ATO advice on the tax implications of the proposal.

33. The Committee also heard concerns that under the new rulings system the Commissioner did not have to comply with a ruling request where it would be unreasonable to do so in view of the resources required to provide the ruling. The Explanatory Memorandum accompanying the self assessment legislation in 1992 (and Taxation Ruling 93/1) made it quite clear that this provision would not normally apply, and was designed to cover exceptional cases where a ruling request would seriously impact on the Commissioner's ability to deal with other applications for rulings, or other work.

34. While charging for the issue of interpretative advice in certain cases is an option which might be available to the ATO, it is unlikely in present circumstances to significantly improve the speed of response to ruling requests. This is because the ATO's ability to provide quick and consistent advice is more dependent on the availability of high level technical staff, and on the quality and detail of the ruling request itself, than on the availability of funds. Nevertheless, this is an issue which will be kept under review.

35. The injection of 100 high level technical resources following the Government's endorsement of the ATO's Compliance Enforcement Strategy in September 1992, and the improvement to ATO processes flowing from the new private ruling regime introduced in 1992, should see ongoing improvement in the quality and timeliness of private rulings. Extra resourcing was also provided in the 1994/95 Budget partly for this purpose. In addition, through its contacts with tax agents and advisors, the ATO is encouraging taxpayers to improve the quality and timeliness of ruling requests.

Recommendation 42 (paragraph 6.98)

The Australian Taxation Office review its issued private and public Rulings and Determinations for the purposes of determining the continued validity of all Rulings.

Recommendation 43 (paragraph 6.98)

All private and public Rulings and Determinations of the Australian Taxation Office be consolidated and referenced in a form which facilitates easy access by taxpayers.

Response by ATO

36. These recommendations are supported and will receive ongoing attention. The issue of access to private rulings - the currency of which is defined in the ruling - is considered in the context of recommendation 36.

37. The ATO will ensure that its existing system of indexes for public rulings is available at all of its enquiry counters and that staff are available to assist taxpayers in this regard. The ATO is considering ways of making the index and public rulings more accessible to the general public.

38. A review of public rulings is presently being undertaken by the ATO to determine their continuing validity. Consolidation of rulings is also an ongoing function - recent consolidated rulings have issued on home office deductions, self education expenses, repairs and certain work related expenses. More of these consolidated rulings will be issued in due course.

Modernisation

Recommendation 44 (paragraph 7.30)

The relationship between tax agents and the Australian Taxation Office be clarified, so that no agency relationship can be construed to exist between the tax agent and the Australian Taxation Office.

Response by ATO

39. This recommendation is supported and will receive ongoing attention. The ATO acknowledges the important role played by tax agents and their changed circumstances under self assessment. To clarify the relationship between agents and the ATO, a review is being undertaken jointly with representative bodies of the role of tax agents - the "National Review of Standards for the Tax Profession" - which is expected to report later this year.

Recommendation 46 (paragraph 7.30)

The Australian Taxation Office establish, in consultation with the accounting profession and the computer software industry, an Electronic Lodgement Service audit and support unit for the purposes of testing and certifying software produced for use on the Electronic Lodgement Service.

Recommendation 47 (paragraph 7.30)

Electronic Lodgement Service generated returns indicate whether the return was processed using a certified computer software program.

Response by ATO

40. The ATO supports recommendation 46 in part and implementation will be ongoing; recommendation 47 is not supported. The Electronic Lodgement Service (ELS) is a process by which tax return information can be sent, in an electronic form, to the ATO for processing.

41. The ATO administers a registration process for the ELS segments of the various commercial products available. Specifically, the ATO provides software specifications for:

- the format of the data to be provided;
- the edit checks that the data should meet; and
- the way the data will be communicated to the ATO.

42. A full test of the ELS capabilities of each commercial package is performed before any package is registered. The registration process ensures that the software packages produce data that can be successfully transmitted to the ATO in a format which allows it to be subsequently processed by the ATO.

43. Software packages used by tax agents for ELS are produced by commercial software houses to meet client needs. In many cases, the actual ELS function is only a small component of the total package sold to tax agents. The 30 or so products the ATO has currently registered for ELS vary from providing very simple data entry facilities to supplying extremely sophisticated information and processes which help tax agents manage their work, provide general accounting support and assist in all aspects of preparing a return, including meeting ELS transmission requirements.

44. Because of the diversity of packages offered by software houses, the ATO sees its primary role as ensuring that correct and appropriate ELS standards are met, so that they can be incorporated into the relevant segment of each product. The ATO cannot take responsibility for the methods used by each product to actually produce or calculate the information to be transmitted via ELS, or for the installation and correct use of the software.

45. The ATO acknowledges the concerns expressed by tax agents regarding software quality, and is working with them and the software industry to develop solutions to this issue.

Recommendation 48 (paragraph 7.30)

The Australian Taxation Office seek to develop, as part of its business systems, facilities for the access of tax agents and others to a number of databases of the Australian Taxation Office, in particular the client listings database and the legal information system database.

Response by ATO

46. This recommendation is supported in part subject to the considerations detailed below. Continuous attention will be given to the issues raised in this recommendation.

47. The ATO recognises that the continuing evolution of computing and communications technologies offer opportunities for new and better ways of providing a range of services to the Australian taxpayer. Indeed, this has been one of the central themes of the ATO's Modernisation Program. The ATO also recognises the increasing use of computers by tax agents and throughout the community. Strategically, the ATO is seeking to develop external interfaces to support these trends. However, this direction is not without risk.

48. At present, electronic access to the ATO from external agencies is limited and subject to quite stringent controls which usually require manual intervention. There are still very real concerns about protection of taxpayer data against unauthorised access, introduction of computer viruses, the robust nature of existing security safeguards and issues of privacy. The ATO is working to overcome these concerns in line with its strategic directions. However, considerations of privacy and the secrecy provisions of the tax laws are likely to limit access by tax agents to ATO taxpayer data; access to 'tax agent' data (eg, client listings) should be possible, but the technical platform and systems to permit this are still some years off at this stage.

49. In support of the general direction of making the most productive use of ELS facilities, and in recognition of the investment tax agents have made in computing equipment, the ATO has continued to extend the capabilities of the system so that it can handle additional return form types. The ATO has also trialed tax agent access to a special electronic bulletin board containing items of information related to tax.

50. A further pilot has been conducted with tax agents to assess the benefits of an external electronic mail link with the ATO. As benefits in that area appear to be substantial, the ATO is working to extend these electronic links with tax agents over the next two years to cover correspondence, rulings and amendment requests. It also intends (see ATO response to recommendation 34) to investigate tax agent access to the ATO's new tax technical database.

51. During 1994, the ATO will commission its new electronic gateway for managing communications with external clients. Initially, this gateway will permit electronic transmissions between the ATO and a select client group. This group will expand as the gateway's services are developed.

52. The ATO sees these technical endeavours as making important contributions to its future means of conducting its business and to its relationships with the tax profession and the Australian taxpayer.

Recommendation 49 (paragraph 7.30)

Where a taxpayer lodges a return through an Electronic Lodgement Service terminal, the Australian Taxation Office pay the requisite service fee in recognition of the economic benefit it derives.

Response by ATO

53. This recommendation is not supported. Since the introduction of the ELS there have been two major independent studies of the approach and the benefits planned and realised. Both studies have reported that ELS has delivered real benefits to tax agents, taxpayers and the ATO.

54. This very positive view is not fully reflected in the JCPA Report in that some tax agents were expressing a view that the benefits of ELS have not yet flowed to their sphere. In addition, some agents feel that they have been obliged to use ELS to remain competitive and this has necessitated the purchase of computing equipment.

55. These issues are of concern even if they are not a general reflection of wider tax agent attitudes. They will be addressed as the ATO continues to develop its relationship with tax agents. The ATO will continue to strive to improve the information available to tax agents, as outlined in the response to recommendation 48, and ways of working together to meet mutual objectives, consistent with the necessary safeguards.

56. In view of the perceived benefits derived by agents from ELS - for example tax agents' remuneration from clients is received much earlier than in the past due to much quicker processing of client tax refunds - the ATO does not support the recommendation. It should also be noted that all the savings to the ATO from ELS have been returned to the Government in the form of a return on investment for the overall Modernisation program.

57. A wider consideration is that there are many other people in the community who contribute to efficient revenue collection arrangements and who are not directly rewarded for their contributions. Not least among these are employers.

Recommendation 50 (paragraph 7.41)

The Australian Taxation Office monitor and evaluate the relative use of TaxLan facilities throughout its organisational Groups and develop programs to facilitate the productive utilisation of TaxLan's functionality.

Response by ATO

58. This recommendation is supported and implementation will be ongoing. The ATO maintains an extensive network of over 15,000 computer workstations known as the TaxLAN network, providing general office automation tools and on-line access to its business systems. The Committee was concerned about the potential for system delays and downtime in such a large network as more officers are added to the system, and the fact that certain staff may be intimidated by the technology and therefore fail to maximise its potential, despite extensive training.

59. In relation to the first concern, the ATO has set corporate objectives for a range of system performance measures which are constantly monitored. These objectives were consistently met during 1993/94.

60. As to the second concern, the ATO has recognised this issue and is looking for approaches which complement the training effort. Programs have and will be implemented to assist all staff to maximise TaxLAN facilities by a combination of 'help' initiatives and user involvement in system development.

Recommendation 51 (paragraph 7.50)

The Australian Taxation Office increase the priority within the modernisation system of the migration of information onto the National Office Management Administration System.

Response by ATO

61. This recommendation is supported and implementation will be ongoing. The ATO is committed to the continued use and enhancement of the National Office Management Administration System (NOMAD), which facilitates personnel administration. Its upgrading and maintenance have a high priority.

Recommendation 52 (paragraph 7.50)

Information on the National Office Management Administration System be fully utilised for human resource management reporting and planning.

Response by ATO

62. This recommendation is supported and implementation will be ongoing. NOMAD is being increasingly used for both operational and strategic planning activities in the ATO. The facility it provides for aggregating and retrieving information for the whole of the ATO has been particularly useful. Ongoing development of the system will further streamline the flow of information between various reporting systems and, amongst other things, will provide line managers with information to meet more efficiently their human resource management responsibilities. A strategy will be developed to help meet the objectives of this recommendation.

Recommendation 53 (paragraph 7.71)

The specialist cells be provided with sufficient resources to enable them to have full time members and adequate technical and administrative support to provide both a service to officers within the Australian Taxation Office and a point of direct access for taxpayers.

Response by ATO

63. This recommendation is supported in part and implementation will be ongoing. The ATO introduced the concept of specialist cells, to assist in the resolution of complex tax technical issues, in an environment where the ATO was organised along somewhat separately focussed functional program lines.

64. Since 1 July 1994, the ATO has been reorganised to operate along business lines with supporting service lines. One of these service lines is Tax Law Services, a large part of which consists of a group of high level technical resources (the Tax Counsel Network) located around the country to support the business lines by resolving complex technical issues. As part of these new arrangements, the business lines will establish a wider range of better resourced areas of topic and industry based specialisations which will be supported and led by members of the Tax Counsel Network.

65. While the existing cells will remain in place for the time being, it still needs to be determined whether, in all cases, cells as presently constituted will be the best or most appropriate vehicle in the reorganised environment to develop specialist teams in business lines.

66. External access to these specialist resources, including the Tax Counsel Network, is envisaged, but the basis for this will need to be developed in consultation with relevant bodies to achieve the most efficient and effective outcomes.

Recommendation 54 (paragraph 7.78)

The Auditor-General conduct an evaluation of the effect of the Public Sector Union Modernisation Agreement on the efficiency of the Australian Taxation Office.

67. The Australian National Audit Office has indicated that it will provide a separate response direct to the Committee.

Response by ATO

68. This is a matter for the Auditor-General. However, the ATO does not oppose the recommendation but has doubts as to the benefits of a further evaluation. The ATO gave a very comprehensive written account of the benefits of the Modernisation Agreement to the JCPA during its hearings, and it is confident that the benefits far outweigh the costs. In addition, the ATO understands that two costings of the Agreement were made by the Department of Finance, at the Committee's request.

Recommendation 55 (paragraph 7.91)

The Australian Taxation Office prepare estimates and targets for revenue gains, cost savings and performance standards expected from the implementation of the Collection Systems Modernisation project.

Response by ATO

69. This recommendation is supported in part. Estimates of benefits from the projects making up Collection Systems Modernisation (and other projects) formed part of the original submission to the Government for the Modernisation program.

