

Management of the Tourist Refund Scheme

Department of Home Affairs

Department of the Treasury

Australian Taxation Office

© Commonwealth of Australia 2019

ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-76033-492-5 (Print)

ISBN 978-1-76033-493-2 (Online)

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Senior Executive Director
Corporate Management Group
Australian National Audit Office
19 National Circuit
BARTON ACT 2600

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communication@anao.gov.au.





Canberra ACT
9 September 2019

Dear Mr President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Department of Home Affairs, the Department of the Treasury and the Australian Taxation Office. The report is titled *Management of the Tourist Refund Scheme*. I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, reading 'Grant Hehir'.

Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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For further information contact:
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Phone: (02) 6203 7300
Fax: (02) 6203 7777
Email: ag1@anao.gov.au

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Audit team

Julian Mallett
Andrew Gavin
Fei Gao
Lachlan Fraser
Gabrielle Davy
David Brunoro

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Summary and recommendations

Background

1. Under the Tourist Refund Scheme (TRS), travellers leaving Australia can claim a refund of the Goods and Services Tax (GST) and Wine Equalisation Tax (WET) that they have paid on goods that they have purchased in Australia within the previous 60 days.¹ Refunding the GST and WET reflects the fact that they are domestic taxes levied on goods or services that are consumed in Australia and so do not apply to exports. Around 60 countries around the world also have such schemes and promote the availability of refunds as an incentive for tourists to spend money in their countries. The Australian Taxation Office (ATO) believes that Australia is the only country that allows its citizens and residents to participate in the scheme.

2. The Department of Home Affairs (Home Affairs)² and ATO jointly administer the TRS. Although TRS refunds of GST amounted to almost \$230 million in 2017–18, it represents a very small fraction of the ATO's revenue responsibility: less than one-quarter of one per cent of the total tax refunds the ATO pays out each year. Similarly, Home Affairs does not consider the TRS to be one of its operational priorities.

Rationale for undertaking the audit

3. The use of the TRS is growing rapidly. Since July 2000, the TRS has paid refunds of more than \$1.6 billion in GST and WET (\$229.6 million in 2017–18) with the expectation that the scheme would boost tourism and sales by Australian retailers to international travellers. Around 41 per cent (\$683.4 million) of all refunds are paid to Australian citizens and residents, with the balance (\$989.5 million) paid to non-residents. This audit aims to provide assurance to the Parliament about whether the TRS is being administered effectively, and will improve transparency of the scheme's management and performance.

Audit objective and criteria

4. The objective of this audit was to examine whether the TRS is being effectively administered, with the appropriate management of risks.

5. To form a conclusion against the audit objective, the ANAO applied the following high-level audit criteria:

- Do Home Affairs and ATO governance systems and procedures support the effective administration of the TRS?
- Have Home Affairs and ATO established suitable controls to identify and mitigate delivery risks?

1 The goods must accompany the person out of the country, have a combined value of at least \$300 and have been purchased from a single business that is registered with the Australian Taxation Office for GST. If the traveller subsequently brings the goods back into Australia, they must repay the refund that they have received.

2 Within Home Affairs, the Australian Border Force (ABF) is responsible for the operational administration of the TRS. The ABF is legally a part of Home Affairs, functioning as a separate operational unit.

Conclusion

6. The administration of the TRS by Home Affairs and the ATO has been partly effective.

7. Home Affairs and ATO governance processes and procedures largely support effective administration. While governance arrangements are in place, procedural guidance and performance information could be improved.

8. Home Affairs and the ATO have determined that TRS compliance is a low priority compared with their other responsibilities. They have done so in the context of an inappropriate risk assessment process and evidence suggesting there is a large level of non-compliance from Australian citizens and residents and significant revenue leakage (\$244.3 million to \$556.6 million over the life of the scheme). Although the entities have developed data analysis tools to review claims, the tools have not been embedded in business processes.

Supporting findings

Governance and procedures

9. Governance arrangements for the TRS are clearly documented and in place. The high-level governance arrangements for the TRS are included in the Intergovernmental Agreement on Federal Financial Relations and in a Memorandum of Understanding (and associated subsidiary arrangements) between the ATO and Home Affairs. Concerns by Home Affairs that the funding it receives to administer the TRS at the border has not kept pace with growth in the number of TRS claims remain unresolved.

10. The instructions and guidance provided to assist with the administration of the TRS are largely adequate. However, a TRS procedural instruction, which is to include Home Affairs officer training requirements, had not yet been updated.

11. Performance information is collected, analysed and reported, including on the timeliness of claim payments and activities to deliver the TRS. The information does not address the quality or integrity of the TRS system.

12. There have been a number of internal and external reviews of the TRS which have identified both structural and operational deficiencies and made a number of recommendations, most of which have been implemented.

Risks and controls

13. Home Affairs and the ATO have not undertaken appropriate risk assessments:

- the entities have not developed a joint risk assessment of the TRS, which would facilitate better understanding and management of shared risk;
- Home Affairs has not provided a full risk assessment and annual update of risks, as required under the Memorandum of Understanding between it and the ATO; and
- Home Affairs has not fully implemented the additional risk mitigations it identified in its 2018 risk assessment, to achieve its objective of reducing the risk from 'high' to 'medium'.

14. Home Affairs and the ATO have put in place limited systems and processes to manage revenue leakage. This reflects their assessment that the TRS is a low operational priority, and not a priority risk for treatment when compared with the other risks the entities manage.

15. The entities have not improved the TRS information technology system in any meaningful respect, since its introduction almost 20 years ago, to support officers to identify non-compliant or fraudulent claims. Home Affairs and the ATO have not used the available TRS data to implement systematic and routine compliance approaches to assist in detecting patterns and indicators of revenue leakage. Detections of significant instances of fraud have been ad hoc rather than as a result of systematic data analysis.

16. Based on Home Affairs and ATO figures, there has been between \$244.3 million and \$556.6 million in GST revenue leakage from the TRS since the scheme commenced in 2000. This money would otherwise have been paid to the states and territories.

17. While Home Affairs has the capacity to impose GST penalties, Home Affairs stopped issuing penalties for undeclared importation of TRS-claimed goods between 2013 and 2018 and has used the GST penalty regime infrequently since it recommenced issuing them. Home Affairs can place alerts on returning Australian citizens and residents where it suspects that goods may be reimported without being declared. However, although this has produced a 'hit' rate of 41.9 per cent when it has been used, it is used relatively infrequently.

18. Proposals to government to develop options for it to consider abolition of the scheme, exclusion of Australians from its operation or outsourcing its operation have not been agreed.

Recommendations

Recommendation no.1
Paragraph 3.13 The ATO and Home Affairs improve risk management of the TRS by preparing a joint risk assessment of the TRS which identifies all risks and appropriate treatments, and review the assessment annually.

Department of Home Affairs response: *Agreed.*

Australian Taxation Office response: *Agreed.*

**Recommendation
no.2**

Paragraph 3.49

In order to provide advice to the government about the numbers of Australian citizens and residents who fail to declare at the border goods for which they have previously received a GST refund through the TRS, and the amount of revenue leakage due to these goods being reimported, that Home Affairs, the ATO and the Treasury:

- (a) jointly develop a methodology for estimating this non-compliance and revenue leakage;
- (b) conduct an exercise to measure the non-compliance and revenue leakage; and
- (c) report the results of this exercise to the government.

Department of Home Affairs response: *Agreed.*

Australian Taxation Office response: *Agreed.*

Treasury response: *Agreed.*

**Recommendation
no.3**

Paragraph 3.68

Home Affairs and the ATO implement and embed into business practices the data analysis tools that they have already developed.

Department of Home Affairs response: *Agreed.*

Australian Taxation Office response: *Agreed.*

Summary of entity responses

Department of Home Affairs

The Department of Home Affairs (the Department) and the Australian Border Force (ABF) welcome the review of the Management of the Tourist Refund Scheme (TRS) and acknowledge the value of the ANAO providing independent analysis of and insights into the administration of the TRS. We are pleased that the ANAO found that there are robust governance arrangements for the TRS in place which largely support effective administration of the TRS.

As noted in the report, the Department and ABF consider the administration of the TRS of relatively low risk and operational priority compared with our other responsibilities such as national security, border protection and immigration policy. We are committed to delivering the government's intent to the best of our ability within the current funding envelope, however the funding we receive to administer the TRS at the border has not kept pace with the escalating number of claims made each year. We raised this on a number of occasions over the past five years noting that the number of TRS claims has almost doubled whilst the funding provided by the Australian Taxation Office (ATO) has slightly fallen.

The TRS has been subject to a number of reviews since 2000 and the Department has actively addressed recommendations for improvement. For example, all six recommendations arising from an internal audit conducted in October 2011 were implemented and formally closed by the Departmental Audit Committee. Through the process of relatively continuous review, we are comfortable that any risks associated with the administration of the TRS at the border are well-known to the Department as are the potential avenues for revenue leakage.

We note that the report raises areas that the ANAO believes would further enhance our approach to risk assessment and estimating revenue leakage in the TRS, by working with the ATO to prepare

a joint risk assessment and implement data analysis tools. The Department and ABF agree with these recommendations. The Department and ABF are engaging with the ATO to develop a joint risk assessment that will be reviewed annually and endorsed by the Inter-Agency Liaison Committee, established under the Memorandum of Understanding between the ATO and the Department. A joint-agency workshop to commence this work was held in July 2019.

We also note the recommendation to the Department, ATO and Treasury regarding the development of a methodology for estimating the numbers of Australian citizens and residents who fail to declare goods for which they have previously received a GST refund through the TRS, and the amount of revenue leaked due to the re-importation of these goods, for reporting to the Government. The Department and ABF agree with this recommendation and will work with the ATO and Treasury to develop and implement an appropriate methodology and mechanism for reporting to Government. This work was also commenced at the joint-agency workshop held in July 2019.

In terms of governance, the Department finalised and distributed to relevant staff the Tourist Refund Office Procedural Instruction identified in your report which applies to the operations of the TRS Support team in Strategic Border Command located in Canberra. This Procedural Instruction will soon be published on the Department's intranet and be available more broadly across the Department. The operation of data analysis tools referred to in recommendation three of your report will be included and explained in a Standard Operating Procedure for the Tourist Refund Office that will be developed following publication of the TRS procedural instruction. This will provide further guidance on the operation of these tools and further embed the use of the tools into standard business practice.

Australian Taxation Office

The ATO welcomes this review and considers the Report supportive of our overall approach to managing the Tourist Refund Scheme (TRS). In finding the ATO's compliance approach toward the TRS to be generally effective, we accept that the review did identify a number of opportunities for improvement by conducting a joint risk assessment process with the Department of Home Affairs.

The ATO notes that the ANAO has relied on unverified Department of Home Affairs' non-compliance rates to calculate revenue leakage. The joint risk assessment will provide a more robust process to verify revenue leakage.

We also observe that it would appear to be impractical to enforce the TRS at airports to reduce the ANAO's currently stated revenue leakage. Whilst this is a matter for the Department of Home Affairs to consider, the ATO believes that any compliance strategy under the current TRS framework will have a negative impact on international passenger experience.

The ATO acknowledges that improvements to the TRS framework are required and has previously supported several submissions to Government for legislative amendments.

The ATO agrees with the three recommendations contained in the Report.

Treasury

The Treasury notes the overall conclusions and findings of the audit.

Recommendation 2 is the only recommendation directed at Treasury, along with the Australian Taxation Office and the Department of Home Affairs. Treasury agrees with this recommendation.

We will consider the learnings within the report in the context of Treasury's responsibilities in relation to the Tourist Refund Scheme.

Key messages from this audit for all Australian Government entities

19. Below is a summary of key messages which have been identified in this audit that may be relevant for the operations of other Australian Government entities.

Governance and risk management

- Where separate entities have responsibility for a single program and it is known that significant program risks exist, the entities should jointly develop a risk-based approach to compliance, including through shared identification of risks and together preparing risk management plans and strategies to mitigate the risks.

Audit findings

1. Background

1.1 The Tourist Refund Scheme (TRS) allows international tourists and Australian citizens and residents going overseas to apply for a refund of the Goods and Services Tax (GST) and Wine Equalisation Tax (WET) they pay on goods they have bought in Australia and have taken away with them as accompanied baggage. Refunds can apply to purchases totalling at least \$300 from any one business within 60 days of the departure date.³

1.2 The GST is a broad-based consumption tax of 10 per cent on most goods, services and other items sold or consumed in Australia and also on most imports of goods. Exports of goods and services from Australia are generally GST free. Australia's TRS was established in July 2000 under the *A New Tax System (Goods and Services Tax) Act 1999* on the principle that taxes should only be levied on goods sold into the domestic market for home consumption. A second rationale was that refunding the GST for goods that are exported would be an incentive for tourists to buy goods in Australia.

Snapshot of the Tourist Refund Scheme

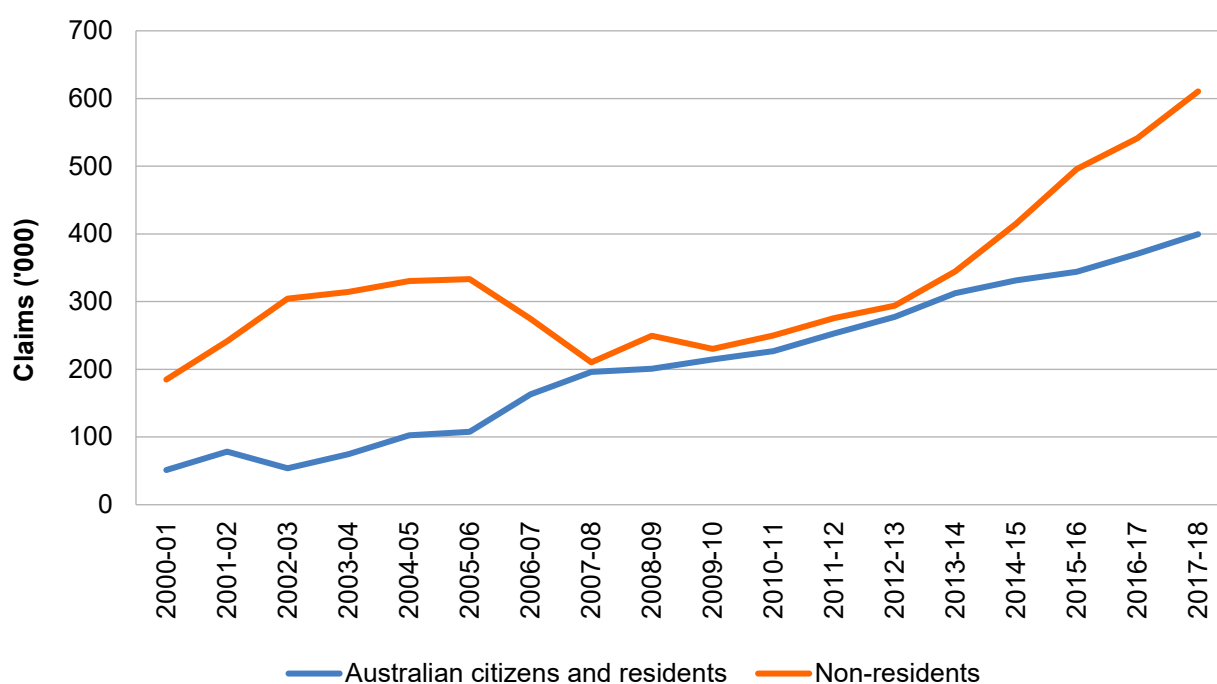
1.3 At least 60 countries around the world operate tourist refund schemes that enable non-resident visitors to claim a refund on their domestic consumption taxes. However, according to the Australian Taxation Office (ATO), Australia is the only country that also allows its own citizens and residents to claim refunds, even though they are not tourists.

