

The Auditor-General  
Audit Report No.2 2001–2002

# **Examination of Allegations Relating to Sales Tax Fraud**

**Australian Taxation Office**

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ISSN 1036-7632  
ISBN 0 642 44294 0

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Canberra ACT  
10 July 2001

Dear Madam President  
Dear Mr Speaker

The Australian National Audit Office has undertaken an Examination in the Australian Taxation Office in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this Examination, and the accompanying brochure, to the Parliament. The report is titled *Examination of Allegations Relating to Sales Tax Fraud*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—  
<http://www.anao.gov.au>

Yours sincerely



P. J. Barrett  
Auditor-General

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

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# Abbreviations/Glossary

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ABN	Australian Business Number
ACS	Australian Customs Service
ANAO	Australian National Audit Office
ATO	Australian Taxation Office
AWA	Automated Workflow Allocation
BAS	Business Activity Statement
BLRG	Business Line Reference Group
CaMRA	Case Management, Reporting Application system
CMIF	Compliance Management Integration Forum
COMPILE	Customs On-line Method of Producing Invoices from Lodgable Entries
CTRP	Customs Tax Reform Program
Deferred GST Scheme	The Deferred GST Scheme allows payment of GST on imported goods to be deferred until an entity's next Business Activity Statement (BAS) is lodged provided the ATO has given approval to defer the GST.
GST	Goods and Services Tax
GSTFC	GST Fraud Control System
HOTSA	Health of the System Assessment
HP	Highly Protected
IPS	Instalment Processing System
LCT	Luxury Car Tax
MoU	Memorandum of Understanding
NCIP	National Compliance Improvement Plan
RRE	Risk Rating Engine
SBPIU	Small Business Prosecution Investigation Unit
STPU	Sales Tax Prosecution Unit
TRBEC	Tax Reform Business Education and Communication program
WET	Wine Equalisation Tax
WHT	Withholding and Indirect Taxes Business Line
WST	Wholesale Sales Tax (sales tax)





# Summary and Recommendations



# Summary

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## Background to examination

1. On 24 June 1998, the Senate referred to the Senate Economics References Committee for inquiry the matter of the operation of the Australian Taxation Office (ATO) with particular reference to:

- the equitable treatment of taxpayers;
- the performance of the Large Business and International Division, including, in particular, the High Wealth Individual Project;
- compliance by the ATO with the Client Settlement Guidelines; and
- allegations of infiltration of the ATO by organised crime.<sup>1</sup>

2. The inquiry had its origins in the *Sunday* television program screened by the Nine network in mid-1998. The Committee published its report *Inquiry into the Operation of the Australian Taxation Office* in March 2000 concluding that, on the balance of evidence submitted, it considered that the *Sunday* program allegations were largely without substance. In its report, the Committee advised the Senate that it was requesting the Auditor-General to consider investigating a matter involving possible fraud against the Commonwealth and reporting his findings to the Parliament.

3. Allegations were made to the Committee that the ATO and Australian Customs Service (Customs) had failed to pursue several cases of detected sales tax fraud, resulting in the loss of several million dollars of Commonwealth revenue. The Committee believed that this alleged failure may have stemmed from coordination problems between the two agencies. Evidence before the Committee also suggested that the introduction of the New Tax System could potentially increase, rather than diminish, the risk of this type of fraud.

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<sup>1</sup> Report of the Senate Economics References Committee, *Inquiry into the Operation of the Australian Taxation Office*, March 2000, Parliament of the Commonwealth of Australia, p. 1.

4. The Chair of the Committee, Senator Murphy, wrote to the Auditor-General about the Committee's request on 23 March 2000. After meeting with the Committee and its Secretariat, reviewing transcripts and background material and interviewing witnesses, the Auditor-General agreed, on 19 October 2000, to undertake an examination<sup>2</sup> of the matters requested by the Committee.

## Collection of sales tax

5. Under the sales tax legislation, the ATO had overall responsibility for collecting, monitoring and reporting sales tax revenue. The ATO provided Customs with appropriate delegations, as well as legislative and procedural information to administer the collection of sales tax at importation.<sup>3</sup> In 1999–2000, the ATO collected \$15.5 billion in sales tax and Customs collected \$831 million.<sup>4</sup>

6. In February 1997, the ATO and Customs established a National Liaison Committee to ensure a more effective working relationship. To formalise this joint committee and establish a framework for improving the relationship between the two agencies, the ATO and Customs entered into a Memorandum of Understanding (MoU) in June 1997.

7. Sales tax was replaced by the Goods and Services Tax (GST) on 1 July 2000. In addition to the GST, a Luxury Car Tax (LCT) and Wine Equalisation Tax (WET) were also introduced to offset the abolition of sales tax on those items.

## Investigating fraud within the ATO

8. The detection and identification of matters of serious non-compliance (including fraud) relating to sales tax were the responsibility of the former Withholding Tax (WHT) Business Line.<sup>5</sup> Matters of sales tax fraud and serious non-compliance could also be referred to WHT for investigation by other business lines, external agencies or law enforcement bodies.

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<sup>2</sup> Under Section 18 of the *Auditor-General Act 1997* the Auditor-General may conduct a review or examination of a particular aspect of the operations of the whole or part of the Commonwealth public sector, being a review or examination that is not limited to the operations of only one Agency, body or person.

<sup>3</sup> Under section 8 of the *Taxation Administration Act 1953*, the Commissioner of Taxation delegated certain responsibilities to Customs for collecting sales tax revenue.

<sup>4</sup> *Commissioner of Taxation Annual Report, 1999–2000*, p. 4.

<sup>5</sup> On 1 March 1999, the WHT Business Line ceased to exist and its responsibilities, including the administration of sales tax, were transferred to the Small Business (SB) Business Line. On 1 July 2000, GST replaced sales tax and responsibility for its administration was assumed by the newly created GST Business Line.

**9.** A specialised Sales Tax Prosecution Unit (STPU) located in the Hurstville office was established in 1989 to investigate and assist in the prosecution of cases of sales tax fraud identified by the WHT Eastern and Southern regional offices. For cases of potential sales tax fraud identified in other regions, the Small Business Prosecution Investigation Unit (SBPIU) undertook the investigations.

**10.** In August 2000, the SBPIU was integrated with the GST Fraud Section to become the ATO Fraud Section. The ATO Fraud Intelligence Section, which had been part of the GST Fraud Section, was established as a separate section in September 2000. The combined roles of the ATO Fraud Intelligence Section and the ATO Fraud Section are to minimise the risk of external fraud to the ATO through the prevention, detection and investigation of all potential fraudulent activities relating to all business taxes, including the GST.

## Examination objective and scope

### Examination objective

**11.** The objective of this examination was to investigate matters relating to:

- allegations made to the Senate Economics References Committee that the ATO and Customs failed to pursue several cases of detected sales tax fraud;
- the coordination arrangements between the ATO and Customs; and
- whether any issues arising from these matters had been addressed in implementing the GST.

### Examination scope

**12.** Evidence before the Senate Committee suggested that the ANAO's examination should focus on cases handled by the ATO's New South Wales STPU, located at the ATO Hurstville office. Following an internal ATO review, this unit was disbanded in September 1998 and ongoing cases were transferred to the Hurstville SBPIU.

**13.** The ANAO examination focused on the following:

- the arrangements in place to coordinate activities between the ATO and Customs for sales tax and the role Customs played in the investigation of the sales tax fraud cases,<sup>6</sup> that is, whether it was a referring agency only or participated in the fraud investigation; and

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<sup>6</sup> Customs was required to refer any cases of suspected sales tax fraud to the ATO for investigation and prosecution.

- the ATO's management of the sales tax fraud cases being investigated by the STPU and the current status of those cases, including specific cases cited as examples during the Senate Inquiry to highlight concerns about sales tax fraud investigations.

**14.** To determine whether issues arising from the sales tax matters had been adequately addressed when implementing the GST, the ANAO also reviewed:

- the coordination arrangements between the ATO and Customs and systems and processes for collecting/deferring GST on imported goods; and
- the framework within the ATO for detecting and investigating GST fraud.

**15.** As the GST was introduced in July 2000 and the ATO Fraud Section established in August 2000, it was considered too early to fully assess the effectiveness of these new systems and processes as, in some instances, they are still being implemented and refined.

## Overall conclusion

**16.** The ANAO found that the ATO did not pursue a number of detected sales tax fraud cases in a timely manner. The investigations of sales tax fraud undertaken by the Hurstville Sales Tax Prosecution Unit (STPU) and Small Business Prosecution Investigation Unit (SBPIU) were poorly managed. Analysis of the sales tax fraud cases also highlighted systemic case management problems within both the STPU and SBPIU. The ANAO identified deficiencies in the management of the sales tax fraud cases similar to those identified by ATO internal reviews of the SBPIU. These deficiencies will need to be addressed by the ATO if fraud investigations are to be properly managed in the future.

**17.** The ATO Fraud Intelligence Section and the ATO Fraud Section are addressing a number of the issues raised in relation to the management of the sales tax fraud cases examined by the ANAO. However, to ensure that alleged fraud cases are properly investigated and that the ATO Fraud Section has an effective case management framework supported by a case management system, as well as adequate training programs and quality assurance review mechanisms, the initiatives currently under development within the Section should be completed and implemented as soon as practicable.

**18.** Customs' role in the sales tax fraud investigations was also examined by the ANAO. No evidence was found to support allegations that there was a lack of coordination between the ATO and Customs in these particular cases. The ANAO did find, in one case, that Customs had made a refund payment using a method of payment that was contrary to applicable legislative requirements.

**19.** The establishment of a National Liaison Committee supported by an MoU that clearly defined roles and responsibilities improved the coordination arrangements between the ATO and Customs with regard to sales tax. This relationship has strengthened with the implementation of the New Tax System as both agencies recognised the importance of establishing an effective, ongoing partnership that would allow a greater exchange of ideas, information and access to the knowledge and resources of the other agency.

**20.** The ATO and Customs have developed, and implemented, systems and processes for collecting, deferring and processing the GST, LCT and WET. However, as these systems are in the relatively early stages of implementation and changes continue to be made to GST processes, they are still being evaluated and refined by both agencies. It is likely to be some months before systems implementation is finalised, particularly within the ATO.

## Recommendations

**21.** The ANAO has made two recommendations aimed at improving the ATO's management of fraud investigations. The ATO has agreed with both recommendations.

## Planned audit coverage

**22.** The ANAO will review, as part of the 2000–01 financial statement audit process, the systems and controls within the ATO and Customs relating to the GST to the extent necessary to form an opinion on their financial statements. As part of the planned performance Audit Work Program, the ANAO also intends to undertake, in 2001–02, a performance audit of the implementation of the GST that will focus primarily on Australian Business Number (ABN) registrations. In 2002–03, the ANAO plans to examine GST fraud prevention and control, focusing on external GST fraud.

# Key Findings

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## Management of Sales Tax Fraud Cases—Chapter 2

### Coordination arrangements

23. Measures were taken by the ATO and Customs to improve coordination arrangements with regard to sales tax. Initiatives, such as the establishment of the National Liaison Committee in February 1997 supported by a MoU that clearly defined the roles and responsibilities of the two agencies, created a more effective working relationship.

### Investigating sales tax fraud

24. An ATO internal paper discussing an integrated response to serious non-compliance (including fraud) and an internal review of the SBPIU identified significant problems with the way the SBPIU function was operating nationally. The review found that, as a consequence, cases were not being promoted and investigated for prosecution and that there existed numerous impediments to the referral of cases for investigation. The case management system (CaMRA) was considered to be resource-intensive and unreliable for the production of timely and accurate information. Some doubt was also expressed as to whether there was a total commitment by the SBPIU officers to using the CaMRA system.

25. The ANAO found that there was no evidence to indicate that quality assurance reviews were conducted of STPU prosecution cases. Limited quality assurance reviews of the SBPIU undertaken between 1995 and 2000 identified deficiencies in case management and monitoring practices.

### ANAO's examination of sales tax fraud cases

26. In addressing the allegations made to the Senate Committee, the ANAO sought to determine the number and verify the status of the sales tax fraud cases handled by the STPU. The ANAO reviewed STPU case records from 1996, when the CaMRA system was introduced, until the Unit disbanded in September 1998. SBPIU case records were also reviewed for those ongoing cases that were handed over by the STPU for completion.

27. The ATO did not have a complete record of sales tax fraud investigations. Following a search of the Hurstville office, the ATO and ANAO initially identified a possible 124 sales tax fraud cases. The ANAO's reconciliation of the CaMRA system entries, case file records and ATO spreadsheets documenting sales tax case files located in the



Hurstville office revealed 33 duplicate case records. Of the 91 sales tax fraud cases reviewed by the ANAO, 90 cases were investigated by the ATO and one case related to a sales tax refund payment made by Customs.

#### *Sales tax cases investigated by the ATO*

**28.** The examination of the 90 ATO sales tax fraud cases revealed that nine cases were under investigation; 24 cases had been finalised through court action; and 48 cases were considered to warrant no further action. The status of the remaining nine cases could not be verified from CaMRA system entries, case file records or discussions with ATO case officers.

**29.** Of the 24 cases finalised through court action, 18 cases had a successful prosecution outcome. In 48 of the 90 sales tax fraud cases reviewed by the ANAO, a decision to take no further action (NFA) had been made by either the ATO (37 cases) or the Director of Public Prosecution (DPP) (11 cases). For 19 of these cases, the reason given by the ATO was that the cases were too old because they had apparently not been referred to the SBPIU when the STPU was disbanded. At the time, the ATO did not conduct a case file census to determine an accurate case status.

**30.** The ANAO identified 37 cases that had not been entered into the CaMRA system and their status could only be determined by reviewing the case files or interviewing case officers. For nine of these cases, their status could not be verified. The ATO was unable to explain the reasons for these cases not being recorded in the CaMRA system.

**31.** The ATO was unable to locate the case files for 20 cases. To determine the status of these cases, the ANAO relied on discussions with ATO case officers and reviewed CaMRA system records. The ANAO also found that some of the case files reviewed had been 'stripped' of documentation. The ATO advised that, prior to disbanding the STPU, files were stripped. Only basic file contents were retained and stored in the basement of the Hurstville office. The ANAO was informed it was the practice of STPU to return documentation to the business line that referred the case for investigation.

**32.** The ANAO analysed the sales tax cases to determine the time taken to complete investigations. Information relating to the commencement and finalisation of the investigations could only be found in 60 of the 90 ATO cases reviewed. For 24 cases, it took longer than 36 months to complete the investigation. Of these 24 cases, three are still being investigated. Twenty-one cases were considered to warrant NFA (20 by the ATO and one by the DPP). In one case, the investigation continued for almost eight years before the ATO decided the case required NFA. These results suggest that, the longer an investigation continues, the less likely there will be a successful outcome.

**33.** The ANAO found little evidence that, prior to commencing an investigation, any planning or assessment was undertaken by the ATO to determine the complexity of a case or the priority it should be afforded. There was also little evidence of ongoing participation of team leaders in monitoring and managing the overall progress of STPU or SBPIU cases. The ANAO considers that the reviews of case progress should have been more frequent to ensure that the investigating Units' time and resources were being used effectively.

**34.** The revenue recovered by the ATO through the successful prosecution of the sales tax cases was only available from CaMRA system entries or case files for 14 out of the 18 successfully prosecuted cases. For these cases, approximately \$43 100 was recovered in remitted sales tax, penalties and fines. Of the remaining 72 cases reviewed by the ANAO, revenue information was only available for 16 cases. Based on the ATO estimates provided in the case files and CaMRA system entries, the potential revenue involved in these cases is approximately \$9.6 million, including six ongoing cases with an estimated value of \$7.6 million.

#### *Sales tax cases involving Customs*

**35.** Customs was required to refer any cases of suspected sales tax fraud to the ATO for investigation and prosecution. Although Customs did not participate in the investigation of any of the sales tax cases, it was the referring agency in 11 cases. Of these, four have been finalised through court action, four were considered by the DPP to require no further action and the remaining three are currently under investigation by the ATO.

**36.** The ANAO also examined a refund payment of \$460 027 (\$113 002 in customs duty and \$347 025 in sales tax) made by Customs on 24 June 1997. Customs officers made this refund payment using a method of payment that was contrary to applicable legislative requirements. Although the officers concerned acted on oral advice from their Regional Finance and Legal Sections, this advice was contrary to a written instruction issued by National Office. When it became apparent that the payment had been made in an inappropriate manner, Customs initiated an internal inquiry and sought advice from the Customs Legal Unit (CLU). CLU recommended that a submission be made to the Minister for Finance seeking a waiver of the amount of customs duty and (subject to the views of the ATO) of sales tax overpaid. Customs advised that it did not seek a waiver of the duty and sales tax because the validity of the refund itself was not in question, it was the method of payment that was inappropriate. Customs did not seek an assurance from the ATO that there were no

outstanding taxation debts to which the refund may have applied until September 1998 and a response from the ATO was not received until May 1999.

**37.** Customs acknowledge that the action taken by their officers was not in accordance with legislative requirements. In response to a request by the ANAO, Customs recently sought assurance and received confirmation from all Regional Managers that no other refunds had been processed in this way.

**38.** Customs advise that it is less likely entities will seek refunds from Customs for the GST paid on imports. Under the New Tax System, registered entities are able to claim input tax credits on their Business Activity Statement for any GST they have paid at importation. Details of all refund payments are forwarded to the ATO to verify that the importer has not claimed an input tax credit as well as a refund of GST from Customs.

## **Implications for the Goods and Services Tax (GST)—Chapter 3**

### **Communication and education strategies for tax reform**

**39.** The ATO's Tax Reform Business Education and Communication (TRBEC) Program team and the Customs Tax Reform Project (CTRP) team developed, coordinated and delivered communication strategies and campaigns for promoting the New Tax System and educating industry stakeholders and agency staff.

### **Coordination arrangements between ATO and Customs**

**40.** The joint National Liaison Committee established under the sales tax regime continued when sales tax on imported goods was replaced by the GST, LCT and WET on 1 July 2000. The National Liaison Committee continues to operate under the MoU entered into in June 1997. A new MoU formalising the current arrangements is currently being developed. The ATO and Customs envisaged that the new MoU and supporting schedules will be completed by mid-2001.

**41.** With the implementation of the New Tax System, the ATO and Customs recognised the importance of establishing an effective, ongoing partnership arrangement that would allow a greater exchange of ideas, information and access to the knowledge and resources of the other agency. Both agencies consider that the level of cooperation between them has increased and the working arrangements under the New Tax System are more effective than they were under the sales tax regime.

## **Process for collecting/deferring payments on imported goods**

**42.** The ATO and Customs are cognisant of their respective roles and responsibilities in relation to the GST, LCT and WET and have developed a framework for collecting, deferring and processing these taxes. This framework includes the capability to exchange and validate data across agencies. It also incorporates a number of controls and integrity checks to ensure that the appropriate taxes are collected by Customs on importation or remitted to the ATO through the Business Activity Statement. During this early phase of implementation and, as processes relating to the GST continue to change, the ATO and Customs are continually reviewing these systems and processes and refining them as necessary.

## **Framework for Managing GST Fraud—Chapter 4**

**43.** The Fraud Intelligence Section has implemented assessment procedures and processes for selecting and prioritising all fraud cases prior to registering the case on the case management system and forwarding it to the appropriate ATO fraud region for investigation. Central registration of fraud cases should address the problem of all cases not being registered on the case management system, as was noted for a number of the sales tax fraud cases reviewed by the ANAO.

**44.** The ATO Fraud Section has developed and implemented a case management framework that incorporates: the assessment and allocation of cases by the regional manager or assessment panel; feedback to the referring area, officer or agency; and the planning and conducting of investigations in accordance with the ATO's Statement of Investigation Standards and Procedural Guidelines currently being developed. However, until these standards and guidelines are published and implemented, and appropriate training provided, fraud investigators have only limited guidance on how to properly undertake and manage fraud investigations. Consequently, until such action is taken, there could be an element of inconsistency in the way investigations are conducted across ATO fraud regions. Measures to ensure that investigations are completed within a reasonable timeframe, and the implementation of the proposed quality assurance review program, will also improve case management practices.

**45.** The case management system used by the ATO Fraud Section has the potential to address the deficiencies identified with the CaMRA system when proposed system developments are completed and the system is fully operational.