70. No estimate of increased revenue was presented to Government. Any benefits resulting from Modernisation activities were expressed in terms of staff/running costs savings

and/or performance efficiencies. Resultant staff savings have now been returned to Government as a component of the Modernisation Dividend.

71. Based on the systems design that has been implemented (and which is being progressively enhanced) there may well be some gains to the revenue from the Collection Systems project. However, these cannot be estimated accurately.

Recommendation 56 (paragraph 7.91)

The Australian Taxation Office report progress and performance against targets for the Collection Systems Modernisation project in the Commissioner's Annual Report.

Response by ATO

72. This recommendation is supported and the first report will be included in the 1993/94 Annual Report.

73. The Collection Systems Modernisation project has seen new working arrangements and the first release of the ATO Integrated System (AIS) implemented progressively throughout Australia - commencing with all Queensland Offices in November 1993 and concluding with NSW and Victorian Offices on 28 March 1994.

74. In the overview to his Annual Report for 1992/93, the Commissioner outlined the progress made towards the introduction of the Collection Systems Modernisation changes. He advised that national implementation would be achieved in the 1993/94 year. As this process has now been completed, a full report on the implementation and outcomes of the project will be contained in the Annual Report for 1993/94.

Resources

Recommendation 57 (paragraph 8.24)

The Auditor-General evaluate and report on the efficiency and effectiveness of the program of excess staff transfers between the Australian Taxation Office and other departments.

75. The Australian National Audit Office has indicated that it will provide a separate response direct to the Committee.

Response by ATO

76. This is a matter for the Auditor-General. The ATO does not oppose this recommendation, but believes that there is perhaps a misunderstanding on the part of the Committee as to the nature of the staff transfers. All transfers were voluntary, and included some conducted on a trial basis, with undertakings of return if not satisfied; such undertakings have been honoured.

Recommendation 58 (paragraph 8.33)

The Australian Taxation Office introduce a coordinated national program of training, counselling and support for officers interacting regularly with taxpayers for the purpose of improving the interpersonal skills of those officers.

Response by ATO

77. This recommendation is supported and implementation will be ongoing. The ATO notes the Committee's comment that "training in interpersonal competencies is already a feature of" many ATO programs, but agrees that more needs to be done in this area on a coordinated national basis. Integral to such an approach is an evaluation of the existing counselling service as a support mechanism for staff who have regular contact with the public. In addition to the specific aspects of the program suggested by the Committee, the ATO sees this as an opportunity to re-visit the issue of poor language skills among some staff.

78. As part of the current reorganisation of the ATO, a national body responsible for training programs and monitoring their delivery is being established. One of the first responsibilities of this body will be to pursue the operational aspects for the implementation of this recommendation.

Recommendation 59 (paragraph 8.44)

The Australian Taxation Office, through the utilisation of officers responsible for legislative developments, investigate and implement a method of informing and training technical officers and staff, who directly interrelate with taxpayers, about the progress of legislative developments.

Response by ATO

79. This recommendation is supported and implementation will be ongoing. The ATO undertakes a wide range of activities to inform staff of legislative developments. These activities include the circulation of Bills, Explanatory Memoranda and Second Reading Speeches to key technical staff and ATO libraries, and providing access to this and other summary material through the ATO TaxLAN network. Where necessary, project officers visit branches to conduct briefing sessions and training courses on new legislation.

80. For the Budget and other major initiatives such as industry statements, information kits are distributed to branch office staff. Guides to new legislation, taxation rulings, pamphlets and booklets are also prepared to assist both staff and the public understand the law.

81. It should also be noted that the level of consultation between representatives of the private sector, the ATO and the Government is increasing during the development stages of major changes to the tax laws.

82. Within the ATO a Legislation Management Committee has recently been established to better involve the new business lines in the legislative process. This Committee, which includes business line members, is responsible for deciding ATO legislative priorities and for

ensuring that legislative projects are adequately resourced by business line staff who have ownership of the project and responsibility for its implementation, including training and public information aspects. This new approach also provides valuable feedback to business lines on the progress of legislative development.

83. Notwithstanding these arrangements, the ATO believes there is room for improvement in this area. Future developments in work practices aim to further develop and integrate the process of legislative development just described under the leadership of highly skilled legislative specialists.

84. In arriving at the recommendation the Committee also suggested that consideration be given to establishing a mentoring program among technical officers. Mentoring programs already exist in several areas of the ATO and consideration is presently being given to broadening these arrangements among technical officers. The move to greater team based approaches for dealing with technical work is seen as contributing to an environment conducive to informal mentoring.

Recommendation 60 (paragraph 8.53)

The Australian Taxation Office investigate methods to utilise retired officers and retired private sector practitioners in the training of staff.

Response by ATO

85. This recommendation is substantially supported. The ATO has, on occasion, drawn upon the expertise of retired officers for training staff. It will continue to do so in appropriate circumstances and agrees that retired private sector practitioners could provide another source of expertise in this regard.

86. The ATO notes, however, that the success of such an approach is dependent upon the identification of suitably skilled, knowledgeable and willing retirees. In this connection, the pace of change to the tax system and in the commercial field can quickly date the expertise of retired officers and practitioners, especially where there may no longer be an incentive to keep up to date.

Recommendation 61 (paragraph 8.60)

The Australian Taxation Office and relevant staff unions cease all negotiations for increases in staff salaries based on increased revenue returns to the Commonwealth.

Response by ATO

87. This recommendation is supported. The ATO has recently concluded an agency bargaining agreement based on reductions in running costs, rather than a revenue return basis.

Recommendation 63 (paragraph 8.68)

The Joint Select Committee on Certain Family Law Issues review the allocation to and expenditure of administrative expenses by the Child Support Agency.

Response by ATO

88. This is a matter for the relevant Joint Select Committee.

Recommendation 64 (paragraph 8.79)

The Department of Finance conduct a comprehensive review and evaluation of the base administrative expenditure requirements of the Australian Taxation Office.

Response by ATO

89. This is a matter for the Department of Finance. The ATO observes that this recommendation flows from a discussion of the ATO's use of the flexibilities under the Running Costs system, and of devolution in the ATO, both of which accord with Department of Finance rules and philosophies. It could therefore form a useful case study of the success or otherwise of the Running Costs system in a large agency.

Response by Department of Finance (DOF)

90. DOF supports this recommendation in the interests of maintaining good internal management of ATO's base funding. ATO, as with any other agency, has had its Running Costs base adjusted by applying the Running Costs rules which allow for workload growth and New Policy initiatives. DOF notes that the base funding has been taken into account on a number of occasions in the Budget New Policy context in recent years (including scope for internal reprioritisation of resource allocations) in the assessment of needs for that new policy. However, such a comprehensive review could be conducted jointly with ATO, as part of the review of the ATO workload formula. The review would be beneficial in determining funding requirements for additional staff flowing from new policy or the workload formula.

Recommendation 65 (paragraph 8.87)

The Australian Taxation Office commence an immediate review of its property program to ensure that the threshold space allocations required by the Modernisation Funding Agreement can be achieved within three years.

Response by ATO

91. This recommendation is supported. A program is underway to effect the necessary review.

Recommendation 66 (paragraph 8.99)

The Department of Finance, in association with the Australian Taxation Office and the Australian Bureau of Statistics, review the workload formula and develop a new formula that seeks to model the marginal needs of the Australian Taxation Office in such a way that allows for medium term planning and management priority decision making.

Response by ATO

92. This recommendation is supported and implementation will be ongoing. The ATO and the Department of Finance have agreed to review the workload formula, asking the ABS for assistance as necessary.

Response by DOF

93. DOF supports this recommendation, noting that, flowing from initial discussions between ATO and DOF, the focus will be on how marginal costing should be incorporated into the formula; how to account for the redirection of resources by ATO as priority areas of activity shift over time; the integrity of the taxpayer number database; the impact of one-off injections of resources for specific purposes; and the continual refinement of the ASL base to be used in the workload calculations each year. The ABS will be asked for assistance as required.

Response by Australian Bureau of Statistics (ABS)

94. The ABS would be pleased to provide appropriate consultancy services to the Department of Finance on a cost recovery basis. These services would be confined to statistical matters.

Recommendation 67 (paragraph 8.109)

The Australian Taxation Office prepare estimates of possible revenue gains relating to all systems redevelopment proposals which pertain to modernisation developments, including changes to administrative practices and procedures and advise the Government of those estimates.

Response by ATO

95. This recommendation is not supported. As explained in response to recommendation 55, the ATO (when developing the original submission to the Government on Modernisation) prepared all estimates of benefits on a revenue-neutral basis. That is, any benefits resulting from Modernisation activities assumed a neutral revenue effect, being expressed in terms of:

- staff/running cost savings;
- improved client service delivery; and
- faster collection of tax revenue.

96. The rationale for this approach rests on the bases that:

- as part of the ATO's resource agreement with the Department of Finance, savings equivalent to 3000 ASL are to be delivered over the life of the agreement, at a rate enabling a cost effectiveness ratio of 1:1.48 over 12 years; and
- the ATO is subject to an annual efficiency dividend, like most other government agencies, in addition to the modernisation dividend.

97. Because of these commitments, the ATO had no basis to establish any revenue case arising from investment of surplus staff resulting from Modernisation investments.

Recommendation 68 (paragraph 8.131)

The Australian Taxation Office develop a means for measuring the revenue impact of the Income Tax Compliance/Enforcement Strategy and report to the Parliament on the Strategy's outcomes in the Commissioner's 1994-95 and 1995-96 Annual Reports.

Response by ATO

98. This recommendation is supported and implementation will be ongoing. The ATO acknowledges that it is accountable for the outcomes of the Compliance Enforcement Strategy, and to this end commenced in-depth research early in 1993 to determine the most appropriate bases for measurement for all of the outcomes expected from the various components of the Strategy.

99. Arrangements are being made to obtain specialist statistical and measurement advice in order to further develop and coordinate appropriate measurement methodologies and data capture arrangements. These methodologies and arrangements are being developed in consultation with the Department of Finance to ensure proper reporting of the outcomes of the Compliance Enforcement Strategy. Progress will be reported in the 1994/95 Annual Report and subsequent reports.

Recommendation 69 (paragraph 8.135)

The Australian Taxation Office include in the Commissioner's Annual Report, staffing information in respect of the Income Tax Compliance/Enforcement Strategy and, in particular, report information on the number of staff positions created and the number of positions filled by applicants from outside the Office.

Response by ATO

100. This recommendation is supported in part and implementation will be ongoing. Under new guidelines for the formulation of Annual Reports this information will not be included in the ATO's Annual Report, but will be available to interested persons on request.

Recommendation 70 (paragraph 8.144)

The Australian Taxation Office and the Department of Finance establish a reciprocal program of officer interchange.

Response by ATO

101. This recommendation is supported. The ATO has no difficulty with the concept of a staff interchange with the Department of Finance. For its part, the ATO is confident that its officers who interact with the Department of Finance have an understanding of that Department's policies, if not its detailed practices. However, establishment of an exchange program is a matter that will be negotiated with the Department of Finance.

Response by DOF

102. DOF notes the benefits to be gained from a good understanding of each other's functions and operations. Opportunities for interchange will be explored as they arise and against the training needs of the (small number of) relevant officers involved in each organisation.

Recommendation 71 (paragraph 8.148)

The Department of Finance allocate sufficient resources to allow officers, who have regular dealings with resource issues affecting the Australian Taxation Office, to visit and inspect the operations of an Australian Taxation Office branch office at least once a year.

Response by ATO

103. This is a matter for the Department of Finance.

Response by DOF

104. DOF supports this recommendation noting that regular visits to client agencies are strongly encouraged by the Department management. In the context of the scrutiny of ATO's accommodation holdings, the operations of the Child Support Agency, the Modernisation program, etc, a number of visits have taken place in recent years.

Revenue Collection

Recommendation 72 (paragraph 9.17)

The Australian Taxation Office set for itself a performance target of reducing the cost of collection to less than one percent of annual revenue collected by 1995-96.

Response by ATO

105. This recommendation is not supported because it is not a reliable measure of efficiency. While the ATO adopts the goals of improving efficiency (eg, by reducing costs) and improving effectiveness (eg, by improving compliance with tax laws) - the achievement of which may result in an improved cost of collection outcome - it cannot commit to an arbitrary goal, the attainment of which is not entirely within its control.