Number and value of claims

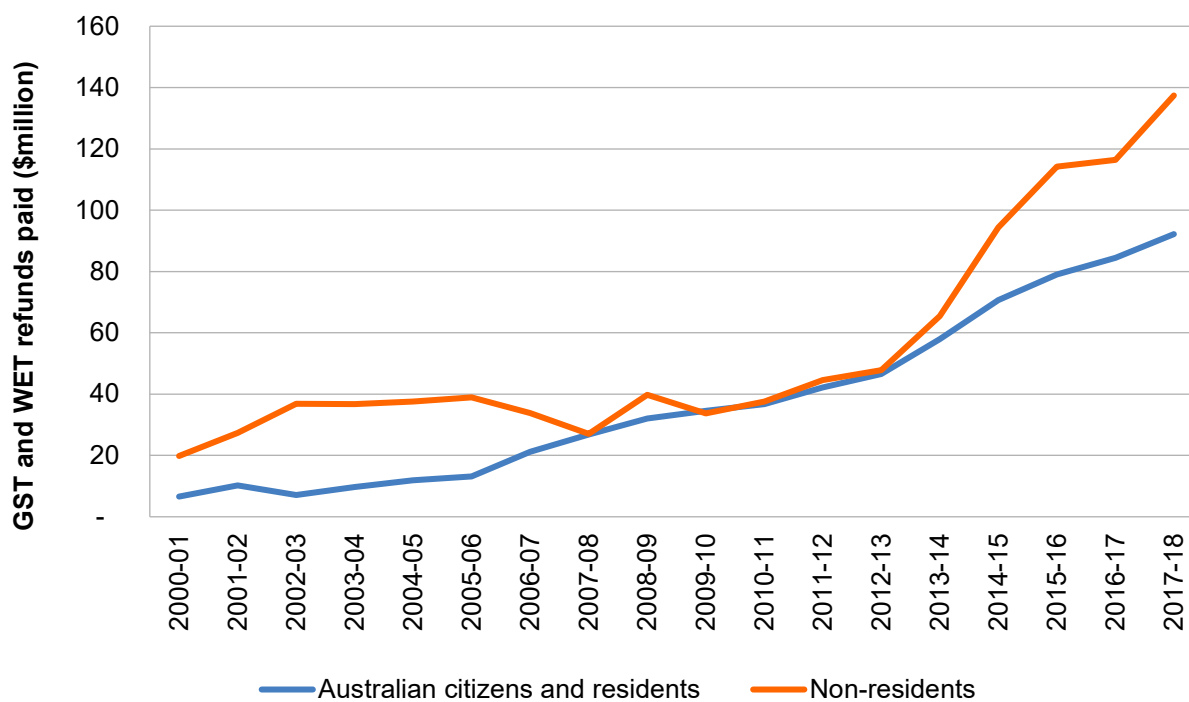
1.4 From July 2000 to June 2018, the TRS has received more than 9.6 million claims and paid more than \$1.6 billion in GST and WET refunds.⁴ Of those claims, some 3.7 million (38.9 per cent) with a value of refunds paid of \$683.4 million (40.8 per cent) relate to Australian citizens and residents (see Figure 1.1 and Figure 1.2).

3 The TRS applies to goods purchased at prices that include GST or WET, from a retailer with an Australian Business Number and registered for GST. It does not apply to services such as accommodation.

4 WET is a tax of 29 per cent of the wholesale value of wine, which usually applies to a sale from a wholesaler to a retailer. The vast majority of refunds paid through the TRS are for GST.

Figure 1.1: Number of TRS claims made, 2000–01 to 2017–18

Source: ANAO analysis of TRS data.

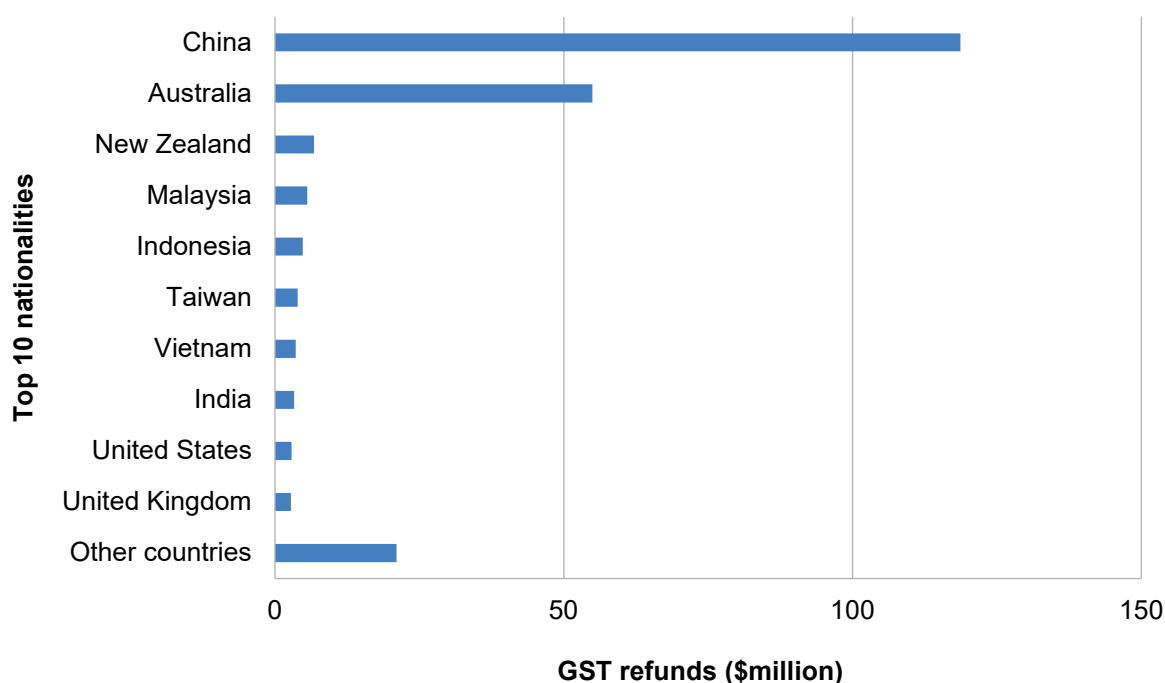
Figure 1.2: Value of TRS refunds paid, 2000–01 to 2017–18

Source: ANAO analysis of TRS data.

Nationalities of claimants

1.5 At the time of introduction, the Australian Government (the government) expected the TRS to boost tourism and sales by Australian retailers to international travellers. The TRS has been incorporated into the implementation plan for Australia’s whole-of-government strategy, Tourism 2020, to build the resilience and competitiveness of Australia’s tourism industry. According to Tourism Research Australia’s June 2018 International Visitor Survey, shopping was the second most popular activity undertaken by international visitors and accounted for \$4.1 billion in spending in the year ending June 2018. Visitors from China spent \$1 billion in Australia on shopping for items to take home in the year to June 2018. This is reflected in the fact that Chinese passport holders are the biggest users of the TRS, as shown in Figure 1.3. Between them, Chinese and Australian passport holders accounted for three-quarters of GST refunds paid through the TRS in 2017–18.

Figure 1.3: Top 10 nationalities of TRS claimants, 2017–18



Source: ANAO analysis of TRS data.

Types of goods claimed

1.6 Luxury items, clothing and electronic goods are the most common types of goods for which a GST refund is claimed through the TRS. Table 1.1 shows the top 10 retailers by value of GST refunds through the TRS in 2017–18. Goods purchased from these top 10 retailers accounted for almost 40 per cent of all approved refunds in 2017–18.

Table 1.1: Top 10 retailers for TRS claiming, 2017–18

Retailer	Type of goods	Value of approved GST refunds (\$million)
Apple	Consumer electronics	17.2
Louis Vuitton Australia	Luxury goods	13.8
Gucci Australia	Luxury goods	10.1
David Jones	Merchandise including clothing	10.0
JB Hi Fi	Consumer electronics	9.8
Chanel Australia	Luxury goods	9.1
Richemont Australia	Luxury goods	7.2
Myer	Merchandise including clothing	6.4
Hermes Australia	Luxury goods	6.2
Tiffany & Co.	Jewellery	4.3
Total		94.1

Source: ANAO analysis of TRS data.

Value of claims

1.7 Figure 1.4 shows the distribution of GST refunds by value in 2017–18. Most refunds paid were for amounts of less than \$750.

Figure 1.4: Distribution of GST refunds paid, 2017–18

Source: ANAO analysis of TRS data.

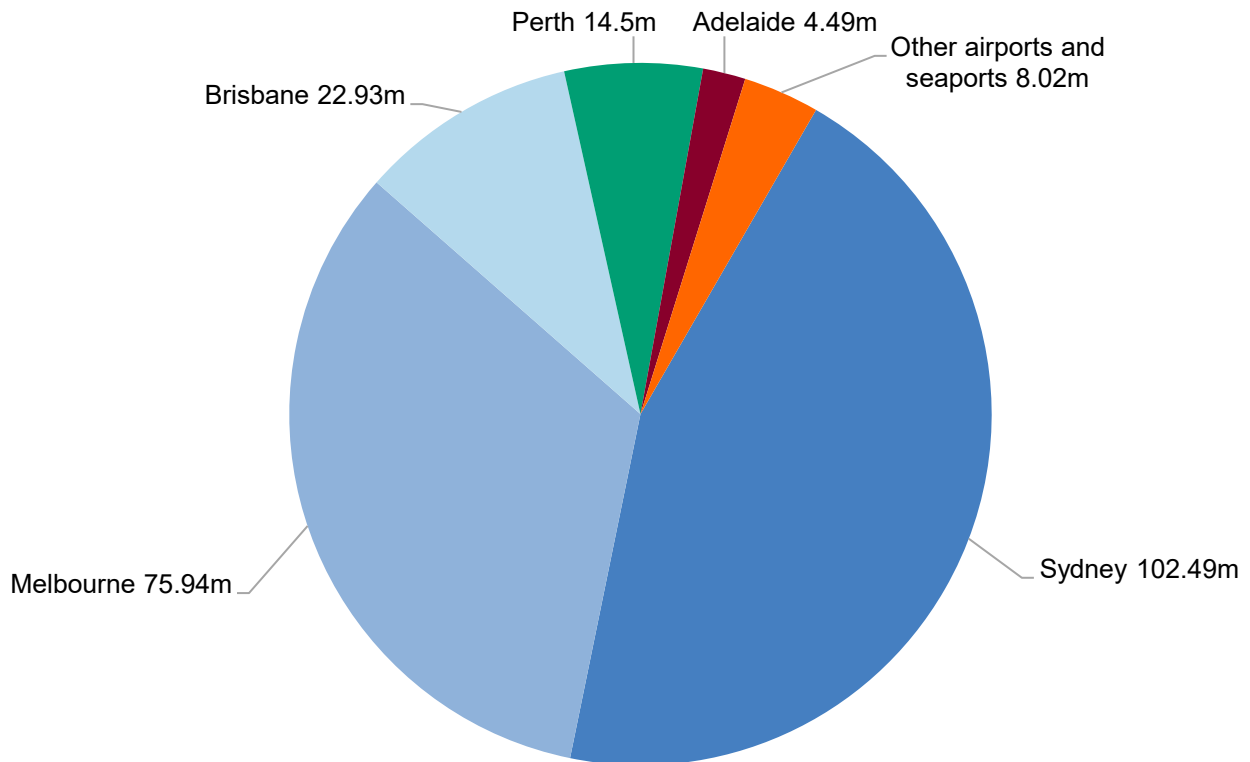
1.8 Although there is a minimum threshold for claims (\$300), there is no upper limit on the size of claims that may be lodged. The largest single claim identified by the ANAO was lodged by a

foreign national in October 2011 for goods worth \$2.6 million, resulting in a refund payment of GST of \$241,090.91.⁵

Locations of claim lodgement

1.9 TRS claims are lodged at a TRS counter at international departure points (both airports and seaports). Figure 1.5 shows the distribution of GST refunds paid at Australian points of departure in 2017–18. Claims lodged at Sydney and Melbourne airports comprised more than 75 per cent of refunds paid.

Figure 1.5: Refunds paid by departure point, 2017–18



Source: ANAO analysis of TRS data.

Administration of the Tourist Refund Scheme

1.10 The Department of the Treasury (Treasury) has policy responsibility for the TRS. The TRS is jointly administered by the ATO and the Department of Home Affairs (Home Affairs)⁶ under a management arrangement between the entities (see Table 1.2).

5 There is nothing to suggest that this claim was not valid.

6 Prior to the creation of the Department of Home Affairs in July 2015, the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service existed as separate entities. At integration, the Australian Border Force (ABF) was created and it assumed the operational responsibilities of the Australian Customs and Border Protection Service. The ABF is part of Home Affairs, functioning as a separate operational unit. In this report, reference is made to 'the ABF' as the context requires. For simplicity, 'Home Affairs' or 'ABF' will be also be used to refer to predecessors of both organisations.

Table 1.2: Overview of TRS administrative responsibilities

Entity	TRS responsibilities
Treasury	High-level policy and legislation
ATO	Operational policy advice and guidance; claim investigation
Home Affairs	Operational policy
	Operational delivery; examination and referral of claims to ATO

Source: ANAO analysis of Home Affairs and ATO records.

1.11 Within Home Affairs, the Australian Border Force's (ABF's) operational focus is 'trade enforcement, maintaining the integrity of Australia's migration system, and protection of the border by tackling cross-border movement of prohibited goods and people who seek to harm the community'. The TRS is not listed as an operational priority in the Home Affairs Corporate Plan 2018–19 or in internal business plans for 2018–19. It is a small component of the taxes Home Affairs collects on imports at the border, which include the GST (Home Affairs collected \$4.1 billion in GST in 2017–18), WET and Luxury Car Tax (LCT).

TRS funding arrangements

1.12 Under the *A New Tax System (Commonwealth-State Financial Arrangements) Act 1999*, GST refunds made under the TRS are deducted from GST revenues to states and territories. The states and territories also bear the administrative costs of the scheme.

1.13 Home Affairs receives an annual lump sum (deducted from GST revenue before it is paid to the states and territories) for the administration of all GST, LCT and WET activities — including the TRS — it undertakes at the border under delegation from the ATO. The annual lump sum amounts from 2014–15 to 2017–18 were set in a mutually agreed management arrangement in 2015. The management arrangement allows for the updating of annual payments according to price parameter and efficiency dividend adjustments or other agreed changes in the scope of the service and functions provided. Home Affairs allocates the annual amount between the GST, LCT and WET activities as it sees fit.⁷ Table 1.3 shows total funding provided by the ATO to Home Affairs and the Home Affairs notional internal allocation of funding for the TRS scheme.

Table 1.3: TRS Administrative costs, 2015–16 to 2017–18

	2015–16 (\$million)	2016–17 (\$million)	2017–18 (\$million)
Funding provided by the ATO to Home Affairs for GST related activity	52.28	51.79	51.15
Amount allocated by Home Affairs to the TRS	14.50	14.26	16.11

Source: Home Affairs and ATO data.

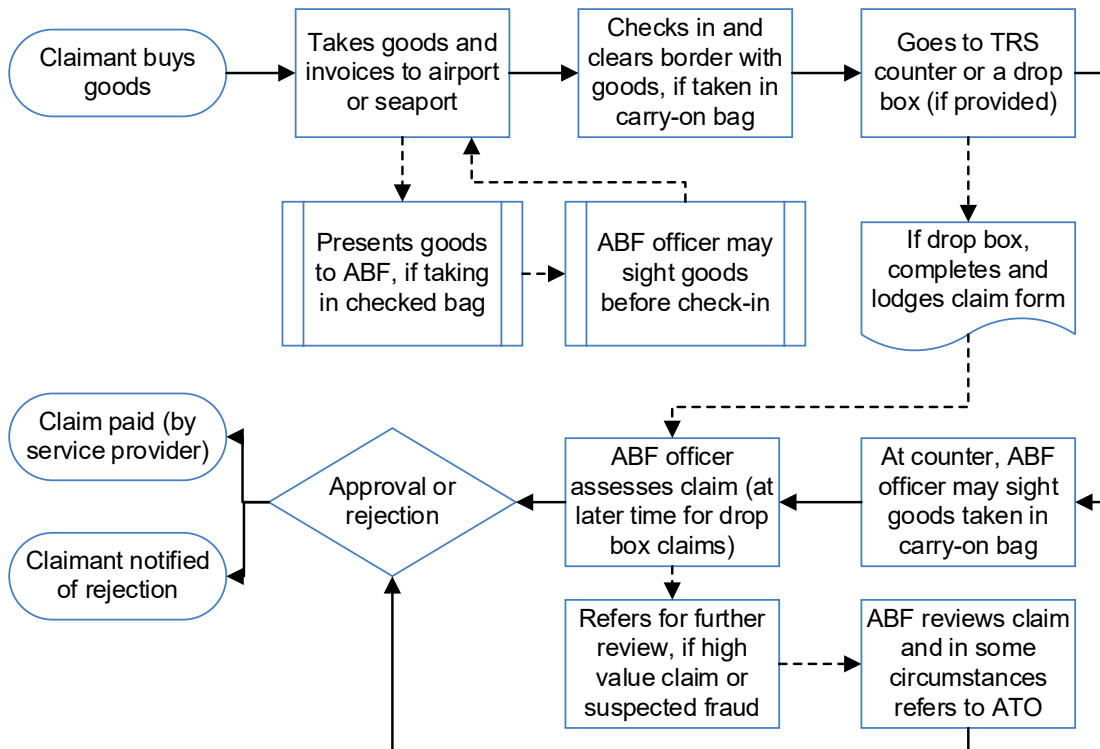
⁷ In August 2019, Home Affairs advised the ANAO it 'allocates the annual amount to operational areas that support the administration of GST, LCT and WET taking into account operational requirements and organisational priorities. The expenses incurred on these activities are tracked using a cost attribution model which is annually audited and can be compared with funding provided'.