# Recommendations

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*Set out below are the ANAO's recommendations aimed at improving the ATO's management of fraud investigations. Report paragraph references and abbreviated ATO responses are also included. More detailed responses are shown in the body of the report.*

**Recommendation No.1**  
**Para. 2.74**

To ensure the effective use of investigation resources and in fairness to the taxpayers involved in fraud investigations, the ANAO recommends that the ATO Fraud Section finalise, as expeditiously as possible, all ongoing sales tax fraud cases, with priority given to those cases that have been under investigation for more than two years.

***ATO response:*** Agreed.

**Recommendation No.2**  
**Para. 4.75**

To ensure that cases of alleged fraud are being adequately investigated and that the initiatives implemented by the ATO Fraud Section are facilitating the effective management of these cases, the ANAO recommends that the ATO Fraud Section complete a post-establishment review within the next 12 months. This review should focus on the following areas:

- case management framework;
- investigation standards and procedural guidelines;
- the quality assurance review program;
- training program; and
- case management system.

***ATO response:*** Agreed.



# Audit Findings and Conclusions





# 1. Introduction

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*This chapter outlines the background to the examination and provides an overview of sales tax and the New Tax System. It also sets out the objectives and scope of the examination and structure of this report.*

## Background to examination

**1.1** On 24 June 1998, the Senate referred to the Senate Economics References Committee for inquiry the matter of the operation of the Australian Taxation Office (ATO) with particular reference to:

- the equitable treatment of taxpayers;
- the performance of the Large Business and International Division, including, in particular, the High Wealth Individual Project;
- compliance by the ATO with the Client Settlement Guidelines; and
- allegations of infiltration of the ATO by organised crime.<sup>7</sup>

**1.2** The inquiry had its origins in the *Sunday* television program screened by the Nine network in mid-1998. The Committee conducted nine hearings which included a significant proportion of *in camera* evidence,<sup>8</sup> reflecting the sensitivity of the subject matter of the inquiry.

**1.3** Allegations had been made to the Committee that the ATO and Australian Customs Service (Customs) had failed to pursue several cases of detected sales tax fraud, resulting in the loss of several million dollars of Commonwealth revenue. The Committee believed that this alleged failure may have stemmed from coordination problems between the two agencies. Evidence before the Committee also suggested that the introduction of the New Tax System could potentially increase, rather than diminish, the risk of this type of fraud.

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<sup>7</sup> Report of the Senate Economics References Committee, *Inquiry into the Operation of the Australian Taxation Office*, March 2000, Parliament of the Commonwealth of Australia, p. 1.

<sup>8</sup> Most Committees are empowered to hear evidence in public or in private. By hearing evidence in private and agreeing to orders forbidding publication of the evidence, a Committee may inform itself fully on an issue and, at the same time, minimise any risk arising from the publication of evidence. Of the 21 separate witnesses who gave evidence to the Committee, 11 gave their evidence *in camera*. A proportion of the ATO's evidence was also taken *in camera*.

1.4 The Committee published its report *Inquiry into the Operation of the Australian Taxation Office* in March 2000 concluding that, on the balance of evidence submitted, it considered that the *Sunday* program allegations were largely without substance. In its report, the Committee advised the Senate that it was requesting the Auditor-General to consider investigating a matter involving possible fraud against the Commonwealth and reporting his findings to the Parliament. The Chair of the Committee, Senator Murphy, wrote to the Auditor-General about the Committee's request on 23 March 2000.

1.5 The Committee considered it appropriate that the ANAO examine the substance of the allegations and report back to the Parliament. The ANAO had identified coordination problems between the ATO and Customs in ANAO Audit Report No. 20 1997–98 *Sales Tax—Australian Taxation Office*. After meeting with the Committee and its Secretariat, reviewing transcripts and background material and interviewing witnesses, the Auditor-General agreed, on 19 October 2000, to undertake an examination of the matters requested by the Committee.

1.6 The Inquiry witnesses requested that their identities not be disclosed and the ANAO was asked to strictly limit circulation of the evidence provided by the witnesses to the Committee. This evidence is protected by Parliamentary Privilege.<sup>9</sup> The ANAO agreed to take every precaution to safeguard information provided by the witnesses *in camera* and the confidentiality of the witnesses appearing before the Inquiry.

## Collection of sales tax

1.7 Under the sales tax legislation, the ATO had overall responsibility for collecting, monitoring and reporting sales tax revenue. The ATO provided Customs with appropriate delegations, as well as legislative and procedural information to administer the collection of sales tax at importation.<sup>10</sup> In 1999–2000, the ATO collected \$15.5 billion in sales tax and Customs collected \$831 million.<sup>11</sup>

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<sup>9</sup> Under the *Parliamentary Privileges Act 1987*, the giving of evidence and the production of documents by a witness has the same legal status as a Senator's participation in Senate proceedings, and therefore attracts the very wide protection which is given to proceedings in Parliament against prosecution, suit, examination or question before any court or tribunal. The action of a witness in giving evidence and producing documents and the evidence given therefore cannot be used against the witness in any sense in subsequent proceedings before a court or tribunal.

<sup>10</sup> Under section 8 of the *Taxation Administration Act 1953*, the Commissioner of Taxation delegated certain responsibilities to Customs for collecting sales tax revenue.

<sup>11</sup> *Commissioner of Taxation Annual Report 1999–2000*, Commonwealth of Australia, p. 4.

**1.8** In February 1997, the ATO and Customs established a National Liaison Committee to ensure a more effective working relationship. To formalise this joint Committee and establish a framework for improving the relationship between the two agencies, the ATO and Customs entered into a Memorandum of Understanding (MoU) in June 1997.

**1.9** The ATO is structured around clients grouped into Business and Service Lines. The administration of sales tax was the responsibility of the Withholding Tax (WHT) Business Line. From 1 March 1999, the WHT Business Line was abolished and many of its responsibilities, including the administration of sales tax, were transferred to the Small Business (SB) Business Line. When sales tax was replaced by the Goods and Services Tax (GST) on 1 July 2000, responsibility for sales tax matters was assumed by the newly created GST Business Line.

## Overview of Wholesale Sales Tax

**1.10** Sales tax, also known as wholesale sales tax (WST), was introduced into Australia in 1930.<sup>12</sup> It was a tax on goods that were manufactured in, or imported into, Australia. Goods that were for use in mining, primary production or manufacture-related activities were generally exempt as were some other goods (e.g. building materials, most food and clothing, printed matter and goods for use by sales tax exempt bodies).

**1.11** The broad aim of the sales tax legislation was to tax the last ‘wholesale’ sale of goods (usually the sale from the wholesaler to the retailer). Although the most common taxing point was a wholesale sale, sales tax law also applied in other circumstances. For example, sales tax could also be payable if the manufacturer sold the goods by retail; arranged to lease the goods; or used the goods instead of selling them. A system of credits dealt with (among other things) situations where sales tax became payable more than once on the same goods. The law provided a ‘quoting’<sup>13</sup> system designed to avoid tax being payable on earlier sales.

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<sup>12</sup> The legislation was rewritten and reorganised in 1992 to reduce its volume, replace obscure provisions and produce a more logical legislative framework expressed in plain English. The new legislation was known as the Streamlined Sales Tax (SST) legislation and consists of the following core Acts: *Sales Tax Assessment Act 1992*; *Sales Tax (Exemptions and Classifications) Act 1992*; and *Sales Tax Amendment (Transitional) Act 1992*. Acts which formally impose sales tax (and are separate Acts for constitutional reasons) are *Sales Tax Imposition (Customs) Act 1992*, *Sales Tax (Excise) Act 1992* and *Sales Tax Imposition (General) Act 1992*.

<sup>13</sup> A person who ‘quotes’ their sales tax number (or an exemption declaration) did not pay sales tax on the goods they were acquiring. The law contained a precise set of rules detailing when exemption could be claimed by quoting.

## The New Tax System

**1.12** From 1 July 2000, sales tax was replaced by the GST. In addition to the GST, a Luxury Car Tax (LCT) and Wine Equalisation Tax (WET) were also introduced to offset the abolition of sales tax on those items. For the ATO, this has meant implementing a comprehensive program of reform with the associated requirements of developing new systems and operational processes, changes to organisational structures, and alliances with other agencies. The ATO is currently operating in a constantly changing environment as processes and systems relating to the introduction of the GST are refined.

### Goods and Services Tax

**1.13** A key element to the Government's indirect tax reform strategy was to introduce the GST, which is a broad-based indirect tax, to replace WST and a number of State indirect taxes. The GST<sup>14</sup> taxes the private consumption of most goods, services and the provision of information. GST is payable on most goods imported into Australia by both businesses and private individuals, regardless of whether they are registered for GST. However, if an entity is registered and imports goods for use in the enterprise for a creditable purpose, it is able to claim an input tax credit for any GST paid on the importation. Registering for the GST effectively requires applying for an ABN.<sup>15</sup> The GST does not apply to consumption outside Australia, and consequently, does not apply to exports.<sup>16</sup> Appendix 1 outlines an example of how the GST operates.

**1.14** The ATO is responsible for managing the legislation, policy and administration concerning taxable supplies and Customs is responsible for calculating and collecting GST on imported goods, and administering all matters concerning taxable importations. The GST is 10 per cent of

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<sup>14</sup> *A New Tax System (Goods and Services Tax) Act 1999* provides for the GST to be levied upon the taxable supply of goods and services, and the taxable importations of goods.

<sup>15</sup> The ABN is the new single identifier for business and a key element of the new tax system framework. To be entitled to an ABN, businesses must be a company registered under corporations law in Australia, a government agency or department, or an entity carrying on an enterprise in Australia.

<sup>16</sup> *Tax Reform not a new tax a new tax system, The Howard Government's Plan for a New Tax System* August 1998, AGPS, p. 80.

the value<sup>17</sup> of a taxable importation.<sup>18</sup> GST will normally be payable to Customs at the time imported goods are entered for home consumption, that is, when Customs releases them for use in Australia. Subject to certain eligibility criteria and approval by the ATO, importers who are registered for GST may defer the payment of GST on imported goods through the Deferred GST Scheme. It is estimated that \$10.5 billion, of a total GST liability of \$12.5 billion on imported goods, will be deferred in 2000–01. Exported goods are GST-free.

### **Luxury Car Tax**

**1.15** LCT was introduced on 1 July 2000 to replace the 45 per cent sales tax previously levied on luxury cars and is in addition to any GST payable. Cars with a GST-inclusive value above the LCT threshold<sup>19</sup> are subject to LCT. The LCT rate is 25 per cent and no input tax credit is available for LCT. The LCT is remitted to the ATO, or collected by Customs on importation, unless importers ‘quote’ their ABN to defer payment of the LCT until the luxury car is sold.<sup>20</sup> The estimated revenue from LCT is \$180 million per annum in the first year (2000–01) and \$200 million in subsequent years.

### **Wine Equalisation Tax**

**1.16** WET replaced the 41 per cent sales tax on wine. WET is a value-based tax of 29 per cent on all sales, importations and certain other dealings with wine made on or after 1 July 2000. The ATO administers and collects WET for the Australian domestic market and Customs administers and collects WET on imports. WET on importations may be deferred if importers ‘quote’ their ABN<sup>21</sup> as WET is paid on the value of the goods at the last wholesale sale, or an equivalent value when there is no wholesale sale. Exports of wine are not subject to WET. The estimated revenue from WET is \$530 million per annum.

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<sup>17</sup> The value of a taxable importation is the sum of: the customs value of the goods; any customs duty payable; the amount paid or payable to transport the goods to the port or airport of final destination in Australia; the insurance cost for that transport; and any wine equalisation tax payable.

<sup>18</sup> A taxable importation is made if goods are imported and entered for home consumption (within the meaning of the *Customs Act 1901*).

<sup>19</sup> The LCT threshold for 2000–01 is \$55 134.

<sup>20</sup> The circumstances in which a person can quote their ABN for a supply or importation of a luxury car and not pay the LCT are set out in Division 9 of the *Luxury Car Tax Act 1999*.

<sup>21</sup> Section 13-5 of the *Wine Equalisation Tax Act 1999* outlines the grounds for quoting an ABN to defer payment.

## Investigating fraud within the ATO

### Sales tax fraud

**1.17** The detection and identification of matters of serious non-compliance (including fraud) relating to sales tax were the responsibility of the former Withholding Tax (WHT) Business Line.<sup>22</sup> Matters of sales tax fraud and serious non-compliance could also be referred to WHT for investigation by other business lines, external agencies or law enforcement bodies.

**1.18** A specialised Sales Tax Prosecution Unit (STPU) located in the Hurstville office was established in 1989 to investigate and assist in the prosecution of cases of sales tax fraud identified by the WHT Eastern and Southern regional offices. For cases of potential sales tax fraud identified in other regions, the Small Business Prosecution Investigation Unit (SBPIU) undertook the investigations.

### GST fraud

**1.19** In August 2000, the SBPIU was integrated with the GST Fraud Section to become the ATO Fraud Section. The ATO Fraud Intelligence Section, which had been part of the GST Fraud Section, was established as a separate section in September 2000. The combined roles of the ATO Fraud Intelligence Section and the ATO Fraud Section are to minimise the risk of external fraud to the ATO through the prevention, detection and investigation of all potential fraudulent activities relating to all business taxes, including the GST.

## Examination objective, scope and methodology

### Examination objective

**1.20** The objective of this examination was to investigate matters relating to:

- allegations made to the Senate Economics References Committee that the ATO and Customs failed to pursue several cases of detected sales tax fraud;
- the coordination arrangements between the ATO and Customs; and
- whether any issues arising from these matters had been addressed in implementing the GST.

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<sup>22</sup> On 1 March 1999, the WHT Business Line ceased to exist and its responsibilities, including the administration of sales tax, were transferred to the Small Business (SB) Business Line. On 1 July 2000, GST replaced sales tax and responsibility for its administration was assumed by the newly created GST Business Line.

## Examination scope

**1.21** Evidence before the Committee suggested that the ANAO's examination should focus on cases handled by the ATO's New South Wales STPU, located at the ATO Hurstville office. Following an internal ATO review, this Unit was disbanded in September 1998 and ongoing cases were transferred to the Hurstville SBPIU.

**1.22** The ANAO examination focused on the following:

- the arrangements in place to coordinate activities between the ATO and Customs for sales tax and the role Customs played in the investigation of the sales tax fraud cases,<sup>23</sup> that is, whether it was a referring agency only, or participated in the fraud investigation; and
- the ATO's management of the sales tax fraud cases being investigated by the STPU and the current status of those cases, including specific cases cited as examples during the Senate Inquiry to highlight concerns about sales tax fraud investigations.

**1.23** To determine whether issues arising from the sales tax matters had been adequately addressed when implementing the GST, the ANAO also reviewed:

- the coordination arrangements between the ATO and Customs and systems and processes for collecting/deferring GST on imported goods; and
- the framework within the ATO for detecting and investigating GST fraud.

**1.24** As the GST was introduced in July 2000 and the ATO Fraud Section established in August 2000, it was considered too early to fully assess the effectiveness of these new systems and processes as, in some instances, they are still being implemented and refined.

## Examination methodology

**1.25** The methodology adopted was a combination of quantitative and qualitative analysis, file/documentation reviews and interviews with agency officers. To determine the ongoing sales tax cases transferred by the STPU, the ANAO accessed the STPU component of the ATO case management system (CaMRA). Components of the CaMRA system used by the two SBPIU teams were also examined to ascertain the current status of these ongoing cases. Available case files were reviewed to verify the CaMRA database records. The ANAO examination did not extend to an assessment of the potential fraudulent activity subject to investigation.

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<sup>23</sup> Customs was required to refer any cases of suspected sales tax fraud to the ATO for investigation and prosecution.

**1.26** The examination was conducted in accordance with the ANAO Auditing Standards at a total cost of \$285 412.

**1.27** The ANAO would like to express its appreciation to the ATO and Customs management and staff for their valuable assistance with the conduct of this examination.

## **Structure of report**

**1.28** The report has been structured to address the objective of the examination. Chapter 2 outlines the coordination arrangements between the ATO and Customs for sales tax and contains analyses of the sales tax fraud cases investigated by the STPU and transferred to the SBPIU. Chapter 3 examines the systems and processes for collecting/deferring the GST on importations. Chapter 4 reviews the ATO's framework for detecting and investigating GST fraud.



## 2. Management of Sales Tax Fraud Cases

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*This chapter discusses the arrangements between the ATO and Customs for collecting and refunding sales tax and the ATO's management of the sales tax fraud cases investigated by the Sales Tax Prosecution Unit and the Small Business Prosecution Investigation Unit. It also outlines the lessons to be learnt for future fraud investigations.*

### Introduction

**2.1** Allegations were made to the Senate Inquiry that the ATO and Customs had failed to pursue several cases of detected sales tax fraud, resulting in the loss of several million dollars of Commonwealth revenue. The Committee believed that this alleged failure may have stemmed from coordination problems between the two agencies.

**2.2** The ANAO examined the arrangements between the ATO and Customs with regard to sales tax and the measures in place within the ATO for managing sales tax fraud cases.

**2.3** To determine the status of the sales tax fraud cases, the ANAO reviewed the cases handled by the STPU from 1996<sup>24</sup> until the Unit was disbanded in September 1998 and the ongoing cases that were transferred to the two SBPIU teams. The ANAO also identified those cases Customs had referred to the ATO for investigation and sought to determine the role, if any, Customs had played in the subsequent investigation of those cases.

### Background to Sales Tax

#### Sales tax process in ATO

**2.4** Under the sales tax legislation, the ATO had overall responsibility for collecting, monitoring and reporting sales tax revenue. To determine their liability for sales tax, taxpayers followed a basic self-assessment process and paid the ATO accordingly.<sup>25</sup>

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<sup>24</sup> Cases investigated prior to 1996 were reviewed by the ANAO, however, a number of these were not entered into the CaMRA case management system as the CaMRA system was introduced to the Hurstville STPU in 1996.

<sup>25</sup> The self-assessment process for sales tax involved determining whether the acquired goods were subject to tax, whether a taxable transaction was involved in acquiring the goods, and then calculating the resulting tax liability. Most sales tax was paid by taxpayers on a monthly basis, or on a quarterly basis if their sales tax liability for the previous financial year was less than a statutory amount.

**2.5** The legislation provided a ‘quoting’ system that was designed to avoid sales tax becoming payable on sales earlier than the last wholesale sale of the goods. An optional registration system enabled persons engaged in certain businesses (e.g. manufacturers, wholesalers, indirect marketers) to apply for registration. If a business was registered, it could quote its registration number to purchase most goods for use in its business free of sales tax.<sup>26</sup> To claim sales tax credits, taxpayers lodged an application with the ATO and claimed the credits as a refund or had the credits deducted from their tax liability when lodging their tax return.

### **Sales tax process in Customs**

**2.6** The ATO delegated responsibility for collecting sales tax on imported goods and, in certain cases, exported goods to Customs.<sup>27</sup> The ATO assisted Customs to administer the collection of sales tax through a number of support mechanisms that included:

- providing adequate training for Customs officers involved in administering and collecting sales tax;
- providing information technology support for Customs’ sales tax systems; and
- maintaining links between the ATO and Customs via liaison officers.

**2.7** According to the sales tax legislation, imported goods subject to sales tax were to be correctly entered and the amount of revenue due (customs duty and sales tax) either paid, or where appropriate, deferred. The appropriate sales tax rate<sup>28</sup> was applied to the taxable value (customs value plus customs duty) and the Customs COMPILE system calculated the taxable value and applied the method of acquittal ie., payment on entry, quotation of a Sales Tax Registration Number (STRN), or claim for exemption.

**2.8** Customs undertook its responsibilities for collecting sales tax within a self-assessment environment. This meant that assurance in respect of the majority of the import/export population was gained through post-transaction compliance activity. To satisfy its responsibilities and reduce sales tax compliance risk, Customs developed a number of risk management parameters within which it carried out its functions. Customs functions relating to sales tax are outlined in Appendix 2.

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<sup>26</sup> Australian Taxation Office, 1999, *Taxation Statistics 1997–98* pp. 100–103; CCH Australia Ltd 1998, *Australian Master Tax Guide 1998* pp. 1426–1430.

<sup>27</sup> The responsibilities delegated by the ATO to Customs involved powers and functions in relation to the *Sales Tax Assessment Act 1992*, including the administration of sales tax related penalties.

<sup>28</sup> The sales tax rates ranged from 12–45 per cent, depending on the goods.

## Coordination arrangements between ATO and Customs

**2.9** The ANAO examined the coordination arrangements between the ATO and Customs in relation to sales tax in the audit of *Sales Tax—Australian Taxation Office* undertaken in 1997. This audit found that there was significant scope for improvement in the coordination between the two agencies.