106. As indicated in the ATO's original submission to the JCPA, the "cost of collection" benchmark is at best a "crude" indication of efficiency and effectiveness. While movements in this benchmark may reflect variations in efficiency and effectiveness, it is equally likely that other factors, over which the ATO has no control, will also come into play, eg,

- changes in tax rates or taxation policy that impact on revenue collections; or
- levels of economic growth (and associated impacts on revenue collections).

107. Notwithstanding that the ATO is committed to improving its efficiency and effectiveness, between now and the end of the 1995-96 income year, the ATO is committed to continuance of its Modernisation program which should help to reduce costs, and a range of strategies to improve compliance with tax laws which should in turn have a positive impact on revenue collections. Coupled with projections of improved revenue collections in 1994-95 and 1995-96 resulting from increased economic growth, and assuming that other factors remain constant, all of these factors are likely to lead to a reduction in the ATO's cost of collection over the next few years. For the 1992/93 year the ATO's cost of collection was 1.25%.

Recommendation 73 (paragraph 9.27)

The Australian Taxation Office review its current revenue forecasting models in consultation with the Treasury, Australian Bureau of Statistics and other forecasting agencies.

Response by ATO

108. This recommendation is supported. The models are kept under constant review to ensure that they are producing the best possible forecasts.

109. As outlined in the Report, official revenue estimates are arrived at after a process of discussion between ATO and Treasury, which also has an independent modelling capacity. As well, there is an ongoing dialogue between relevant areas of the two agencies.

110. The major influences to the estimation process are the official economic parameters. An exchange of information and views between the ATO's Revenue Analysis Branch and the Forecasting Unit of Treasury has led to improvements in the parameters used for revenue forecasting. At the end of each financial year an analysis of the results is conducted and, as far as possible, differences between actual collections and the Budget estimates are explained. If appropriate, modifications emerging from the reconciliation exercise are incorporated in the

models. Part of the review also involves updating the models for changes in technology, availability of new data or changes to tax legislation.

111. The ATO will continue to review its revenue forecasting models.

Response by ABS

112. While the ABS is not a forecasting agency, it would nevertheless be pleased to provide technical advice as appropriate.

Recommendation 74 (paragraph 9.27)

The Australian Taxation Office seek to develop an on-going modelling capacity which can provide Government with predictions of monthly revenue collections and an early warning mechanism in the event of significant changes to the forecast pattern of revenue collection.

Response by ATO

113. The recommendation is supported and implementation will be ongoing. The ATO has for many years produced forecasts (shortly after the Budget) of the monthly pattern of collections relating to each head of revenue. These profiles provide a framework for identifying emerging deviations from forecast collections and thus for assessing the attainability of the annual Budget forecasts.

114. The Commissioner advises the Treasurer of major deviations from expected trends in collections and of the attainability of Budget forecasts.

115. Consistent with this recommendation, the ATO models revenue collections on a monthly basis, and (incorporating any appropriate improvements or modifications over time) deviations from the trend of collections implicit in the Budget forecasts. The ATO continually seeks to improve this ongoing modelling capacity.

Recommendation 75 (paragraph 9.37)

The Australian Taxation Office review its procedures for random examination checking of assessments and notices produced by the Automatic Data Dispatch system for the purpose of ensuring incorrect assessments and notices are not issued.

Response by ATO

116. This recommendation is supported and implementation will be ongoing. Over the last eighteen months considerable effort has been directed to reducing the possibility of operational errors being generated at the ATO's two Document Dispatch Centres; typically this emphasis on quality assurance activity has involved reviewing existing processes to eliminate possibilities for printing duplicate cheques, or the non-issue of debt notices or similar malfunctions. The Dispatch Centres' procedures have also been reviewed by the Reserve Bank, the Privacy Commissioner, the ADD Project team and staff in the work place. The

ATO has also attempted to learn from problems experienced in similar installations of other organisations.

117. A number of recommendations have been tabled as a result of these reviews. Most have been implemented, including revised operating procedures and forms design, new audit trails and reconciliation measures, and periodic sampling as recommended by the JCPA. Operational errors have continued to reduce as a consequence of this effort.

118. The ATO has an ongoing commitment to review its procedures to ensure continuing reduction in the number of incorrect assessments and notices issued.

Recommendation 78 (paragraph 9.72)

The Australian Taxation Office determine a comprehensive national policy for debt collection based on the economic cost of recovery.

Recommendation 79 (paragraph 9.72)

The Australian Taxation Office ensure a consistent application of policy in the writing-off of tax debts in the Revenue Collection Group.

Recommendation 80 (paragraph 9.72)

The Australian Taxation Office introduce a streamlined system for the write-off of bad debts based solely on an evaluation of the potential for recovery.

Response by ATO

119. These recommendations are substantially supported and implementation will be ongoing. The ATO supports the recommendation that a comprehensive national policy for debt collection should be developed. However, in formulating this policy it is necessary to recognise that cost of recovery is only one of the relevant factors. More fundamental is the overriding principle that a debt due and payable to the Commonwealth should be collected - as the Committee pointed out in its Report, such a principle is essential to support the taxation system. That is to say, no taxpayer should be able to evade the payment of a legally imposed tax debt by virtue of the cost of recovery or the ATO's incapacity to take recovery action.

120. National write-off guidelines ensure that consistent approaches are taken nationally. These require that once a debt is "not collectible" appropriate steps should be taken to write it off. This concept creates certainty and is in line with current commercial practice.

Recommendation 81 (paragraph 9.101)

The Australian Taxation Office develop facilities for monitoring the management of taxpayer hardship cases on a national basis.

Recommendation 82 (paragraph 9.101)

The Australian Taxation Office report statistics on hardship cases in the Commissioner's Annual Report.

Response by ATO

121. Recommendation 81 is substantially supported and implementation will be ongoing. Though recommendation 82 is not supported, ATO will continue to keep statistics on hardship cases. As the Committee noted, there is already in place a range of legislative and administrative measures that enable the Commissioner to provide some assistance to those taxpayers who find it difficult to meet their tax liability because of their financial circumstances. These measures include referral of cases to the Taxation Relief Board and the write-off of debts that are reported as "not collectible". In developing the national debt collection policy consideration will be given to the sensitive and consistent management of taxpayers who may be experiencing financial difficulty.

122. The ATO cannot undertake to report statistics on cases where "hardship" or financial difficulty is claimed in cases of late payment of tax debts. To do so would be resource intensive and dilute the limited resources available to carry out the debt collection function and to provide a satisfactory level of service to relevant taxpayers. However, the ATO will continue to keep statistics on the number of applications to the Taxation Relief Board and the outcome of those applications. This information will be available to interested persons on request.

Taxpayers Assistance

Recommendation 83 (paragraph 10.18)

The Australian Taxation Office introduce, as a standard throughout their branch networks, 008 telephone numbers for taxpayer contact and information.

Response by ATO

123. This recommendation is substantially supported and implementation will be ongoing. The ATO agrees that taxpayers should have inexpensive and ready access to the ATO to deal with issues that concern them. However, to achieve this, consideration needs to be given to issues such as queuing, compatible PABX technology, work loads, regionalisation and staff resources. The ATO has trialed a new system and new technologies in some regions. Results indicate that it may be more effective to, for example, utilise a 13 number for all enquiries. This means that taxpayers can, for the cost of a local call, access the ATO from anywhere in Australia.

124. The ATO is reviewing these results and will progressively implement new technologies to make access easier and cheaper.

Recommendation 84 (paragraph 10.23)

The Australian Taxation Office publicly commit itself to follow all advice provided in writing to taxpayers.

Response by ATO

125. This recommendation is substantially supported and implementation will be ongoing. As the Committee noted, the ATO should be required to adhere to its advice only to the extent that the advice is predicated on information provided by the taxpayer, and usually this is best done in written form. Furthermore, the Committee considered that the ATO should ask taxpayers to seek advice on the taxation implications of the more complex requests by way a private ruling. In such cases, the ruling would be binding on the Commissioner to the extent that it is favourable to the taxpayer.

126. The ATO is committed to following its own advice where a taxpayer provides the office with all relevant information regarding a transaction, and consideration will be given as to how best this commitment can be communicated to taxpayers. This commitment must be read subject to principles of reasonableness. As noted, there needs to be a full disclosure of the facts by the taxpayer. And in some cases it may be that the Commissioner is unable to follow the relevant advice in later years because of the age of the advice, a Court decision that may have impacted on the interpretation of the law in the particular matter, or a change in the law.

Recommendation 85 (paragraph 10.23)

Where taxpayers seek oral advice from the Australian Taxation Office, they be advised of their right to request confirmation of that advice in writing.

Response by ATO

127. This recommendation is supported in part and implementation will be ongoing. The ATO receives a large number of telephone enquiries most of which are of a procedural or general nature. More complex matters are usually referred to the advisings area. It is in respect of these matters that the ATO agrees that taxpayers should be advised of the opportunity to seek confirmation of the oral advice in writing.

128. As acknowledged by the Committee, considerations of reasonableness are relevant. In many of these cases it would be more appropriate for the taxpayer to seek ATO advice by way of a private ruling request. Where a taxpayer would have difficulty in doing this, the ATO would be available to provide assistance. So in appropriate cases, the ATO response to an oral request for written advice would be that the request should be in writing. In this way there could be a clear statement of the facts upon which advice could be given, and the taxpayer could obtain a level of service consistent with that provided to taxpayers who seek a private ruling. This matter may be addressed in the formulation of the proposed Taxpayers' Charter.

Recommendation 86 (paragraph 10.23)

Where a taxpayer requests written confirmation of oral advice from the Australian Taxation Office, the taxpayer receive a written response no later than ten working days after the oral advice has been provided.

Response by ATO

129. This recommendation is not supported. Key performance indicators for the issue of correspondence are outlined in the ATO's Corporate Plan. The present target is to answer 50% of correspondence within 21 days, 75% within 28 days, and the balance within 60 days. The ATO seeks to satisfy these targets for all taxpayers and a 10 day turnaround time for only some taxpayers could neither be justified nor achieved by current resources. However, this issue will be kept under review.

Recommendation 87 (paragraph 10.28)

The Australian Taxation Office adopt as a corporate standard the obligation to assess taxpayers in accordance with information contained in publications released by the Office.

Recommendation 88 (paragraph 10.28)

All publications released by the Australian Taxation Office contain a statement detailing the right of taxpayers to rely upon the information contained in the publications.

Response by ATO

130. Recommendation 87 is not supported. The ATO supports recommendation 88 subject to considerations detailed below.

131. Publications are developed by the ATO to help taxpayers to meet their obligations under the tax laws. While every care is taken to ensure the accuracy of information contained in its publications the ATO cannot address all possibilities. For example, general guidance which might be applicable to the circumstances of most taxpayers may not contain enough detail to satisfy the unique circumstances of a particular taxpayer. It is acknowledged, however, that where an error is discovered in a publication, the ATO has an obligation to correct it.

132. While it is important to the ATO that the information it provides is accurate and helpful to taxpayers, publications are of a general nature and it is not appropriate that they bind the community when relied on by a particular taxpayer. If taxpayers require this assurance in respect of their affairs, this can be obtained by way of request for a private ruling which will be binding on the Commissioner. The ATO must apply the law to each case depending on the facts and circumstances of that case rather than in accordance with a broadly indicative document like a pamphlet.

133. The existence of a pamphlet and the degree of reliance upon it, can impact on the date of effect of a future public ruling (see TR92/20), and would be factors to be taken into account in deciding whether to impose any penalties.

Recommendation 89 (paragraph 10.32)

The Australian Taxation Office review the strategic use of TaxPack and develop the concept as a primary document, indicating available alternative sources of information in relation to specific industries, taxpayers and provisions of the Income Tax Assessment Act 1936.

Response by ATO

134. This recommendation is supported and implementation is ongoing, commencing with the 1995 TaxPack. The Committee viewed the general concept of a TaxPack to be valuable as an aid to the preparation of simple tax returns. However, it recommended that the target market for TaxPack should be reviewed and the level of information and detail contained in the pack be revised accordingly.

135. The ATO is currently considering the development of a version of TaxPack which would contain only those income, deduction and rebate items used by the majority of taxpayers, together with sufficient information for them to complete the return. It would also indicate the range of additional information that may be obtained on specific issues or by particular classes of taxpayers. This information would be provided to taxpayers on request, and could be obtained from the local Tax Office. Final decision will be taken after extensive consultation and market testing is completed. This process has commenced with a view to producing an improved TaxPack for the 1994/95 year. The advantage of this approach is that it would, for the majority of taxpayers, reduce the size and complexity of TaxPack.