Processing

1.14 Approximately 50 ABF officers process TRS claims at international airports and seaports every day. At airports, after check-in and clearing security, claimants must present their invoices and travel documents at a TRS counter ‘airside’. Claimants must be able to present the goods for which they are claiming a refund, as the processing officer may ask to see the goods to verify the export.⁸ At the TRS counter, an officer manually enters the claim details into the TRS IT system and assesses the validity of the claim, which may include asking to see the goods. The majority (around 98 per cent) of claims are approved or rejected on the spot. In some cases, the officer may refer the claim to the Tourist Refund Office (TRO) in Canberra for further scrutiny. In some circumstances, claimants lodge an application for a refund in a ‘drop box’ the ABF may provide in the terminal during busy periods or when the TRS counter is closed. Home Affairs contracts a payment services provider, Global Blue Australia, to make payments of refunds to claimants. The A New Tax System (Goods and Services Tax) Regulations 1999 require Home Affairs to pay claims within 60 days of lodgement.⁹

1.15 Figure 1.6 shows a diagrammatic representation of the end-to-end process.

Figure 1.6: Summary of TRS claim lodgement and assessment process



Source: ANAO analysis of Home Affairs and ATO documents.

8 This is because it is the fact that the goods are being exported that gives rise to the entitlement to a refund, not the fact that the purchaser or owner of the goods is leaving the country. A TRS claim may be refused if the claimant cannot produce the goods for inspection. For bulky goods, such as golf clubs, which cannot be carried as cabin baggage, claimants are required to present these for verification at a separate ABF counter, located ‘landside’ before the airline check-in counter.

9 If the ABF requests further information from a claimant after lodgement (which can occur when the TRO investigates the validity of a referred claim), the 60-day limit starts again when the ABF receives the information.

Regulatory changes

1.16 The government has changed the operational arrangements of the scheme in 2013 and 2017 through amending the A New Tax System (Goods and Services Tax) Regulations 1999.

- In 2013, the regulations were amended to extend the period during which travellers could acquire goods to access the TRS from 30 to 60 days prior to departure. The amendment also allowed travellers accessing the TRS to aggregate multiple invoices from single retailers in order to meet the \$300 threshold for TRS claims, rather than the previous requirement to hold one invoice only.
- In 2017, the regulations were amended to provide for a pre-departure deadline for lodgement of claims at TRS counters in airports and seaports (30 minutes for flights and 60 minutes for sea voyages¹⁰) and to permit claims to be lodged in a drop box (a plastic box), if provided at departure points.

Rationale for undertaking the audit

1.17 The use of the TRS is growing rapidly. Since July 2000, the TRS has paid refunds of more than \$1.6 billion in GST and WET with the expectation that the scheme would boost tourism and sales by Australian retailers to international travellers. The ATO believes that Australia is the only country that allows its own citizens and residents to claim refunds, and around 40.8 per cent (\$683.4 million) of the value of claims has been paid to Australian citizens and residents. This audit aims to provide assurance to the Parliament about whether the TRS is being administered effectively, and will improve transparency of the scheme's management and performance.

Audit approach

Audit objective, criteria and scope

1.18 The objective of this audit is to examine whether the TRS is being effectively administered, with the appropriate management of risks.

1.19 To form a conclusion against the audit objective, the ANAO applied the following high-level audit criteria.

- Do Home Affairs and ATO governance systems and procedures support the effective administration of the TRS?
- Have the Home Affairs and the ATO established suitable controls to identify and mitigate delivery risks?

Audit methodology

1.20 The audit methodology involved:

- examination of relevant entity records;
- discussions with relevant staff;

10 Prior to the regulations being amended, it was ABF practice to refuse to process a claim within 30 minutes of the claimant's departure time to avoid aircraft delays. Following an own motion investigation, in July 2016 the Commonwealth Ombudsman pointed out that there was no statutory basis for such a refusal and recommended that the regulations be amended.

- discussion with TRS stakeholders: the Australian Airports Association; the Australian Federation of Travel Agents; the Australian Retailers Association; Austrade; and the Tourism and Transport Forum Australia;
- visual observation of TRS processing at Sydney and Melbourne international airports; and
- analysis of data of TRS claiming from 2000 to 2018 and analysis of IT general controls.

1.21 The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of \$470,616.

1.22 The team members for this audit were Julian Mallett, Andrew Gavin, Fei Gao, Lachlan Fraser, Gabrielle Davy and David Brunoro.

2. Governance and procedures

Areas examined

This chapter examines whether the Department of Home Affairs (Home Affairs) and Australian Taxation Office (ATO) governance systems and procedures support the effective administration of the Tourist Refund Scheme (TRS).

Conclusion

Home Affairs and ATO governance processes and procedures largely support effective administration. While governance arrangements are in place, Home Affairs procedural guidance and performance information could be improved.

Are robust governance arrangements in place?

Governance arrangements for the TRS are clearly documented and in place. The high-level governance arrangements for the TRS are included in the Intergovernmental Agreement on Federal Financial Relations and in a Memorandum of Understanding (and associated subsidiary arrangements) between the ATO and Home Affairs. Concerns by Home Affairs that the funding it receives to administer the TRS at the border has not kept pace with growth in the number of TRS claims remain unresolved.

2.1 Administrative responsibility for Australian Government (the government) functions are set out in Administrative Arrangements Orders that specify which Acts of Parliament each Department of State is responsible for. Responsibility for the *A New Tax System (Goods and Services Tax) Act 1999* (the Act which established the TRS) rests with Treasury and through it, the ATO.

Goods and Services Tax — high level arrangements

2.2 Goods and Services Tax (GST) payments are collected by the Commonwealth, which then remits the GST revenue to the states and territories. The Intergovernmental Agreement on Federal Financial Relations (IGA) between the Commonwealth and the states and territories is the agreed framework under which the Commonwealth remits GST revenue to the states and territories. The IGA gives responsibility for the 'general administration of the GST law' to the Commissioner of Taxation.

2.3 The Council of Australian Governments (COAG)¹¹ is the peak intergovernmental forum in Australia and is the key decision-making body with respect to the GST. The Standing Council for Federal Financial Arrangements¹² has general oversight of the operation of the IGA on behalf of COAG.

11 The Prime Minister chairs COAG. Its members are the First Ministers of all the states and territories and the President of the Australian Local Government Association.

12 The Standing Council comprises the Commonwealth Treasurer as chair and the state and territory Treasurers.

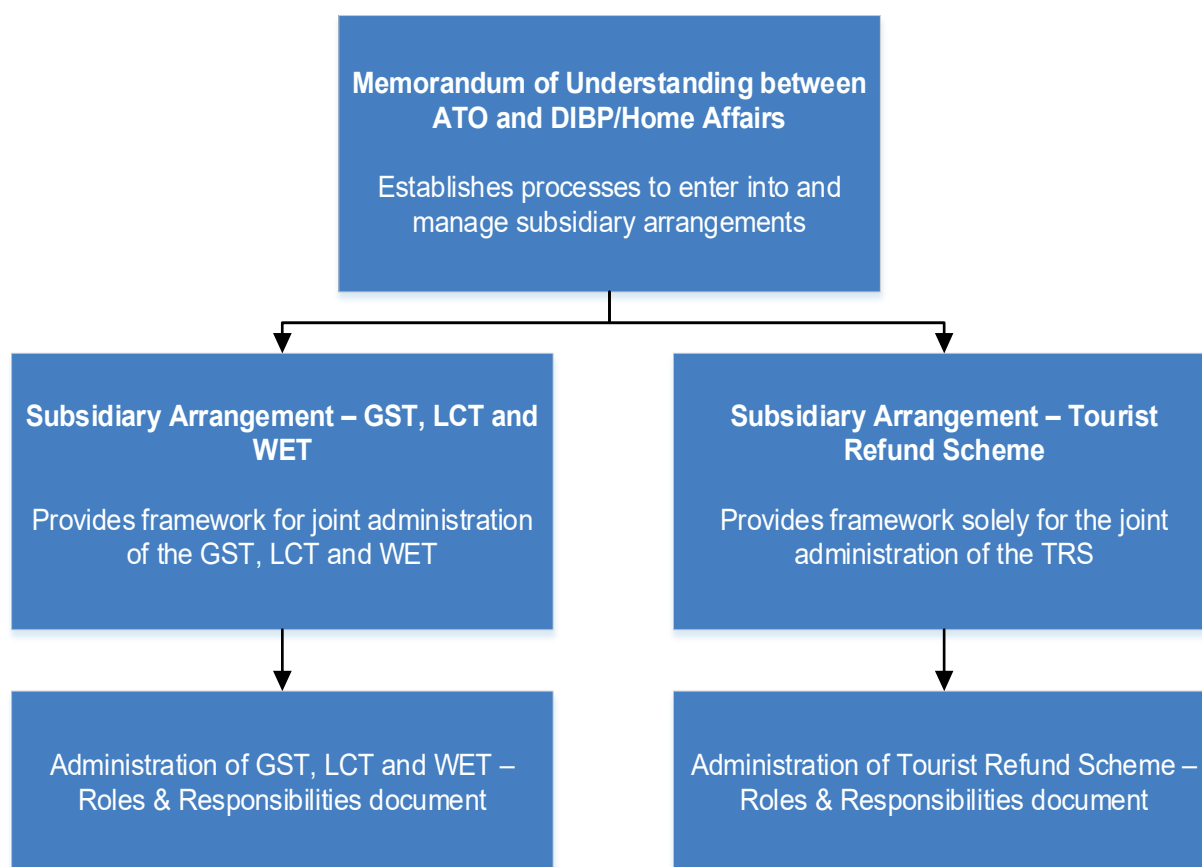
2.4 At officials level, the GST Administration Sub-Committee (GSTAS) monitors all aspects of the operation and administration of the GST and the IGA and has delegated aspects of that role to the GST Policy and Administration Sub-group (GPAS).¹³

2.5 A number of areas of GST administration require some activity or intervention at the Australian border¹⁴ and the IGA states that the ATO will arrange for the Australian Customs Service (now the ABF) to assist with the administration of the GST (and that the states and territories will compensate the Commonwealth for the ‘agreed costs’ of doing so).

Arrangements between the Australian Taxation Office and the Department of Home Affairs

2.6 The ATO has a Memorandum of Understanding (MOU) with the Department of Immigration and Border Protection, signed in 2017 (hence currently with Home Affairs), which provides a basis for the administration of GST, TRS, Wine Equalisation Tax (WET) and Luxury Car Tax (LCT) at the border. Figure 2.1 shows the MOU framework.

Figure 2.1: Memorandum of Understanding governance structure



Source: ANAO analysis of MOU, subsidiary arrangements and related documents.

2.7 The MOU establishes an Inter-Agency Liaison Committee (ILC) to oversee the strategic operation of the relationship between the ATO and Home Affairs, and to monitor and evaluate the

13 The GSTAS and GPAS comprise Treasury officials from the Commonwealth and each state and territory. The Commonwealth chairs the GSTAS and GPAS.

14 These include collection of GST, Wine Equalisation Tax (WET) and Luxury Car Tax (LCT) on importations.

operation of the MOU and subsidiary arrangements. The committee meets twice a year, or as required.

2.8 A sub-committee, the Operational Sub-Committee, provides assurance to the ILC in respect of the administration of the GST, including the TRS, and monitors compliance with the detailed roles and responsibilities of both agencies in relation to taxes and the TRS. The sub-committee also meets twice a year, or as required.

2.9 The sub-committee deals with operational matters relating to the administration of the TRS. In practice, there is day-to-day contact between Home Affairs and the ATO on policy and operational matters.

2.10 The two subsidiary agreements and a document entitled Administration of TRS — roles and responsibilities contain provisions relating to:

- exchange of data between the agencies;
- risk assessment and management;
- consultative arrangements and meetings;
- officer training;
- TRS claims processing and payment; and
- operational and financial reporting.¹⁵

Certificate of Assurance

2.11 Another aspect of the governance framework (contained in the subsidiary arrangement for GST, LCT and WET) for the TRS is the completion by Home Affairs of an annual Certificate of Assurance (the certificate). The purpose of the certificate is to confirm to the Commissioner of Taxation that:

- Home Affairs has performed the services and fulfilled the responsibilities specified in the MOU;
- Home Affairs has in place an appropriate control framework to ensure that GST collected on behalf of the Commissioner of Taxation satisfies the *Public Governance, Performance and Accountability Act 2013*; and
- an external auditor has confirmed the integrity of GST and TRS cost information provided to the ATO and did not make any significant audit finding in relation to GST and TRS.

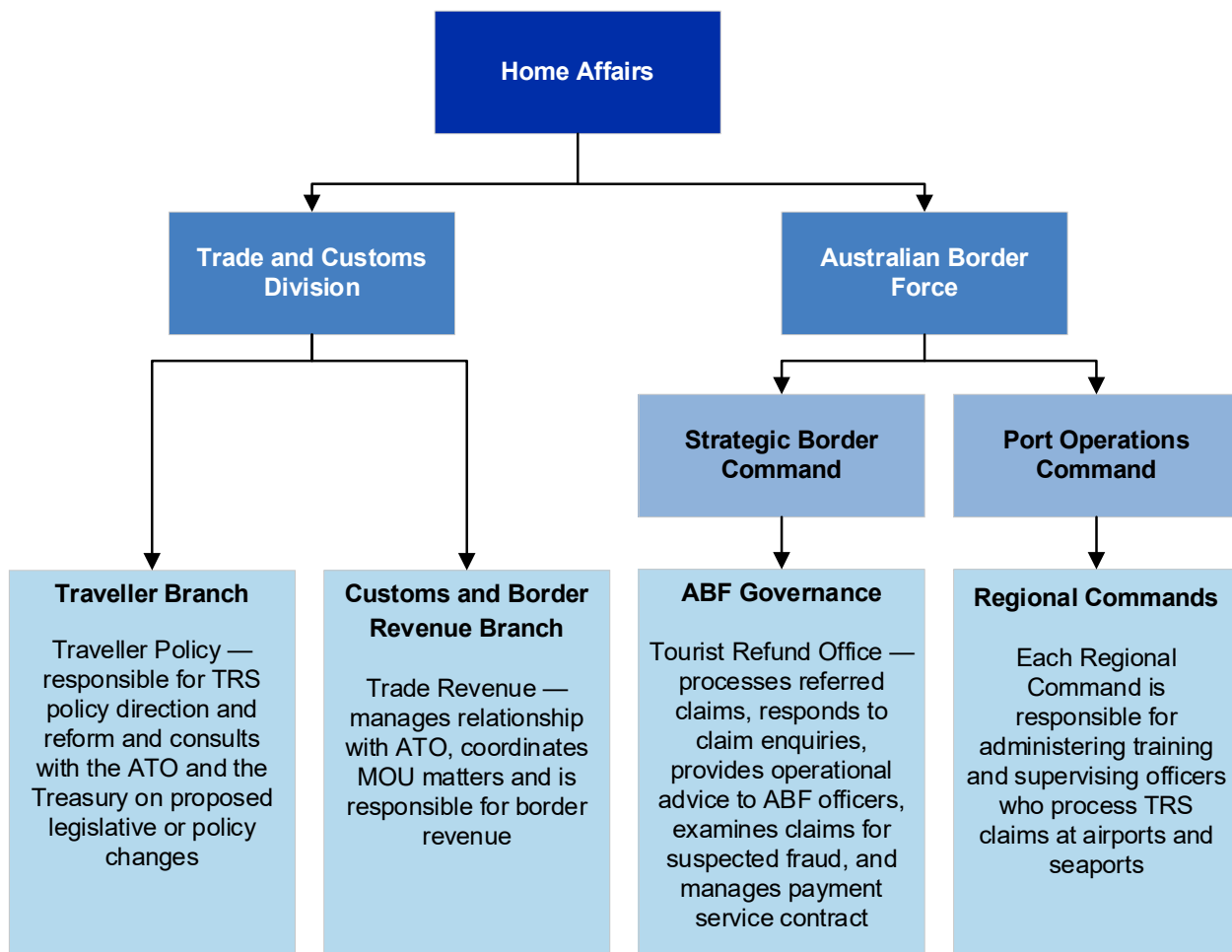
2.12 The subsidiary arrangement states that the provision of the certificate is to 'assist the Commissioner in meeting his obligations under the Commonwealth Performance Agreement with the States and Territories in relation to the ATO's administration of the GST'.