### National Liaison Committee

**2.10** The ATO and Customs established a joint National Liaison Committee in February 1997 to ensure a more effective working relationship between the two agencies. The Committee's terms of reference were to:

- focus on strategic aspects of the ATO/Customs relationship and monitor overall progress on issues of mutual interest;
- oversee the progress of the ATO/Customs working groups<sup>29</sup> and address issues arising from these groups requiring high level resolution; and
- prepare a brief annual report on progress, achievements, milestones and outstanding issues.

### Memorandum of Understanding

**2.11** To formalise the ATO/Customs Liaison Committee and establish a framework for improving the relationship between the two agencies, the ATO and Customs entered into a MoU in June 1997. In addition to defining the responsibilities of each agency in administering and collecting sales tax on imported goods, the MoU set out an agreement for regular liaison and mutual cooperation on sharing information and coordinating compliance activities.

**2.12** An ATO/Customs liaison network was also established to coordinate and manage liaison at the regional operational level and, in June 1998, the National Liaison Committee endorsed a Roles and Responsibilities Paper that outlined the agencies' agreed approach to administering sales tax on imports and exports.

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<sup>29</sup> Joint working groups were established for specific projects and to address operational and other issues and were required to report back to the Committee on their findings and recommendations.

**2.13** As the Senate Economic References Committee requested the ANAO to examine the arrangements between the ATO and Customs for handling sales tax cases, the ANAO examined the role played by Customs in the sales tax cases. As all cases of suspected sales tax fraud are investigated by the ATO, the examination by the ANAO focused on the ATO's management of fraud. One matter relating to a sales tax refund payment made by Customs is discussed later in this chapter.

## **ATO environment for managing fraud cases**

### **ATO Compliance Model and prosecution function**

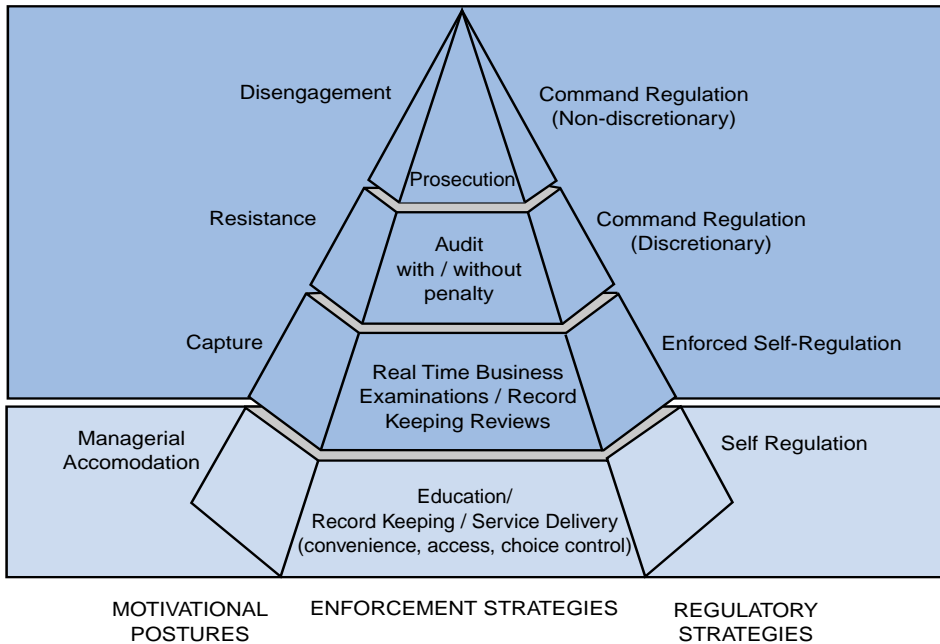
**2.14** The Compliance Model is the ATO's framework for a structured approach to improving taxpayer compliance and dealing with taxpayer non-compliance. The ATO endeavours, through its corporate and business-planning processes, to manage taxpayer/client relations within the parameters established by the Compliance Model. The Compliance Model seeks to ensure that taxpayers are treated consistently and appropriately.<sup>30</sup>

**2.15** The Compliance Model, illustrated in Figure 1, acknowledges that the majority of taxpayers complies voluntarily without the need for ATO intervention. Some will not comply in the first instance but will, eventually, if given further prompting. A small proportion will not comply and may need enforcement action through such measures as investigation and, in some instances, prosecution.

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<sup>30</sup> Australian Taxation Office, October 1999, *Command Regulation: The Prosecution Investigation Function*, p. 26.

**Figure 1**  
**ATO Compliance Model**



Source: Australian Taxation Office 1998, *Cash Economy Task Force Report*, p. 25

**2.16** The ATO prosecution process includes the following three elements:

- (i) the detection and identification of possible offences;
- (ii) the investigation of the offences; and
- (iii) the preparation for court and advocacy.

### **Relationship between serious non-compliance and fraud**

**2.17** The 1994 Fraud Control Policy of the Commonwealth defines fraud as *inducing a course of action by deceit or other dishonest conduct, involving acts or omissions or the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or of evading a liability to, the Commonwealth.*<sup>31</sup>

<sup>31</sup> Commonwealth Law Enforcement Board, *Best Practice for Fraud Control—Fraud Control Policy of the Commonwealth*, AGPS, Canberra p. 3. This definition includes monetary gain and any benefit that could be gained from the Government, including intangibles, such as 'rights' of entry to the country, documentation conferring identity, and information. The *Commonwealth Fraud Control Policy and Guidelines—Consultation Draft No. 2*, April 2001 defines fraud against the Commonwealth as: *Dishonestly obtaining a benefit by deception or other means*. This definition includes: theft; obtaining property, a financial advantage or any other benefit by deception; causing a loss, or avoiding or creating a liability by deception; providing false or misleading information, or failing to provide information where there is an obligation to do so; making, using or possessing forged or falsified documents; bribery, corruption or abuse of office; unlawful use of Commonwealth computers, vehicles, telephones and other property or services; bankruptcy offences; and any offences of a like nature to those listed above. The benefits referred to can be either tangible or intangible.

**2.18** The ATO uses serious non-compliance as an over-arching and flexible term to encompass the wide variety of activities that constitute serious non-compliance by taxpayers that are reflected in the Compliance Model. The ATO considers fraud is an activity that can fall within the classification of serious non-compliance. However, it can also fall outside of it.<sup>32</sup> In this regard, external fraud is covered by the *Crimes Act 1914*, whereas serious non-compliance relates to a failure to comply with the Taxation Acts. Essentially, fraud encompasses matters that are dealt with by investigation and prosecution action; matters that are dealt with through audit activity or other civil or administrative remedy are issues of (serious) non-compliance. Throughout this report, the cases referred to relate to external fraud.

## Investigating sales tax fraud

**2.19** The detection and identification of matters of serious non-compliance (including fraud) relating to sales tax were the responsibility of the former WHT Business Line. Matters of sales tax fraud and serious non-compliance could also be referred to WHT by other business lines, external agencies or law enforcement bodies.

**2.20** The STPU was established in 1989 and located in the Hurstville office to investigate and assist in the prosecution of cases of sales tax fraud identified by the WHT Eastern and Southern regional offices. Cases of potential sales tax fraud identified in other regions were undertaken by the SBPIU.

**2.21** With the exception of the sales tax matters referred to STPU, the SBPIU conducted the investigation of offences identified by the WHT Business Line. In addition to investigative work, SBPIU staff also conducted a range of other activities including the preparation of briefs of evidence for prosecution cases. SBPIU officers operated in teams of varying sizes and were located at a number of ATO regional offices.

### Sales Tax Prosecution Unit

**2.22** The STPU investigated non-compliance with sales tax law and related sections of the Taxation Administration Act, the Crimes Act, and several other Acts. The investigation process included preparing briefs of evidence to support prosecution action undertaken by ATO in-house prosecutors and the DPP; liaising with the AFP, Customs and other external agencies; and providing technical expertise on prosecution related matters to staff in the WHT Business Line.

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<sup>32</sup> Serious non-compliance by a taxpayer or group of taxpayers could be dealt with by a number of options such as industry education, arbitrary administrative penalty, audit and administrative penalty, or referral to the DPP for prosecution action.

**2.23** In May 1998, a review was conducted of the STPU to determine the potential benefits and drawbacks of closing the unit and transferring its responsibilities to the Hurstville SBPIU teams. According to the review, there were some compelling arguments for continuation of the STPU as a separate prosecution team.<sup>33</sup> The review also identified a number of risks associated with transferring the sales tax workload to SBPIU, each of which had contributed to an overall concern that the SBPIU might not be capable of coping with the added workload.<sup>34</sup>

**2.24** Despite these concerns, the review recommended that the STPU be disbanded and its responsibilities for sales tax prosecution cases transferred to the Hurstville SBPIU. The main reasons for this decision included: establishment of a single line of control over the ATO's prosecution function; reduction in case management problems; and greater consistency in decision-making, procedures, training and quality assurance. The STPU was disbanded in September 1998 and the sales tax prosecution cases that the Unit had been investigating were transferred to the two Hurstville SBPIU teams.

### **Small Business Prosecution Investigation Unit (SBPIU)**

**2.25** SBPIU was set up in the late 1980s to investigate acts of serious non-compliance under the provisions of the *Taxation Administration Act 1953* and the *Income Tax Assessment Act 1936*. In 1999 and 2000, two internal reviews examined, among other issues, the performance of the SBPIU in managing investigations relating to matters of potential fraud and serious non-compliance.

#### *Contestability Review of SBPIU*

**2.26** From March to October 1999, a team of four ATO officers undertook a Contestability Review of the SBPIU. The review covered five major ATO offices, including Hurstville, and focused on case selection and investigation processes, other issues necessary to support a criminal investigation, the provision of client services and the continuing capacity of the Unit to perform efficiently and effectively.

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<sup>33</sup> For example, due to its visibility within the Hurstville office, the STPU generated more frequent referrals about possible offences. Also, the review noted a preference among some WHT officers for dealing with STPU staff over SBPIU staff and the easy accessibility of STPU officers for dealing with urgent matters.

<sup>34</sup> These risks included complaints by WHT staff concerning past difficulties in having cases actioned by SBPIU staff. This issue had been a major factor in previous decisions to retain the STPU and staff reductions in the SBPIU.

**2.27** The review team's overall findings indicated that there were some significant problems with the way that SBPIU was operating nationally. Evidence indicated that the Unit was floundering under resource constraints, poor coordination and communication between separate teams, inadequate information systems and an uncoordinated, inconsistent national approach to the selection and management of prosecution cases. Consequently, it was found that there were cases not being promoted and investigated for prosecution and that there existed numerous impediments to referral of cases for investigation.<sup>35</sup>

**2.28** The review's recommendations addressed matters considered to be key impediments to the efficiency and effectiveness of the SBPIU function and included:

- lack of an effective quality assurance program;
- lack of consistent case planning and documentation of files;
- inconsistent practices surrounding case selection and security classification of files;
- inadequate completion of referral forms; and
- inefficient practices contributing to high numbers of 'No Further Action' (NFA) cases.

*ATO's integrated response to serious non-compliance*

**2.29** An internal ATO paper,<sup>36</sup> produced in April 2000, identified options for achieving a more integrated approach to dealing with serious non-compliance matters. The paper also discussed problems relating to the ATO's management of serious non-compliance (including fraud). This paper noted that the more significant impediments to the prevention of, and reaction to, serious acts of non-compliance included:

- lack of meaningful outcomes and measures to focus activities;
- no nationally consistent measures to identify ATO effectiveness, quantify risk and analyse overall trends in serious non-compliance;
- no national system for budgeting and recording such factors as the number of serious non-compliance cases on hand, number actioned, cycle times, total ATO resources deployed, unit costs, etc.;
- serious non-compliance being dealt with on an ad hoc, discretionary, reactive and fragmented basis;

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<sup>35</sup> Australian Taxation Office, *Command Regulation: The Prosecution Investigation Function*, op. cit., pp. 20–22.

<sup>36</sup> Australian Taxation Office, *Towards an Integrated Response to Serious Non-Compliance*, April 2000, p. 1.



- no progression model in place to specifically deal with processes of detection, audit, litigation, debt collection, prosecution, and ancillary ATO activities in relation to serious non-compliance;
- lack of clear and consistent policies and guidelines on how ATO officers are to deal with matters of serious non-compliance; and
- no national system in place for identifying and registering serious non-compliance matters to ensure that limited resources are being devoted to the most important cases and to developing increased reporting and/or monitoring requirements for identified serious non-compliers.

**2.30** The paper recommended that all ATO units responsible for investigating and prosecuting cases of serious non-compliance be amalgamated into one unit. The integration of these units into the ATO Fraud Section in August 2000 is discussed in detail in Chapter 4.

## Case management and reporting system

**2.31** The Case Management and Reporting Application, known as CaMRA, was used by the WHT Business Line (including the STPU), and later by the SBPIU, as a tool for recording and monitoring the progress of defined work activities, including prosecution cases.

**2.32** CaMRA was designed to provide a range of search and report generating functions for case monitoring and workflow management purposes. For security purposes, access to the information contained in CaMRA relating to cases investigated by the STPU and two SBPIU teams was restricted by the following measures:

- each prosecution team was able to view only the cases its team members were currently working on; and
- access to cases for recording and management purposes was provided according to user access levels, which reflected the work needs of each officer who used the system.<sup>37</sup>

**2.33** System problems experienced by users were noted in internal bulletins and CaMRA technical updates. These problems included linking difficulties, errors and delays when updating information, slow response when being used by several officers at a time and inconsistencies and inaccuracies when attempting to generate costing, statistical and other case summary reports.

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<sup>37</sup> Australian Taxation Office 1998, *CaMRA Administrators Manual*, p. 4.

**2.34** At the time of CaMRA's implementation in September 1997, a post-implementation review was planned for approximately one year after the database had been functioning across all of the WHT Business Line.<sup>38</sup> The ANAO was advised that no review was undertaken.

**2.35** The Contestability Review report also noted that the CaMRA system was resource-intensive and unreliable for the production of timely and accurate information. There was also some doubt as to whether there was a total commitment to using CaMRA by the SBPIU officers.<sup>39</sup> The report recommended that the SBPIU consider developing a new case management system based on the system developed for the then GST Fraud Section.

**2.36** During the present ANAO examination, SBPIU case officers advised that they were still experiencing difficulties when using the CaMRA system, including inaccurate and unreliable data, limited reporting capabilities, incorrect and inconsistent reporting results and long delays in updating information on the system.

## **Quality assurance processes in the STPU and SBPIU**

**2.37** Quality assurance (QA) reviews of fraud prosecution cases are designed to identify, assist and support the development of best practice and promote an appropriate and consistent level of case management performance across ATO prosecution units. The reviews should indicate whether an adequate standard has been achieved and may suggest improvements in terms of training, changes to procedures, investigation management or investigation policies.

### **Sales Tax Prosecution Unit**

**2.38** The ANAO interviewed several former STPU officers and reviewed available information regarding case management processes and business objectives for the Unit. However, there was no evidence to indicate that QA reviews were conducted on the STPU prosecution cases.

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<sup>38</sup> Australian Taxation Office 1997, *CaMRA Implementation—Staff Implementation Document*, p. 7.

<sup>39</sup> Australian Taxation Office *Command Regulation: The Prosecution Investigation Function*, op. cit., p. 39.

## Small Business Prosecution Investigation Unit

**2.39** The SBPIU Quality Assurance Review Guidelines were developed in 1997, based on the Commonwealth Law Enforcement Board's (CLEB) *Quality Assurance Review Guidelines*<sup>40</sup> and the Service Agreements<sup>41</sup> between the business line referring the case and the SBPIU.

**2.40** According to ATO policy, QA reviews were to be conducted every six months for large SBPIUs, annually for medium SBPIUs, and on a bi-annual basis for small SBPIUs. The process involved taking a stratified random sample of cases listed in the CaMRA database; each case was to be reviewed by two officers and rated as either *above standard*, *satisfies standard*, or *below standard*. Individual case assessment reports were to be provided to the case officer and a written report of the results of the overall QA review provided to the team leader/regional manager and SBPIU executive management.

**2.41** The ANAO examined six QA reviews undertaken in various SBPIU offices between 1995 and 2000. No QA reviews were conducted in 1996. As well, there were no written reports available for reviews conducted in 1998 or 2000. Although individual investigations had not been rated by the review teams, the following deficiencies in case management and monitoring procedures were identified in the ATO QA reports examined by the ANAO:

- inefficient case planning;
- lack of evidence matrices, which can result in crucial evidence being ignored;
- case officers not recording all communications and actions on the case files;
- lack of case reviews being undertaken;
- no prioritisation procedures governing case selection processes; and
- resourcing problems affecting the quality of output from the unit.

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<sup>40</sup> The Commonwealth Law Enforcement Board's (CLEB) *Quality Assurance Review Guidelines* form part of the Board's larger publication *Fraud Control Policy of the Commonwealth*. These guidelines, published in March 1997, set the minimum standard for QA of prosecution cases in all Commonwealth agencies. They are based on best practice standards and model procedures for handling fraud cases that were developed in March 1995 by the Commonwealth Investigation Technical Standards Committee.

<sup>41</sup> Service Agreements outlined the responsibilities of the SBPIU and referring Business Line for the purpose of conducting and managing prosecution investigations and the QA reviews of those investigations. The Agreements varied according to the specific needs of the business line with which the Agreement was made and covered such issues as likely case referrals; quality assurance processes; liaison with the DPP and AFP; conduct of project work; and publicity of prosecution cases.

## ANAO's examination of sales tax fraud cases

### Search methodology

**2.42** The ATO did not have a complete record of sales tax fraud investigations. To address the allegations made to the Senate Committee and to determine the number and verify the status of the sales tax cases handled by the STPU, the ANAO adopted the following methodology:

- downloaded all entries in the component of the CaMRA case management system used by the STPU from 1996, when the system was introduced, until the Unit disbanded in September 1998;
- examined two ATO spreadsheets documenting sales tax case files located in the Hurstville office;
- reviewed the cases included on a hand-over list provided to the SBPIU Regional Manager when the STPU was disbanded;
- reviewed current case files; and
- interviewed former STPU case officers and current SBPIU case officers.

### Examination results

**2.43** The ATO and ANAO initially identified a possible 124 sales tax fraud cases, which included 123 sales tax fraud cases investigated by the ATO and one case relating to a sales tax refund payment made by Customs. The ATO sales tax cases investigated by the Hurstville office included:

- 53 cases that were recorded in the CaMRA case management system;
- 49 cases catalogued by the ATO on a spreadsheet dated 23 November 2000 (*ATO Spreadsheet No.1*) after an initial search of the Hurstville office;
- 19 cases catalogued by the ATO on a second spreadsheet dated 11 December 2000 (*ATO Spreadsheet No.2*) following a further search of the Hurstville office; and
- two case files that were located by ANAO at the Hurstville office but not entered into the CaMRA system or recorded on either ATO spreadsheet.

## Sales tax cases investigated by the ATO

**2.44** The ANAO reconciled all cases recorded in the CaMRA system, on the two ATO spreadsheets and the hand-over list. The ANAO and the ATO jointly interviewed ATO case officers to verify relevant case details; determine an accurate status for all the cases; and to identify any case duplication. The ANAO also reconciled the ongoing cases with an ATO-wide stock-take of sales tax cases undertaken when the ATO Fraud Section was established in August 2000.

**2.45** After excluding 33 duplicate case records, the ANAO reviewed 90 ATO sales tax cases that included:

- 53 cases recorded in the CaMRA system;
- 28 cases recorded on 23 November 2000 (*ATO Spreadsheet No.1*);
- seven cases recorded on 11 December 2000 (*ATO Spreadsheet No.2*); and
- two cases not recorded in either the ATO spreadsheets or the CaMRA system.

**2.46** Table 1 outlines the status of the 90 cases reviewed by the ANAO.

**Table 1**

### Sales Tax cases reviewed by ANAO

<i>Status of cases</i> <sup>(a)</sup> →	<i>Ongoing Investigation</i>	<i>Finalised</i> <sup>(b)</sup>	<i>Unknown</i> <sup>(c)</sup>	<i>No Further Action</i> <sup>(d)</sup>		<i>Total</i>
				<i>ATO</i>	<i>DPP</i>	
<i>Source of cases</i> ↓						
CaMRA	6	11	0	28	8	53
Spreadsheet No. 1	0	12	7	6	3	28
Spreadsheet No. 2	3	1	0	3	0	7
Cases without record	-	-	2	-	-	2
<b>Total</b>	<b>9</b>	<b>24</b>	<b>9</b>	<b>37</b>	<b>11</b>	<b>90</b>

Notes:

(a) The status of the sales tax cases was current at the time of the ANAO review, 12 December 2000.