Recommendation 90 (paragraph 10.44)

The Australian Taxation Office introduce a formal mechanism for the determination of cases where contradictory advice has been received by a taxpayer from two or more branch offices. Such a procedure should incorporate a formal decision making process and a method for the dissemination of the final advice to all Australian Taxation Office branch offices.

Responses by ATO

136. This recommendation is supported and implementation will be ongoing. New technologies are being introduced to give ATO officers access to a technical resource material database, and to better networking facilities. These, together with new business line and Tax Counsel Network working arrangements (discussed in more detail under recommendations 108-112) should significantly reduce the potential for inconsistent advice, and provide the mechanisms to determine cases where a taxpayer has received contradictory advice.

Recommendation 91 (paragraph 10.52)

The Australian Taxation Office review the quality and quantity of resources devoted to providing direct assistance to tax professionals.

Response by ATO

137. This recommendation is supported and implementation will be ongoing. A series of independent surveys conducted with over 3,000 tax agents in each of the last three years clearly shows that overall tax agents' perceptions of the quality and level of service they receive from the ATO are steadily improving.

138. The "Tax Agent Portfolio" has been introduced as a means of improving communication with and information to tax agents. This initiative has proved to be a major success according to the independent surveys, and is now being reviewed to see how it can be enhanced.

139. As explained elsewhere, the ATO is implementing a wide ranging restructure of its organisation to provide a clear emphasis on creating a better client focus. A key consideration has been to use this opportunity to improve services to tax agents.

140. An important feature of proposals for change in this area include building on the concept of the tax agent service centre which provides a tax agent with a focus point in the ATO.

141. Other relevant initiatives underway include a project to identify and promote best practices in all aspects of tax agent service in branch offices.

Auditing

Recommendation 92 (paragraph 11.35)

Auditors in the Australian Taxation Office be briefed on the reasons for a case being selected for audit, the briefings to stress the need to improve voluntary compliance.

Response by ATO

142. This recommendation is supported and implementation will be ongoing. As the Committee pointed out, there can be many reasons for non-compliance with the tax law. The ATO's new organisational arrangements reflect the need to address these issues in a more holistic way.

143. Action will be taken in this context to reinforce the current emphasis on the voluntary compliance effect of audit activity. For example, specific advice will be given to all case selection areas and all audit managers to ensure that staff clearly understand the underlying rationale for audit activity in terms of improving voluntary compliance.

Recommendation 93 (paragraph 11.38)

All audit staff in the Australian Taxation Office undergo extensive training in financial reporting analysis.

Recommendation 94 (paragraph 11.38)

All audit staff in the Australian Taxation Office be trained in accounting requirements, standard financial auditing techniques, methodologies and systems.

Recommendation 95 (paragraph 11.38)

The Australian Taxation Office ensure external input is sought in the provision of financial and accounting training for its auditors, such training to have a commercial rather than academic orientation.

Response by ATO

144. These recommendations are substantially supported and implementation will begin in 1994/95. The ATO agrees that the level of training of auditors in financial reporting analysis could be improved, but believes that these skills are only relevant in cases where taxpayers are engaged in business activities. It follows that the suggested training should be directed to staff who audit businesses.

145. In July 1993 the ATO commenced a major upgrade of the training programs for taxation auditors. The development of a program for business auditors along the lines suggested will be included as part of that upgrade (see also recommendation 125).

146. ATO practice has been to provide training by its own officers where the knowledge and skills have been within the Office, otherwise to seek the assistance of experts from outside the ATO. There have been many instances where training material and programs have been provided by external experts. Indeed, the ATAX Program, which includes material on finance and accounting, is a prime example of the ATO linking with external institutions in developing high quality technical training material. Other assistance has been provided from a number of more commercially focused organisations including the Stock Exchange and the Securities Institute. Continuing Professional Development Programs conducted by branch offices have also frequently used the services of external experts, most of whom have a commercial orientation, in delivering sessions on financial and accounting matters.

147. In adopting the recommendation it will be important to identify the different aspects of financial and accounting training relevant to particular staff. Cost and value for money will also need to be considered.

Recommendation 96 (paragraph 11.43)

The Australian Taxation Office amend its tax return forms to enable taxpayers to indicate why significant variations in their affairs generally or in a particular area had occurred in an income year.

Response by ATO

148. This recommendation is substantially supported and implementation will be ongoing. The objective of this recommendation is to allow taxpayers to pre-empt possible audit enquiries by providing a valid explanation of significant variations in their financial affairs, and thus reduce compliance costs for these taxpayers.

149. The ATO supports the underlying proposition but considers that such information should be provided by means of an attachment to the return (where a paper return is supplied) rather than incorporated in the return form itself. This approach would avoid adding information to the return form and associated instructions that would not be required by most taxpayers. Another consideration is the limited space available on the return form.

150. The ATO will implement the recommendation by allowing taxpayers to tick the existing "attachment block" on the return form if they wish to provide additional information on significant changes in income etc., and to provide the information in an attachment. Tax auditors and case selectors can refer to the information before proceeding with audit enquiries.

151. In relation to returns lodged electronically, limited provision already exists for additional text to be provided by the tax agent to explain any particular aspect of the return. This information is also available for case selection.

Recommendation 97 (paragraph 11.47)

Corporate taxpayers attach to their annual taxation returns basic financial report information including, where appropriate, full, audited financial statements.

Response by ATO

152. This recommendation is not supported. For some years now the ATO has been attempting to balance the benefits of asking taxpayers to provide all information with their returns with the costs to them of having to do so. A significant consideration in this regard is the use the ATO makes of that information, given the selective audit approach under self assessment. The corporate return form requires the reporting of selected financial report items only, and the approach suggested by the Committee would affect in excess of 300,000 corporate taxpayers each year - not just the Top 600. With this in mind, it is the ATO's view that it is more appropriate for the information described by the Committee to be obtained on an as required basis.

Recommendation 98 (paragraph 11.51)

The Australian Taxation Office review its information sources to determine whether the taxation return provides the most efficient means of gathering information.

Response by ATO

153. This recommendation is supported and implementation will begin in 1994/95. A major activity of the ATO is to look for better information sources and for mechanisms for more efficient data capture which facilitates the assessment of the tax properly payable by a taxpayer. However, in obtaining new data sources the ATO is cognisant of the privacy concerns that this activity creates and the costs that it may place on providers of the information.

154. In 1993, work commenced to examine the feasibility of capturing information (eg, Employment Declaration data) via Optical Character Recognition technology. The ATO also sees the use of this technology as being a more efficient way of capturing group certificates and other return form information than current manual methods. Accordingly, in the near future the technology will be piloted in the capture of data from these sources. Other paper based information will also be assessed to determine whether it can be captured via this technology.

155. The Modernisation of ATO computer systems will also provide the platform for more effective use of other information sources which to this point have not been fully utilised. It is against this backdrop that the ATO will be reviewing its information needs and determining the most effective means for gathering the relevant information.

Recommendation 99 (paragraph 11.51)

The Australian Taxation Office review its methods for checking trust returns to ensure that the information disclosed in trust returns is checked against all beneficiary returns.

Response by ATO

156. This recommendation is supported and implementation will begin in 1994/95. A review of existing practices is being undertaken. The electronic lodgment of partnership and trust returns will enhance the ATO's ability to systematically check distributions from those returns against the returns of partners and beneficiaries.

Recommendation 100 (paragraph 11.84)

The Australian Taxation Office establish a database of generic lists of taxpayers gathered pursuant to Sections 263 and 264 of the Income Tax Assessment Act 1936.

Recommendation 101 (paragraph 11.84)

The Australian Taxation Office's database of generic lists of taxpayers be security protected so that access is only possible where a case requires it.

Recommendation 102 (paragraph 11.84)

The existence of the Australian Taxation Office's database of generic lists of taxpayers be publicly disclosed in the Commissioner's Annual Report.

Response by ATO

157. These recommendations are substantially supported and implementation will begin in 1994/95. Databases of these lists will be developed over time and appropriate safeguards will be put in place to ensure protection of the information. Manuals, instructions and work practices will be amended to ensure access is provided only for staff who need the information to carry out their duties. Under new guidelines for the formulation of Annual Reports relevant generic lists cannot be published in the ATO's Annual Report. However, subject to privacy and FOI considerations, they will be available to interested persons on request.

Recommendation 104 (paragraph 11.91)

The Australian Taxation Office install facilities in all branch offices to allow taxpayer interviews to be electronically recorded and that all taxpayers be automatically given a copy of that interview, within seven days at no cost.

Recommendation 105 (paragraph 11.91)

The Australian Taxation Office purchase equipment to allow for recorded interviews to be conducted at taxpayers' premises.

Response by ATO

158. These recommendations are supported in part and implementation will begin in 1994/95. It has always been the ATO's position that it is the taxpayer's choice whether an interview is recorded. The ATO would normally keep a written record of interview, but the format would differ depending on the subject matter and the formality of the interview. Equipment exists for audio recording and it has always been ATO practice to furnish the taxpayer with a copy of the interview taken from a dual recorder or to provide the taxpayer with a transcript of the tape recording where an interview was recorded. Apart from the cost, there are significant practical difficulties attached to the recording of all interviews, particularly taxpayer resistance to having an interview recorded.

159. This is a matter that will be reviewed in the formulation and development of the Taxpayers' Charter.

Recommendation 106 (paragraph 11.91)

The Australian Taxation Office cease the practice of having taxpayers sign statements or transcripts of interviews.

Response by ATO

160. This recommendation is supported in part. Implementation will commence immediately. For informal situations the ATO is in agreement with the Committee's recommendation, and instructions to auditors will be amended to reflect this. However, current ATO policy based on legal advice received is that, in formal interview situations (eg section 264 or prosecutions), taxpayers are invited to sign records of interview. If the taxpayer declines to sign, the taxpayer is asked why and reasons, if given, are noted. Whether or not the taxpayer signs the record of interview, the taxpayer is provided with a copy.

161. In short, there is no obligation on taxpayers to sign statements or transcripts of interviews.

Recommendation 107 (paragraph 11.91)

The Australian Taxation Office discuss with a taxpayer prior to a formal audit interview the obligation of the taxpayer to answer questions according to law and, in all cases, notify the taxpayer of his/her right to representation.

Response by ATO

162. This recommendation is supported and implementation will be ongoing. The current policy and practice is to advise taxpayers of their rights to representation and of their rights and obligations with regard to answering questions. There is a range of publications - such as the "Complex Audits: Guidelines for the Conduct of Taxpayers and Taxation Auditors" and various explanatory booklets relevant to other business areas such as to Desk Audits and Substantiation Audits - which already contain information regarding rights of representation. All of these publications and guidelines will be reviewed to ensure that more emphasis is placed on these matters for taxpayers. The substance of this recommendation will also be taken up in deliberations on the Taxpayers' Charter.

163. Work practices presently being followed by the field staff will be amended to ensure that they advise taxpayers of their rights in this regard.

Recommendation 108 (paragraph 11.100)

The Legislative Services Group in the Australian Taxation Office be reconstituted to form a Legal and Legislative Service Group within the Office.

Recommendation 109 (paragraph 11.100)

Staff of the Advising Branch of the Taxpayer Assistance Group involved in statutory interpretation be aligned functionally with the Legal and Legislative Service Group.

Recommendation 110 (paragraph 11.109)

The Australian Taxation Office introduce a formal system of quality controlled internal decision making review which identifies formal mechanisms for

taxpayer participation in decision making and specifies the appropriate level of review and supervision for decision making.

Recommendation 111 (paragraph 11.109)

The Australian Taxation Office commit itself to providing decisions to taxpayers which are final and supportable in the first instance.

Recommendation 112 (paragraph 11.111)

The Australian Taxation Office reallocate the resources of the Appeals and Review Group to the performance of internal review within the on-going decision making processes of the Australian Taxation Office.

Response by ATO

164. These recommendations are substantially supported and implementation will be ongoing. The new organisational arrangements set out in Appendix A, that were introduced on 1 July 1994, will address the concerns underlying these recommendations.