Department of Home Affairs responsibilities for the Tourist Refund Scheme

2.13 A number of areas in Home Affairs have responsibilities with respect to the TRS as shown in Figure 2.2.

¹⁵ In June 2019, Home Affairs and the ATO advised they were reviewing the MOU and its subsidiary documents. The main purpose of the review was to update the names of entities and contact details. The ATO and Home Affairs expected the Inter-Agency Liaison Committee to consider the updates to the documents in July 2019.

Figure 2.2: TRS roles and responsibilities within Home Affairs as at June 2019



Note: On 1 July 2019, the Trade and Customs Division moved under the Australian Border Force and was renamed the Customs Group. Branch names and functions remained as described in Figure 2.2.

Source: ANAO analysis based on Home Affairs documents.

2.14 In April 2018, a Home Affairs Management Initiated Review (MIR) of the controls framework for the TRS examined the policies and procedures in place to support the administration of the TRS. The review found that while Home Affairs had published a TRS Policy Statement, the document was missing key information. The adequacy of the TRS policy and procedural documentation is discussed in paragraphs 2.25 to 2.29.

Tourist Refund Scheme stakeholders

2.15 Although not part of the governance framework for the TRS, there is a range of stakeholders with which Home Affairs has to deal with in respect to the TRS. These are shown in Table 2.1.

Table 2.1: TRS stakeholders and their interests

Stakeholder	Interests
Airlines	Reducing the length of time claimants can potentially spend queuing to receive a refund at TRS counters. Airlines have expressed concerns about passengers potentially missing flights, or flights being delayed, because of the time claimants can spend queuing for a refund.
Airport corporations	Reducing the length of time claimants can potentially spend queuing to receive a refund at TRS counters, and improving the departure experience for claimants (see box below).
Austrade	Considering how the TRS contributes to the government's Tourism 2020 strategy to build the resilience and competitiveness of Australia's tourism industry. A government-agreed action in the strategy's implementation plan is to 'continue to reform the TRS to make it easier to claim back the GST'.
Retailer peak bodies	Increasing tourist retail shopping in Australia, through seeking changes to the administration of the TRS to allow competition by private refund operators, whom retailers argue will promote the TRS and drive an increase in shopping and claiming. In 2017–18, non-residents spent more than \$1.5 billion on goods for which they received a GST refund through the TRS. Australian residents spent more than \$1 billion on goods for which they received a GST refund through the TRS in the same period.
State and territory governments	The effectiveness of TRS administration, management of TRS risks and the amount of GST being refunded (which together with administrative costs is deducted from GST revenue remitted to the states and territories). The states and territories must be consulted on any proposed administrative changes to the TRS that could affect claiming, as changes to claiming could reduce or increase the amount of GST being refunded to states and territories.
Peak tourism bodies	Access to the TRS and increasing the attractiveness of Australia as a tourism destination, including by seeking changes to the administration of the TRS to allow competition by private refund operators.

Note: Austrade is the Australian Trade and Investment Commission. Its purpose is to contribute to Australia's economic prosperity by helping Australian businesses, education institutions, tourism operators, governments and citizens as they: develop international markets; promote international education; win productive foreign direct investment; strengthen Australia's tourism industry; and seek consular and passport services. It has policy responsibility for tourism. Refer to: <https://www.austrade.gov.au/about/about>

Source: ANAO analysis.

2.16 TRS stakeholders including the Tourism Shopping Reform Group and the Australian Federation of Travel Agents stated they engaged regularly with Home Affairs about the TRS. The box below summarises the views of two stakeholders.

Stakeholder views of the TRS

The administration of the TRS is of interest to the retail, tourism and travel industries, which have formed a coalition — the Tourism Shopping Reform Group — to advocate for reform to shopping arrangements in Australia, in particular administrative enhancements to the TRS involving a greater role for private refund operators. The group is co-chaired by the Tourism and Transport Forum and the Australian Retailers Association. In a submission to the ANAO, the group stated:

The TRS would be significantly enhanced by allowing private operators to compete for its administration, which would then drive innovative product development and increase tourist retail shopping, particularly from international visitors. The current system administered by government is fragmented, inefficient and costly and unnecessarily draws on the resources of the Department of Home Affairs staff.^a

Airport operators expressed concerns to the ANAO about 'drawbacks and inefficiencies that are detrimental to the passenger experiences at Australian airports, and our tourism sector more broadly'. Separately, in a submission to the ANAO, Sydney Airport Corporation stated:

The challenge of processing a large number of TRS claims with limited resources drives a number of undesirable outcomes ... lengthy wait times for TRS claims to be processed regularly impact airline on time performance ... long queues out of the airside TRS processing office have extended up to 90 metres ... the experience of passengers facing lengthy waits to have their claims processed is a major cause of frustration and a poor last impression of Australia before departing the country.^b

Note a: Tourism and Transport Forum Australia and Australian Retailers Association, joint letter of submission to the ANAO, 25 January 2019, p. 1.

Note b: Sydney Airport Corporation, letter of submission to the ANAO, 1 March 2019, p. 2.

Tourist Refund Scheme resourcing arrangements

2.17 One of the subsidiary agreements provides that the ATO will pay Home Affairs for the services and functions that it performs. As noted in Table 1.3, this amount was agreed in 2017–18 as \$51.15 million to cover all tax-related activity performed by Home Affairs on the ATO's behalf, of which TRS is one component.

2.18 As the funding is deducted from GST revenue for states and territories, any proposal to vary the funding as a result of service changes must be considered by states and territories as part of the annual review of Schedule B — GST Administrative Activities of the GST Administration Performance Agreement between the ATO and the states and territories. The annual review by GSTAS and the Ministerial Council for Commonwealth-State financial relations (MINCO) is integrated into the Commonwealth Budget process, so there can be no change to the funding that Home Affairs receives for the administration and performance of GST, LCT and WET functions unless the ATO's appropriation is also changed.

Requests for increased funding

2.19 On a number of occasions from 2015 onwards, Home Affairs expressed concern that the funding it received from the ATO was no longer commensurate with its increasing TRS workload. For example, the minutes of the February 2018 meeting of the ILC record that Home Affairs said there was a shortfall in funding for 2017–18 of \$5.3 million and a projected shortfall of \$5.6 million

for both 2018–19 and 2019–20, and that an additional one-off injection of \$1.0 million was needed to help clear the backlog of unprocessed claims.

2.20 In July 2018, Home Affairs wrote to the ATO regarding the funding arrangements under the MOU. The letter noted that:

- funding provided by the ATO to Home Affairs had not been adjusted to reflect ‘volumetric pressures’ since the GST was introduced in 2001; and
- over the five years from 2013–14, the number of TRS claims increased by 43 per cent but the funding provided by the ATO had fallen by four per cent.

2.21 The letter also referred to the Certificate of Assurance (see paragraph 2.11) and stated that:

Until funding is secured, the Department’s ability to fulfil the responsibilities specified in the MOU is limited; and the Commonwealth, States and Territories; and ATO will continue to bear the risks.¹⁶

2.22 An internal ATO email showed a Home Affairs officer had suggested that ‘without additional funding, Home Affairs will not be able to submit its certificate of compliance under the MOU’. As noted at paragraph 2.12, this would affect the Commissioner for Taxation’s ability to meet his obligations to the states and territories.

2.23 The ATO proposed that, as part of the Budget process, the entities submit a joint bid for additional funding to the government.¹⁷ The two entities worked together to develop the funding proposal, which sought \$5.27 million, including \$1.95 million in system enhancements. The draft proposal stated that this funding would:

support more detailed statistical analysis, profiling, targeting and reporting to address the ongoing misappropriation of GST refunds. This will support the integrity and effective administration of the program by reducing fraud, exploitation and non-compliance.¹⁸

2.24 The ATO advised Home Affairs in January 2019 that additional funding would not be provided in the 2019–20 Budget. Nonetheless, on 24 January 2019, the ATO proposed to Home Affairs that they hold a joint workshop to look at options that could assist Home Affairs to address its concerns about the TRS workload. In June 2019, Home Affairs accepted the proposal and advised the ATO that it was ‘committed to a workshop as soon as practicable’.

Are there adequate instructions and guidance?

The instructions and guidance provided to assist with the administration of the TRS are largely adequate. However, a TRS procedural instruction, which is to include Home Affairs officer training requirements, had not yet been updated.

16 Department of Home Affairs, letter from Home Affairs Acting Chief Financial Officer to ATO Assistant Commissioner GST Product Leadership and Program Assurance Branch, 11 July 2018, p. 2.

17 As noted earlier in this report, the ATO provides a pool of funding to cover all tax-related activities undertaken by Home Affairs. The allocation of these funds across the various activities is a matter for the agencies.

18 Department of Home Affairs, ‘Tourist Refund Scheme Improvements – Home Affairs’, draft funding proposal, 7 January 2019, p. 1.

Policy and procedural guidance

2.25 When the former Australian Customs and Border Protection Service and the Department of Immigration and Border Protection were integrated in July 2015, Home Affairs established an overarching Policy and Procedure Control Framework as an internal control framework outlining the governing arrangements for all organisational policies and procedures. Under the framework, there are policy statements that set out high-level guidance and principles, supported by procedural instructions. Policy statements and procedural instructions are uploaded to the Policy and Procedure Control Register (the register) and accessed through the Home Affairs' intranet.

2.26 A TRS Policy Statement (the policy statement) is available through the register. The Management Initiated Review of the TRS (discussed in more detail in Chapter 3) found that the policy statement 'does not provide an appropriate framework for operationally focused procedural documentation for the TRO and TRS facilities' and that it was missing key information, including:

- the governance structure and meetings between Home Affairs and the ATO;
- the roles and responsibilities of Home Affairs and ATO with respect to administering the TRS and managing risks; and
- roles and responsibilities regarding passenger education, integrity reporting and policy development.

2.27 In response to this finding, Home Affairs agreed to update the policy statement by 30 September 2018. Home Affairs advised that the updated policy statement was approved and uploaded to the register in July 2019.

2.28 There are two procedural instructions: one for the TRS processing staff at airports and one for staff of the Tourist Refund Office (TRO) in Canberra. The MIR found that the procedural instruction for officers processing TRS claims at airports 'limits the Department's ability to implement nationally consistent and robust processes to combat fraudulent claims'. While Home Affairs has partially responded to this finding, it has yet to update or improve guidance on training requirements for staff.

2.29 While the procedural instruction for staff of the TRO was in draft form at the time of audit, the ANAO considered that it provides adequate guidance about the role of the TRO and the responsibilities of TRO staff, which include authorising the payment of TRS funds. In July 2019, Home Affairs advised that the TRO procedural instruction would be completed by the end of July 2019 and the ABF would develop standard operation procedures for staff of the TRO after the procedural instruction was published.

Training

2.30 In April 2018, Home Affairs introduced an Organisational Compliance Management Framework. The intention of the framework is to identify those areas of Home Affairs with 'compliance obligations' and require nominated 'stewards'¹⁹ to assess the adequacy of compliance processes. As part of an assessment of the TRS, the relevant steward stated:

19 Stewards are nominated Senior Executive Service officials who have 'primary accountability for specific control frameworks'.

- TRS training is either not in place, not effective or out of date;
- an online training package, which existed previously, was taken down at integration²⁰ in 2015 and has not been replaced; and
- the only training available for ABF officers is 'on the job'.

2.31 As noted elsewhere in this report, administration of the TRS is not viewed by Home Affairs as a high priority relative to its other functions. The ANAO requested information from each Regional Command on their individual training activities; resources; and assurance and feedback process to ensure officers understand their obligations. Each Regional Command advised the ANAO of different approaches to training staff²¹, with different amounts of classroom and on-the-job training. In most cases, TRS counters are predominantly staffed by 'irregular and intermittent employees'²² and Border Force Officer Recruit Trainees (BFORTs) assess applications that are lodged in 'drop boxes'.

2.32 The Australian Border Force (ABF) College is not directly involved in delivering TRS training, apart from an introductory session that is part of BFORT training. As part of its response to the MIR (see Chapter 3), the TRO agreed to work with the ABF College and the Regional Commands to deliver a TRS training package to all TRS sites. At the time of audit, a training package has not been delivered.

2.33 The TRO also agreed to update the TRS policy statement and procedural instruction to include officer-training requirements, as part of its actions in response to the recommendations of the MIR. During the audit, the policy statement was updated but the update did not explicitly address training requirements, and the procedural instruction was yet to be updated.

2.34 In June 2019, Home Affairs advised that given the 'straightforward regulatory nature of the work involved in processing TRS applications', it regarded the on-the-job training as 'meeting requirements'.

Is performance and management information collected, analysed and reported?

Performance information is collected, analysed and reported, including on the timeliness of claim payments and activities to deliver the TRS. The information does not address the quality or integrity of the TRS system.

20 This refers to the integration of the Australian Customs and Border Protection Service and the Department of Immigration and Border Protection in July 2015.

21 This varied from state to state between two days training as part of entry training to on-the-job or online training.

22 Irregular and intermittent employees is the term given by Home Affairs to casual employees who are engaged to assist with ABF peak processing workloads.

Collection of performance information against legislative requirements

2.35 Subdivision 168–5.17 of the A New Tax System (Goods and Services Tax) Regulations 1999 requires Home Affairs to pay approved claims for GST and WET refunds within 60 days of lodgement.²³

2.36 Home Affairs regards the requirement to pay approved claims within 60 days of lodgement as an informal performance measure for the assessment of claims and delivery of refunds to claimants, although it has not documented this as a performance measure in policy or procedural guidance.²⁴ ANAO analysis of TRS data shows that in 2017–18, Home Affairs paid 99.3 per cent of claims within 60 days of lodgement.

2.37 Home Affairs provided the ANAO with access to its ‘dashboard’ software (see paragraph 3.65) that enables it to collect and report information internally on the status of claim processing activity, including performance against the requirement to pay claims within 60 days of lodgement. Home Affairs advised that the dashboard software is available to management, operational and policy staff with TRS responsibilities.

2.38 The ANAO observed that the software provides data on claim processing to enable partial assessment against the legislative requirement to pay claims within 60 days. The ANAO also observed that the dashboard does not show claims lodged in drop boxes in airports until officers assess and enter the claims, usually at a later date, in the TRS system. Home Affairs advised the ANAO that consequently, it did not use the dashboards to analyse and report against the legislative requirement.

2.39 Up to 30,000 claims lodged in drop boxes were awaiting entry into the TRS IT system at various times during the December 2018 to February 2019 peak processing time for TRS claiming. The backlog increased the risk of Home Affairs not meeting the requirement to process claims within 60 days. From December 2018 to February 2019, Home Affairs drew on estimates of the claim backlog to report to executive on claims at risk of not being processed within 60 days.

Reporting to government

2.40 The GST Administration Performance Agreement (the performance agreement) between the ATO and the Council on Federal Financial Relations sets out the ATO’s accountability and performance arrangements with respect to GST as a whole. Within the performance agreement, there are six ‘performance outcome measures’ relating to the TRS, as shown in Table 2.2 together with the 2017–18 data. The ATO reports the information and data annually to states and territories in GST administration annual performance reports that are published on the ATO website.²⁵

23 There is no consequence for Home Affairs if claims are not processed within 60 days.

24 Home Affairs also receives information from its TRS payment services provider, Global Blue Australia, about Global Blue Australia’s performance in making payments within prescribed time limits. Home Affairs has TRS service standards for the payment of claims, but it does not monitor or report against these standards.

25 The ATO’s annual reporting on the TRS and TRS performance measures can be viewed in GST administration annual performance reports at: <https://www.ato.gov.au/About-ATO/Commitments-and-reporting/In-detail/GST-administration/>.

Table 2.2: GST Administration Performance Agreement TRS performance outcome measures

Measure	Outcome 2017–18
Total value of TRS claims paid (\$million)	228.3
Audit coverage — TRS (%)	100
TRS claims rejected (%)	1.6
GST adjustments — rejected TRS claims (\$million)	3.0
Costs of administering the TRS (\$million)	15.1
Total TRS claims processed	1,010,000

Note: In August 2019, Home Affairs advised that the cost of administering the TRS in 2017–18 has been revised to \$16.1 million.