(b) The status of 'Finalised' has been attributed to cases where prosecution action has occurred and the case has been closed.

(c) The ANAO was unable to verify the status of these cases from the case files and discussions with ATO case officers.

(d) No Further Action (NFA) decisions were made by either the DPP or the ATO as a result of circumstances that made further investigation or prosecution action of a case unlikely to obtain a successful outcome.

Source: ANAO analysis based on information provided by the ATO

## **Case file management**

**2.47** The ATO was unable to locate the case files for 20 cases. To determine the status of these cases, the ANAO relied on discussions with ATO case officers and reviewed CaMRA system records.

**2.48** In addition, the ANAO found that some of the case files reviewed by the ANAO had been 'stripped' of documentation. The ATO advised that, prior to disbanding the STPU, files were stripped. Only basic file contents were retained and stored in the basement of the Hurstville office. The ANAO was informed it was the practice of STPU to return documentation to the business line that referred the case for investigation.

## **Cases not entered in the CaMRA system**

**2.49** The ATO undertook two separate searches of the Hurstville office (23 November and 11 December 2000) to locate sales tax case files. The case files were subsequently catalogued into two Excel spreadsheets: the first spreadsheet listed 49 cases; the second listed 19 cases.<sup>42</sup> The ANAO analysed the spreadsheets and found that, of the 68 cases listed on the two spreadsheets, 31 cases had been entered in the CaMRA system.<sup>43</sup> The status of the remaining 37 cases could therefore only be determined by reviewing the case files. The ATO was unable to explain the reasons for these cases not being recorded in the CaMRA system. The status of nine cases could not be verified.

**2.50** In addition, the ANAO located and reviewed two case files that had not been recorded in either the CaMRA system or the two ATO spreadsheets. The ATO advised the 'sensitivity' of the case and related security concerns (it was part of evidence in a Royal Commission of Inquiry) may have been the reason that one case was not recorded in CaMRA. The other case had been allocated a CaMRA number but a search of the system failed to locate any corresponding entry. The ATO was not able to advise the current status of these cases and it could not be ascertained through an ANAO review of the case files. The ANAO recognises that the sensitivity of a case may prohibit all case details being recorded in the CaMRA system. However, if even limited case details are not recorded, the potential for the case not to be adequately monitored, or reviewed, increases considerably. There is also a risk that the case could be overlooked completely.

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<sup>42</sup> There were an additional two cases identified on the first spreadsheet that the ATO advised were not actually prosecution cases but only intelligence information. Consequently, they have not been included in the 90 sales tax fraud cases that were the subject of ANAO analysis.

<sup>43</sup> When cataloguing the sales tax cases files, the ATO Liaison Officer documented the CaMRA number where available. If there was no CaMRA number on the file, the Officer numbered the files consecutively according to the order in which they were located.

## **Cases transferred to SBPIU at the closure of the STPU**

**2.51** When the STPU was disbanded, any outstanding cases held by the Unit at the time were to be transferred to the SBPIU for completion. The manager of the STPU, on his last day in the Unit, gave the SBPIU Regional Manager a hand-over list containing 15 case summaries. The Regional Manager advised the ANAO that he believed these were the only cases to be transferred to the SBPIU teams. The ANAO understands that no case file census or reconciliation with the CaMRA case management system was undertaken prior to transferring cases to the SBPIU.

**2.52** The 15 cases were included in the ANAO review and are incorporated into the analyses outlined in Table 1. Two cases were listed on Spreadsheet No.2 and the other 13 cases were recorded in the CaMRA system. One case is currently under investigation, four have been finalised, and 10 cases were considered to warrant no further action (four by the ATO and six by the Director of Public Prosecution (DPP)).

## **Cases considered to warrant No Further Action**

**2.53** A broad range of circumstances can lead to a decision to take no further action. These can include missing or insufficient evidence, uncooperative case witnesses, resourcing difficulties, or time delays during the investigation. In more than 50 per cent of cases (48 cases) reviewed by the ANAO, a decision to take no further action had been made by either the ATO (37 cases) or the DPP (11 cases). This meant the investigations had been closed without culminating in prosecution action.

### *SBPIU initiated review*

**2.54** In February 2000, the Acting SBPIU Regional Manager requested a former team leader to review the cases in the CaMRA system. As a result of this review, 21 cases were deemed to require no further action. The officer who undertook the review advised the ANAO that the rationale for his decisions were based on: cases not being active or allocated to a case officer; cases not having been looked at for a long period of time and therefore there being little perceived merit in proceeding with the investigation; and the lack of resources—there being no capacity for SBPIU teams to undertake the work. The ANAO understands this review also did not include a case file census or reconciliation of case files with CaMRA entries to determine an accurate case status. Table 2 outlines the reasons that the ATO considered cases required no further action.

**Table 2**

**ATO reasons for deciding cases required No Further Action (NFA)**

ATO reason for NFA decision	Year the case was No Further Action					
	Unknown <sup>(c)</sup>	1996	1997	1998	1999	2000
Lack of resources						1
Case too old and resourcing issues						1
Insufficient evidence				2	1	1
No offence disclosed	2	1				1
Cases too old/Insufficient evidence			1	1	1	1
Taxpayer not able to be located	4					
Case not allocated to SBPIU presume NFA <sup>(a)</sup>						3
Case too old and not referred to SBPIU <sup>(b)</sup>						16
<b>Total = 37</b> <b>Sub-totals:</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>24</b>
<b>Notes:</b>						
(a) The CaMRA system entry for these cases state: <i>Case was apparently not allocated prior to the demise of the WHT Prosecution Unit in September 1998. Case was not referred to the SBPIU and has been presumed to have been NFA'd. Prosecution system updated on 21/2/00.</i>						
(b) The CaMRA system entry for these cases state: <i>Case was apparently not referred to SBPIU, following the demise of the WHT Prosecution allocated prior to the demise of the WHT Prosecution Unit. Therefore it is assumed that the case was finalised prior to the WHT Prosecution Unit being disbanded in September 1998. Prosecution system updated on 21/2/00.</i>						
(c) The date when the decision was made that no further action would be taken in relation to the investigation could not be determined from the case file review. It was not possible to verify the date through CaMRA entry records, as cases were not entered into the system.						

Source: ANAO analysis based on information provided by the ATO

**2.55** In 19 of the 37 cases considered by the ATO to warrant no further action, the reason given was that the cases were too old because they had apparently not been referred to the SBPIU when the STPU was disbanded. The age of the case was also a factor in five other cases.

*Director of Public Prosecution*

**2.56** The ANAO also reviewed the cases considered by the DPP to require no further action. Of the 11 cases, age was a contributing factor in five cases,<sup>44</sup> and insufficient evidence in four. For the remaining two cases there was no avenue to prosecute in one instance and the taxpayer had disappeared in the other.

<sup>44</sup> One case was considered too old to pursue. The other four cases were not pursued for prosecution because they were deemed too old and also for additional reasons including insufficient evidence, lack of admissible evidence and that the DPP considered it was not in the public interest to proceed with prosecution.



## Analysis of the duration of sales tax case investigations

**2.57** The ANAO analysed the sales tax cases to determine the time taken to complete the investigations. Dates relating to the commencement and completion of the investigation could only be found in 60 of the 90 cases. Furthermore, the date recorded was not reliable because the referral date listed on the CaMRA entry could reflect either the date the case was received by the investigating unit, the date the case was allocated to a case officer, or the date the unit manager entered the case in the CaMRA system. Table 3 outlines the time taken to finalise the investigations.

**Table 3**

### Analysis of the length of case investigations

<i>Duration of Investigation</i>	<i>Status of Cases</i>				<i>TOTAL</i>
	<i>Ongoing</i>	<i>Finalised</i>	<i>NFA-DPP</i>	<i>NFA-ATO</i>	
< 12 months	3	1	1	4	9
12–24 months	1	7	3	4	15
25–36 months	2	4	1	5	12
37–48 months	2	0	1	15	18
> 48 months	1	0	0	5	6
<b>SUBTOTAL:</b>	<b>9</b>	<b>12</b>	<b>6</b>	<b>33</b>	<b>60</b>

Source: ANAO analysis based on information provided by the ATO

**2.58** The ANAO appreciates that the duration of an investigation will vary depending on the complexity and size of the case. In 40 per cent of cases (24 cases), it took longer than 36 months to finalise the investigation. Of these 24 cases, three are still being investigated and 21 cases were considered to warrant NFA (20 by the ATO and one by the DPP).

**2.59** Of the 24 cases that took longer than three years to complete, none was finalised through prosecution action. Also, in 18 of these 24 cases, the decision of NFA was made during the SBPIU-initiated review of the CaMRA system in February 2000. In one case the investigation continued for almost eight years before the ATO decided the case required NFA.<sup>45</sup> These results would suggest that, the longer an investigation continues, the less likely there will be a successful outcome.

<sup>45</sup> This particular investigation commenced in April 1992 and was made NFA during the SBPIU initiated review of CaMRA in February 2000. Reasons for NFA included the age of the case, resourcing problems and difficulty with securing the case informant as a witness for prosecution purposes. The investigation also suffered from difficulties in securing necessary documentation from the alleged offender and complications with other key witnesses in the case.

**2.60** The ANAO found little evidence that, prior to commencing an investigation, any planning or assessment was undertaken to determine the complexity of a case or the priority it should be afforded. The ANAO also found little evidence of ongoing participation of team leaders in monitoring and managing the overall progress of STPU or SBPIU cases. The ANAO considers that the reviews of case progress should have been more frequent to ensure that the investigating Units' time and resources were being used effectively.

**2.61** The ATO advised that regular meetings were held between case officers and team leaders to discuss ongoing case progress and to make decisions relating to the conduct of investigations. The ANAO was also advised that there was no formal mechanism for informing the referring officer, area or agency of the progress of an investigation or when a case was finalised and that this type of feedback rarely occurred.

### **Potential revenue relating to cases**

**2.62** Recovery of lost revenue is only one of several driving factors behind the investigation and prosecution of sales tax fraud. There can be additional benefits such as the opportunity to identify and close down the fraudulent operations of highly organised, serial sales tax offenders, media exposure in penalising sales tax fraud, and the resulting deterrent it provides to other potential offenders. However, the revenue recovered from successful prosecution action can provide some indication of the success of the ATO in prosecuting sales tax fraud.

**2.63** The revenue recovered by the ATO through the successful prosecution of the sales tax cases was only available from CaMRA system entries or case files for 14 out of the 18 successfully prosecuted cases. For these cases, approximately \$43 100 was recovered in remitted sales tax, penalties and fines.

**2.64** Information relating to the potential revenue involved for the other 72 cases reviewed was only available for 16 cases. Table 4 details the potential revenue relating to these cases.

**Table 4**  
**Revenue identified in sales tax cases reviewed by ANAO**

<i>Status of cases</i>	<i>Total number of cases reviewed</i>	<i>Cases without revenue estimates</i>	<i>Cases with revenue estimates</i>	<i>Total revenue recovered / estimated (\$) (a)</i>
Finalised (successful)	18	4	14	43 100
Finalised (unsuccessful)	6	4	2	826 800
NFA – ATO	37	31	6	1 040 000
NFA – DPP	11	10	1	157 000
Unknown outcome	9	8	1	170
Ongoing	9	3	6	7 640 000
<b>TOTAL:</b>	<b>90</b>	<b>60</b>	<b>30</b>	<b>(b)</b>
Notes				
(a) Amounts greater than \$1000 have been rounded to the nearest \$100				
(b) No total for Total Revenue recovered/estimated has been provided as the column incorporates two types of revenue—recovered, and estimated.				

Source: ANAO analysis based on information provided by the ATO

**2.65** Based on the ATO estimates provided in the case files and CaMRA entries, the potential revenue is approximately \$9.6 million, including six ongoing cases with an estimated value of \$7.6 million.

**2.66** Although estimates of revenue were only available for a proportion of cases, these figures suggest that a considerable amount of potential revenue was lost through the NFA of cases. Also, the revenue estimates do not include the additional revenue that could have been recovered through the imposition of penalties or fines, if the cases had been successfully prosecuted.<sup>46</sup>

## Conclusion

**2.67** Measures were taken by the ATO and Customs to improve coordination arrangements with regard to sales tax. Initiatives such as the establishment of the National Liaison Committee supported by a MoU that clearly defined the roles and responsibilities of the two agencies created a more effective working relationship.

<sup>46</sup> Depending on the offence committed, the ATO could impose penalties of up to 200 percent of the amount of sales tax involved or unpaid in the case, for offences committed against the Commonwealth under the sales tax legislation and related acts. The courts can also impose heavy fines for a conviction of sales tax fraud.

**2.68** The ANAO's analyses have raised a number of issues relating to the ATO's management of sales tax fraud cases. Twenty sales tax case files could not be located and some of the files reviewed during this examination had been 'stripped' of documentation. The absence of file documentation meant the ANAO was unable to conduct a detailed review of those cases and, in some instances, could not determine the outcome of the case.

**2.69** The hand-over of ongoing cases to the SBPIU teams did not include a case file census or reconciliation with the CaMRA case management system to determine the status of all STPU sales tax cases. Undertaking this reconciliation would have identified that there were more than 15 cases to be handed over. Over 40 per cent of the cases reviewed by the ANAO (37 cases) had not been entered into the CaMRA system and for nine of these cases, their status could not be verified from either the case files or discussions with ATO case officers. As not all cases were recorded in the case management system, the potential existed for the CaMRA system to have been open to abuse.

**2.70** A review of the CaMRA system by SBPIU in February 2000 resulted in 21 cases warranting no further action as they were considered too old to be pursued. Of these 21 cases, 19 had apparently not been referred to the SBPIU when the STPU was disbanded. However, this review, which again did not include any case file census or file reconciliation, was conducted some 15 months after the hand-over of ongoing cases to the SBPIU.

**2.71** It is appreciated that the CaMRA system was not an ideal case management tool and that ATO case officers experienced difficulties in using the system. It is also apparent that no post-implementation review of CaMRA was held to identify and address the problems and inadequacies of the system. However, the ANAO does not consider that the deficiencies of this system negate the responsibility or accountability of team leaders and case officers to manage their case workload; monitor the progress of their cases; and complete them within a reasonable time-frame. A properly implemented quality assurance program should have reinforced such a management framework.

**2.72** The revenue involved in the cases considered to warrant no further action considerably exceeded the amount of revenue recovered in finalised cases. Also, it would appear that the longer an investigation continues, the likelihood of a successful outcome diminishes. In more than 40 per cent of cases (24 cases) where the relevant information was available, the time taken to complete the investigation exceeded three years and none were finalised through prosecution action. In 18 of these cases, the decision to take no further action was not made until the February 2000 CaMRA review.

**2.73** Extended investigations that do not culminate in a successful prosecution are not an efficient or effective use of ATO resources and also raise issues relating to the fair treatment of the taxpayers involved. Five out of the nine ongoing cases (with potential revenue estimates of \$4.6 million) have been under investigation for over two years and, in one instance, for four years.

## Recommendation No.1

**2.74** To ensure the effective use of investigation resources and in fairness to the taxpayers involved in investigations, the ANAO recommends that the ATO Fraud Section finalise, as expeditiously as possible, all ongoing sales tax fraud cases, with priority given to those cases that have been under investigation for more than two years.

*ATO response*

**2.75** Agreed.

## Lessons to be learnt for future fraud investigations

**2.76** The ANAO identified deficiencies in the ATO's management of sales tax fraud cases similar to those identified by the Contestability Review report and Reform Program paper. The ANAO considers that the following areas must be addressed by the ATO Fraud Section if fraud investigations are to be managed properly in the future:

- an effective case management framework with clearly defined and articulated procedures and processes for case referral, selection, prioritising, planning, recording, monitoring and reviewing fraud investigations;
- a case management system that allows all cases to be recorded and monitored by investigators and reviewed by team leaders, regional and national managers and with the capacity to provide relevant management and performance reports;
- the capacity to identify potential ATO fraud risks and analyse overall patterns and trends;
- properly developed and implemented file management practices;
- a quality assurance program that is developed in accordance with CLEB *Quality Assurance Review Guidelines* and implemented nationally;
- clearly enunciated national guidelines that are understood and implemented by all staff; and
- a comprehensive staff training program.

## Sales tax cases involving Customs

**2.77** Customs was required to refer any cases of suspected sales tax fraud to the ATO for investigation and prosecution. Although Customs did not participate in the investigation for any of the sales tax cases the ANAO examined, it was the referring agency in 11 cases. Of these cases, four have been finalised through court action, four were considered by the DPP to require no further action and the remaining three are currently under investigation by the ATO.

### Additional sales tax refund payment

**2.78** The ANAO also examined a refund payment of \$460 027 (\$113 002 in customs duty and \$347 025 in sales tax) made by Customs on 24 June 1997. Customs had determined through audit activity that a company had overstated the value of their imports for a specified period of time and were entitled to a refund of the customs duty and sales tax overpaid.

### Legislative requirements

**2.79** The *Customs Act 1901* and Regulations (section 163 and regulation 128(1)) specify what constitutes an application for refund. An application must be in the approved form, be signed, have the fee payable (\$45) and be given to a Collector. Each application must address one entry only.<sup>47</sup> Under authorisation by the ATO, Customs was delegated to:

- authorise payment of a sales tax refund under \$200 without a declaration about whether the tax had been passed on through sale of the items;
- request a declaration from the refund claimant about the 'passed on' sales tax where the refund amount applied for is over \$200; and
- authorise a refund of sales tax up to \$1000 to the extent that the amount of sales tax had not been passed on in any sale of the items subject to the refund application.

**2.80** Customs was required to seek ATO authorisation for all refund payments over \$1000.

**2.81** Customs officers in New South Wales made the refund payment of \$460 027 using a Treasury Form 17. According to regulation 61(1) of *Finance Regulations*, Treasury Form 17 was to be used in processing refunds of revenue (other than accounts for Customs refunds and

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<sup>47</sup> 'Entry' refers to the shipment of imported goods.

drawbacks) or refunds from a Trust Fund. It was not an appropriate method for refunding duty or sales tax.<sup>48</sup> Although the officers concerned acted on oral advice from their Regional Finance and Legal sections, this advice was contrary to a written instruction issued by National Office.

**2.82** Appropriate fees were not collected, as Customs had not required the company to lodge refund applications for each of the 699 entries identified as having been overpaid. Had the correct applications been lodged, as required by (section 163 (1C) of the Customs Act), refund application fees would have totaled \$31 445.

**2.83** Refunds for 64 entries were for amounts less than \$200 and therefore could have been processed by Customs within its delegated authority and without requiring the company to make sales tax declarations.<sup>49</sup> For the remaining 635 entries, the company should have been required to make declarations to Customs about the whether the sales tax had been passed on. In addition, 70 of the 635 applications would have been for amounts over Customs' authorised refund limit of \$1000 and would have needed to be referred to the ATO. Only 10 percent of the 699 entries listed in the schedule by the company's broker were checked by Customs to establish whether or not the claims were legitimate and therefore payable.<sup>50</sup>

### **Details relating to the case**

**2.84** Following an internal review, the NSW Regional Director directed on 17 October 1997 that no further action be taken in relation to the matter. In June 1998, the Customs Legal Unit recommended that Customs seek the endorsement of the ATO in respect of the refund of the sales tax and that a submission be made to the Minister for Finance seeking a waiver of the amount of the duty and (subject to the views of the ATO) of sales tax overpaid. Customs advised that it did not seek a waiver of the duty and sales tax because the validity of the refund itself was not in question. It was the method of payment that was inappropriate.

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<sup>48</sup> In 1989, r.61(1) was repealed by *Finance Regulations (Amendment) No. 142 of 1989*, making Treasury Form 17 no longer a statutory form. It was therefore no longer an appropriate means by which to refund duty or sales tax. Regulation 61(1) was merely a machinery provision and did not create any entitlement to a refund.

<sup>49</sup> The total amount of sales tax claimed from the 64 refunds under \$200 would have been \$8096.

<sup>50</sup> Customs considered that a 10 per cent random selection (from random number generation) would give an assessment of the accuracy of the claim for \$479 463 duty and sales tax overpaid. This meant an examination of 70 entries.

**2.85** The ATO was not advised of this refund payment in October 1997 when it was decided that no further action would be taken to recover the payment. Also, no assurance was sought from the ATO at the time that there were no outstanding taxation debts to which the refund may have applied. This assurance was not requested until September 1998 and a response from the ATO was not received until May 1999.