165. As part of these arrangements, a new national service line - Tax Law Services (TLS) - has been established with ultimate responsibility for establishing the "ATO position" on any aspect of the law, and especially on complex matters. TLS is made up of the former Legislative Services Group and small Tax Counsel Network, to which have been added the new senior resources provided for law clarification under the 1992 Compliance Enforcement Strategy. In all, around 30 officers at each of the SES and Senior Officer Grade A level, are focussing on the resolution of major technical issues. Another senior SES position of Practice Manager has broad responsibility for supporting and improving the technical work of the ATO - its timeliness, accuracy and consistency - the development of skilled tax technical staff, and the provision of technological and other support to do this work.

166. TLS is responsible for major interpretation issues. It will perform this role by resolving some issues itself, or by working with technical staff located in the business lines (including through expanded national specialist teams - see recommendation 53) to resolve others, while remaining responsible for their resolution. TLS will also seek external advice where that is appropriate.

167. Rulings will continue to be subject to external consultation. Under the new arrangements, all major rulings, will be settled by a panel including the ATO Chief Tax Counsel, and the two Deputy Chief Tax Counsel. As announced by the Commissioner on 9 August 1994 this panel will be assisted in the future by external experts to ensure better reflection of a community view. All other rulings will be cleared at SES or Senior Officer Grade A level, with peer review in appropriate cases.

168. Through its legislative services arm, TLS will be the ATO's window to Government and will retain responsibility for most tax legislation projects including advice on tax policy proposals. TLS will work with business lines to achieve desired outcomes. A Legislation Management Committee has been established to further develop this process and support the ATO drive for law improvement by ensuring that front-line experience gained by business line

staff in compliance and administrative difficulties with the law are better reflected in its development. Additionally, those responsible for its interpretation will have a greater awareness of the policy intention of the law.

169. In similar vein, the Chief Tax Counsel, working through the Tax Counsel Network, will be responsible for decisions on major litigation matters, and will work with business lines and Attorney-General's Department to support the Government's decision (announced on 9 August 1994 in response to the JCPA Report) on the development of a test case litigation program.

170. A new International Tax Division has been established, within the Large Business Line, to provide a single and clearer policy and strategic focus on international tax issues. This Division will be responsible for international tax legislation projects, as well as interpretation and enforcement matters in this area.

171. The TLS Practice Manager will work with the business lines to achieve the implementation of new management and work practices for tax technical work, including quality assurance mechanisms and technological and other support tools, which will enhance the technical decision making processes of the ATO. In particular, they will support business line staff, who handle the bulk of ATO technical work, in coming to an ATO position on any technical matter. Where necessary, matters on which the ATO position has not been established will be considered at higher levels within the business lines, including specialist areas, or referred to Tax Law Services and up to the Chief Tax Counsel who, subject to the Commissioner, has ultimate responsibility for the resolution of technical issues.

172. These arrangements are designed to ensure that decisions on particular issues are taken at levels commensurate with their complexity and significance. The arrangements will enable the ATO to provide tax technical decisions to taxpayers that are final and supportable in the first instance, and are consistently applied across the organisation. Over time, they should reduce the volume of objections and appeals, and the need for current arrangements whereby taxpayers seek internal review on large cases. This is expected to release some resources now engaged in that work for more proactive tasks.

Recommendation 115 (paragraph 11.150)

The Australian Taxation Office separate the functional roles of the Taxpayer Audit Group by establishing a unit independent of the Taxpayer Audit Group with responsibility for making decisions regarding amended assessments.

Recommendation 116 (paragraph 11.150)

The role of auditors within the Australian Taxation Office's Taxpayer Audit Group be clarified and limited to the investigation and preparation of reports of taxpayers.

Recommendation 117 (paragraph 11.150)

The Taxpayer Audit Group in the Australian Taxation Office be headed by a senior professional auditor responsible for the technical development of audit

skills within the Office and the maintenance of quality standards within the Taxpayer Audit Group.

Recommendation 118 (paragraph 11.150)

In the preparation of taxation audit reports, officers of the Taxpayer Audit Group in the Australian Taxation Office obtain all legal and interpretation advice from officers in the Office's Legal and Legislative Service Group.

Response by ATO

173. These recommendations are supported in part and implementation will begin in 1994/95. At the outset it is emphasised that officers carrying out an audit function are tax technical officers. They need a deep understanding of the law and how it operates to identify areas of inquiry, to know what information is required, to know what to look for in that information, and to know what additional or supporting information needs to be sought. In this situation, it would not be efficient to separate the information gathering function from the decision making function, especially as most decisions relate to the application of law that is well settled.

174. It is also noted that, under the new organisational arrangements operating from 1 July 1994, there is no longer a separate Audit group in the ATO. The previous resources of that Group have been deployed across the various business lines each of which has a focus on developing an integrated approach to improving the compliance level of the segment of taxpayers for which it has responsibility - the audit function being just one means of achieving improved compliance. Under these new arrangements, auditors will be more visibly and effectively supported by other technical staff, including those carrying out traditional appeals and review work, than under previous arrangements.

175. Under these new arrangements the ATO position on matters raised in an audit will be determined by the processes outlined in the response to recommendations 108-112. This will ensure that appropriate issues are determined by senior tax experts, eg Tax Counsel.

176. These new organisational arrangements, including those for establishing the ATO position on any matter, are also designed to ensure that appropriate quality standards apply to audit work and that all officers performing that work are appropriately trained for the tasks they are to undertake (see paragraph 145). Overall responsibility for these outcomes rests with each business line manager, which is a senior management position requiring the widest possible mix of skills.

Recommendation 121 (paragraph 11.159)

All audit settlement negotiations be conducted in the presence of no less than three officers of the Australian Taxation Office, with one of the negotiating officers being the auditor responsible for the taxpayer's case.

Response by ATO

177. This recommendation is substantially supported. Implementation will commence immediately. While this recommendation is supported in principle it may not be appropriate in all cases. It is agreed that any major audit settlement involving large corporate taxpayers should have at least three ATO officers present, (one of whom would be the original auditor). It is noted that there are usually more than three officers present in these situations. The presence of three officers in more routine cases could intimidate most taxpayers, but the desirability of having at least two people present to alleviate concerns regarding coercion, corruption and bribery, is accepted.

Recommendation 122 (paragraph 11.159)

All audit settlement negotiations be audio recorded and a copy of the tape provided to the taxpayer within seven days of the discussion.

Response by ATO

178. This recommendation is supported and implementation will be ongoing. The ATO position is that, if the taxpayer so chooses, an interview is recorded and the taxpayer is provided with a copy of the tape recorded on a dual recorder.

Recommendation 123 (paragraph 11.170)

The Australian Taxation Office review its administrative arrangements for the supervision, monitoring and auditing of non-resident beneficiary trusts and determine as a matter of priority administrative and/or policy mechanisms to better control abuses of interest withholding tax.

Response by ATO

179. This recommendation is supported and implementation will be ongoing. While the Committee acknowledged the need to establish priorities for audit activity based on relative risk to the revenue, it considered that public perceptions of non-compliance with the law are also relevant. In particular, it drew attention to the administration of the withholding tax provisions of the Act, and recommended that the ATO review its administrative arrangements for monitoring trusts with non-resident beneficiaries.

180. Work has been undertaken in this area and there are indications of a downward trend in the amount of interest income being distributed to non-resident beneficiaries. The ATO is continuing to audit suspect cases and to monitor the effectiveness of its enforcement strategy. A number of cases have also been referred to the Director of Public Prosecutions for action against participants and promoters.

Recommendation 125 (paragraph 11.175)

The Australian Taxation Office conduct a survey of skills within its Taxpayer Audit Group for the purposes of establishing a register of currently available skills and to enable the development of appropriate training responses.

Response by ATO

181. This recommendation is supported and implementation will be ongoing. The auditor training material upgrade program which commenced in July 1993 included an assessment of skills required by auditors. Existing skills availability is being assessed as part of this program and a formal register of these skills will be developed in response to this recommendation (see also recommendations 93-95).

Recommendation 126 (paragraph 11.188)

The Commissioner of Taxation publish each year in the Annual Report the broad statistical details of the number of Restricted Access Status Taxpayers subject to audit, without identifying any taxpayer group.

Response by ATO

182. This recommendation is supported and implementation will begin in 1994/95. The broad statistical information which is recommended in the report will be provided in the Commissioner's Annual Report.

Enforcement and Penalties

Recommendation 128 (paragraph 12.31)

If culpability penalties are retained in the law, they be determined in all instances by legally qualified officer of the Australian Taxation Office who is independent of the Taxpayer Audit Group.

Response by ATO

183. This recommendation is not supported. These decisions are not highly technical nor do they require special skills - what is required is a practical application of the law to the facts. A range of rulings and guidelines is available for this purpose, and the ATO does not regard this as the sole domain of legally qualified officers.

184. The various booklets that explain procedures relating to areas such as Complex Audit, Business Audit, Primary Audit, etc. provide an explanation of the current penalty regime. They also describe taxpayers' rights to have the question of penalties reviewed by the ATO, or through independent review mechanisms.

185. The booklets will be reviewed to ensure that taxpayers have available to them a clear understanding of their right of redress in relation to the application of administrative penalties.

Recommendation 129 (paragraph 12.39)

The Australian Taxation Office review its guidelines and instructions in respect of prosecutions to ensure all references to the issue of potential or actual publicity are removed.

Response by ATO

186. This recommendation is supported. It is agreed that decisions to prosecute should be based on the weight of evidence and the merits of the case. The Prosecution Case Referral Guidelines (released in February 1989) make no mention of the need to select cases because of their potential media publicity. Specifically, the prosecution process should concentrate on offences:

- which are particularly serious, blatant or involve persistent offenders;
- which are representative of significant/prevalent non-compliance practices;
- where there is no other effective means of ensuring compliance or no other sanctions; and,
- which, if prosecuted on a timely basis, may carry effects wider than those of the particular case.

187. The fact that media publicity may result from a particular prosecution action is not a reason for, but a consequence of, prosecutions. However, to further address the Committee's concerns, the proposed review of Income Tax Ruling 2246 will be brought forward and, in that process, the words "any publicity which the case may attract", at paragraph 1.5, will be deleted.

Taxpayers' Charter

Recommendation 137 (paragraph 13.53)

The Attorney-General refer the question of the operation and impact of the doctrine of legal professional privilege, as it applies to the administration of the taxation system, to the Australian Law Reform Commission for evaluation, review and report.

Response by the Australian Law Reform Commission (ALRC)

188. The Commission may only provide policy advice to the Attorney-General and the Parliament on matters referred to it by the Attorney-General pursuant to the Law Reform Commission Act 1973 (Cth). Subject to this requirement, the Commission agrees with this recommendation and would be interested in examining and reporting on the operation and impact of the doctrine of legal professional privilege as it applies to the administration of the taxation system. The Commission has the expertise to conduct such an inquiry and has already examined the doctrine of legal professional privilege in the course of its reviews of the laws concerning privacy (see ALRC Report 22 Privacy) and the laws of evidence (see ALRC Reports 26 and 38 Evidence). The question of whether the Commission has sufficient resources to conduct a review of legal professional privilege would need to be addressed at the time the Attorney-General settles the terms of reference.

Recommendation 138 (paragraph 13.53)

The Australian Law Reform Commission in evaluating the operation of the doctrine of legal professional privilege give consideration to the impact of the doctrine on the treatment of advice on taxation matters passing between taxpayers, lawyers and other professional advisers, vis a vis, the Australian Taxation Office.

Response by ALRC

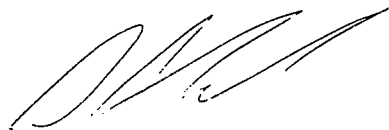
189. While the terms of reference are ultimately settled by the Attorney-General, the Commission agrees that the issue identified in this recommendation should be addressed by any inquiry into legal professional privilege.

Recommendation 139 (paragraph 13.56)

The Australian Law Reform Commission, as part of a reference into legal professional privilege, investigate and make recommendations on the administrative mechanisms for handling claims for privilege and the need to provide a sanction for persons who make unreasonable claims.