Source: GST Administration Performance Agreement performance outcome measures and GST administration annual performance report 2017–18.

2.41 Although the data shown in Table 2.2 is referred to as ‘performance outcome measures’, it is more an indicator of activity. The performance measures do not include activities to verify export²⁶, or measures of the quality of TRS activities or of the integrity of the TRS system.

2.42 Table 2.2 also states that ‘audit coverage’ is 100 per cent. The performance agreement states that TRS audit coverage is defined as the proportion of TRS claims subject to compliance activity and is calculated as:

$$\frac{\text{Number of TRS claims subject to compliance activity} \times 100}{\text{Number of TRS claims lodged}}$$

2.43 The term ‘compliance activity’ is defined as including ‘real-time activities undertaken to verify that particular TRS claims meet the requirements of the regulations and any post-transaction compliance activities’.

Has the Tourist Refund Scheme been reviewed?

There have been a number of internal and external reviews of the TRS which have identified both structural and operational deficiencies and made a number of recommendations, most of which have been implemented.

2.44 Home Affairs has completed four internal reviews and internal audits of the TRS between 2000 and 2018. Table 2.3 summarises the reviews and audits, which have all found weaknesses in systems and procedures to detect non-compliance and fraud, which were dealt with as described below.

²⁶ As noted at paragraph 3.30, Home Affairs does not record the proportion of claims where the ABF sights the goods in order to verify export.

Table 2.3: Home Affairs internal reviews and audits of the TRS, 2000 to 2018

Date	Title	Objective
June 2000	Review of Tourist Refund Scheme	To provide comment and recommendations on the operations of the TRS in relation to policy, procedures and controls agreed upon to date
December 2008	Internal audit of the Tourist Refund Scheme	Document and assess the control framework surrounding the TRS
October 2011	Tourist Refund Scheme Internal Audit	Identify whether remedial measures as recommended in previous audits had been implemented and ... whether these controls are working effectively
April 2018	Review of the Controls Framework for the Tourist Refund Scheme (the MIR)	Assess the processes and controls supporting the management of the TRS and to identify recommendations to improve integrity controls and process efficiency

Source: Home Affairs documents.

2.45 The June 2000 review concluded that due to the TRS business rules, ‘Government requirements’ and the importance of ensuring passenger facilitation through airports and seaports, the TRS had ‘some inherent key control weaknesses’. These weaknesses included the ability of a passenger to claim using a ‘fictitious tax invoice’. The review made 15 recommendations to improve controls and the monitoring of claims, and concluded that the responses to the recommendations had already addressed ‘all reported issues’.

2.46 The December 2008 internal audit found ‘a number of control deficiencies’ with monitoring and detecting fraudulent claims and made 12 recommendations that mostly related to the risk of internal fraud (that is, by ABF employees). The October 2011 internal audit found the ABF had implemented most of the 2008 internal audit recommendations and made a further six recommendations that also mostly related to internal fraud. An internal report to the Home Affairs Audit Committee in June 2013 found the six recommendations had been implemented.

2.47 The April 2018 MIR was an ‘end-to-end’ review of TRS system and procedural controls. The MIR noted the TRS had ‘not been subject to review in recent years, with processes and systems having remained the same for some 16 years’. The MIR found there was a ‘significant absence’ of processes and controls to prevent non-compliant or fraudulent claims. As at the time of audit, Home Affairs internal reporting states that two of the 11 recommendations have been fully implemented, eight have been partly implemented and one has not been implemented. The MIR is discussed in Chapter 3.

Other reviews

2.48 The government has twice committed — in a 2003 tourism white paper and in 2015 — to identify and analyse options for improving the TRS.

2.49 There were two reviews of the TRS administrative arrangements in response to these commitments. They were:

- a July 2006 interdepartmental review of the administrative arrangements for tourist shopping in Australia; and
- a February 2017 TRS reform options paper, and accompanying Ministerial submission on proposed TRS reforms, which was considered by the Treasurer.

2.50 The July 2006 interdepartmental review, entitled Review of the administrative arrangements for tourist shopping in Australia, recommended changing the rules for TRS eligibility to make the scheme more accessible to travellers. As noted in paragraph 1.16, GST regulations were amended in 2013 to extend the eligibility period for TRS claims, in response to the 2006 review's recommendations.

2.51 The July 2006 review did not reach a conclusion on whether the TRS should be 'outsourced'. Nevertheless, in the 2007–08 Budget, the government proposed enabling private providers to provide TRS refunds. The states and territories did not agree to the proposal and the government decided in the 2008–09 Budget that it would not proceed with outsourcing the TRS.

2.52 The February 2017 TRS reform options paper proposed options for reform including outsourcing the TRS and removing eligibility for Australian citizens and residents. The options, and the Treasurer's response, are discussed in Chapter 3.

3. Risks and controls

Areas examined

This chapter examines whether Department of Home Affairs (Home Affairs) and Australian Taxation Office (ATO) risk assessments and controls support the effective management of Tourist Refund Scheme (TRS) non-compliance and revenue leakage risks.

Conclusion

Home Affairs and the ATO have determined that TRS compliance is a low priority compared with their other responsibilities. They have done so in the context of an inappropriate risk assessment process and evidence suggesting there is a large level of non-compliance from Australian citizens and residents and significant revenue leakage (\$244.3 million to \$556.6 million over the life of the scheme). Although the entities have developed data analysis tools to review claims, the tools have not been embedded in business processes.

Areas for improvement

The ANAO has recommended that the ATO and Home Affairs prepare a joint risk assessment of the TRS which identifies all risks and appropriate treatments, and review the assessment annually.

The ANAO has also recommended that Home Affairs, the ATO and the Treasury jointly design, develop and conduct an operation similar to one run in 2012 in order to measure the level of non-compliance by Australian citizens and residents and associated revenue leakage, and report the results of this operation to the Australian Government (the government).

Finally, the ANAO has recommended that Home Affairs and the ATO implement and embed into business practices the data analysis tools that they have already developed.

Terminology used in this chapter

3.1 Since the TRS is a refund scheme, the Goods and Services Tax (GST) collected by the Commonwealth from retailers and subsequently refunded by the TRS is money that would otherwise have been paid by the Commonwealth to the states and territories. Hence, any refund that should not have been paid²⁷ represents a 'leakage' of money that should have been paid to the states and territories. 'Leakage' is the term used in this chapter to cover a variety of such instances, whether intentional or not. Non-compliance refers to the failure of claimants to meet TRS requirements, which results in revenue leakage.

27 For example, this could be because the claim was ineligible, the goods or receipts were forgeries, or a returning Australian resident failed to declare upon return goods that were the subject of a TRS claim.

Have appropriate risk assessments been undertaken?

Home Affairs and the ATO have not undertaken appropriate risk assessments:

- the entities have not developed a joint risk assessment of the TRS, which would facilitate better understanding and management of shared risk;
- Home Affairs has not provided a full risk assessment and annual update of risks, as required under the Memorandum of Understanding (MOU) between it and the ATO; and
- Home Affairs has not fully implemented the additional risk mitigations it identified in its 2018 risk assessment, to achieve its objective of reducing the risk from 'high' to 'medium'.

Risk assessments

3.2 The Commonwealth's Risk Management Policy states that entities 'must implement arrangements to understand and contribute to the management of shared risks'. To date, the ATO and Home Affairs have not developed a joint risk assessment of the TRS.

3.3 As noted at paragraph 1.11, the TRS is not listed as an operational priority in the Home Affairs corporate plan or in internal business plans. For the ATO, as noted below in paragraph 3.6, the TRS is 'not a priority risk'. Both the ATO and Home Affairs have considered some (but not all) TRS risks as part of other risk assessment work they have done.

Australian Taxation Office assessments

3.4 The earliest risk assessment identified by the ANAO was dated April 2014. The document contained:

- risk title and description;
- risk identification;
- risk drivers;
- risk analysis; and
- risk likelihood and consequences.

3.5 The document also gave a number of specific 'real life' examples of cases that had led to significant revenue leakage. While the document assessed the likelihood of non-compliance as 'almost certain', it concluded that the overall risk was 'low'.²⁸

3.6 Subsequent broader reviews which covered TRS risk were conducted in 2015, 2016 and 2018. The 2015 and 2016 reviews did not re-assess the TRS risk and the 2018 review did not contain a rating of the TRS risk.²⁹ The ATO advised an April 2019 risk assessment of small business clients 'evaluated and compared' the TRS to other risks, 'with the outcome being it was not considered a priority risk'.

28 This rating takes into account the fact that the value of TRS refunds is insignificant when compared to the total tax refunds of all kinds paid by the ATO. For example, in 2017–18, TRS refunds totalled almost \$230 million, which represents less than one-quarter of one per cent of the \$102 billion paid in tax refunds of all kinds by the ATO in that year.

29 The ATO advised that the risk reviews in 2015 and 2016 conformed to corporate processes that did not require a re-assessment of the TRS risk.

3.7 While not explicitly identified as risk assessments, a November 2018 document entitled Tourist Refund Scheme Treatment Strategy and a March 2019 document (entitled Tourist Refund Scheme Risk Treatment Plan) contain detailed elements as in in the 2014 risk assessment referred to at paragraph 3.4 above.

Department of Home Affairs assessments

3.8 A document supporting the MOU between Home Affairs and the ATO³⁰ requires Home Affairs to provide 'a full risk assessment' every three years and an 'annual update of risks' to the Operational Sub-Committee of the Interagency Liaison Committee. Home Affairs advised that it could not locate these documents.

3.9 An October 2014 risk assessment document, entitled Border Revenue (Tourist Refund Office) — Fraud and Corruption Risk Assessment, focusses only on the risk of ABF officers committing frauds against the TRS and not on the risk of fraud by travellers.

3.10 Home Affairs completed an assessment of the fraud and corruption risk of the TRS in April 2018. The assessment identifies a risk of travellers making fraudulent claims and assesses the level of this risk as 'high'.³¹ To reduce the risk level from high to medium, the assessment states Home Affairs will implement additional mitigations that will:

- utilise data analytics to identify trends and anomalies that require further analysis to identify suspected fraudulent transactions; and
- consider exercises or campaigns to: monitor check-in of goods sighted landside; identify where airport workers return landside with goods on which TRS has been claimed; and sight goods relating to a higher percentage of live and drop box claims.

3.11 The implementation date for the mitigations was 31 December 2018.

3.12 In April 2019, Home Affairs advised the ANAO that it had partly implemented the mitigations. As discussed in paragraph 3.65, Home Affairs has developed dashboards that provide information about potential TRS non-compliance and fraud to enable further analysis. However, Home Affairs advised that the dashboards have not been 'incorporated in current business activities' and that 'due to resource constraints, there is no dedicated analysis of the dashboards for external fraud identification'.

30 The document is entitled Administration of Tourist Refund Scheme — Roles and Responsibilities, and is dated August 2013. It is described in paragraph 2.10.

31 The assessment also identifies the risks of a Home Affairs officer processing TRS claims for personal benefit (rated as a moderate risk) and a tour operator creating false claims (rated as a high risk).

Recommendation no.1

3.13 The ATO and Home Affairs improve risk management of the TRS by preparing a joint risk assessment of the TRS which identifies all risks and appropriate treatments, and review the assessment annually.

Department of Home Affairs response: *Agreed.*

3.14 *The Department and ABF are engaging with the Australian Taxation Office (ATO) to develop a joint risk assessment that will be reviewed annually and endorsed by the Inter-Agency Liaison Committee, established under the Memorandum of Understanding between the ATO and the Department. A joint-agency workshop to commence this work was held on 31 July 2019.*

Australian Taxation Office response: *Agreed.*

3.15 *The ATO and DHA convened a meeting on 31 July 2019 to commence addressing this recommendation.*

Do the Australian Taxation Office and Department of Home Affairs have appropriate systems and processes in place to manage revenue leakage?

Home Affairs and the ATO have put in place limited systems and processes to manage revenue leakage. This reflects their assessment that the TRS is a low operational priority, and not a priority risk for treatment when compared with the other risks the entities manage.

The entities have not improved the TRS information technology (IT) system in any meaningful respect, since its introduction almost 20 years ago, to support officers to identify non-compliant or fraudulent claims. Home Affairs and the ATO have not used the available TRS data to implement systematic and routine compliance approaches to assist in detecting patterns and indicators of revenue leakage. Detections of significant instances of fraud have been ad hoc rather than as a result of systematic data analysis.

Based on Home Affairs and ATO figures, there has been between \$244.3 million and \$556.6 million in GST revenue leakage from the TRS since the scheme commenced in 2000. This money would otherwise have been paid to the states and territories.

While Home Affairs has the capacity to impose GST penalties, Home Affairs stopped issuing penalties for undeclared importation of TRS-claimed goods between 2013 and 2018 and has used the GST penalty regime infrequently since it recommenced issuing them. Home Affairs can place alerts on returning Australian citizens and residents where it suspects that goods may be reimported without being declared. However, although this has produced a 'hit' rate of 41.9 per cent when it has been used, it is used relatively infrequently.

Proposals to government to develop options for it to consider abolition of the scheme, exclusion of Australians from its operation or outsourcing its operation have not been agreed.

3.16 The effective administration of the TRS involves a number of compliance actions that are discussed further below. The main actions are:

- ensuring that every claim is eligible;
- verifying that the goods have been (or are about to be) exported;
- ensuring that goods in respect of which a TRS claim has been made (and refund paid) are not reimported to Australia; and
- reviewing claims to detect revenue leakage.

3.17 These actions are discussed below. This section also discusses the Home Affairs Management Initiated Review of the TRS (the MIR) and the examination of options for reform of the TRS.

Eligibility

3.18 As noted in paragraph 1.1, in order to be eligible, goods which are the subject of a TRS claim must:

- have been purchased not more than 60 days prior to departure;
- have a combined value (from any one business) of more than \$300; and
- have been purchased from a retailer that has both an Australian Business Number (ABN)³² and is registered³³ with the ATO for GST.

3.19 When a traveller presents a TRS claim at the TRS counter, the processing officer is required as a minimum to input into the TRS system the following data:

- the date the goods were purchased;
- the total invoice amount; and
- the ABN of the retailer.

Purchase date and invoice amount

3.20 The TRS system will indicate if the purchase date entered is more than 60 days before travel, or if the sum of the invoice or invoices from a single ABN is less than \$300.

Australian Business Number

3.21 If the ABN is valid, the TRS system indicates the name of the entity. However, if the ABN is invalid or is 'made up', the system will still allow the claim to be processed.³⁴

3.22 As noted at paragraph 3.18, the entity from which goods are purchased must also be registered for GST. If it is not, the claim is ineligible and should be rejected. The TRS system is not

32 An Australian Business Number is a unique 11-digit number that identifies Australian businesses to the Australian Government and community. Refer to: <https://www.business.gov.au>

33 A registered entity is one that is required to be registered by section 23-5 of the *A New Tax System (Goods and Services Tax) Act 1999*. Broadly, any 'business or enterprise' with annual turnover of more than \$75,000 must be registered.

34 The ANAO's limited testing of 2017–18 TRS data found 30 invoices with invalid ABNs that were processed and refunds paid.

capable of checking this. This deficiency of the TRS system has existed since commencement in 2000. An email in August 2014 from the ATO to the ABF noted:

Other areas we covered off on our telephone conversation was the ABN and ensuring that the vendor is actually registered for GST. A vendor may produce a tax invoice however they may not be registered for GST.³⁵

3.23 No action to consider options for dealing with this issue was taken because almost three years later, an internal ATO document entitled 'TRS timeline' notes that on 15 June 2017, Home Affairs 'asked the ATO how they can routinely check if an ABN is registered for GST. Manually or is there an automated system verification?'. In September 2017, the ATO informed Home Affairs that an analysis of the previous two years' data identified TRS claims made against 533 ABNs with cancelled GST registrations, representing 1989 TRS claims. The ATO asked Home Affairs to 'ensure that an ALERT is placed on these ABNs so future claims are rejected on these ABNs with cancelled GST registrations'. With respect to verification, the same email commented that an officer from the ATO's Business Reporting and Registration area believed that even within the limitations of the TRS system, it should be possible to connect it 'to the ABR web service³⁶ so that your TRS officers entering TRS claims can easily identify ABNs with cancelled GST registrations; to ensure GST refunds are not paid on these invoices. [Name] believes this to be a "quick fix" that would not be costly'. In July 2019, Home Affairs advised that the 'quick fix' had not yet been implemented but expected it to be so by September 2019.