**2.86** Customs acknowledge that the action taken by their officers was not in accordance with legislative requirements. In response to a request by the ANAO, Customs recently sought assurance and received confirmation from all Regional Managers that Treasury Form 17 had not been used to process any other refunds.

**2.87** Customs advise that it is less likely entities will seek refunds from Customs for the GST paid on imports. Under The New Tax System, registered entities are able to claim input tax credits on their Business Activity Statement for any GST they have paid at importation. Details of all refund payments are forwarded to the ATO to verify that the importer has not claimed an input tax credit as well as a refund of GST from Customs.<sup>51</sup>

## Specific cases provided to the Senate inquiry

**2.88** During the Senate inquiry, specific cases were cited as examples to highlight concerns about sales tax fraud investigations. These cases have been reviewed and are included in the ANAO's analyses. The ANAO found that, in common with a number of other ATO sales tax fraud investigations, these cases have not been investigated in a timely manner.

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<sup>51</sup> The arrangements between ATO and Customs for the collection of GST on imports are discussed in detail in Chapter 3.



## 3. Implications for the Goods and Services Tax

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*This chapter discusses the coordination arrangements between the ATO and Customs for the implementation of the GST and the framework for administering and collecting the GST, LCT and WET on importations.*

### Introduction

**3.1** The Senate Economics References Committee raised concerns as to whether the allegations relating to sales tax had implications for the introduction of the GST.

**3.2** The ANAO examined the coordination arrangements between the ATO and Customs to ensure industry stakeholders and agency staff were fully informed of the changes to the sales tax regime. The assessment of risks associated with the introduction of the GST and the framework for administering and collecting GST, LCT and WET on importations were also reviewed. The ANAO did not examine any other components of the GST.

**3.3** The ANAO sought to provide assurance that measures are in place to collect the GST, LCT and WET. As these taxes were only introduced in July 2000, it was considered too early to fully assess the effectiveness of the new systems and processes, particularly as, in some instances, these are still being refined.

### Communication and education strategies for tax reform

**3.4** The introduction of the New Tax System required an extensive, highly organised program of public communication and education to ensure that taxpayers understood the tax reforms, and to assist them in meeting their responsibilities under the new system. To achieve this, a 'Whole of Government' (WHOG) approach was adopted, with the ATO's Tax Reform Business Education and Communication (TRBEC) Program team coordinating the WHOG tax reform campaign.

## **Tax Reform Business Education and Communication Program**

**3.5** TRBEC developed an integrated communication strategy that included television, radio and print advertising, and direct marketing. A comprehensive range of new publications were produced for the internet, the ATO faxback service, mass and targeted mailouts, seminars and one-on-one presentations. Telephone inquiry lines were also established to answer questions.

**3.6** The TRBEC team also functioned as an information centre offering advice and assistance regarding potential communication strategies and joint production of tax reform materials. To ensure consistency of information, Commonwealth agencies were required to discuss their plans and the needs of their clients with the TRBEC team. Material requiring ATO technical clearance prior to release was also coordinated through this team.

**3.7** The ATO recruited and trained a large number of new employees as part of its preparation for tax reform. Training seminars were also conducted for existing ATO employees and internal communication strategies<sup>52</sup> were initiated by the ATO Corporate Affairs and Marketing group to ensure agency staff had access to detailed information relating to the introduction of the GST.

## **Customs Tax Reform Project**

**3.8** The Customs Tax Reform Project (CTRP) team was responsible for: assisting the ATO and Treasury with the development of policy and legislative change relevant to Customs operations; establishing the processes for implementing tax reform; maintaining an ongoing relationship with the ATO and Treasury; and coordinating the communication and education strategies to inform industry stakeholders and staff.

**3.9** The CTRP team developed a detailed communication and education strategy that was designed to ensure Customs met its tax reform responsibilities concerning education of, and communication with, customs brokers, importers, exporters and staff to ensure that these groups knew how to operate within the new tax environment.

**3.10** From October 1999 through to June 2000, the CTRP team conducted information sessions and seminars for, and presentations to, various industry groups, especially importers and exporters, about tax reform. A

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<sup>52</sup> Communication strategies included professional development seminars, a weekly electronic magazine (*ATO Extra*), a satellite system linking all ATO offices (*ATO Live*), the ATO Intranet system (*ATO Connect*), access to TRBEC websites and ATO brochures, information booklets and fact sheets.

national program of information sessions was undertaken to inform all Customs staff and comprehensive staff training seminars were conducted from January to June 2000. Information on tax reform legislative, administrative, procedural and policy changes was also incorporated into relevant Customs internal documentation.<sup>53</sup>

### **Joint ATO/Customs public education and communication strategies**

**3.11** The TRBEC Program team, working with the ATO Business Lines and the CTRP team, developed several joint ATO/Customs communication strategies for the introduction of GST, WET and LCT. A Customs officer was seconded to the TRBEC team to assist with this process.

**3.12** Although each ATO/Customs communication strategy varied according to the needs of the particular targeted industry, they were all sufficiently similar to be coordinated and complementary. Joint activities following on from these strategies included the development of an industry-based booklet for importers, several ATO/Customs fact sheets and scripts, and answers to questions likely to be raised during the campaign. This information was provided to ATO and Customs call centres. It was also used in the establishment of a tax reform internet site linked to the ATO and Customs sites. The information formed part of key messages included in ATO campaign products. Customs technical elements included in the ATO's tax reform products were cleared by Customs and Customs products were cleared through the ATO.

## **Assessment of risks associated with the introduction of the GST**

### **Assessment of risks by ATO**

**3.13** The Tax Reform Project Compliance Management Team undertook a compliance risk analysis to identify and evaluate the risks associated with the administration of the GST by the ATO and also to indicate what controls and response strategies should be introduced to manage these risks.<sup>54</sup> The risks were identified in compliance workshops and consideration was also given to the compliance risks identified by other countries<sup>55</sup> that administer a GST.

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<sup>53</sup> Customs developed, with the assistance of the University of Canberra, a comprehensive resource and training package for introducing staff to the new tax system. The package *Customs Practices—Indirect Taxes*, is a part of the *Commercial Education Program*.

<sup>54</sup> Tax reform Project Compliance Management Team, *Goods and Services Tax (GST) Compliance Risk Analysis*, August 1998, p. 3.

<sup>55</sup> Countries included Canada, New Zealand, United Kingdom and France.

**3.14** The risks associated with importations and the capacity to defer payment of GST were assessed and the controls necessary to lower either the consequence, or likelihood, of the risk were identified. These controls were incorporated in the development and implementation of the Deferred GST Scheme,<sup>56</sup> which is discussed in paragraphs 3.25 and 3.26.

**3.15** Within the ATO, the ongoing assessment of risk is conducted through a number of forums and strategies that include the following:

- **Compliance Management Integration Forum (CMIF):** This forum comprising senior compliance practitioners from all business lines and key tax reform project managers, was established to provide assurance to the Commissioner that all compliance risks and opportunities emerging from the Tax Reform Program were being identified and addressed. The role of the CMIF is to: develop a comprehensive understanding of the tax reform compliance risks, including interdependencies, linkages, relationships and drivers; shape design of compliance strategies to address emergent risks; influence the design of the compliance management business architecture; and identify and guide development of new enabling systems within the ATO to support compliance management efforts.
- **Corporate Risk Register:** This is the intelligence and risk database developed to store intelligence information that can be easily accessed when needed. Individual business lines are required to assess risks against certain criteria<sup>57</sup> and to record them in the register. This allows the capture of qualitative information from many sources of compliance risk across the ATO and includes multiple views such as market segment, policy and client perspectives. This data is then assessed by a Business Line Reference Group (BLRG).
- **BLRG:** This is a forum made up of representatives from all Business Lines and is responsible for the effective cross-line management of ATO risks through a process of risk registration, analysis and treatment to achieve realistic risk reduction within operational constraints. A monthly report prioritising ATO compliance risks is prepared for the CMIF.

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<sup>56</sup> The Deferred GST Scheme allows importers to defer the payment of GST on importations until their next Business Activity Statement is lodged, provided approval has been given by the ATO.

<sup>57</sup> Criteria includes: risk description; legislative impact; segments, focus areas, industry groups, political; external and internal capability; core process stages; risk analysis; risk owners; risk status, treatments, and drivers; management and reporting; and related risks.

- **Health of the System Assessment (HOTSAs) process:** This process is designed to form the basis of a continuing assessment of the risks involved in the collection of tax, and is implemented within all ATO business lines. The risk assessments provide the basis for identification of priorities and subsequent resource allocations. The process requires each of the ATO business lines to identify and assess their major areas of risk, to establish plans to manage those risks within available resources and to justify conclusions on risk areas, management plans and resourcing. These risks extend beyond compliance risks and include business risks relating to infrastructure and internal capabilities.
- **ATO Fraud Control Plan:** This plan identifies internal and external fraud risks. The ATO commenced the formal risk assessment process for a number of GST projects in May 2000.<sup>58</sup> The ATO advised in February 2001 that the formal risk assessment process for GST has not yet been completed and GST areas have been requested to provide information on their functions and activity lists.<sup>59</sup> It is expected that the GST element will be formally incorporated into the ATO Fraud Control Plan by the end of 2001.

**3.16** The identification of new and emerging risks, strategies to address these risks, and progress on implementation of the strategies are reported to the ATO Executive through monthly performance reports and biannual corporate governance reports.

### **Assessment of risks by Customs**

**3.17** Customs assessed the risks associated with tax reform and the introduction of the GST as part of its National Compliance Improvement Plan (NCIP). The purpose of the NCIP is to document all relevant risk management decisions and to develop national and regional action plans to address areas of greatest risk. The Plan consists of a Commercial Strategic Risk Profile (CSRPs) containing strategic directions, risk registers for each industry, national strategies or risk treatments to address the risks, and regional compliance activities.

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<sup>58</sup> The ANAO noted this occurrence in Audit Report No.16, 2000–2001, *Australian Taxation Office Internal Fraud Control Arrangements*.

<sup>59</sup> Fraud Prevention and Control (FP&C) has overall responsibility for the ATO's Fraud Control Plan. FP&C will conduct workshops to identify GST high-risk areas and anticipate workshops will be completed by about mid-2001.

**3.18** The CSRP identifies and rates risks relevant to commercial operations and has been developed in consultation with all areas of the Customs Commercial, Investigations and Intelligence Divisions and external government stakeholders. Although the CSRP is not concerned with operational risks, as these are addressed in branch and regional Action Plans, it does provide a basis for the development of these plans. The profile is updated as necessary as part of the monitoring and review phase of the risk management cycle.<sup>60</sup>

**3.19** National Business Compliance managers are required to provide six monthly reports to the National Manager, Commercial Compliance, outlining performance against the Plan including major activities and results, trends detected and general performance. Results of all activities are recorded in the Compliance Activity Reporting Database (CARD).

## **Process for collecting/deferring payments on imported goods**

### **Coordination arrangements between ATO and Customs**

**3.20** The joint National Liaison Committee established under the sales tax regime continued when sales tax on imported goods was replaced by the GST, LCT and WET on 1 July 2000. The Committee provided a forum where issues relating to the responsibilities and administrative arrangements for collecting these new taxes could be raised and addressed. The Committee met frequently during the development and implementation phases of the GST to ensure that the necessary systems and processes for collecting these taxes would be in place by 1 July 2000. It continues to meet on a regular basis.

### **Memorandum of Understanding**

**3.21** The National Liaison Committee continues to operate under the MoU signed in June 1997. A new MoU formalising the current arrangements is being developed by the ATO and Customs and will include three schedules to specifically address: the roles and responsibilities of each agency; reporting and data transfer requirements; and the funding arrangements under the Purchaser-Provider agreement between the two agencies to administer the GST, WET and LCT. Customs and the ATO envisage that the new MoU and supporting schedules will be completed by mid-2001.

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<sup>60</sup> Ongoing research by Customs Research and Analysis groups, using internal and external sources of data, also seeks to ensure that each phase of the cycle is reviewed regularly.

**3.22** The ATO has delegated to Customs the responsibility of collecting the GST, LCT and WET on imported goods. To ensure that the powers delegated to Customs officers by the Taxation Commissioner are properly exercised, the ATO has advised that it will be negotiating with Customs for the inclusion of the following matters in the Purchaser-Provider Agreement that covers the services to be performed by Customs in undertaking these responsibilities:

- services to be delivered and the associated performance outcome measures;
- consultation between the two agencies on planning, strategic direction, relevant operational issues, monitoring and assurance systems and reporting arrangements;
- data access by the ATO; and
- reporting on the exercise of powers delegated to administer the GST, LCT and WET.

**3.23** The Purchaser-Provider Agreement, which will be one of the schedules of the new MoU, must be consistent with the requirements set down in the ATO's agreement with the States and Territories on the administration of GST (the Interim Performance Agreement (IPA)).<sup>61</sup> The ATO and Customs have agreed not to finalise their Purchaser-Provider Agreement until the agreement with the States and Territories is finalised.<sup>62</sup>

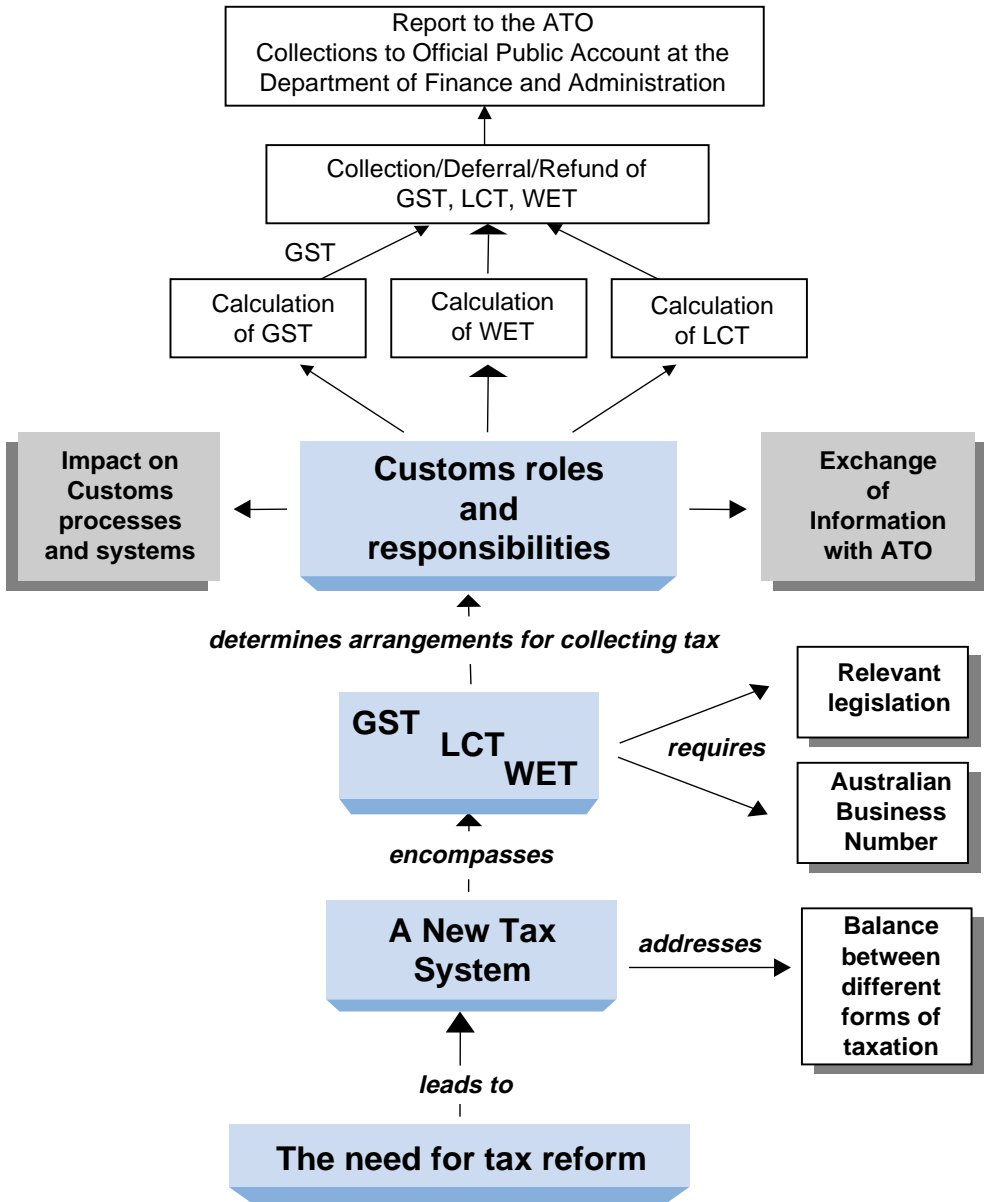
**3.24** With the implementation of the New Tax System, the ATO and Customs recognised the importance of establishing an effective ongoing partnership arrangement that would allow a greater exchange of ideas, information and access to the knowledge and resources of the other agency. Both agencies consider that the level of cooperation between them has increased and the working arrangements under the New Tax System are more effective than they were under the sales tax regime. Figure 2 illustrates the relationship between the ATO and Customs under the New Tax System.

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<sup>61</sup> The Interim Performance Agreement (IPA) is based on the arrangements set out in the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (IGA).

<sup>62</sup> The IPA passed through Ministerial Council on 30 March 2001 and the ATO expects it to be entered into in mid-May 2001.

**Figure 2**  
**ATO/Customs Arrangements under the New Tax System**



**Source:** Based on *Customs Practices - Tax Reform Process: Commercial Education Program* Customs internal document (2000) p.10.



## Deferred GST Scheme

**3.25** GST is payable on taxable importations by both businesses and private individuals, regardless of whether they are registered for the GST. For formally entered goods, GST will normally be payable to Customs at the time imported goods are entered for home consumption—that is, when Customs releases them for use in Australia.

**3.26** The Deferred GST Scheme allows payment of GST on imported goods to be deferred until an entity's next Business Activity Statement is lodged, provided the ATO has given approval to defer the GST. Importers must meet certain eligibility requirements to be able to defer GST.<sup>63</sup> The ATO may revoke the approval to defer GST if entities do not lodge their BAS or payments by the due date; are subject to administrative penalty under any Act administered by the ATO; or no longer meet the eligibility criteria. It is estimated that \$10.5 billion of GST will be deferred out of a total imported goods GST liability of \$12.5 billion for 2000–01.

## Processing by Customs

**3.27** Importers (or their customs brokers) input entries electronically through the Customs COMPILE System. This system, which is used for lodging customs duty, uses an owner code to identify clients. Since 1 July 2000, importers have been able to link their ABN to this owner code.

**3.28** Importers wishing to defer payment of the GST provide their ABN to Customs when they enter goods for home consumption. If the importer has been approved by the ATO to defer GST, Customs' COMPILE system will record the deferred GST liability of each shipment as it is cleared.

**3.29** The ATO advises Customs through an automatic transfer of data each night of those ABNs that are eligible to defer GST. Each time a deferral-approved ABN is used to enter goods for home consumption, the COMPILE system validates the ABN and records the deferred GST liability for the shipment. On the first day of each calendar month, Customs automatically transfers to the ATO the aggregated GST deferred liability for the previous month's imports for each importer.

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<sup>63</sup> Eligibility requirements include: have an ABN and be registered for GST; lodge their BAS monthly and electronically; pay their BAS liabilities electronically; deal with Customs electronically; have a satisfactory compliance record with the ATO, including, as a general rule, not having debt or returns outstanding; and have approval in writing from the ATO to defer payment of GST on imported goods.

## Processing by ATO

**3.30** Deferred GST data received from Customs each month is processed electronically by the ATO's Deferred GST System. The system compares the records with the activity statements held in the ATO system and flagged as having a deferred GST liability and then generates the activity statements including the deferred GST liability. The BAS must be lodged with the ATO, and any liability paid. Importers are able to offset the deferred GST liability by claiming an input tax credit to the extent that the goods are acquired for a creditable purpose.<sup>64</sup>

## Wine Equalisation Tax

**3.31** WET is a value-based tax of 29 per cent that replaced the 41 per cent sales tax on wine from 1 July 2000. Wine manufacturers, wine wholesalers and wine importers will usually have a WET liability and are required to collect and remit WET to the ATO<sup>65</sup> for the Australian domestic market and Customs for importations. Generally, WET will be included in the price for which retailers purchase the wine and the retailer is not entitled to an input tax credit for WET.<sup>66</sup> Exports of wine are not subject to WET.