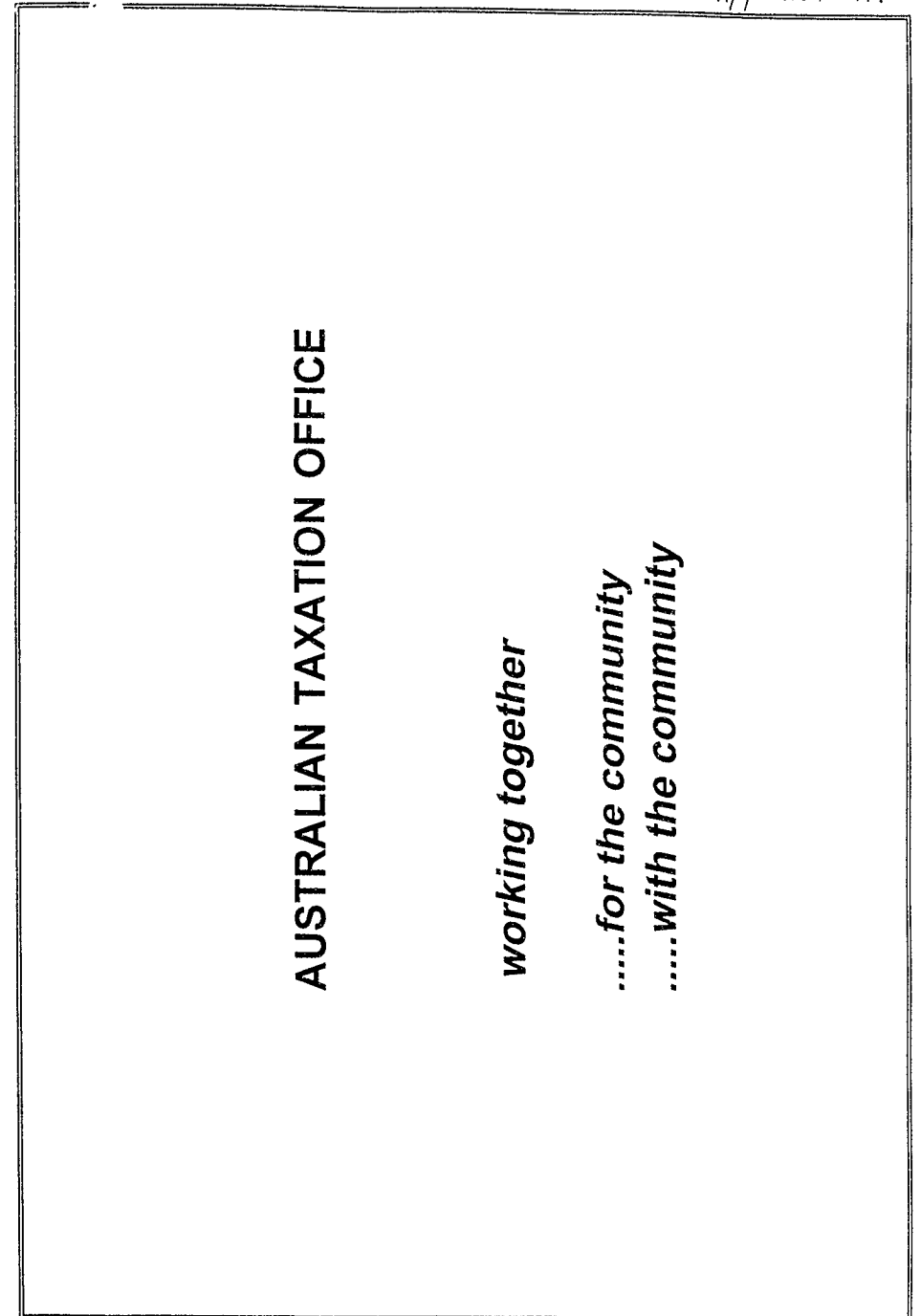
Response by ALRC

190. While the terms of reference are ultimately settled by the Attorney-General, the Commission agrees that the issues identified in this recommendation should be addressed by any inquiry into legal professional privilege.



S T Sedgwick
Secretary
Department of Finance

14 September 1994



We have focussed our planning and organisation around four outcomes we want to achieve in performing our role for the community

1. Taxpayers, CSA and other clients comply with their obligations under the law
 - *by achieving this we ensure that people are paying their fair share and that revenue properly payable is being paid*
2. The cost to the community of complying with the law we administer will be reduced
 - *if we want people to comply we need to make it as easy as possible for them to do that*
3. We are, and are seen to be, professional and fair in all we do
 - *ultimately we deal with people not dollars and if we want them to comply with the law it is important that their dealings with us are handled professionally and fairly*
4. Productivity will improve as a result of our flexibility, our commitment to the ATO and the ATO's commitment to us
 - *it is through the people of the ATO that we achieve what we do - recognising and supporting them in their achievement is fundamental to our success*

To achieve our outcomes we have grouped taxpayers and other clients according to similarities in their needs, characteristics and behaviours

- **large and medium sized business income tax payers**
*the top 600 corporations and their subsidiaries
businesses with an annual turnover in excess of \$10 million
international taxation issues*
- **small business income tax payers**
*small businesses
other businesses with an annual turnover of less than \$10 million*
- **non-business individuals**
*taxpayers deriving income from salary and wages and investments
tax agent services and support*
- **withholding and indirect tax payers**
*businesses and others with obligations to withhold and remit taxes to the ATO
superannuation*
- **child support agency clients**
*custodial parents, non-custodial parents
employers withholding child support from salaries*

B U S I N E S S L I N E S

To enable us to deliver the services and support needed by taxpayers and other clients we have re-organised our internal service delivery areas

- **tax law services**
 - tax counsel network*
 - legislative services*
 - taxation rulings program*
 - national tax practice*
- **financial services**
 - financial services*
 - accounting services*
 - data stewardship*
 - national accommodation*
- **corporate services**
 - corporate planning and directions*
 - internal and external communication*
 - human resources management*
 - internal audit and security*
- **information technology services**
 - computer and communication infrastructure and support*

**S E R V I C E
L I N E S**

Our business and service lines will focus on the following areas as we work together to perform our role for the community

Business lines

taxpayers, CSA and other clients comply with their obligations under the law

the cost to the community of complying with the law will be reduced

we are, and are seen to be, professional and fair in all we do

productivity will improve as a result of our flexibility, our commitment to the ATO and the ATO's commitment to us

Service lines

supporting business lines in applying and developing the law and implementing the Government's legislative program

supporting business lines in financial management, revenue analysis, accounting, data management and accommodation

developing and monitoring corporate policy and directions, delivering services to business lines

providing and supporting the computing and communications infrastructure

Senior managers have new roles and responsibilities that will allow us to better focus on the things we want to achieve

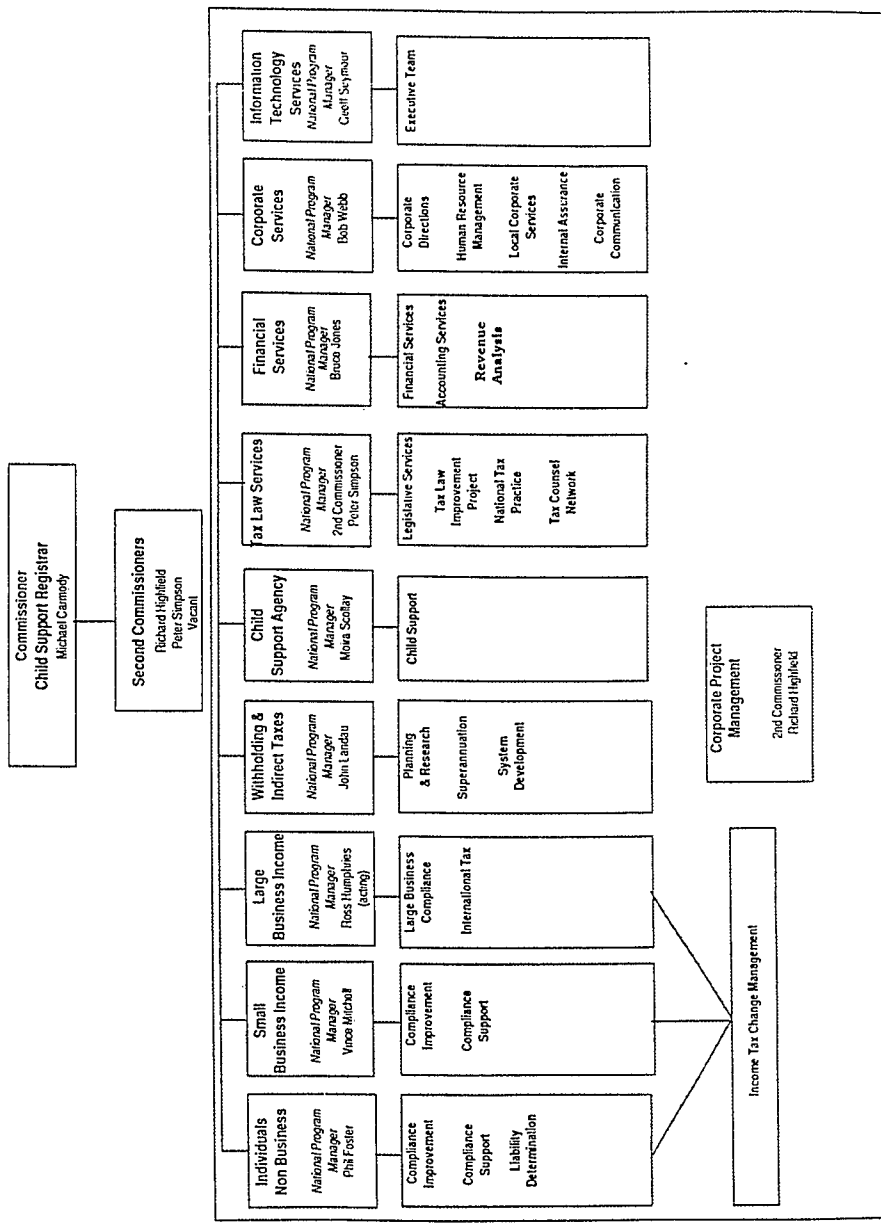
National Program Managers

- responsible for the overall direction and performance of their business or service line
- work with their National Executive to develop strategies and approaches
- accountable for the overall operation of their business or service line
- accountable for working within the framework of the organisation

Deputy Commissioners

- accountable for regional performance and policy development according to nominated regional responsibilities
- work within the framework established nationally by the National Executive of which they form a part
- responsible for translating strategy into operations
- responsible for supporting their Group Heads, who are accountable for performance within their Office within the regional framework
- responsible for supporting the Human Resource Management environment within their Office

Our senior managers have direct national responsibility for business and service lines



We have grouped our Branch Offices into regions to deliver a full range of services and support, the roles of our Deputy Commissioners and other senior officers now include regional responsibilities

Regions	Individuals Non Business	Small Business Income	Large Business Income	Withholding & Indirect Taxes	Child Support Agency	Tax Law Services	Financial Services	Corporate Services	Information Technology	Branch Offices
NSW & ACT	Regional Co-ordinator DC Penrith Compliance Improvement	Regional Co-ordinator DC Sydney Compliance Improvement	Regional Co-ordinator DC Sydney Compliance Improvement Strategic Research & Analysis International	Regional Co-ordinator DC Parramatta Dividend & Interest Withholding	Regional Co-ordinator DC Canberra Assistant Co-ordinator DC Wollongong	Deputy Chief Tax Counsel Tax Counsel Network National Tax Practice	Regional Co-ordinator DC Newcastle	Regional Co-ordinator DC Bankstown Corporate Services SES Development	Regional Directors	Dixby Commissioners Deputy Child Support Officers Regional Offices
QLD	Regional Co-ordinator DC Townsville Compliance Improvement	Regional Co-ordinator DC Chermide Compliance Improvement	Regional Co-ordinator DC Brisbane Compliance Improvement	Regional Co-ordinator DC Upper Mount Gravell Compliance Improvement	Regional Co-ordinator DC Brisbane	Tax Counsel Network Tax Law Improvement		Regional Co-ordinator DC Upper Mount Gravell	Regional Director	Albury Wodlong* Banksleen Box Hill Brisbane Canberra Cairnings Cessenden Place Chalwood Cheltenham Chermside Dandenang Geelong Hobart Hursville Moonee Ponds Newcastle Northbridge Parramatta Penrith Pultney Sydney Townsville Upper Mount Gravell Waymouth Wollongong
Vic & Tas	Regional Co-ordinator DC Cheltenham Compliance Improvement	Regional Co-ordinator DC Dandenong Compliance Improvement	Regional Co-ordinator DC Box Hill Compliance Improvement International	Regional Co-ordinator DC Moonee Ponds Law & Interpretation	Regional Co-ordinator DC Albury-Wodonga	Deputy Chief Tax Counsel Tax Counsel Network	Regional Co-ordinator DC Hobart	Regional Co-ordinator DC Box Hill Assistant Regional Co-ordinator DC Geelong Corporate Services	Regional Directors	
WA & SA	Regional Co-ordinator DC Cairnings Compliance Improvement	Regional Co-ordinator DC Waymouth Compliance Improvement	Regional Co-ordinator DC Cairnings Compliance Improvement	Regional Co-ordinator DC Northbridge	Regional Co-ordinator DC Perth	Tax Counsel Network		Regional Co-ordinator DC Perth	Regional Directors	

**DEPARTMENT OF FINANCE MINUTE ON REPORT 330 - REVIEW OF
AUDITOR-GENERAL'S REPORTS MAY 1991 - SEPTEMBER 1992**

This minute has been prepared on the basis of responses received from the Australian Customs Service, the Department of Administrative Services, the Department of Employment, Education and Training, the Department of the Environment, Sports and Territories, the Department of Finance, the Department of Human Services and Health, the Department of Immigration and Ethnic Affairs, the Department of Industrial Relations, the Department of Primary Industries and Energy, the Department of the Prime Minister and Cabinet, the Department of Social Security, and the Department of Veterans' Affairs and the Health Insurance Commission. In this Minute, the Committee's recommendations are reproduced and followed by the responses.