3.24 The ATO advised that it examined the 'top 13'³⁷ (2.4 per cent) of the 533 ABNs, of which two were the subject of ongoing audit action including one 'black economy' case. Eight of the ABNs were from businesses that had changed ownership or structure and obtained new ABNs, but had not updated ABN numbers on business systems and invoices. One business was found to have not issued the invoice used for the TRS claim, and no further action was taken for another as the business had ceased trading. One case resulted in the repayment of GST and income tax totalling \$29,000. The ANAO asked the ATO whether it had taken action to recover the refunds paid on claims that were ineligible because the retailers' GST registration had been cancelled. The ATO advised that of the 1989 claims arising from the 533 ABNs, about 45 per cent related to a single business, which had the incorrect ABN on its invoices but had reported and paid GST under a different ABN. The ATO advised the ANAO that it 'will not address those ABNs that have had no or cancelled GST registration' and 'will focus its limited resources on higher risk cases'.

3.25 ANAO analysis of TRS data covering the entire period since the TRS commenced in 2000 identified 34,487 claims that were approved for payment where the retailer was not registered for GST. The 34,487 claims (approximately 0.3 per cent of the total population of the \$1.6 billion in paid

35 Australian Taxation Office, email to the then Australian Customs and Border Protection Service, 5 August 2014.

36 The Australian Business Register (<https://abr.business.gov.au>) provides a spreadsheet-based tool called ABNLookup which allows a user to enter multiple ABNs and instantly obtain a wide range of information including entity name, business name, trading name and, relevantly, GST registration. The latter includes registration status (registered, cancelled or none) and the date of effect. For the purposes of its analysis for this audit, the ANAO was able to use the tool to 'cut and paste' into it up to 10,000 ABNs at a time.

37 The ANAO asked the ATO how it decided to examine only 13 of 533 cases (for example, whether this was based on statistically valid sampling). In August 2019, the ATO advised that 'the ATO's decision to not investigate each ABN was made on the basis that the ATO used its resources efficiently relative to the risks it manages'.

claims) contained 4302 unique ABNs. The claims amounted to approximately \$4.2 million in refunds. While it is possible that some (or possibly even most) of these businesses had some explanation around their apparent lack of GST registration, the ATO advised that 'based on the level of risk over this period, the risk is not deemed to be significant to warrant resource allocation' in order to investigate further.

3.26 In addition, the issue of businesses not being registered for GST is that, as noted, all businesses with a turnover of more than \$75,000 per annum are required by law to register for, and remit to the government, GST they collect as part of every sale. Prima facie, a business that is making GST-inclusive sales to customers but is not registered for GST may be retaining the GST paid to it, and this could relate to all sales it makes — not just those to customers who are international travellers and who later claim a TRS refund. In such cases, the payment of a TRS 'refund' where no GST had in fact been paid to the government would represent potential additional loss of revenue.³⁸

Verification of export

3.27 As noted at paragraph 1.14, claimants must have their goods with them so that the processing officer can verify³⁹ the export. In April 2016, the Australian Border Force (ABF) established thresholds about when it will examine goods as shown in Table 3.1.

Table 3.1: Verification of export

Invoice value of goods (\$)	Verification required?
0 to 2000	No
2000 to 5000	Risk-based
Above 5000	Yes

Source: ANAO from ABF operational notification.

3.28 The introduction of thresholds for verification was a risk-based way of managing the workload from increasing numbers of TRS claims, since higher value claims potentially represent a greater revenue leakage risk. The ANAO analysed the number and value of claims in each of the ranges shown in Table 3.1. The results are shown in Table 3.2.

Table 3.2: Numbers of invoices and value of goods, 2016–17 to 2017–18

Invoice value range (\$)	Number of invoices	Proportion (%)	Value of goods (\$)	Proportion (%)
0 to 2000	4,007,010	89.2	2,424,698,563	48.7
2000 to 5000	354,787	7.9	1,069,585,324	21.5
Over 5000	128,445	2.9	1,480,680,164	29.8
Total	4,490,242	100.0	4,974,964,051	100.0

Source: ANAO analysis of TRS data.

38 The ATO advised the non-payment of GST is not unique to the TRS risk, and 'to address where people operate outside the tax and regulatory system, and/or do not correctly report their tax obligations, the government has established a black economy task force'.

39 In this context, ANAO observation at Sydney and Melbourne airports suggested that 'verify' can include inspecting and touching goods to ascertain whether the appearance, weight and feel of goods seems genuine. Officers are not given any guidance about whether they are required to open sealed packages. The exact nature of 'verification' is left to the judgment of individual officers.

3.29 Table 3.2 shows that TRS claims where the goods were valued at more than \$2000 represented only 10.8 per cent of the number of claims but 51.3 per cent of the total value of goods.

3.30 More detailed analysis on the frequency of verification and the degree to which officers apply the thresholds is not possible because the ABF does not record whether any particular claim has been verified. However, ANAO analysis of TRS data showed that in the period 2015–16 to 2017–18, officers' notes in the TRS system suggested that 618 claims were rejected because the traveller was not able to produce the goods when asked to do so.

Drop boxes

3.31 Since 2000, the ABF has used 'drop boxes' (see Figure 3.1) whereby claimants may deposit a claim application together with invoices into a box and the claim will be processed later. This was intended to cope with circumstances such as power outages or 'exceptionally high demand'. In 2017, the GST regulations were amended to permit the use of drop boxes. The use of the drop box means that there is no verification of those claims.

Figure 3.1: Drop box, Sydney airport



Source: ANAO.

3.32 Table 3.3 shows the number of claims lodged using a drop box. The number of drop box claims paid increased from 2015–16 but appears to have stabilised at around 11 to 13 per cent of all paid claims.

Table 3.3: Drop box use

Year	Drop box claims (paid)	Proportion of all paid claims (%)	Value of GST refunds paid (\$million)
2015–16	76,822	9.4	17.3
2016–17	115,661	13.1	25.2
2017–18	111,240	11.4	24.1

Note: Table shows claims that were processed after the claimant's departure date (which indicates that the drop box was used).

Source: ANAO analysis of TRS data.

3.33 ABF officers advised that while drop boxes may assist with immediate congestion problems at airports (for peak periods such as Christmas), they are overall not an effective tool because claims lodged in drop boxes require more data entry and thus overall, take longer to process.⁴⁰ In January 2019, internal reporting identified a backlog of unprocessed claims lodged in drop boxes of almost 30,000 claims. Home Affairs wrote to the ATO advising it that it may not be able to process some of these claims within the statutorily required period of 60 days.⁴¹

Goods substitution

3.34 Some claimants will attempt to defraud the TRS by presenting goods whose true value is not as shown on the invoice. For example, the Tourist Refund Scheme Treatment Strategy (see paragraph 3.7) records that in the period 1 December 2014 to 30 January 2017, 115 claims were rejected because of 'goods substitution'. However, no further details were provided.

Forgery

3.35 The wide availability of sophisticated graphics software makes the creation of forged invoices relatively simple. Case studies 2 and 3 in the Appendices provide two examples where claimants used fraudulent invoices to obtain refunds of more than \$50,000 and \$600,000 respectively.

Reimportation of goods

3.36 If goods that have been the subject of a TRS refund are reimported into Australia, the refund must generally be repaid. This requirement predominantly affects Australian citizens and residents. As noted at paragraph 1.3, the ATO believes that Australia is the only country that operates a tourist refund scheme that allows its own citizens and residents to benefit from the scheme.

3.37 Table 3.4 shows the total number and value of TRS claims paid to Australian citizens and residents.

40 Officers processing a drop box claim must manually enter a claimant's travel details and invoice information into the TRS information technology system. Officers who process claims at the TRS counter do not need to enter this information if the claimant uses a TRS mobile application (app), which allows a claimant to enter and store travel detail and invoice information in a Quick Response (QR) code. The claimant transmits the information to the TRS processing officer by scanning the QR code at the TRS counter.

41 Regulation 168-5.17 of the A New Tax System (Goods and Services Tax) Regulations 2019 requires that payment of TRS refunds must be made within 60 days of receipt of the claim.

Table 3.4: Number and value of TRS refunds paid to Australian citizens and residents, 2000–01 to 2017–18

Year	Number of paid claims	Value of refunds paid (\$million)
2000–01	45,434	6.6
2001–02	71,397	10.2
2002–03	50,450	7.1
2003–04	72,560	9.7
2004–05	99,436	12.0
2005–06	105,052	13.2
2006–07	158,932	21.2
2007–08	191,611	26.9
2008–09	196,520	32.0
2009–10	209,801	34.5
2010–11	222,011	36.8
2011–12	247,002	42.2
2012–13	271,793	46.6
2013–14	306,108	58.0
2014–15	324,830	70.7
2015–16	337,367	79.0
2016–17	359,949	84.5
2017–18	388,301	92.2
Total	3,658,554	683.4

Note: Table 3.4 contains the value of GST and WET refunds paid through the TRS.

Source: ANAO analysis of TRS data.

3.38 In August 1998, the Treasurer circulated a government white paper making the case for the introduction of the GST which stated:

Tourists and Australian residents going overseas will be able to recover the GST they pay on goods purchased in Australia and taken away with them when they leave.⁴²

3.39 The bills digest⁴³ for the A New Tax System (Goods and Services Tax) Bill 1998 states that ‘if you acquire goods in Australia and you pay GST on those goods and you take those goods out of Australia with you as accompanied baggage then the Commissioner must refund to you the GST’.

3.40 The explanatory memorandum accompanying the GST legislation states that ‘broadly speaking, the GST is a tax on private consumption in Australia ... generally the GST will not apply to consumption outside Australia, which is why the GST does not apply to exports’. It further notes

42 Commonwealth of Australia, *Tax Reform not a new tax a new tax system*, Commonwealth of Australia, Canberra, 1998, p. 92.

43 Bills digests are prepared by the Parliamentary library for the assistance of members of Parliament.

that travellers who buy goods in Australia and take them for use outside Australia may be entitled to a GST refund, as this involves exporting the goods.

3.41 In May 2000 (before the GST came into effect on 1 July 2000), the then Minister for Justice and Customs issued a media release titled 'Tourist Refund Scheme — a boost for tourism and retail sales'. The media release stated that the TRS 'is expected to boost sales by Australian retailers to international travellers when it is introduced' and is 'expected to bring positive benefit to retailers'.

3.42 In 2003, the government released a tourism white paper that stated the TRS 'allows international travellers to claim back both the GST and the wine equalisation tax paid on goods bought in Australia'. In the White Paper, the government committed to assessing the feasibility of outsourcing the promotion and delivery of the scheme (see paragraph 2.48) as a part of proposals to stimulate travel. In 2014 (as noted in Table 2.1), the government committed to 'continue to reform the TRS' as a part of its Tourism 2020 Strategy Implementation Plan 2015–20.

3.43 In June 2019, the Treasury advised the ANAO that:

there is limited rationale for including Australians in the TRS beyond treating these purchases consistently with exports. Other countries generally do not consider this principle as sufficient to include residents within their TRS. The rationale for the TRS has evolved since the scheme was introduced, including that the TRS encourages tourism and supports domestic retail spending by both Australian residents and tourists.⁴⁴

3.44 It is relevant to note that Treasury has also expressed the view to the Treasurer that there is not a strong policy rationale for allowing Australians to access the scheme (see paragraph 3.81).

3.45 The risk associated with the inclusion of Australian citizens and residents in the TRS is that they will not declare the goods upon their return to Australia as required and repay the TRS refund to which they are no longer entitled. Both Home Affairs and the ATO have been aware of this risk for some years. For example, in a submission to an interdepartmental review of the TRS in 2006 (see paragraph 2.50), the ABF noted that at that time, 42 per cent of TRS claimants were Australian citizens and residents and that this 'may present a higher risk of fraud as high value goods may not be exported from Australia or may be re-imported into Australia on return'.

3.46 Since 2006, there have been a number of estimates of the numbers of Australian citizens and residents not declaring, on their return to Australia, goods for which they have received a GST refund through the TRS. Table 3.5 summarises these estimates.

44 The Treasury, document attached to email to Australian National Audit Office, 17 June 2019, p. 3.

Table 3.5: Estimates of TRS non-compliance among Australian citizens and residents

Date	Source	Estimate (%)	Description
January 2013	Tourist Refund Scheme — Australian residents campaign report	36	An exercise conducted between July and December 2012 found that 36 per cent of returned Australian claimants were 'non-compliant' and should have repaid the TRS refund previously received.
February 2013	Letter, ABF to Treasury		
March and September 2016 and February 2017	Treasury brief and submissions to the Treasurer		
May 2015	Internal brief to ABF Commissioner	50	Refers to the July to December 2012 exercise above and notes that 'more recent compliance activity during July and December 2013 indicated the non-compliance rate among returning residents had risen to more than 50 per cent'.
February 2018	List of ATO integrity issues (ATO document sent to the Treasury)	82	'During 2014, it was identified that of those returning Australian residents that had made a TRS claim, approximately 82 per cent were non-compliant'.
November 2018	ATO Tourist Refund Scheme Treatment Strategy		

Source: ANAO from Home Affairs and ATO documents.

3.47 The ATO and Home Affairs were able to provide the source analysis for the 36 per cent non-compliance rate⁴⁵ but were unable to locate data sources for the two more recent estimates of non-compliance (50 per cent and 82 per cent).

3.48 Based on these estimates, Table 3.6 and Figure 3.2 shows how much revenue leakage from Australian citizens and residents could have occurred in 2017–18 and over the lifetime of the TRS.

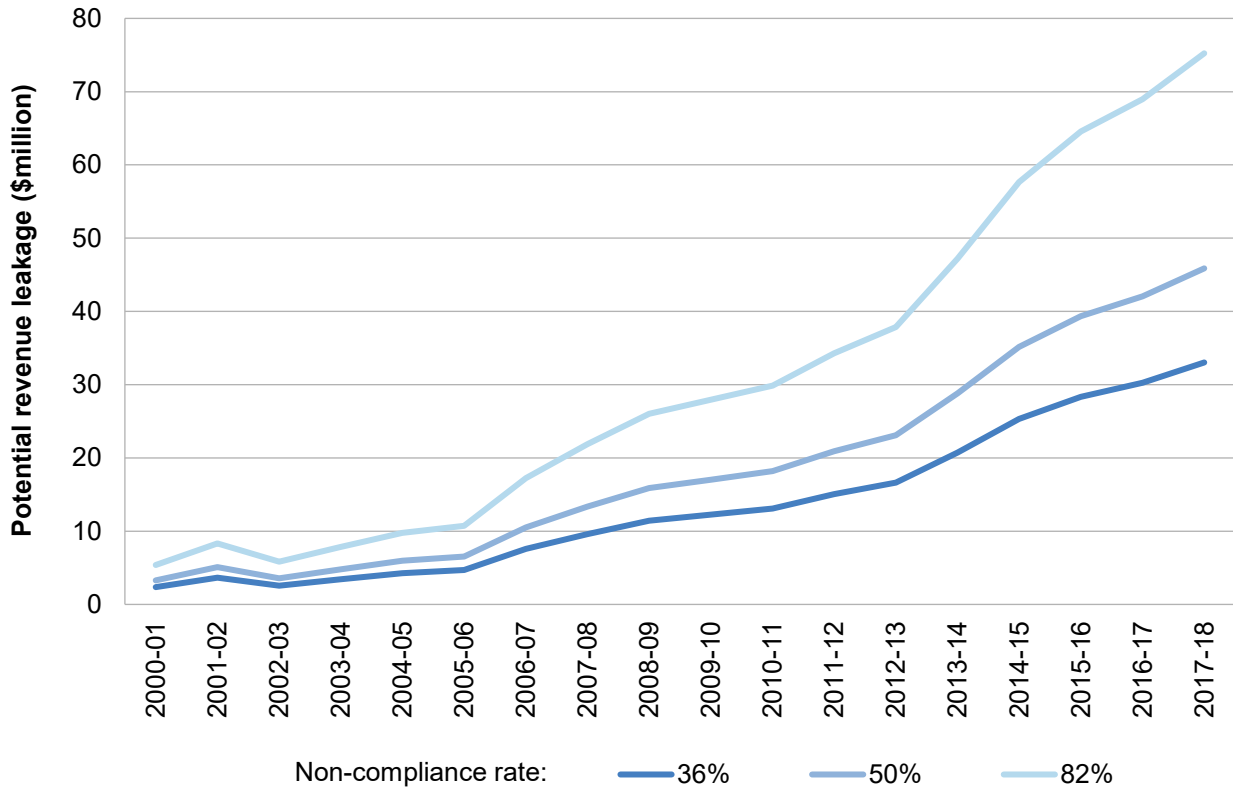
Table 3.6: Potential GST revenue leakage from Australian resident non-compliance, 2017–18 and 2000–01 to 2017–18

Non-compliance rate (%)	Potential non-compliant claims 2017–18	Average value of refund paid 2017–18 (\$)	Potential GST revenue leakage 2017–18 (\$million)	Potential revenue leakage 2000–01 to 2017–18 (\$million)
36.0	139,788	236.28	33.0	244.3
50.0	194,151	236.28	45.9	339.3
82.0	318,407	236.28	75.2	556.6

Source: ANAO analysis of TRS data.