**3.32** WET on importations is payable at the same time and place and in the same manner as customs duty unless the importer quotes an ABN to defer payment.<sup>67</sup> If importers defer payment they are required to include WET on their BAS after the sale has been completed. Private importers pay WET on entry for home consumption.

**3.33** The quotation system was designed to prevent WET becoming payable before the wine is sold at the wholesale level. Registered entities, including importers of wine, are only entitled to defer payment if they are registered for GST, have an ABN and intend to use the wine for specific purposes.<sup>68</sup>

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<sup>64</sup> The deferred GST liability on importations that relate to making supplies that are input taxed or of a private or domestic nature cannot be claimed as an input tax credit.

<sup>65</sup> Registered entities that make an assessable dealing (other than an importation) must include the amount of WET on their BAS.

<sup>66</sup> The WET forms part of the retailers' cost base and is passed on in the retail price of the wine to the end consumer. If retailers make their own wholesale sales of wine (that is, to a reseller) they may have a WET liability.

<sup>67</sup> Section 13-5 of the WET Act outlines the grounds for quoting.

<sup>68</sup> These purposes include: selling the wine by wholesale or indirect marketing sale; or using the wine as a material in manufacture or other treatment or processing; or making a supply of wine that will be GST-free.

## Luxury Car Tax

**3.34** The 45 per cent WST on luxury cars was replaced by a 25 per cent LCT.<sup>69</sup> LCT is in addition to any GST payable on luxury cars. Unlike GST, no input tax credit is available for LCT, regardless of whether the luxury car is used for business or private purposes. When entities such as retailers, wholesalers and manufacturers make a taxable supply of a luxury car, they are required to charge LCT and remit it to the ATO. Importers (including private buyers) who make a taxable importation of a luxury car also pay LCT, unless they are entitled to quote their ABN to defer payment. LCT on importations is generally payable to Customs at the same time and place, and in the same manner, as customs duty. Importers are responsible for calculating the amount of customs duty, GST and LCT payable.

**3.35** A quotation system was designed to prevent LCT becoming payable before the car is sold or imported at the retail level. Registered entities, including importers of luxury cars, are only entitled to defer payment for the supply or importation of a luxury car if they are registered for GST, have an ABN, and intend to use the car for a specific purpose.<sup>70</sup>

### Monthly exchange of data for WET and LCT

**3.36** Customs provides the ATO with monthly data of the ABNs quoted for LCT and WET.<sup>71</sup> The ATO monitors the relevant business activity statements to ensure that the WET liability is correctly accounted for and that the LCT is paid when the luxury vehicle is sold. Monitoring of the WET liability involves a relatively small population of approximately 100 entities<sup>72</sup> and the LCT population is approximately 1500.<sup>73</sup>

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<sup>69</sup> LCT applies at the rate of 25 per cent of the value of the car that exceeds the luxury car tax threshold which, for 2000–01, is \$55 134.

<sup>70</sup> These purposes include: holding the car for trading stock, other than holding it for hire or lease; carrying out research and development for the manufacturer of the car; or exporting the car in circumstances where the export is GST-free. Subdivision 38-E of the GST Act applies.

<sup>71</sup> The monthly download of Customs data includes aggregated liability (deferred GST) and ABNs quoted for WET and LCT. The Customs Alcohol Business Group in Adelaide also provides summary reports to the ATO WET Unit.

<sup>72</sup> Figure is based on the July to September 2000 WET reports.

<sup>73</sup> Total population involved is approximately 1500 of which there are about 20–50 importers.

## **Additional reporting requirements**

**3.37** Currently, Customs and the ATO have agreed to exchange high-level ABN, import deferral and export verification data to enable deferral arrangements to operate and, at the same time, support some analysis of clients (e.g. export verification). In addition, arrangements have already been established for Customs to provide the ATO's Revenue Analysis Branch with high-level financial reports on collections.

**3.38** The ATO has requested Customs to provide additional reports<sup>74</sup> to support the analysis of the GST client base and the ongoing GST system and compliance management. As the system is relatively new and dynamic, the additional reporting requirements are likely to evolve over time as the two agencies learn to appreciate/identify the aspects of their various data, which when combined, provide strategic and value-adding intelligence.

## **Processing of GST, WET and LCT collected by Customs**

**3.39** The COMPILE system calculates the GST that is payable and, if a client is not approved to defer GST, the GST is paid at the same time as the customs duty. Similarly, if an ABN is not quoted for WET and LCT, these are also paid at the same time as the customs duty.

**3.40** The amount of duty and tax paid can be made by direct debit from clients' accounts or receipted by Customs. Moneys collected are deposited into Customs' bank account and are then 'swept' into the Official Public Account at the Department of Finance and Administration each day.

**3.41** Customs accounts for the collection and disbursement of the money collected on behalf of other agencies in its Financial Management Information System. Each month, an executive management report is sent to the ATO detailing the GST/LCT/WET collected for the previous month.

**3.42** The ANAO will be reviewing, as part of its 2000–01 financial statement audits, the relevant systems and controls pertaining to the GST and the extent that they impact on Customs' financial statements. Customs is also undertaking a GST Post Implementation Review<sup>75</sup> as part of its 2000–01 Internal Audit Plan.

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<sup>74</sup> Information will enable a better understanding of the activities of the common client base, the nature and costs of exemptions and the composition and cycles of GST revenue/liability raised at the barrier and the relationship to overall GST collections.

<sup>75</sup> This review will, amongst other things, review the reconciliation process for the collection and remittance of GST to the ATO and assess the adequacy of controls over the manual collection of GST.

## Processing of Business Activity Statements by the ATO

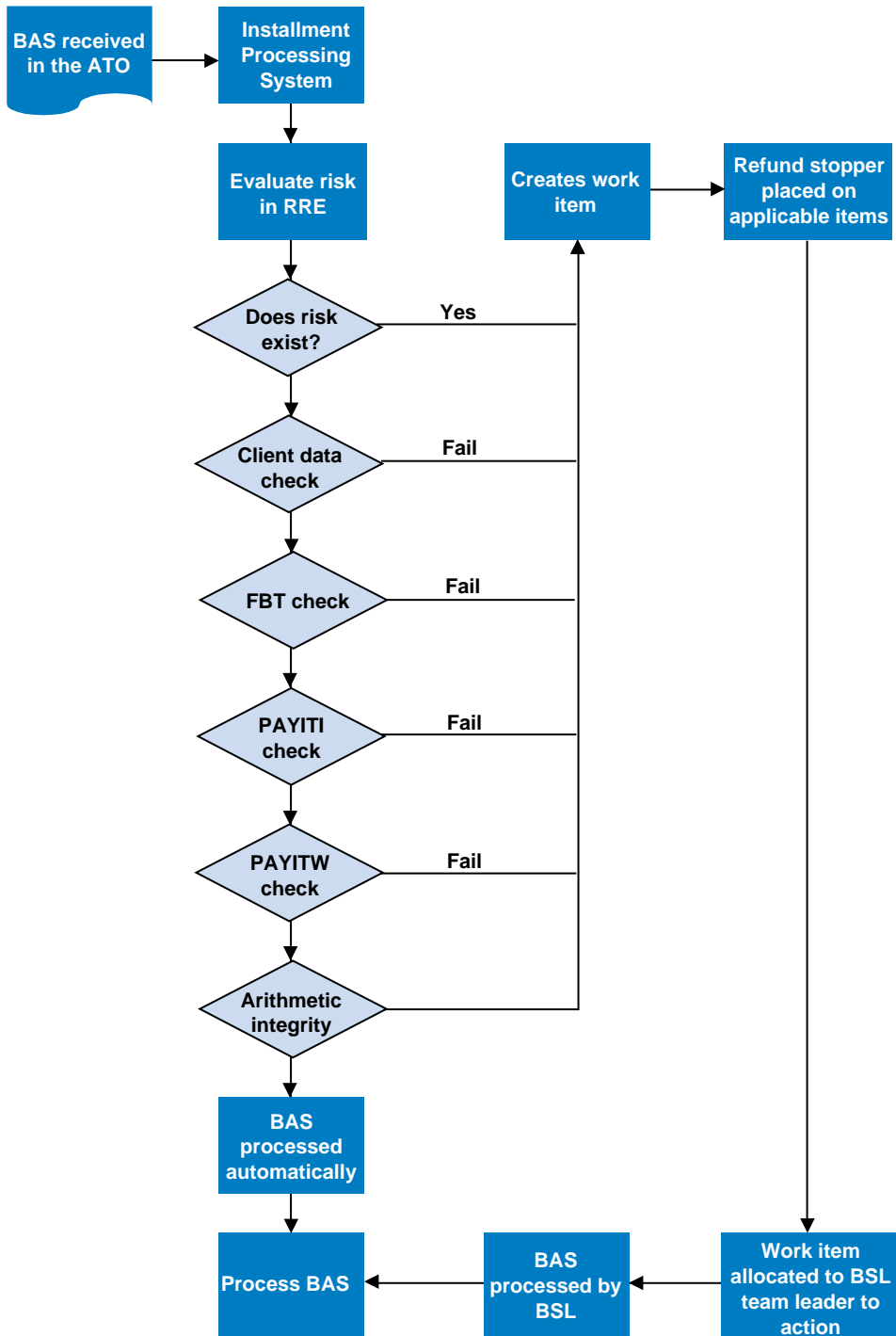
**3.43** The BAS is the form an entity is required to complete and return to the ATO to report their obligations and entitlements, relating to, amongst other things, GST, WET and LCT, at the end of each tax period or reporting period. Any amount owing will be refunded only after it has been offset against any other outstanding tax debts.

**3.44** The BAS is processed within the ATO's Installment Processing System (IPS) where it is required to pass a number of integrity checks.<sup>76</sup> If the statement fails any of these checks a work item is automatically generated so the file can be assessed by the relevant Business Line Automated Workflow Allocation (AWA) team leader. Figure 3 outlines the IPS process.

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<sup>76</sup> Checks include client data, Fringe Benefit Tax (FBT) liabilities, Withholding Tax liabilities and Pay As You Go (PAYG) installments.

**Figure 3**  
**ATO's Installment Processing System**



Source: ANAO analysis of ATO data

**3.45** The lodgment of an original or revised activity statement will trigger a risk profile of the taxpayer by the Risk Rating Engine (RRE).

### **Risk Rating Engine**

**3.46** The ATO developed the RRE to assist in identifying potential fraud and non-compliance behaviour. Although the initial focus was on GST, the RRE has been expanded to manage associated risks in other business tax revenue lines.

**3.47** The risk profile of a taxpayer consists of two components: Risk Scores and Exception Test Results. A risk score is an aggregated percentage indicating the comparative level of risk a taxpayer represents in a specific risk area, whereas an exception test measures the risk of fraud or non-compliance based on a single criterion. The exception tests include both fraud and compliance tests<sup>77</sup> with the fraud tests being given the higher priority.

**3.48** The RRE interfaces and reads data from other ATO systems including the Automatic Integration System (AIS); Tax Return Database (TRD); National Tax System (NTS);<sup>78</sup> Electronic Funds Transfer database (EFT); and monthly data received from Customs.

**3.49** When the RRE is called by the IPS to risk-profile an activity statement, it will examine whether sufficient taxpayer data are available to allow the risk profiling process to proceed. If problems occur regarding the completeness and integrity of data, the RRE will, depending on the processing, either create an error or miss the particular characteristic.<sup>79</sup>

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<sup>77</sup> Compliance tests are carried out for GST Compliance, Large Enterprise Client GST Compliance and Small Business Compliance.

<sup>78</sup> NTS is the ATO computer mainframe that processes income tax for companies, individuals, partnerships, trusts and PAYG. AIS is the computer mainframe that processes withholding tax. It is used for PAYG (relating to group employees), GST and prescribed payments.

<sup>79</sup> Characteristics are scored according to the weightings that have been applied to each characteristic to determine a risk rating. The risk rating determines the level of likelihood of an entity registering with the ATO and committing fraudulent actions against the ATO. During the *Client Update* phase, if the data is not there or is invalid, it will cause an error to be written to the RRE error table. During the *Risk Profiling* phase, there may be rules that if the data is not available, the characteristic will not be counted towards the total risk score. If an error is present on the error table when an activity statement is received, it will automatically stop processing, return an error to IPS and an IPS (not RRE) work item will be created.

**3.50** The RRE process will look at all potential risks and if any of these are present will generate a workflow item<sup>80</sup> in the AWA system. Where the case involves a refund, a stopper is placed on the taxpayer's file to ensure a BAS refund is not issued until the case is assessed. The case is then passed to the Fraud Intelligence Section, if the work item is generated by the failure of a fraud test, or to the relevant Business Line for assessment. After the work item is finalised, the RRE refund stopper will be cleared and the BAS refund processed.

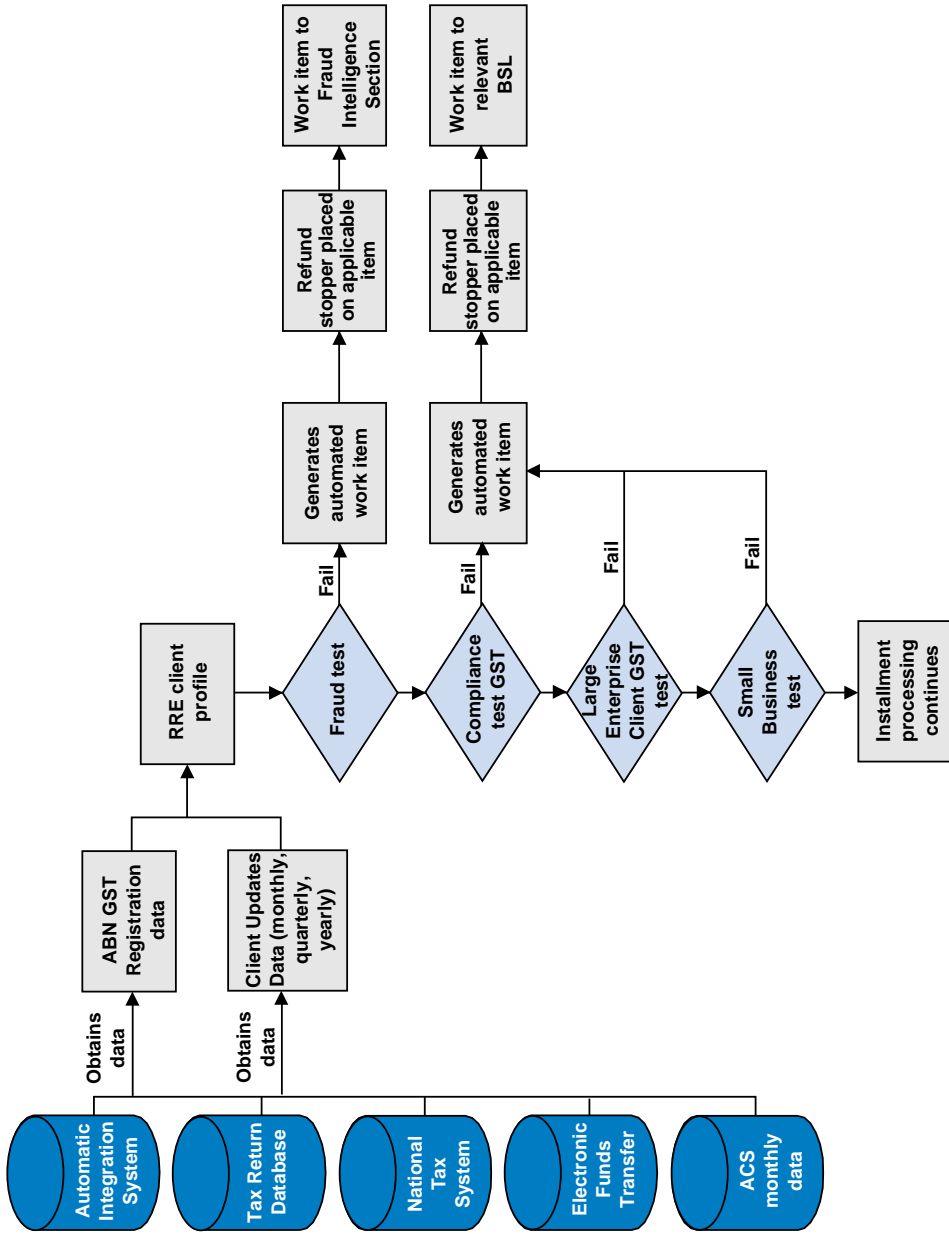
**3.51** The ATO has experienced some problems with the RRE in relation to activity statement lodgments. This has resulted in a number of the characteristics within the compliance tests being turned off, as incorrect data was distorting the risk profile balance of clients. The ATO is currently reviewing the characteristics, data sources and business rules that support the tests. These will be modified, where necessary, to better risk-profile taxpayers. These modifications will be made over the next 18 months. The RRE is a new system that was introduced as part of the ATO's tax reform program and, as such, will require ongoing evaluation and modification, particularly as some of the processes associated with the introduction of the GST are constantly changing. Figure 4 outlines the RRE process.

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<sup>80</sup> The system will generate a workflow item for the highest risk identified. Results of the other tests that have also created a work item are attached to this work item.



**Figure 4**  
Risk Rating Engine Process



Source: ANAO analysis of ATO data

## Conclusion

**3.52** The 1997 MoU between the ATO and Customs established the framework for the two agencies to work together effectively across portfolios. In view of the increased involvement of Customs under the New Tax System, a revised MoU and associated schedules are being developed. The ATO needs to be assured that the systems and procedures used by Customs are capable of identifying and capturing all taxable importations. The new Purchaser-Provider Agreement between the ATO and Customs will form part of this MoU and, when finalised, should allow the ATO to ensure that the powers delegated to Customs officers are being properly exercised.

**3.53** The ATO and Customs are developing a strategic partnership that will enable a greater exchange of ideas, information and allow the partners to gain access to the knowledge and resources of the other agency. As agencies move to an output/outcomes framework for managing resources and measuring performance, this ongoing relationship will help achieve the outcomes of both agencies.

**3.54** The ATO and Customs developed, coordinated and delivered communication strategies and campaigns for promoting the New Tax System and educating industry stakeholders and agency staff.

**3.55** Both agencies identified the risks associated with the introduction of the GST and incorporated the treatment strategies and controls necessary to address these risks during the development of their respective system and processes. Each agency has also developed strategies to ensure the ongoing assessment, analysis and reporting of risks.

**3.56** The ATO and Customs are cognisant of their respective roles and responsibilities in relation to the GST, LCT and WET and have developed a framework for collecting, deferring and processing these taxes. This framework includes the capability to exchange and validate data across agencies. It also incorporates a number of controls and integrity checks to ensure that the taxes are collected by Customs on importation or remitted to the ATO through the business activity statement. During this relatively early stage of implementation, the ATO and Customs are continually reviewing these systems and processes and refining them where necessary.

**3.57** The ANAO will review, as part of the 2000–01 financial statement audit process, the systems and controls within the ATO and Customs relating to the GST to the extent necessary to form an opinion on their financial statements. As part of the planned performance Audit Work Program, the ANAO also intends to undertake in 2001–02, a performance audit of the implementation of the GST that will focus primarily on ABN registrations. In 2002–03, the ANAO plans to examine GST fraud prevention and control focusing on external GST fraud.

## 4. Framework for managing GST Fraud

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*This chapter reviews the assessment of fraud risks and detection of potential fraud by the ATO Fraud Intelligence Section and the management of fraud investigations by the ATO Fraud Section.*

### Introduction

**4.1** The work undertaken by the ATO to prevent, detect, investigate and prosecute fraud is important for maintaining the Parliament's and community's confidence in the operations of the ATO. The work is equally important to protect Commonwealth revenue.

**4.2** Fraud is generally categorised by the ATO as either internal or external fraud. Internal fraud includes all fraud committed by ATO employees, such as unauthorised access to taxpayer data, conflict of interest, a breach of the code of conduct, collusion and any fraud committed by ATO contractors.<sup>81</sup> Internal fraud within the ATO is investigated by the Fraud Prevention and Control Section (FP&C).

**4.3** External fraud is a deliberate intent to defraud the Commonwealth by obtaining a tax benefit through deceitful and intentional unlawful actions by taxpayers and non-taxpayers that result in money or other benefits being received to which they are not entitled.<sup>82</sup> As previously noted in paragraph 2.18, external fraud can fall within the classification of serious non-compliance and is related to the Crimes Act. Fraud encompasses matters that are dealt with through investigation and prosecution action.