Recommendation 1 (paragraph 2.24)

Australian Estate Management and Department of Finance should expedite the revision and issuing of Accommodation Guidelines for Commonwealth offices.

Response by the Department of Administrative Services.

2. Australian Estate Management is in the process of commissioning a consultancy to review the existing Accommodation Guidelines. The resulting report will be forwarded to the Department of Finance for consideration and issue.

Response by the Department of Finance.

3. The ANAO report (No 23 1990-91) noted the failures of the accommodation guidelines to meet the Government's objectives and that there has been no policing of accommodation guidelines since the commercialisation of APG in 1989.

4. The Government has revised the regulatory approach to the use of accommodation resources in the light of the devolution of authority and accountability to departments and agencies. Accordingly, prescriptive accommodation guidelines are no longer appropriate in the deregulated environment. As a customer service AEM intends to replace the existing guidelines with a 'how to do it' guide for effective and efficient space utilisation planning: the guide is advisory only and not binding on agencies.

5. A key element of accountability is the departmental annual report to Parliament. The Department of Prime Minister and Cabinet (PM&C), in a letter of 18 March 1994 to Departmental Secretaries, issued revised annual report requirements for departments. PM&C noted that for property usage, the Government required that stringent arrangements be in place to ensure effective accountability for decisions taken. Departments are required to provide information sought by members of Parliament or Senators on property usage within five business days from the date of any requests after annual reports have been tabled.

Response by the Department of Human Services and Health.

6. While the recommendation did not specifically address this Department, it is considered important that the revision of the Accommodation Guidelines be undertaken in consultation with other agencies that have already progressed significantly in the development of similar guidelines in the context of their devolved property management responsibilities.

Recommendation 2 (paragraph 2.30)

The Department of Administrative Services should expedite its work on more clearly defining entitlements for Members of Parliament and introducing better systems for public reporting.

Response by the Department of Administrative Services.

7. The report of the Joint Committee of Public Accounts in its consideration of the Auditor-General's Report No. 34 of 1990-91 - Services Provided to MPs and their Staff, has acknowledged that the work undertaken by the Department of Administrative Services, following the presentation of the Auditor-General's Report, satisfied the concerns raised by the Report. In order to reach such a favourable position, extensive work has been undertaken by the Department over the past two to three years to change operating procedures and to develop new systems. The achievements to date only now enable further developments, by steps, leading to a framework which can accommodate the remaining matter, public reporting of entitlements use.

8. The JCPA Report has not, however, recognised the extensive work still to be done before the level of integrity of the operating systems is such that public reporting to achieve the "... desired enhancement of clarity and public accountability" can be seriously considered, including by the Parliament and its members.

9. As was pointed out in the Department's submission to the Joint Committee, it is a formidable task to build a recording framework by adapting existing complex systems which have been developed in the public sector primarily as an accounting system within a normal financial accountability framework. The requirements of the Auditor-General's Report are based on financial accountability by public scrutiny, a more onerous standard requiring commensurate levels of systems support which cannot be directly accommodated in existing financial measures.

Recommendation 3 (paragraph 2.31)

The Australian National Audit Office should monitor the implementation of the recommendations in *Audit Report No. 34, 1990-91*, concerning services to Members of Parliament and their staff, and report its findings to Parliament.

10. The Australian National Audit Office advised that their response to this recommendation would be prepared independently of this Minute.

Recommendation 4 (paragraph 5.36)

ANUTECH Pty Ltd should reconsider its decision not to appoint the Auditor-General as its auditor and, if necessary, the ANU should exert its influence on the board of ANUTECH to appoint the Auditor-General as its auditor.

Response of the Department of Employment, Education and Training

11. Recommendation 4 was referred to the Australian National University (ANU) for advice. The ANU advises that it has conveyed to the Directors of ANUTECH the Auditor-General's request to be appointed as that company's auditor. The company is a wholly owned subsidiary of the ANU and operates under the corporate law of the ACT. The Directors of ANUTECH have reconsidered their decision concerning the appointment of their auditor and have confirmed that they wish to maintain their independence to appoint an auditor of their choice.

12. ANUTECH have noted the Department of Finance's advice that the Government decided in November 1990 that the Auditor-General be the sole auditor for all Commonwealth-owned or controlled entities. The ANU and the Directors of ANUTECH Pty Ltd have also noted the proposed legislative changes contained in the Commonwealth Authorities and Companies Bill 1994 and will comply with the Bill following its enactment and proclamation, after which time the Directors will be appointing the Auditor-General as their auditor.

Recommendation 5 (paragraph 9.15)

The Department of Human Services and Health should deploy sufficient resources to ensure the backlog in the validation of nursing home returns is overcome by the beginning of the 1995-96 financial year.

13. The Department of Human Services and Health wrote to the JCPA in May 1994, providing a response to this recommendation. A copy of this response is attached for reference.

Response by the Department of the Prime Minister and Cabinet.

14. The Department notes that the evidence identified by the Auditor-General refers to validation activity relating to the 1986-87 returns and that the Department of Human Services and Health has identified significant improvements in procedures within the past eight years. Accordingly, the Department believes that scrutiny should now focus on the effectiveness of validation activity with regard to current returns.

15. We note that DSHS has undertaken a commitment not to review records greater than three years old. With this in mind we believe the success of future validation activity should be measured within this three year commitment.

Recommendation 6 (paragraph 9.26)

The Health Insurance Commission and the Department of Social Security should improve the systems of checking the eligibility of people claiming benefits under the Pharmaceutical Benefits Scheme. Improved systems should be in operation by the end of calendar year 1994.

Response by the Health Insurance Commission.

16. The Commission's philosophy in the management of the Pharmaceutical Benefits Scheme is to identify all the elements of a service that are required to pay claims accurately and to provide data for the management of the program. Against the background of the operations taken over from the Department of Health in 1989, this required a greater emphasis to be placed on the identification of patients, on determining a patient's eligibility for benefit, on the recording of services at patient level and on recording the prescriber of drugs dispensed.

17. A significant effort has gone into seeking this goal which was recognised by the Committee. The Committee, however, encouraged the Commission to "strive for a greater reduction in the absolute level of invalid payments made" (para 9.23) "and a need to improve the current system of confirming that a person claiming a PBS is actually entitled to benefit." (para 9.24).

18. As detailed to the Committee, the Commission's first objective was to achieve a high level of accuracy in the submission by pharmacists of entitlement number information. This has been largely achieved. The second stage was to relate entitlement numbers supplied by pharmacists to the period of time entitlement was available to the cardholder.

19. The Commission is in the process of refreshing its entitlement database with daily entitlement information received from the Department of Social Security in order to begin this task. As advised to the Committee this task was expected to be completed by December 1993, but difficulties with the computer tapes being received from DSS meant that certain computer programs had to be modified and the data re-compiled. This is now being carried out.

20. The Commission has a responsibility to ensure that benefits are only paid to eligible persons. While the receipt of current entitlement information from source organisations is a major advance, the inability of this data to uniquely identify all beneficiaries entitled to receive pharmaceutical benefits is of concern to the Commission.

21. Of the four DSS benefit systems (Pensions, Newstart, Family, Mobility) supplying information data, only one (Family) is able to supply full dependant information. The inability of the Commission to meet its obligations will remain until DSS can supply this information.

Response by the Department of Social Security

22. To enable the Health Insurance Commission to more accurately verify entitlement details, a new arrangement has been introduced whereby client detail updates are provided by

the Department of Social Security on a daily basis. Transmissions began on 17 January 1994 and include data on Mobility, Pension and Newstart clients.

23. Improvements have also been made in the manner of advising pension numbers of married clients to further enhance the verification process. These transmissions are being extended to cover Family Payment clients.

24. Additional changes have also been made to further improve the process of verification; these include the deletion of the State identifier from concession cards and transmission of the Social Security Reference number to the Health Insurance Commission instead of the Pension number and Social Security Reference number.

25. There are a number of substantial difficulties associated with DSS providing full dependant information to the HIC in relation to Pension, Newstart and Mobility Allowance clients. The systems are not linked and do not hold the full dependant details as required by the HIC.

26. The Department has a strategy called the Income Security Integrated System (ISIS). The next major phase of that strategy is the conversion of the existing Pensions system from a batch environment to an on line one - this is planned for April 1995. The conversion of the Newstart system is planned for the first half of 1996.

27. As part of the ISIS strategy, a specific business cluster relating 'client concessions' will form part of the systems architecture. The Department will then be placed to provide full dependant information to the HIC.

28. Subject to other development priorities that might arise, it is highly probable that full dependant details will appear on concession cards for pensions with bulk issues due in late 1995 and for Newstart and Mobility clients in the first half of 1996.

Response by the Department of the Prime Minister and Cabinet.

29. The Department notes that PBS outlays growth has been a significant concern to the Government, with nominal growth of 13 per cent over the last decade and an expected increase of 18 per cent in 1993-94. The 1994-95 Budget contains a number of measures designed to constrain outlays growth.

30. Against this background, the Department supports the JCPA recommendation on the need to improve the system of checking the eligibility of people claiming benefits under the PBS.

31. The Department understands that the Health Insurance Commission and the Department of Social Security are undertaking work to improve the checking system for pensioner entitlements to prescriptions, and supports the speedy implementation of such measures.

Recommendation 7 (paragraph 11.14)

Comcare should allocate sufficient resources to ensure that it completes its review of all long-term incapacity cases by the end of the 1993-94 financial year.

Response by the Department of Industrial Relations.

32. From 1 April 1993, through 30 June 1993, a project team established in Comcare Australia developed, tested and evaluated methodologies for the national implementation of a long-term claims strategy.

33. In August 1993 Comcare Australia commenced a review of its long-term compensation beneficiaries.

34. The review process involved sending a review form to 5,000 former employees of budget dependent agencies who sustained a compensable injury prior to 1 July 1989 and who continued to receive fortnightly compensation benefits in respect of their ongoing incapacity for employment.

35. When the review form was returned, the information therein was checked against that held by Comcare Australia and reconciliation of the entitlement occurred where necessary. During that information checking phase, the particular claim was prioritised and streamed into one of many investigative processes that have been pursued during the 1993-94 financial year.

36. A concerted effort has been made by Comcare Australia to allocate adequate resources to this review. The aim is to complete the review of these long-term incapacity cases by the end of 1994. Work in this respect has been ongoing and the targets set by Comcare Australia will be achieved. It is also intended that all of these long-term incapacity cases will be subject to regular periodic review subsequent to the completion of the review.

37. Comcare Australia has taken the opportunity of transferring the more effective claims management processes and best practices established in this review into management of those old insured cases (claims by both ex-employees and current employees who sustained injuries after 1 July 1989 but continue to be incapacitated for employment), which have recently been identified. These cases are high cost and contain the same key characteristics as long-term cases.

Response by the Department of the Prime Minister and Cabinet.

38. This Department notes the importance of the review in improving the effective management of long-term incapacity cases. We agree with the recommendation that Comcare should provide sufficient resources to ensure the completion of the review.

39. Comcare have also indicated that they will consider reallocating their expenditure to support the completion of the review.