45 The estimate of 36 per cent non-compliance by Australian citizens and residents arose from an operation that was run at eight of the international airports between 24 September 2012 and 23 October 2012. It involved the examination of 660 returning Australian passengers who had made previous recent TRS claims. The operation found 191 (36 per cent) of those examined were non-compliant and should have repaid the TRS refund that they had received. One of the report's recommendations was that consideration should be given to excluding Australian citizens and residents.

Figure 3.2: Indicative trend in potential revenue leakage from Australian resident non-compliance, 2000–01 to 2017–18



Source: ANAO analysis of TRS data.

Recommendation no.2

3.49 In order to provide advice to the government about the numbers of Australian citizens and residents who fail to declare at the border goods for which they have previously received a GST refund through the TRS, and the amount of revenue leakage due to these goods being reimported, that Home Affairs, the ATO and the Treasury:

- (a) jointly develop a methodology for estimating this non-compliance and revenue leakage;
- (b) conduct an exercise to measure the non-compliance and revenue leakage; and
- (c) report the results of this exercise to the government.

Department of Home Affairs response: *Agreed.*

3.50 *The Department and ABF will work with the ATO and Treasury to develop and implement an appropriate methodology and mechanism for reporting to Government. The joint-agency workshop held in July 2019 commenced the development of a methodology and the results will be reviewed by the Inter-Agency Liaison Committee.*

Australian Taxation Office response: Agreed.

3.51 *The ATO and DHA convened a meeting on 31 July 2019 to commence addressing this recommendation.*

Treasury response: Agreed.

3.52 *Treasury will work with the Australian Taxation Office and the Department of Home Affairs to support the development of an approach to address this recommendation, including the identification of timeframes and responsibilities.*

3.53 Neither Home Affairs nor the ATO have attempted to quantify either revenue leakage or fraud from claims lodged by non-residents. While the ANAO located two Home Affairs documents dated July 2018 that indicated that Home Affairs proposed to do an assessment of potential revenue leakage, this has not occurred. Similarly, the ATO advised the ANAO that it is not able to produce a revenue leakage estimate of the TRS. See case study 3 in the Appendices for an example of a deliberate fraud of more than \$600,000 perpetrated by a syndicate of foreign nationals. Case study 1 in the Appendices provides an example of an Australian citizen or resident who defrauded the TRS of more than \$50,000 before being caught.

Detecting Australians who return with goods

3.54 As noted above, the main source of revenue leakage from the TRS is from Australian citizens and residents who do not declare goods for which they have received a TRS refund on their return to Australia as required, and repay the refund to which they are no longer entitled because the goods have been re-imported.⁴⁶

Passenger Analysis Clearance Evaluation alerts

3.55 Where a Home Affairs officer suspects that a departing Australian citizen or resident may not comply with the requirements to declare goods for which they have received a TRS refund, he or she is able to request that a Passenger Analysis Clearance Evaluation (PACE) alert⁴⁷ be placed on the passenger. Table 3.7 shows the outcomes of 2712 records of alerts raised on Australian residents in the 22-month period between March 2017 and December 2018.

Table 3.7: PACE alerts on Australian citizens and residents who claimed TRS refunds: March 2017 to December 2018

Alerts raised	Goods located	Goods not located	Not actioned	Proportion positive (of alerts actioned) (%)
2712	804	1115	793	41.9

Note: Prior to March 2017, the Tourist Refund Office did not document details and outcomes of PACE alerts placed.

Source: ANAO analysis of Home Affairs and TRS data.

46 The ATO and Home Affairs advise claimants that if they bring goods back into Australia for which they have made a claim for a GST refund under the TRS, and the value of those goods (combined with any other overseas purchases) exceeds the passenger concession allowance (\$900 for adults and \$450 for children), the goods must be declared and the GST refund repaid. Separately, Home Affairs advised the ANAO that the requirement to declare goods on return to Australia applies at any time after a refund has been paid. In June 2019, Home Affairs advised the ANAO it would seek a legal opinion on 'various TRS matters'.

47 PACE is Home Affairs' Passenger Analysis Clearance Evaluation system. Alerts will trigger when the nominated person next returns to Australia. Alerts are placed for a wide variety of reasons, which generally relate to law enforcement. Each alert will specify the action to be taken when it is triggered which may include a search or simply advising a law enforcement agency that the person has arrived in Australia.

3.56 While Table 3.7 shows that 2712 alerts were placed in the period for which data is available, it should be noted that in the same period, there were 637,547 TRS claims paid to Australian citizens and residents. If the lower estimate of the number of non-compliant Australian citizens and residents shown in Table 3.6 were applied, this would suggest that there were approximately 229,500 cases of potential non-compliance. In this context, a January 2016 Treasury brief to the Treasurer stated:

To enforce compliance, [ABF] officers need to manually search the luggage of a returning traveller suspected of not declaring a TRS good. [ABF] are concerned the labour intensive nature of this process means compliance is almost non-enforceable, unless border officers are taken away from higher priority security operations.⁴⁸

3.57 Table 3.7 also shows that of 2712 alerts placed in the period, 793 (29.2 per cent) were ‘not actioned’. Home Affairs advised that this was usually because PACE alerts automatically expire after three months unless specifically extended. Further, the procedure for requesting an alert is cumbersome: it is largely manual rather than automatic and the TRS computer system is not connected to the PACE system (see paragraph 3.75). A claim-processing officer must email a form to the Tourist Refund Office (TRO) to request the placing of an alert, meaning that in some circumstances the ‘suspect’ arriving Australian citizen or resident may have already returned to Australia by the time the alert is placed.

Imposing penalties at the border

3.58 A key feature of revenue compliance regimes is the option to impose penalties for deliberate non-compliance. The *Taxation Administration Act 1953* (TAA) provides the authority for the ATO to recover incorrectly paid TRS refunds and apply a penalty for making a ‘false and misleading statement’ for the claim. This power was delegated to Home Affairs officers so that they could apply an ‘on the spot’ penalty where they detect attempts to smuggle⁴⁹ goods for which a TRS refund had been paid. However, in 2013, the ABF instructed officers to stop issuing penalties because ‘policy and system changes were required to implement new penalties’ and officers did not recommence imposing penalties until late-2018.

3.59 Since 1 September 2018, Home Affairs has imposed a GST penalty on 54 Australian citizens and residents for a total of \$63,850.48. Given the ATO and Home Affairs’ estimates of non-compliance of between 36 per cent and 82 per cent, this suggests that GST penalties are relatively rarely used as a method to deal with non-compliance.

3.60 The ultimate sanction for deliberate non-compliance with the GST law is prosecution. The ATO advised in March 2019 that there has never been a prosecution for TRS fraud.

Reviewing claims

Data analysis

3.61 The TRS database contains details of all 9.6 million TRS claims lodged since the scheme commenced. As such, it represents an important resource that both the ATO and Home Affairs

48 The Treasury, ‘Reform of the Goods and Services Tax Tourist Refund Scheme’, Ministerial Submission, the Treasury, Canberra, 25 January 2016, p. 4.

49 The Macquarie Dictionary defines smuggle as ‘to import or export goods secretly, without payment of legal duty or in violation of law’.

could use for analysis of patterns and trends in relation to claimants and identifying evidence of fraud or systematic abuse of the TRS by individuals, companies or retailers. Such analysis would be of assistance in not only supporting improved compliance with the TRS but also more broadly in assisting the ATO with its responsibility for tax compliance.⁵⁰ For example, routine systematic analysis of the frequency with which individuals lodged claims would have readily shown that the person referred to in case study 1 in the Appendices had, within a period of two years, made multiple purchases of products from the same retailer. A simple enquiry of the retailer would have revealed his practice of returning the goods and receiving a full refund. As another example, analysis of TRS data showed that in 2017–18, there were 24 Australian passport holders who each lodged 10 or more separate claims on 10 or more overseas trips.⁵¹ Whether they were legitimate frequent travellers has not been tested by either Home Affairs or the ATO. In its response to this observation, the ATO commented that: ‘One issue that the ANAO draft has raised is the availability of Australian passports. The ATO will seek to determine whether it can access such data’.

3.62 Prior to 2017, neither the ATO nor Home Affairs had attempted to develop systematic and routine compliance approaches to the TRS or even analyse TRS data for indicators of non-compliance (such as individuals’ pattern and frequency of claiming). A June 2000 internal review of the TRS (see Table 2.3) recommended interrogation of data to identify regular claims by passenger name.⁵² However, a December 2008 internal audit referred to this recommendation and commented that ‘Internal Audit has not been provided with evidence that monitoring procedures and reports were established following the introduction of the TRS.’ In April 2014, the ATO asked Home Affairs for data of ‘all claims made by Australian residents to identify trends, excessive claims, retailers, rejected and approved claims to support strategies to improve compliance’. However, despite follow-up requests, the ATO did not receive the data until March 2017, almost three years later. Even then, the data was of limited use to the ATO. This was because in order to be able to match the TRS data reliably to its own data, the ATO needed the date of birth of the claimant. Ninety-nine per cent of the TRS records did not contain this field. In August 2019, the ATO advised it had received date of birth data and ‘is testing the data file to ensure its useability’.

3.63 The ATO’s Tourist Refund Scheme Treatment Strategy 2018–19 states the data will be used for:

- identifying residents making many /regular TRS claims;
- identifying black economy / money laundering activity;
- identifying TRS fraudulent schemes / syndicates;
- developing preventative strategies aimed at changing behaviour or identifying flaws in systems;
- identifying those entering Australia on a tourist visa who may be conducting business activities here in Australia; and
- enabling a ‘whole of client risk view of the client’, allowing greater of scrutiny of claims against ATO data holdings.

50 See paragraph 3.22.

51 The most frequent traveller in this group made 22 overseas trips in 2017–18 and lodged a TRS claim on each occasion.

52 The recommendation was accepted.

3.64 In June 2019, the ATO advised that it has worked with Home Affairs to improve data collection. While work was still 'in its infancy', it had developed a number of case selection models to identify potential fraud, excessive claims by individuals and the 'top 20 retailers' for claiming. Activity as a result of the analysis had included the ABF placing of alerts, in the TRS system, on ABNs with cancelled GST registrations, discussed in paragraph 3.23, and the ATO sending letters to businesses requesting their assistance to prevent fraudulent claims and the return of goods on which a TRS claim had been paid. As a result, some retailers were 'not accepting refund claims where TRS has been paid'. However, the ATO notes that three out of the four of these case selection models have been 'recently put on hold', due to inability to reliably match TRS data with its own data.

3.65 In November 2018, Home Affairs developed a series of software 'dashboards' to provide the TRO with information about non-compliance and fraud to enable further analysis. The dashboards present data on matters including:

- tax invoices and ABNs that are duplicated in the TRS system;
- frequent users of the TRS;
- numbers and outcomes of examinations of baggage of returning TRS claimants who were suspected of reimporting goods on which a refund had been paid;
- claiming trends; and
- claim processing data.

3.66 A screenshot of one of the dashboards is shown at Appendix 3. The dashboards appear to provide the level of analytical functionality that previously did not exist. However, in March 2019, Home Affairs advised that 'as the dashboards are a recent development, they have not been incorporated in current business activities' and that 'due to resource constraints, there is no dedicated analysis of the dashboards for external fraud identification'.

Data quality

3.67 Home Affairs does not undertake any data quality assurance on the TRS system, such as reviewing a sample of claims for accuracy of data entry and decision.

Recommendation no.3

3.68 Home Affairs and the ATO implement and embed into business practices the data analysis tools that they have already developed.

Department of Home Affairs response: *Agreed.*

3.69 *The operation of data analysis tools will be included and explained in a Standard Operating Procedure for the Tourist Refund Office. This will provide further guidance on the operation of these tools and further embed the use of the tools into standard business practice.*

Australian Taxation Office response: *Agreed.*

3.70 *Recently, the ATO received additional data and is testing the data file to ensure its useability. The provision of this additional data will support the deployment of data analysis tools.*

Referral of claims to Australian Taxation Office

3.71 The ABF has established thresholds, based on the value of a refund being claimed, for when claims will be referred to the TRO in Canberra for further processing and approval or rejection. The TRO reviews these claims and may make enquiries of the retailer (to verify purchase details) or the claimant. In some circumstances, where fraud is suspected, the TRO may refer claims to the ATO. However, the circumstances under which a referral to the ATO will occur are not documented and the 2018 ATO Tourist Refund Scheme Treatment Strategy states:

The ATO receives ad-hoc referrals based on Australian Border Force referral procedures. The process is inefficient and reliant upon human intervention for detection. The ad-hoc nature of the referral process does not address one of the major risks being travellers who abuse the TRS system over a long period of time.⁵³

3.72 Upon receiving a referral, the ATO advised it may take a number of actions, including:

- examining TRS claiming trends against ATO tax records;
- referral to other business areas of the ATO for investigation;
- issuing a warning letter to the individual or business; and
- conducting a tax audit, where penalties and liabilities may be raised.

3.73 Table 3.8 shows ATO actions from referrals it received from the ABF between 2015–16 and 2017–18.

⁵³ Australian Taxation Office, 'Tourist Refund Scheme Treatment Strategy', ATO, Canberra, 2018, p. 7.

Table 3.8: ATO TRS compliance activity

Year	Referrals received from ABF	Actions taken	Liabilities raised (\$)
2015–16	28	11 reviews/audits	214,881.49 on individuals 177,659.80 on businesses
2016–17	34	14 audits	27,371.00 on individuals 160,852.00 on businesses
2017–18	83	58 reviews/audits 29 letters	87,742.06 on individuals 322,621.30 on businesses

Note: The data relates to assessments and penalties raised: the ATO advised the ANAO it could not readily obtain the amount of liabilities that were actually repaid.

Source: ATO data.

3.74 While the ATO may recover fraudulent payments and impose GST penalties, it only does so against Australian residents who have a Tax File Number. While Home Affairs may request the payment services provider, Global Blue Australia, to reverse fraudulent payments to non-residents, a reversal is often not possible if the payment has been fully processed.

Review of controls

3.75 In late 2016, the TRS program transferred within Home Affairs from the Trade, Customs and Industry Policy Division to the Border Management Division. In August 2017, the Border Management Division commissioned a Management Initiated Review (MIR) of the TRS, entitled the Review of the Controls Framework for the Tourist Refund Scheme. The commissioning minute of the MIR identified a number of issues with the TRS program, including:

- ‘minimal systems improvements’ that had contributed to ‘critical vulnerabilities’ in process and program integrity;
- the TRS system not being directly connected with the Home Affairs alerts [PACE] system;
- the TRS system not having the ability to alert an officer if the same tax invoice has been presented previously; and
- limited systems controls that leave the TRS ‘open to a number of potential frauds that are difficult to detect’.

3.76 The MIR made a number of findings, including⁵⁴:

- ‘significant deficiencies in the policy and procedural framework’ supporting the administration of the TRS;
- ‘significant absence of processes and controls to prevent key TRS programme risks’, including: preventing and detecting non-compliant and fraudulent claims; breaches of legislation; and non-compliance with privacy requirements;
- no key system controls to identify non-compliant and fraudulent claims. The system also does not have the capability to capture all relevant claim information data (including copies of tax invoice receipts) to effectively support the detection of fraud; and

⁵⁴ The ABF’s Operational Requirements Group noted the findings of the MIR and agreed to an action plan to respond to the MIR’s recommendations in March 2018. Home Affairs sent a copy of the MIR to the ATO.

- ‘process and control limitations’ across ‘all aspects of the management of the TRS’, including the claim validation process, the claim authorisation process, the payment process, and post-payment fraud detection processes.