**4.4** The purpose of the ANAO examination was to provide assurance that the ATO has developed adequate systems and processes for preventing, detecting and investigating GST external fraud. As the systems and processes are relatively new and, in some instances, still being developed and refined, the ANAO could not fully assess their effectiveness.

**4.5** However, in reviewing the ATO's ability to detect and manage GST fraud, the ANAO examined the measures taken to overcome the

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<sup>81</sup> ANAO Audit Report No.16 2000–01 *Australian taxation Office Internal Fraud Control Arrangements*, p. 14.

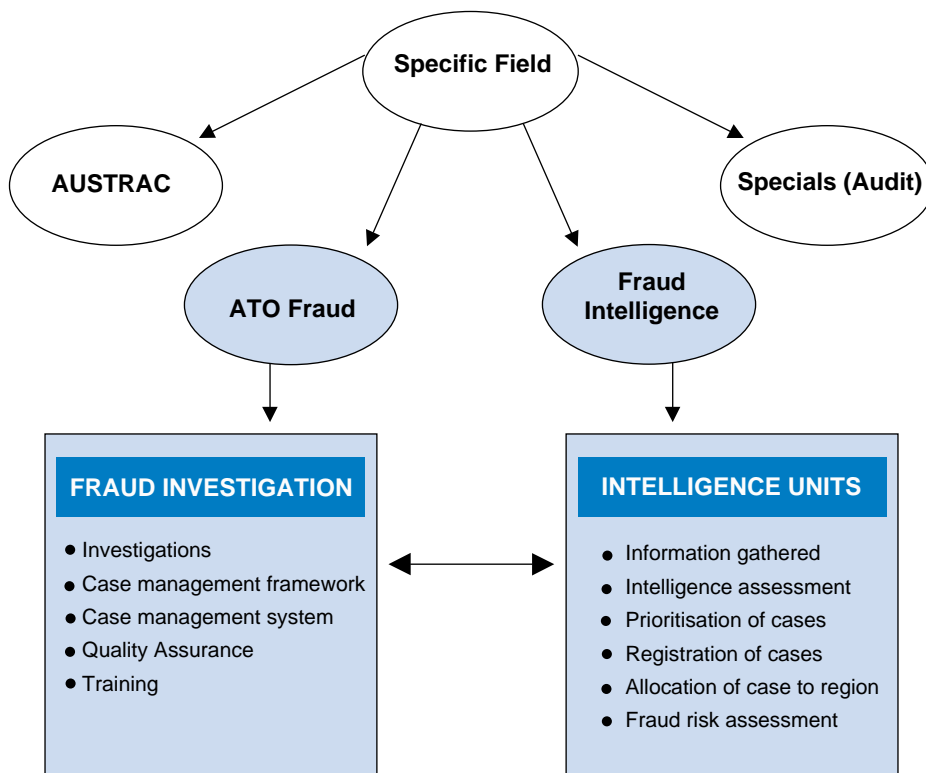
<sup>82</sup> Australian Taxation Office Sales Tax Practice Paper No 11A, *Special GST Credit for Sales Tax Fraud Cases*, July 2000, p. 1.

shortcomings highlighted in our examination of the sales tax fraud cases investigated by the STPU and SBPIU and the findings of the ATO Contestability Review undertaken in 1999. The ANAO considers that these deficiencies need to be addressed if fraud investigations are to be properly managed. The ANAO reviewed the assessment of fraud risks and detection of potential fraud by the Fraud Intelligence Section and the management of fraud investigations by the ATO Fraud Section.

### Role of ATO Fraud Intelligence and ATO Fraud Sections

**4.6** The ATO Fraud Section was established in August 2000, following the integration of the GST Fraud Section and SBPIU. The ATO Fraud Intelligence Section, previously part of GST Fraud, was established as a separate section in September 2000. The combined roles of the ATO Fraud Intelligence and ATO Fraud Sections are to minimise the risk of external fraud to the ATO through the prevention, detection and investigation of all potentially fraudulent activities relating to all business taxes, including the GST. The ATO Fraud and Fraud Intelligence Sections operate within the Specific Field Stream of the Small Business Business Line. Figure 5 outlines the current organisational structure.

**Figure 5**  
Specific Field Organisational Structure



Source: ANAO analysis based on information provided by the ATO.

## Fraud Intelligence Section

**4.7** The Fraud Intelligence Section<sup>83</sup> is located in the ATO's National Office. It is responsible for alerting ATO management to fraud control issues and representing the ATO in external forums on fraud, providing fraud detection analysis to support the operations of the ATO and identifying cases for investigation.<sup>84</sup>

### Assessment of Fraud Risks

**4.8** Prior to the introduction of the GST, the then GST Fraud Section facilitated GST fraud risk assessment workshops for project teams. The aim of the workshops was to assist ATO officers to prepare high quality control and risk self-assessments for their projects. The workshops were based on the Control and Risk Self Assessment (CRSA) Model and the methodology used is outlined in Appendix 3.<sup>85</sup> The consolidated results of these workshops are to be used by FP&C in the preparation of the GST element of the ATO Fraud Control Plan. The ATO advised that these workshops are continuing and have been expanded to include all ATO business lines.

**4.9** The Fraud Intelligence and ATO Fraud Sections provide a consolidated fraud report identifying fraud risk areas to Specific Field management on a monthly and quarterly basis. The reports include 'lessons learned' from investigations such as control breakdowns and system weaknesses.<sup>86</sup> The Fraud Intelligence Section advised the ANAO that it has recently developed initiatives whereby the relevant business line is advised of any system weaknesses and control breakdowns. In conjunction with the business line, Fraud Intelligence will undertake a risk assessment to identify potential fraud risks and appropriate treatment strategies.

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<sup>83</sup> The Fraud Intelligence Section has a total of 25 staff. This includes a Section Head, two RRE project officers, three team leaders, 16 intelligence analysts and three administrative support staff.

<sup>84</sup> Australian Taxation Office, *Fraud Intelligence SB-Specific Field, Intelligence Plan 2000–2001*, p. 2.

<sup>85</sup> CRSA is defined as any activity where the people responsible for a business area, task, or objective, using some demonstrable approach, analyse the status of control and risk to provide additional assurance related to the achievement of one or more business objectives.

<sup>86</sup> Fraud investigators provide the Fraud Intelligence Section with a summary of their significant cases.

## **Fraud intelligence information**

**4.10** The Fraud Intelligence Section is the central repository for all fraud intelligence information. Internal sources of intelligence information includes referrals<sup>87</sup> from regional fraud units, business lines, call centres, the Community Information, Storage, Communication and Observation (CISCO)<sup>88</sup> database and work items generated by the RRE. Information is also received from external agencies, including financial institutions, telecommunications providers and other government agencies. Intelligence information can be sent either electronically or manually, and all information is stored on an electronic document register.

## **Processing fraud intelligence**

**4.11** Intelligence information is analysed to determine whether the potential for fraud exists and if further investigation is warranted by the ATO Fraud Section. If the information is not fraud related, but rather a compliance issue, the information is passed to the relevant business line. Intelligence analysts are responsible for assessing information referrals and all work items generated by the RRE.

**4.12** Priority is given to those work items where a stopper has been placed on the taxpayer's file to stop the processing of any refund. This practice is known as activating a 'refund stopper'. If a refund stopper is not finalised within 14 days,<sup>89</sup> the RRE automatically alerts the RRE project officers and the intelligence analyst responsible for ensuring the work item is actioned. If the Fraud Intelligence Section considers that potential fraud exists, it has the discretion to extend the refund stopper.

**4.13** If ATO fraud regions<sup>90</sup> receive information relating to potential fraud, an Information Report outlining the details of the case is submitted to the Fraud Intelligence Section. A region will either request an intelligence assessment or that the case be registered to enable further investigation to be conducted.

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<sup>87</sup> ATO officers are required to complete a Fraud Referral Form, which includes: date information received; reporting officer; contact details of persons involved and a short narrative of the alleged fraudulent activity.

<sup>88</sup> CISCO was established in July 1998 to ensure the consistent capture of community 'tip-offs'. It is designed to allow the ATO to maximise its intelligence and is used to disseminate that information to the appropriate areas as efficiently and effectively as possible.

<sup>89</sup> Under the Taxpayers Charter the service standard states that refunds are to be dealt with within 14 days.

<sup>90</sup> There are five regions located in Brisbane, Sydney, Melbourne, Adelaide and Perth.

### *Priority level*

**4.14** As part of the intelligence assessment process, a priority level is assigned to each case. A priority model is used to assess the potential impact of the fraudulent activity and to determine a priority level of 'high', 'medium' or 'low'. This level influences the responsiveness of the Fraud Intelligence and ATO Fraud Sections in reviewing and allocating the case for investigation.<sup>91</sup>

**4.15** If the intelligence assessment identifies potential fraudulent activity warranting an investigation by the ATO Fraud Section, the matter is registered as a fraud case on the GST Fraud Control (GSTFC) case management system,<sup>92</sup> and forwarded with a priority report to the appropriate region. The central registration of all potential fraud cases in the GSTFC system will provide improved management control and enable the progress of all cases to be monitored at regular intervals.

**4.16** As at April 2001, 623 potential fraud cases had been registered in the GSTFC system and forwarded to the ATO Fraud Section for further investigation. Of these cases, 92 cases related to GST fraud.<sup>93</sup> Figure 6 illustrates the fraud intelligence assessment process.

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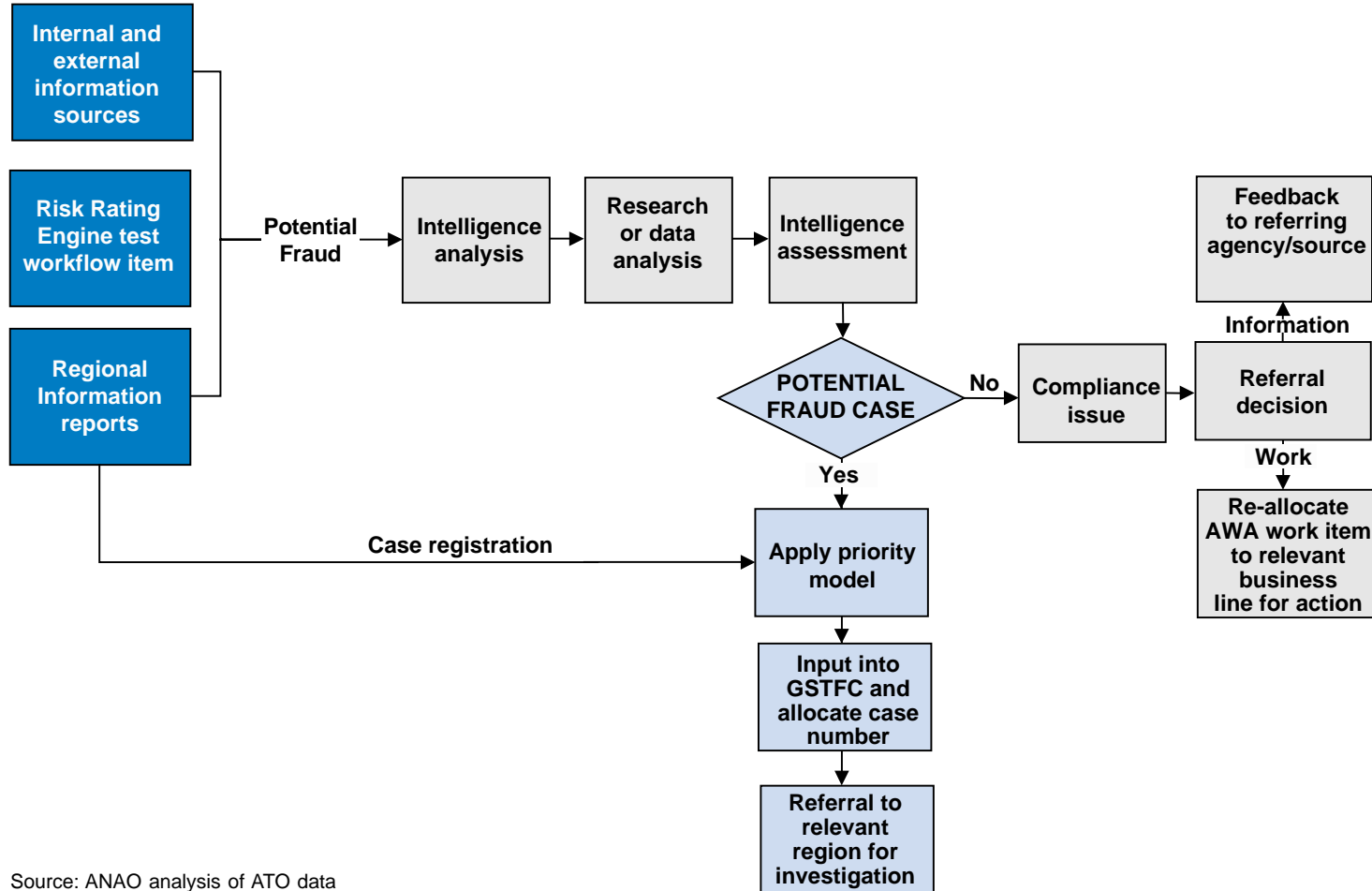
<sup>91</sup> The ATO Fraud Intelligence Section considers the levels should not be based solely on a monetary figure and that other impact scenarios should be evaluated when allocating a priority level to a case.

<sup>92</sup> The GSTFC case management system was developed for use by the GST Fraud Section. It is now used by the ATO Fraud Section to record, monitor and manage fraud investigations. Intelligence analysts within the Fraud Intelligence Section are responsible for the registration of all fraud cases in the GSTFC.

<sup>93</sup> The ATO Fraud Intelligence Section assesses all ATO fraud including GST. Of the GST cases detected, 49 have been finalised and 43 are currently under investigation.



**Figure 6**  
**Fraud intelligence assessment process**



Source: ANAO analysis of ATO data

## **Work items generated by Risk Rating Engine**

**4.17** As noted in paragraph 3.46, the ATO developed the RRE to assist in identifying potential fraud and non-compliance behavior by applying risk-profiles to taxpayers. The RRE conducts fraud tests and compliance tests with fraud tests being given the higher priority. In the case of the GST, RRE fraud tests are applied against ABN/GST registrations and activity statement lodgements. RRE project officers within the Fraud Intelligence Section are responsible for examining, distributing and monitoring the work items generated by the RRE following the failure of a fraud exception test.

### **Assessment of RRE work items**

**4.18** The RRE has an automatic filtering process, which enables work items to be prioritised according to groupings called 'work item types'.<sup>94</sup> For example, if a work item type is assigned a priority level of '1', the intelligence analyst is required to undertake any necessary research and analysis immediately. The priority placed on these work item types relates to initial research and analysis only. It is not the priority level that is assigned for fraud investigation purposes.

### **Work items generated**

**4.19** During the period of November 1999 to February 2001, the ATO processed 15.57 million GST related transactions, which included:

- 3.44 million ABN registrations;
- 2.15 million GST registrations; and
- 9.98 million BAS lodgements.<sup>95</sup>

**4.20** During this period, 69 432 work items (0.45 per cent of transactions) generated by the RRE were passed to the Fraud Intelligence Section for assessment. Of these work items, 13 449 have been finalised and completed.<sup>96</sup> The remaining work items are currently in progress, and include:

- 1343 work items relating to GST Registrations and BAS lodgements being assessed by intelligence analysts; and
- 54 640 work items relating to GST registrations, which have been passed to the RRE project area for analysis and evaluation.

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<sup>94</sup> A 'work item type' has a code and a brief description assigned to it so that Fraud Intelligence analysts can readily identify the fraud tests that detected the potential case of fraudulent activity.

<sup>95</sup> This figure includes 7.38 million business activity statements lodged quarterly, and 2.60 million on a monthly basis.

<sup>96</sup> Some 1072 work items were reviewed and completed but were not correctly updated on the system by the Intelligence Analysts.

**4.21** The ATO advised that, after fraud profiling<sup>97</sup> the 54 640 work items generated by GST registrations, it was found that that these related to 25 000 clients. The ATO also advised that these work items have been assessed as low-priority and low-risk, as it is highly likely that the client data will again be tested should an activity statement be lodged. Given the high volume of work items generated by the RRE for the registration process, and the limited resources available to assess them, the RRE project officers suspended one of the 'triggers' or status event points related to GST registration.<sup>98</sup> There are three status event points that 'trigger' the fraud tests and the remaining two will still capture the required data for the fraud tests.

**4.22** The ANAO was advised that assistance has been sought from the ATO's Business Registration Systems (BRS) to review each individual work item, evaluate the fraud exception tests and identify any potential system problems or modifications.

**4.23** Although the RRE is considered by the ATO to be a major source of intelligence, it currently generates a significant number of work items that the Fraud Intelligence Section is unable to process given existing resource levels. The ANAO also recognises that the RRE is a new system and, as such, will require ongoing review and modification, particularly during its initial implementation phase. However, if the current workload generated by the RRE cannot be reduced through system modification, the ATO may need to assess the benefits of the RRE as an intelligence source, determine the level of resources it is prepared to devote to processing the work items generated by the RRE and adopt a more rigorous risk management strategy for handling them.

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<sup>97</sup> Fraud profiling was undertaken within the ATO's Datawarehouse.

<sup>98</sup> There are three status points relating to GST registration that 'trigger' fraud tests: on initial application, when changing details and when accepted by ATO. The 'when accepted by ATO' status trigger was suspended. Information is still captured by the other two 'triggers'.

## Management of fraud investigations by the ATO Fraud Section

**4.24** The *Fraud Control Policy of the Commonwealth* requires the Australian Federal Police (AFP) to conduct investigations directed toward prosecution under the *Crimes Act 1914*, subject to three exceptions:

- agencies that prosecute fraud cases under their own legislation, such as the ATO, should continue to investigate matters where the Crimes Act is considered more appropriate and the Director of Public Prosecutions (DPP) is satisfied that the prosecution brief does not require AFP involvement;
- agencies that can satisfy both the AFP and DPP that they have the capacity and capability to investigate criminal cases; and
- matters involving multi-jurisdictional organised crime, which are referred to the National Crime Authority.

**4.25** The ATO Fraud Section<sup>99</sup> undertakes fraud investigations either independently or in conjunction with other ATO business lines, other government agencies and law enforcement agencies. Fraud investigators are responsible for the collection and presentation of the necessary evidence to support prosecution and administrative outcomes. Briefs of evidence are prepared for cases to be referred to the DPP for criminal prosecution.

### Standards for fraud investigations

**4.26** The Commonwealth Investigation Technical Standards Committee has developed the *Commonwealth Fraud Investigation Standards* that apply to the same agencies as the *Fraud Control Policy of the Commonwealth*. The standards outline the written procedures each agency should have in place to undertake an efficient and effective investigation. The ATO Fraud Section is currently developing its own Statement of Investigations Standards that will be based on the Commonwealth investigation standards, but also have regard to the special features of tax investigations.<sup>100</sup>

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<sup>99</sup> The ATO Fraud Section has a total of 117 staff. This includes a National Manager, five regional managers, two project manager, 85 investigators, 16 team leaders and eight administrative support staff.

<sup>100</sup> The ANAO was advised that the Standards are at the final drafting stage.

## Case management framework

**4.27** Effective case management requires case officers to follow logical processes and adopt strict protocols in the planning, conduct and recording of investigations. This will ensure a certainty of process that all major steps in the investigation are logically determined, all possible alternatives considered and that decisions made are transparent and documented. Management review processes will provide further assurance that a case has been properly investigated.

**4.28** Following the integration of the SBPIU and GST Fraud Section, it was recognised that there needed to be a consistent approach to the way in which cases were assessed, planned, recorded and investigated. To achieve this, the ATO Fraud Section has developed a national case management framework, supported by a case management system (GSTFC), that consists of:

- case referral and case recording by the Fraud Intelligence Section;
- assessment of cases, prioritisation, and allocation to case officers;
- case planning;
- evidence gathering and exhibit handling;
- preparation of prosecution brief;
- liaison and feedback arrangements; and
- quality review mechanisms.

**4.29** Within this case management framework, certain decisions taken during the course of an investigation must be recorded in the form of a Case Decision Record (CDR). This is to ensure that: the decision making process is a deliberate one; the details and reasons for each decision are recorded in writing; the decisions provide a basis for reviewing cases; and a case can be transferred from one case officer to another with minimal continuity problems. Decisions that are to be recorded on a CDR are those that have a major effect on the course of the investigation. For example, the acceptance or rejection of a case, referral to another agency or section, recommendations, search warrant action or termination.