Recommendation 8 (paragraph 12.23)

The Australian Customs Service should allocate sufficient resources to ensure that:

(a) all of its manuals are revised by the end of the 1993-94 financial year; and

(b) the working group considering the future direction of Customs Service manuals report by the end of the 1993-94 financial year.

Response by the Australian Customs Service.

40. Since the Audit Report of June 1991, the ACS has established a Manuals Working Group, made up of representatives from all Sub-programs with the responsibility for updating manuals. The Working Group meets regularly to examine a wide range of issues relating to the manuals. The manuals are now continuously being updated in response to changes in practice and legislation. All manuals have been reviewed, however, given the continuous changes in an organisation the size of the ACS, it is highly unlikely that all manuals will ever be totally up to date at any given time.

41. The ACS, however, does place a priority on updating affected sections and volumes of the manuals as changes occur. As an example, the recent decisions in GATT will result in changes to legislation and working practices. Amendments will be made to the relevant sections of the manual. Another example is the introduction of Accrual Accounting to the ACS. Significant amendments will be required.

42. In June 1994, a contractor working for the ACS completed a business case to place the ACS manuals on-line to its staff. That business case is currently being incorporated into a paper to the ACS Executive Group and it is hoped that the implementation will commence this financial year. The end result should be that manuals will become much easier to amend and more accessible to staff.

43. In the longer term, the Working Group is examining ways to make the manuals more "user friendly" and reliable, thus increasing their use and value to the ACS, Customs Officers and other users. This will be a very important task, given the organisation's commitment to Total Quality Management (TQM) and the plan to submit the ACS to an Australian Quality Council evaluation under the Awards program.

Recommendation 9 (paragraph 12.29)

The Australian Customs Service should allocate sufficient resources to ensure that a national threat assessment is completed by the end of the first quarter of the 1994-95 financial year.

Response by the Australian Customs Service.

44. In accordance with ANAO recommendation 2 of Report 51 of 1991-92, and following discussions with the Australian Security Intelligence Organisation (ASIO), the ACS has engaged ASIO to perform a National Security Threat Assessment.

45 The assessment is imminent and is expected to require around 2 months to complete. The Central Office phase of the assessment will address national threat and risk policies, followed by examination of regional operations if initial results identify a need. The threat assessment project will also cover identification of procedures for regular management reporting and for changes in the levels and types of threats to the ACS

Recommendation 10 (paragraph 14.25)

That AQIS allocate sufficient resources so it can complete its review of the feasibility of introducing on the spot fines by October 1994.

Response by the Australian Quarantine and Inspection Service.

46. While considerable effort had been applied by AQIS to the feasibility of introducing on-the-spot fines or penalty notices for minor offences at the passenger barrier, the changes necessary to implement the provision were not included in the Department of Primary Industries and Energy omnibus Bill which was passed in the Winter 1994 sittings. This was because discussions with Attorney-General's indicated that related penalty provisions in the Quarantine Act would require review; this in turn raised a number of policy issues. Work is continuing to resolve these issues and AQIS expect to meet the target date of October 1994 set by the Committee for completion of the review of the feasibility.

Recommendation 11 (paragraph 19.27)

The Departments of Employment, Education and Training; the Environment, Sport and Territories; Human Services and Health; Immigration and Ethnic Affairs; and Veterans' Affairs should:

(a) allocate sufficient resources to complete the revision of their internal audit manuals by the end of the 1993-94 financial year; and

(b) ensure that the procedures in their departmental internal audit manuals conform to those outlined in *A Practical Guide to Public Sector Internal Audit*.

Response by the Department of Employment, Education and Training.

47. DEET has allocated sufficient resources to revise the Internal Audit Manual. This revision will incorporate the underlying principles set out in the document "A Practical Guide to Public Sector Internal Auditing" (disseminated by the Australian National Audit Office).

Response by the Department of the Environment, Sport and Territories.

48. A draft of the Department's Internal Audit Manual is currently being reviewed, taking into account the guidelines suggested in the Australian National Audit Office's "A Practical Guide to Public Sector Internal Auditing". The manual is expected to be completed in the near future.

Response by the Department of Human Services and Health.

49. A drafting of the Department's internal audit manual has been completed and it will be referred for endorsement by the Audit Committee at its next meeting in October 1994.

Response by the Department of Immigration and Ethnic Affairs.

50. The internal audit manual was submitted to the Departmental Audit Committee on 29 June 1994. The manual is now to be updated to reflect the Committee's new role in evaluation. Revisions will be discussed at the November meeting of the renamed Departmental Audit and Evaluation Committee. The procedures detailed in the manual are consistent with those outlined in the Australian National Audit Office's publication "A Practical Guide to Public Sector Internal Auditing". It is proposed that the manual be issued in loose-leaf format, as part of the series of departmental Management Advice Manuals, and that it will be reviewed and revised regularly in the future.

Response by the Department of Veterans' Affairs.

51. The internal audit manual has been revised and updated with comprehensive guidelines on all major aspects of the tasks, management and administration of the internal audit function. It is kept under ongoing review. Further guidelines, forming part of the manual, will be issued as required. The procedures described in the manual conform with those reflected in the Australian National Audit Office's publication "A Practical Guide to Public Sector Internal Auditing".

Recommendation 12 (paragraph 19.31)

The Department of Finance should take a broader and more active role in improving internal audit standards in Commonwealth agencies by developing better in-house knowledge and expertise in internal audit and related activities, as part of its responsibility to improve financial management and accountability in Commonwealth organisations.

Response by the Department of Finance.

52. The proposed new legislation to replace the Audit Act includes a requirement for Chief Executives to establish Audit Committees in their agencies. An Audit Committee will itself, oversee an agency's internal audit activity, and help to increase internal audit's effectiveness and value to the agency. It should be remembered that many agencies already make use of Audit Committees.

53. To reinforce the importance of internal audit in the public sector, paragraphs 1.8.1 to 1.8.4 were included in the Finance Directions which, inter alia, emphasise the importance of internal audit as a key management tool and encourage the establishment of Audit Committees within agencies. Finance Circular 1993/5 was issued to advise agencies of the above inclusions to the Finance Directions and we included an article on internal audit in FISC (a quarterly management information publication issued by Finance). An information pamphlet on internal audit has also been prepared for general distribution.

54 The paragraphs in the Finance Directions, the FISC article and the pamphlet all referred to the ANAO's publication "A Practical Guide to Public Sector Internal Auditing", encouraging agencies to adopt to the greatest extent practicable the Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors of Australia, and which were modified by Finance in consultation with the Institute and the ANAO for use by the public sector.

55. In this context, it might be noted that the New South Wales Public Accounts Committee in its report on internal audit in the NSW public sector recommended that as an interim measure, the NSW Treasury should adapt the internal audit standards developed by the Commonwealth Government for application to NSW. Finance has included both the Practical Guide and the Standards on the Commonwealth Managers' Toolbox - a CD-ROM legislation and information resource for Commonwealth managers.

56. In addition to the above, Finance continues its role in promoting the use of effective internal audit in agencies by including internal audit activities as a topic in the seminar/training programs run by Finance regional offices. This is regarded as a most effective means of promoting the importance of internal audit at a level where it really counts - to program managers within agencies.

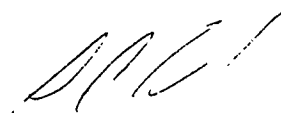
57. In attributing to Finance "responsibility for enhancing financial management and accountability in Commonwealth organisations", manifested by its undertaking the sorts of activities suggested by the ANAO, the Committee seems to have misunderstood the charter which the Government has given to Finance - described in the Administrative Arrangements Orders. The AAOs give Finance the responsibility for the oversight of Commonwealth public sector financial management policy development. Ensuring that policies so developed are implemented, however, is the duty of the Chief Executive of each Commonwealth agency.

58. In that regard, the effectiveness of Finance's role in promoting the use of internal audit (including the use of the ANAO's publication "A Practical Guide to Public Sector Internal Auditing") is reflected in the comments obtained by the JCPA from agencies on their use of the Guide. It is clear that the large majority of the agencies contacted were aware of the existence of the Guide, and were using the Guide in a practical way to review and/or develop their internal audit practices. We see this as a positive indication that the method adopted by Finance of reinforcing the importance of internal audit in the public sector is having the desired effect.

59. In summary, the fundamental goal that would seem to underlie Recommendation 12, namely the improvement of internal audit standards in Commonwealth agencies, is largely being met. Finance will, of course, continue to seek improvement to the methods it employs to promote internal audit (where appropriate in consultation with the ANAO and/or the Institute of Internal Auditors).

60. It is difficult to see, however, how even greater implementation of Recommendation 12 would add to this process in an effective way. Indeed, to go one step further, as implied by the JCPA, would appear to involve the setting up of a specific unit within Finance staffed with personnel possessing both internal audit and promotional expertise which would be dedicated to improving internal audit standards in Commonwealth agencies.

61. We have difficulty in seeing the added value of such a unit in the light of the role already adopted by Finance in promoting internal audit and in the light of the comments received by the JCPA on the use by agencies of "A Practical Guide to Public Sector Internal Auditing."



S T SEDGWICK
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15 September 1994



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COMMONWEALTH
DEPARTMENT OF
HUMAN SERVICES
AND HEALTH

Dr John Carter
Joint Committee of
Public Accounts
Parliament House
CANBERRA ACT 2600

Dear Dr Carter

REVIEW OF AUDITOR-GENERAL'S REPORTS MAY 1991-SEPTEMBER 1992

Thank you for the copy of the recently tabled 330th Report of the Joint Committee of Public Accounts.

I am responding to matters raised in the report relating to the nursing home validation program, addressed at Points 9.13, 9.14 and the 9.15 Recommendation.

Points 9.13 and 9.14 discussed staff resources within the program, and led to the recommendation at Point 9.15 that 'The Department of Human Services and Health should deploy sufficient resources to ensure the backlog in the validation of nursing home returns is overcome by the beginning of the 1995-96 financial year'. In response to that recommendation I would like to provide the following information.

The Government provided funding for the nursing home validation program in the 1990-91 Budget. Resources were further increased in both the 1991-92 and 1992-93 Budgets. Nationally there are now sixty one staff allocated to the nursing home validation program.

The most difficult financial year for auditing was 1986-87. Validation of the 1986-87 base year is nearly complete and will be prior to the end of June 1994.



Validations of subsequent years when only nursing and personal care funding is required to be audited is very well advanced and will be completely up to date by 30 June 1996. This is complementary to recently introduced legislation which provides that the validation of nursing home expenditure must be completed within three years of payment.

In addition, in response to recent reviews of the program undertaken during 1993 and with the findings of the Nursing Homes Consultative Committee chaired by Sir William Keys, the Department has adopted a risk management strategy. The Department has sought the assistance of the Australian National Audit Office in identifying an appropriate risk management model and will be moving to implement an agreed approach in 1994-95.

I trust this information has allayed your concerns.

Yours sincerely



A S Cole

10 May 1994

1

APPENDIX I - RESPONDING TO REPORTS OF THE COMMITTEE

Introduction

Government responses to reports of the Joint Committee of Public Accounts can be transmitted in two ways: either by means of a Finance Minute (in those cases where the Committee's recommendations address administrative matters) or by means of a Government response (where the Committee has made policy recommendations).

Finance Minutes

The Finance Minutes process has been in place since 1952. The process involves the preparation of a minute to the Committee by the Secretary of the Department of Finance. The minute contains a response from each relevant Commonwealth agency to each of the Committee's recommendations.

A Finance Minute is usually received by the Committee within six months of the tabling of a report. It is the Committee's practice to table Finance Minutes in the Parliament as soon as practicable after they are received.

The Committee believes that the overall process of accountability is aided by the prompt tabling of Finance Minutes. This gives parliamentarians and members of the public an opportunity to comment on the adequacy or otherwise of the response of departments to particular concerns and recommendations of the Committee.

In turn, the Committee can benefit from taking account of such comment when it considers the Finance Minute in detail at a later stage. Ultimately, if the Committee is dissatisfied with the contents of a particular Finance Minute, it may decide to re-open its inquiry.

The Committee also tables annually a compilation of all Finance Minutes from the preceding calendar year. The reason for this is to make them more easily available to those who have an interest in the work of the Joint Committee of Public Accounts.

Government Responses

Where the Committee has made recommendations of a policy nature, a Government response is prepared by the responsible Minister. The Government has given a commitment to the Parliament that responses to parliamentary committee reports will be provided within three months of a report being tabled.

It is usual practice for the relevant Minister to table a Government response in the Parliament.