3.77 The MIR concluded:

The issues described ... cast doubt over the integrity of the TRS programme and negatively impacts the enforcement reputation of the Commonwealth. With significant implications to the Commonwealth in the context of potential misappropriation of tax refunds, the magnitude of issues identified in this review calls for reform in the end-to-end management of the TRS ...

resource and system limitations have constrained the programme’s ability to manage the potential fraudulent claims and other non-compliance, particularly in an environment of increased transaction volume, more sophisticated technologies to falsify invoices, and changes to the risk profile at the border impacting resource prioritisation to TRS.⁵⁵

3.78 The Home Affairs response to the MIR is discussed in paragraph 2.47.

Options for reform

3.79 As noted in Table 2.1, apart from the Commonwealth Government stakeholders (the Treasury, the ATO and Home Affairs), there are other key stakeholders: in particular, state and territory governments and peak tourism and retail bodies. A November 2016 brief to the Treasurer succinctly set out the scheme’s deficiencies and the interests of stakeholders as demonstrated by the following excerpts:

- There is wide agreement that the TRS is antiquated. The current manual system of processing claims at the point of departure creates delays at airports and a poor experience for tourists. It is also costly and labour intensive to administer.
- The Department of Immigration would like to outsource the operation of the scheme, which it believes fits poorly with its core functions.
- Austrade, and the tourism and retail industry would like to see improvements to the operation of the scheme to improve the user experience for tourists.
- Achieving these goals needs to be balanced against the likely reduction in revenue that would result from improving the efficiency of the scheme. Unanimous agreement of the states and territories is required to implement the proposed reforms. They are unlikely to support reforms which reduce GST revenue.
- There is also concern that a significant number of Australian residents are accessing the TRS fraudulently. This fraud occurs in a number of ways, including when Australians claim rebates on outgoing passage but do not declare the same goods when they are brought back into the country. While the exact level of fraud is difficult to quantify, sampling exercises have found high levels of non-compliance by Australian TRS claimants.⁵⁶

55 Department of Immigration and Border Protection, ‘Review of the Controls Framework for the Tourist Refund Scheme Management Initiated Review – 2017/18 Final Report’, internal review report, Department of Immigration and Border Protection, Canberra, 2018, p. 7.

56 The Treasury, ‘Reform to the Tourist Refund Scheme’, Ministerial brief, The Treasury, Canberra, 21 November 2016, pp. 1 and 3.

3.80 In 2016 and 2017, Treasury put forward to the Treasurer for his consideration a number of options for reform of the TRS. Options for reform included:

- abolishing the TRS;
- excluding Australian citizens and residents from the TRS; and
- engaging a private sector operator to administer part or all of the TRS.

3.81 In discussion of the options, the Treasury observed that 'there is no policy rationale for allowing Australians to access the scheme and [Treasury] would support their removal'. The Treasury also advised the Treasurer that excluding Australian citizens and residents from the TRS would provide an additional \$440 million in GST revenue over the three year period from 2018–19 to 2020–21.

3.82 State and territory representatives discussed the issue of excluding Australian citizens and residents from the TRS on several occasions at meetings of the GST Administration Sub-Committee (GSTAS) and the GST Policy and Administration Sub-group (GPAS) (see paragraph 2.4). The minutes of the December 2016 GPAS record that:

The States and Territories expressed unanimous interest in exploring the exclusion of access to the TRS by Australian residents taking goods out of the country, noting that this group accounts for approximately 41 per cent of the value of GST refunds and that, to the best of our knowledge, the TRS is the only scheme of its kind in the world that can be accessed by domestic residents.⁵⁷

3.83 None of the reform options was adopted by the government and in 2017, the Treasurer commented 'if states wish to pursue they must initiate any action'.

3.84 In an August 2018 brief to the Treasurer, the Treasury noted :

There have been no significant developments in this space since you last considered the issue [in June 2017]. The key barrier to reform continues to be that improving the scheme may increase its use and potentially lead to a reduction in GST revenue for the States and Territories. Furthermore, reform of the TRS would require the unanimous agreement of the States and Territories.⁵⁸



Grant Hehir
Auditor-General

Canberra ACT
9 September 2019

57 The Treasury, extract of the minutes of the meeting of the GST Policy and Administration Sub-group, December 2016, agenda item 2.1, the Treasury, Canberra.

58 The Treasury, 'Tourist Refund Scheme – response to Minister for Trade', Ministerial Submission, the Treasury, Canberra, 2 August 2018, p. 1.

Appendices

Appendix 1 Entity responses



Australian Government
Department of Home Affairs

Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Mr Hehir

Thank you for the opportunity to provide comments on the Australian National Audit Office's (ANAO) performance audit report on the *Management of the Tourist Refund Scheme*.

The Department of Home Affairs (the Department) and the Australian Border Force (ABF) welcome the review of the management of the Tourist Refund Scheme (TRS) and acknowledge the value of the ANAO providing independent analysis of and insights into the administration of the TRS. We are pleased that the ANAO found that there are robust governance arrangements for the TRS in place which largely support effective administration of the TRS.

As noted in your report, the Department and ABF consider the administration of the TRS of relatively low risk and operational priority compared with our other responsibilities such as national security, border protection and immigration policy. We are committed to delivering the government's intent to the best of our ability within the current funding envelope, however the funding we receive to administer the TRS at the border has not kept pace with the escalating number of claims made each year. We raised this on a number of occasions over the past five years noting that the number of TRS claims has almost doubled whilst the funding provided by the Australian Taxation Office (ATO) has slightly fallen.

The TRS has been subject to a number of reviews since 2000 and the Department has actively addressed recommendations for improvement. For example, all six recommendations arising from an internal audit conducted in October 2011 were implemented and formally closed by the Departmental Audit Committee. Through the process of relatively continuous review, we are comfortable that any risks associated with the administration of the TRS at the border are well-known to the Department and the ABF as are the potential avenues for revenue leakage.

We note that your report raises areas that the ANAO believes would further enhance our approach to risk assessment and estimating revenue leakage in the TRS, by working with the ATO to prepare a joint risk assessment and implement data analysis tools. The Department and ABF agree with these recommendations. The Department and ABF are engaging with the ATO to develop a joint risk assessment that will be reviewed annually and endorsed by the Inter-Agency Liaison Committee, established under the Memorandum of Understanding between the ATO and the Department. A joint-agency workshop to commence this work was held in July 2019.

We also note your recommendation to the Department, ATO and Treasury regarding the development of a methodology for estimating the numbers of Australian citizens and residents who fail to declare goods for which they have previously received a GST refund through the TRS, and the amount of revenue leaked due to the re-importation of these goods, for reporting to the Government. The Department and ABF agree with this recommendation and will work with the ATO and Treasury to develop and implement an appropriate methodology and mechanism for reporting to Government. This work also commenced at the joint-agency workshop held in July 2019.

In terms of governance, the Department finalised and distributed to relevant staff the Tourist Refund Office Procedural Instruction identified in your report which applies to the operations of the TRS Support team in Strategic Border Command located in Canberra. This Procedural Instruction will soon be published on the Department's intranet and be available more broadly across the Department. The operation of data analysis tools referred to in recommendation three of your report will be included and explained in a Standard Operating

6 Chan Street Belconnen ACT 2617
PO Box 25 Belconnen ACT 2616 • Telephone: 02 6264 1111 • Fax: 02 6225 6970 • www.homeaffairs.gov.au

Procedure for the Tourist Refund Office that will be developed following publication of the TRS procedural instruction. This will provide further guidance on the operation of these tools and further embed the use of the tools into standard business practice.

We would like to thank you and your officers for the collaborative approach taken in conducting this audit and the appreciation of the potential complexities in auditing and reporting upon the management of the TRS.

Yours sincerely



Mark Brown
Chief Audit Executive
August 2019

Lisa Rauter
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Ms Rauter

AUSTRALIAN NATIONAL AUDIT OFFICE PERFORMANCE AUDIT ON THE
TOURIST REFUND SCHEME.

Thank you for your letter dated 11 July 2019 and for the opportunity to provide
comments on the proposed report on the Tourist Refund Scheme.

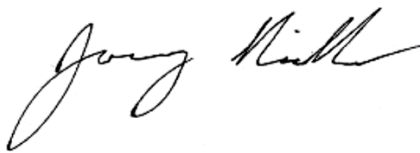
The ATO agrees with the three recommendations as presented in the Section 19
Report.

Attached is the ATO summary of our comments to be included in the Report
(Annexure 1) and ATO response to the three recommendations (Annexure 2).

I would like to thank the Australian National Audit Office audit team for the
cooperative and professional manner they have adopted in working with us on this
matter. I look forward to continuing the good working relationship developed in this
performance audit.

If you require further information on this matter, please contact Assistant
Commissioner Adrian Preston-Loh,.

Yours sincerely



Jeremy Hirschhorn
Second Commissioner
Australian Taxation Office

Date: 9 August 2019



Australian Government
Secretary to The Treasury

8 August 2019

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir, ^{Grant}

Proposed ANAO report: *Management of the Tourist Refund Scheme*

I refer to your correspondence of 11 July 2019 containing the proposed audit report, *Management of the Tourist Refund Scheme*.

The Treasury notes the conclusions and findings of the audit.

Recommendation 2 is the only recommendation directed at Treasury, along with the Australian Taxation Office and the Department of Home Affairs. Treasury agrees with this recommendation.

We will consider the learnings identified within the report in the context of Treasury's responsibilities in relation to the Tourist Refund Scheme.

I am advised that the Australian Taxation Office and the Department of Home Affairs which have joint responsibility for administering the Tourist Refund Scheme, will provide substantive responses to the recommendations of the report.

Thank you for the opportunity to comment on the proposed report.

Yours sincerely

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

Philip Gaetjens

Langton Crescent, PARKES ACT 2600 • Telephone: 61 2 6263 3738 • Facsimile: 61 2 6263 3360

Appendix 2 Case studies

Case study 1

Between March 2013 and April 2015, an Australian citizen lodged a total of 65 TRS claims for products he had purchased. The total value of the goods was \$638,306 and he received Tourist Refund Scheme (TRS) refunds of \$51,976.

The traveller came to the Australian Border Force's (ABF) attention because on returning from one trip to New Zealand, the ABF observed that he was carrying a number of products, of all of which were still in their protective shrink-wrap. Closed-circuit television footage from the TRS counter the same morning showed he had the same goods in his possession when he lodged the TRS claim.

Further investigation revealed that each time that the traveller returned, he did not declare the goods, as he was required to do. After each trip, he would then return unused, unopened goods to the retailer and receive a full refund of the purchase price.

The ABF referred the case to the Australian Taxation Office (ATO). The ATO remitted part of the penalty on the basis that the traveller 'was not warned about his behaviour'. It also agreed to allow him to repay the total debt and penalty of \$40,000 at a rate of \$100 month, meaning that it will take him more than 30 years to repay it. The ATO also decided not to charge him interest on the outstanding amount. The ATO advised that it had not considered prosecuting the traveller.

Case study 2

In May 2018, an Australian citizen lodged a claim for a GST refund for goods worth more than \$50,000, including clothing and a '2019 model' bicycle with an invoice value of \$27,999. Due to the high value of the goods, the claim was referred to the Tourist Refund Office (TRO) for consideration. A TRO claim summary describes what the TRO found after speaking to the stores where the claimant purportedly bought the goods.

The '2019 model' bicycle was not yet on the market, and would cost around \$15,000 when it did become available (not \$27,999). The clothing store did not 'deal in' amounts claimed on the invoice. Invoice numbers and a logo on the invoices did not match those in use by the stores. The TRO officer who reviewed the claim concluded that the May 2018 invoices were likely to be fraudulent and refused the claim. A search of the claimant's TRS history found he had made 12 claims between September 2017 and May 2018, for goods ostensibly worth more than \$586,000 (representing refunds totalling more than \$53,000) from the two stores. The ABF placed an alert in the TRS system on the passport number used for the claims. Any further claim lodged using that passport number should trigger a message that would advise the processing officer to refer the claim to the TRO for further examination.

Case study 3

Between March and May 2017, a group of 159 visitors to Australia claimed and received more than \$600,000 in GST refunds through the TRS. The visitors, who were non-residents, shared a number of common attributes, including that they were:

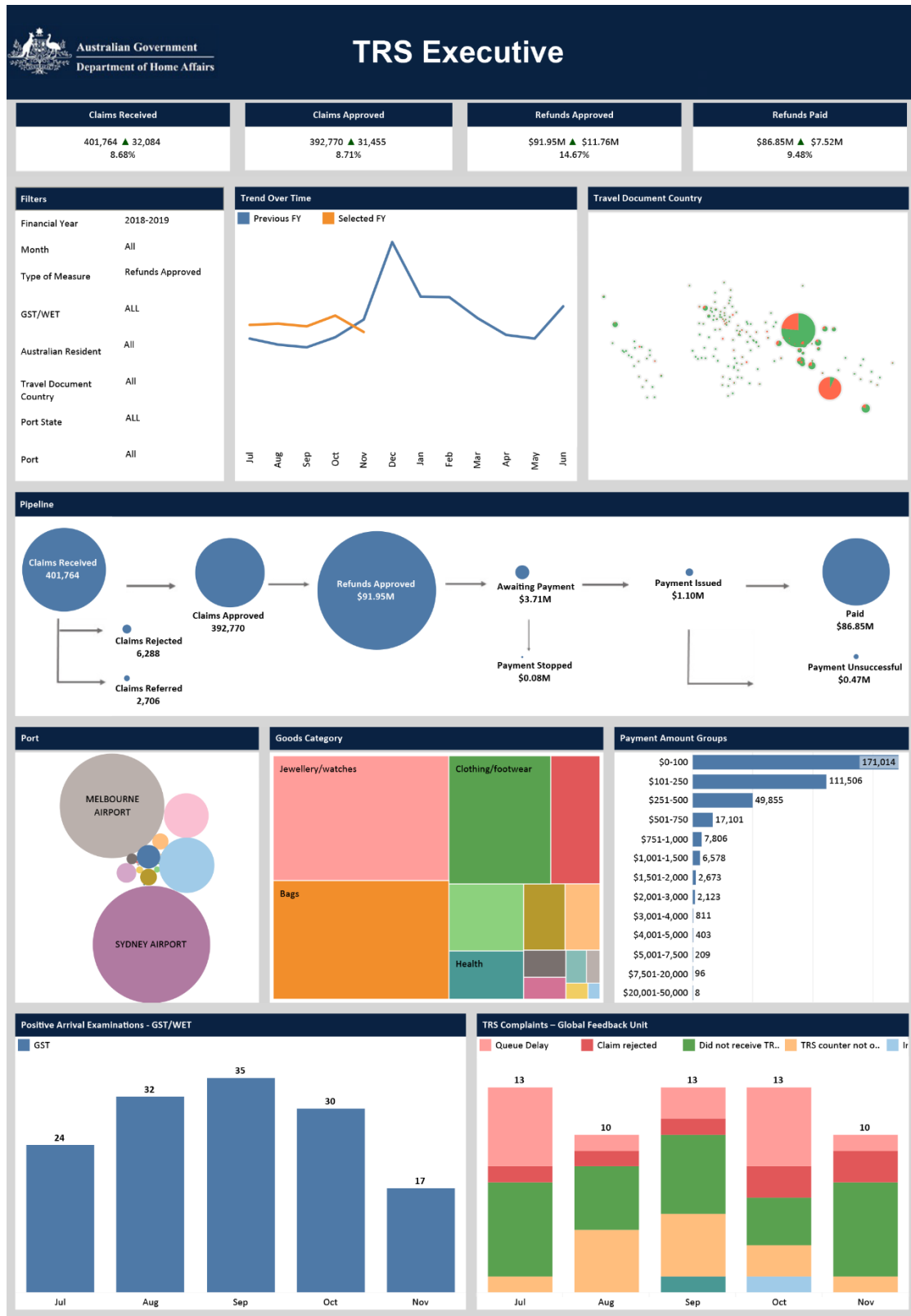
- predominately from Hong Kong;
- first-time travellers to Australia;
- staying between one and three days; and
- carrying no checked baggage.

In May 2017, a claim by one member of the group was referred to the Tourist Refund Office (TRO) for investigation. The claimant, along with the other 158 visitors, were members of an organised criminal network based in Asia that had made at least 167 fraudulent TRS claims.

A Home Affairs and ATO operation, launched in May 2017, identified the network, placed alerts on the passports of individuals involved, and, through the TRS payment service provider, recovered more than \$550,000 from the credit cards of most individuals involved in the fraud by reversing 146 of 167 fraudulent claims. An Operational Intelligence Report concluded the network would develop new methods to 'exploit' the TRS because there is a 'perceived low likelihood of apprehension'. Without measures including 'continued data analysis' to detect fraud, the network will 'successfully continue to attempt to defraud the Commonwealth through the TRS'.

Appendix 3 Tourist Refund Scheme dashboard

Figure A.1: Screenshot of sample TRS dashboard



Source: Home Affairs.