## Case referrals, assessment and allocation

**4.30** After being registered in the GSTFC system and allocated a case number, cases (and a priority report) are referred to the relevant regional Fraud Investigation Unit. Cases are then assessed by the regional manager or, in larger regions, by an assessment panel.<sup>101</sup> This assessment determines

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<sup>101</sup> The assessment panel is made up of the regional manager and unit team leaders.

an overall rating using a case complexity model that considers the offences involved, jurisdiction, resource implications and the expertise of investigators.<sup>102</sup> Regional staff may also re-assess and, if considered necessary, change the priority level assigned by the Fraud Intelligence Section.<sup>103</sup> For particularly large or complex cases, a preliminary evaluation may be carried out by an investigator/team leader and a report prepared for the regional manager, as part of this assessment process.

**4.31** The case is then allocated to an individual case officer or an investigating team to undertake the investigation. The referring area, officer or agency is advised when a case referral has been received, is allocated to a case officer, or an investigation will not be conducted.

#### *Refund stoppers*

**4.32** If a refund stopper has been applied to a case, it is the responsibility of the Fraud Intelligence Section to advise the investigators.<sup>104</sup> Case officers become responsible for the refund stopper and have the discretion to either remove or retain it. Generally, a refund stopper will remain during an investigation, however, in certain circumstances, may be removed to allow a refund to be processed even though an investigation is being conducted.

**4.33** The ANAO was advised that refund stoppers are regarded as a regional responsibility. Case officers and team leaders are required to monitor refund stoppers to ensure that they are not left on indefinitely and without valid reason. The activation of a refund stopper is not recorded in the GSTFC system and team leaders must refer to the case file to determine any details relating to the refund stopper. Also, there are no documented procedures for handling refund stoppers.

**4.34** The ANAO considers that, if these stoppers are not recorded or reported on in any way, the possibility exists, particularly if there is a changeover of case officer or team leader, for refund stoppers to be ignored. To ensure that refund stoppers relating to fraud cases are being properly managed, the ANAO considers that regional managers should be responsible for monitoring, and reporting on, all refund stoppers in their region. Procedural guidelines should also contain clear instructions for case officers and team leaders concerning the activation or deactivation of refund stoppers.

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<sup>102</sup> The complexity model outlines three levels of complexity: high; medium; and low and the necessary skill level of the investigators: advanced; high; and base level.

<sup>103</sup> The priority model must be used in any re-assessment of the priority level assigned by the Fraud Intelligence Section.

<sup>104</sup> The ATO advised that the intelligence analyst will advise the regional office concerned.

## Conducting investigations

### *Investigation plan*

**4.35** The case officer is required to complete an investigation plan<sup>105</sup> that is to be reviewed and approved by the team leader. All investigations are to be completed in accordance with the ATO's Statement of Investigation Standards, which is currently being drafted. During the investigation, the case officer is responsible for ensuring the GSTFC system is updated to accurately reflect case details and investigation status. For more complex cases, details of the investigation will also be recorded on an *Investigation Evidence Matrix* or *Tasking Matrix*.

**4.36** When the investigation is completed, a brief of evidence is prepared and forwarded to the DPP for consideration of prosecution action. When the case is finalised, the team leader or regional manager must approve closure of the case file.

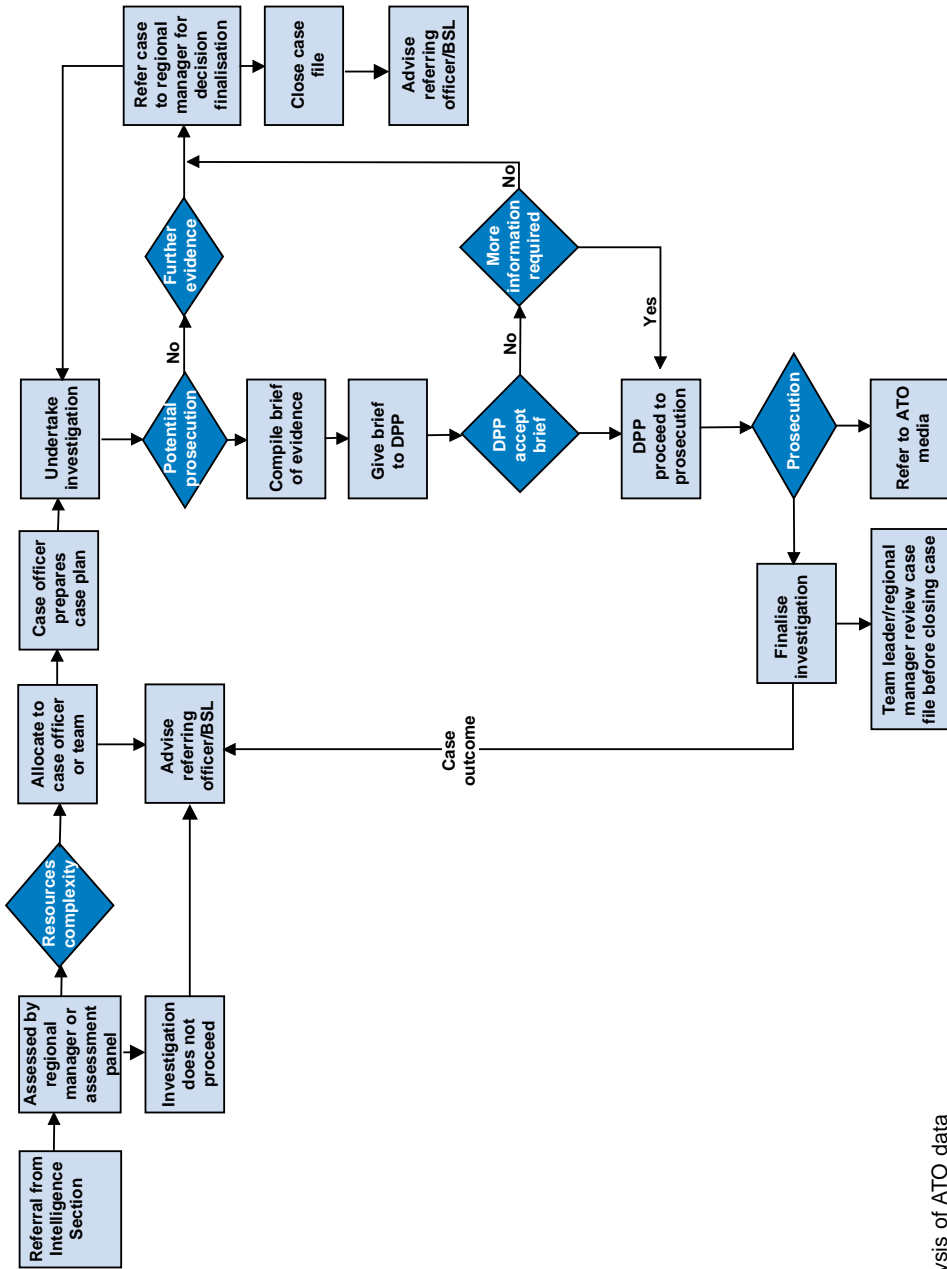
**4.37** Case officers are to ensure that case files are maintained in accordance with the *Archives Act 1983*. The ATO advised that the draft procedural guidelines will include guidance on proper case file management practices, including archival and disposal instructions.

**4.38** When a case has been successfully prosecuted, the ATO Fraud Section will advise the relevant referral source and 'market' the case internally through the ATO's fortnightly newsletter *ATO Extra*. To use successful prosecutions as a deterrent to others, cases will be publicised through media releases. Figure 7 outlines the case management process.

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<sup>105</sup> The investigation plan includes: allegation; background; offences; targets; jurisdiction; special considerations/constraints; mission; execution; administration; costing; command and communication; recording system; security and any other relevant issues.

**Figure 7**  
**Fraud Investigation Process**



Source: ANAO analysis of ATO data



*Timeliness of investigations*

**4.39** The time taken to complete an investigation was one of the issues raised in the ANAO's examination of the sales tax fraud cases. A number of these cases had been under investigation for several years. The ATO Fraud Section advised that, although it is difficult to determine in advance the time required for an investigation, measures have been put in place to manage the timeliness of investigations. These measures include:

- using the priority and complexity models to provide an indication of the time and workload required for a case;
- case planning and approval processes;
- team based investigation approaches and segmenting investigations by examining only particular elements of a case;
- regional and national management reporting;<sup>106</sup> and
- quality assurance processes.

**4.40** Although there is every likelihood that cases will not be investigated due to resourcing constraints, the ATO advised that this decision will be made at the assessment phase and not after an investigation has commenced. For this reason, the ANAO considers it is important that there are clearly defined parameters for those cases where an investigation will not be carried out.

**4.41** The ATO also advised that investigation cases will only be closed without a result if there is insufficient evidence or no offence has been disclosed. Although the decision to close a case will rest with regional managers and their team leaders, these decisions will be tested through national management reporting and quality assurance processes.

### **Feedback arrangements between the Fraud Intelligence and ATO Fraud Sections**

**4.42** Currently, there are no formal feedback arrangements between the ATO Fraud and Fraud Intelligence Sections. However, the ANAO was advised that meetings are held on an informal basis to discuss the quality of fraud intelligence assessments, examine significant issues (including emerging patterns and trends) and discuss results of investigations to ensure better case selection processes. The ANAO considers that a more formalised process would be beneficial.

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<sup>106</sup> These type of reports will include details of allocated and unallocated cases and the age of cases.

## Case management system

**4.43** The ATO Fraud Section uses the GST Fraud Control (GSTFC) case management system to record, monitor and manage fraud investigations. The GSTFC system is a Microsoft Access database that was developed for use by the former GST Fraud Section.

### Overview of GSTFC functionality

**4.44** GSTFC is a national system that has been designed to allow fraud officers, depending on user access level, to:

- enter case details on the system and includes—but is not limited to—case number, subject of case, team, region, costs of case investigation, case history, offence type, status, case officer and priority level;
- perform specific searches, using combinations of information filters and parameters that limit the field of potential cases, to identify a case or particular types of fraud cases;
- update entries relating to case costs, referrals of case, related fraud cases, and running sheet (ongoing case activity) entries; and
- track the recovery of revenue throughout the investigation and prosecution processes.<sup>107</sup>

### Proposed system enhancements

**4.45** The ATO advised that the GSTFC system is to be converted to an SQL database with greater system functionality and enhanced reporting capabilities. The proposed timing of these system developments, subject to available resources, is as follows:

- May 2001: GSTFC to be converted to an SQL database.
- Aug/Sept 2001: New ATO Fraud case management system called Fraud Investigation Records Management System (FIRMS). This system is the GSTFC system enhanced to provide greater system functionality.
- Aug/Sept 2001: Enhanced reporting capability for the ATO Fraud Section's national and regional managers, team leaders and case officers.

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<sup>107</sup> *GSTFC: GST Fraud Case Management System—User Guide.*, 30 November, 2000, pp. 21–22.

## **GSTFC security arrangements**

**4.46** There are a number of security arrangements in place to guard against unlawful or unauthorised access to the GSTFC system, which operates in both a network and stand-alone environment. The system is installed on the ATO Fraud Section's own network server, which is located in a secure area and managed by the Section's information technology staff. Access to GSTFC is only available via password protocols and staff must be security cleared to at least 'ATO Protected'. Access levels are determined by the classification of user requirements.<sup>108</sup>

**4.47** The system administrator also has access to the system's audit logs that record the details of access to cases.<sup>109</sup> This function is largely to protect against, and allow investigation of, instances of suspected internal fraud. Although this function exists, the ATO advised that it has not yet been used.

## **Additional security arrangements**

**4.48** There are additional security arrangements governing access to Highly Protected (HP) cases.<sup>110</sup> HP cases are recorded in the GSTFC case management system, but without case-specific identity information. During the investigation, case details are recorded on a standalone computer<sup>111</sup> with a removable hard disk that can be appropriately secured. The investigation is monitored and reviewed by the team leader or regional manager. At the conclusion of the case, the identity information will be recorded in the GSTFC system only if it is considered appropriate to do so by the Regional Manager.

## **Current case monitoring and reporting capabilities**

### **Case monitoring**

**4.49** The GSTFC system currently allows regional managers and team leaders to review and monitor the progress of individual cases. Case details can only be updated or changed by the case officer. For a team leader or regional manager to amend case details or to close a case they need to reallocate the case to themselves.

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<sup>108</sup> There are five user levels categorised from Level 1 access, which is provided to all investigators and system users, through to Level 5 access, provided only to the system administrator.

<sup>109</sup> Records include details of the actions taken by each user per session; cases that an officer has gained access to in a given period of time and officers that have gained access to a particular case within a period of time.

<sup>110</sup> Cases are afforded the classification of 'Highly Protected' (HP) if there is a particular sensitivity in relation to the case, such as the identity of the taxpayer, a particularly dangerous criminal (or group), or where the circumstances of the case require a very high level of security to ensure a successful operation. The ATO advised that, currently, there are no HP cases under investigation.

<sup>111</sup> The Fraud Intelligence Section, and each regional team, will have a stand-alone computer.

**4.50** The ‘*Search*’ function<sup>112</sup> allows any fraud officer to obtain details on an individual case only. The ATO’s business rules restrict the ‘*Printing*’ capability for the ‘*Search*’ function. Team leaders and regional managers cannot print details of individual cases relating to the following:

- *Case Details*—includes current status of the case, priority level assigned to the investigation, the information source for the case, and the related business line.
- *Case History*—includes information relating to the case prior to its investigation.
- *Offence*—includes the offence type and result.
- *Officer*—includes the working status of officer.
- *People*—includes details of people subject to investigation.

**4.51** The ATO advised that the decision not to allow all case details to be printed was related to the sensitivity of the case information and, also, because this information is available on the case file.

**4.52** The information relating to individual case details that can be printed is restricted to the following:

- *Running sheet*—records all activities that occur during the investigation.
- *Related cases*—displays other cases, if any, that are related to the selected case as part of a larger investigation.
- *Referrals*—displays any referrals to other investigation bodies for that case.
- *Costs*—displays all costs associated with the investigation.<sup>113</sup>

**4.53** The inability to print all case details may make monitoring the progress of a case difficult for team leaders and regional managers, as currently each screen of the GSFTC system has to be carefully examined and checked against the other screen entries to form an overall opinion on the conduct and progress of the case. The ANAO considers that the present restrictions on printing case details should be reassessed if they are found to impede the ability of regional managers or team leaders to monitor cases.

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<sup>112</sup> The tabs in the GSTFC search function include: case details; case history; case costs; offence; office; people; and running sheet. Within each of these search screens exists a number of fields that can be used to refine the search. It is also possible to limit the search according to whether the case is currently active or closed.

<sup>113</sup> *GSTFC: GST Fraud Case management system—User Guide.*, op. cit., p.13–49.

## **Case management system reporting capability**

**4.54** Currently, there are limited reporting capabilities in the GSTFC system. Regional managers and team leaders cannot generate summary reports relating to fraud cases under their control, such as total cases allocated to investigating teams or officers, priority levels of all cases, status of all cases, costing for all cases, or duration of investigations. These reports can only be generated by the national system administrator at the request of regional staff. Alternatively, summary reports can be compiled by reviewing individual case entries and collating into a summary document. However, depending on the size of the region, this could prove to be a resource intensive exercise.

**4.55** At present, GSTFC reporting capabilities are limited to reports that are generated by the national system administrator on an ad-hoc, rather than regular, basis.

## **Proposed reporting and monitoring capabilities**

**4.56** The reporting and monitoring capabilities of the case management system will be extended under Phase 2 of the system's development. The planned completion date is August/September 2001. However, the ATO advised that this project may be delayed because of resourcing difficulties. When completed, the enhancements will allow national managers, regional managers and team leaders to automatically generate a suite of reports. These reports will cover the primary functions of the Section and provide updated data on a monthly, quarterly and annual basis for the following:

- annual—for reporting to Parliament and the ATO Executive;
- performance;
- administration; and
- investigation.<sup>114</sup>

**4.57** The reports are expected to provide data for the different operational levels—team, branch, region and national. Other fixed or flexible reporting requirements identified during the Phase 2 development process will also be incorporated, where possible, into the GSTFC system's functionality.

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<sup>114</sup> All staff with user access levels 3–5 will be able to generate these reports at any time for their own management purposes. However, for management purposes at the National level, these reports will be generated at National Office.

## Quality assurance

**4.58** Quality assurance (QA) reviews of fraud cases should indicate whether an adequate standard has been achieved and may suggest improvements in terms of training, changes to procedures, investigation management or investigation policies.

**4.59** The ATO Fraud Section is currently developing its quality assurance guidelines that will outline the procedures to be implemented for reviewing cases at the following levels:

- regional managers and team leaders;
- senior managers in National Office and the system administrator;
- evaluation by the DPP on the quality of each brief of evidence prepared by the ATO; and
- quality assurance reviews by the AFP as part of an annual program of reviews in APS agencies.<sup>115</sup>

**4.60** Cases are to be monitored and assessed at least monthly by the team leader or regional manager. When a case has been completed it should be reviewed and signed-off by the regional manager to ensure that all proper investigation processes have been followed. In larger regions, this process will be carried out by the team leader. This review will assess the quality of the investigation and the ATO control processes so that patterns and trends can be identified and monitored.

**4.61** A 'macro' level case management review will be carried out by senior managers to ensure that cases are being completed within defined priority and resource parameters and reasonable timeframes. This process will be assisted by specific reports generated by the GSTFC system administrator. Data integrity checks can also be carried out to ensure that the case management system is being used correctly and that all case details are being properly recorded.<sup>116</sup>

**4.62** The DPP has been asked to evaluate the quality of each brief of evidence submitted by investigators and to provide feedback to regional managers, team leaders and investigators. The ATO advised that the AFP has agreed not to undertake any QA reviews until late-2001 to allow time for the Section to fully integrate and to develop and implement guidelines and procedures.

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<sup>115</sup> The CLEB Quality Assurance Review Guidelines outline the AFP's responsibilities for QA reviews of prosecution cases in APS agencies.

<sup>116</sup> The system administrator advised the ANAO that data integrity checks have not yet been conducted and will only occur at the request of the ATO Fraud Section's senior managers.

## Training

**4.63** Training for fraud intelligence officers and fraud investigators is managed by the training manager within the ATO Fraud Section. Prior to undertaking fraud investigations, investigators must complete the Certificate IV in Government (Fraud Control Investigation) training course.<sup>117</sup> The ANAO has been advised that officers will also be required to complete the Diploma of Government (Fraud Control Investigation) as this higher qualification has been set as the minimum required for investigations in the Fraud Section. The ANAO considers there may also be benefits, particularly for new staff, in including a course component that is tailored to ATO specific issues. These issues may include taxation legislation requirements, ATO investigators' powers of access and the case management framework, including the GSTFC system.

**4.64** Other training activities<sup>118</sup> to complement the established Fraud Control Investigation Training Program, and a training program specifically tailored to meet the needs of the Fraud Intelligence officers, are being developed.<sup>119</sup>

**4.65** To provide access to training documentation, information relating to fraud policies and guidelines, reference material (including case management proforma), and training material will be stored on a 'fraud drive', which can only be accessed by fraud investigators and fraud intelligence officers. Documentation relating to the Statement of Investigation Standards, internal and external fraud policies, referral guidelines for other ATO business lines and procedural guidelines and standard forms, will be available on the ATO Fraud Section's website that is available to all ATO staff.

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<sup>117</sup> The *Commonwealth Fraud Investigation Standards* have been incorporated into this training course.

<sup>118</sup> Other activities include a 'Calendar of Internal Courses', a 'Skills Register' to ensure the skills of officers are recognised and utilised and identifying suitable external courses.

<sup>119</sup> The ATO advised that negotiations are being conducted with Customs to allow fraud intelligence officers to participate in the Customs *Operational Intelligence Analysis* course. On completion of this course the ATO anticipates that fraud intelligence officers will complete the Diploma of Government (Fraud Control Prevention/Detection).

## Conclusion

**4.66** The 1999 SBPIU Contestability Review identified an uncoordinated, inconsistent national approach to the selection and management of cases as a factor contributing to fraud cases not being promoted and investigated by SBPIU. The ATO Reform Program paper also noted a lack of clear and consistent policies and guidelines on how ATO officers are to deal with matter of serious non-compliance. The ANAO's analysis of the sales tax fraud cases identified similar deficiencies.

**4.67** The Fraud Intelligence Section has implemented assessment procedures and processes for selecting and prioritising all fraud cases prior to registering the case on the GSTFC case management system and forwarding it to the appropriate ATO fraud region for investigation. Central registration of cases should address the problem of all cases not being registered on the case management system, as was noted for a number of the sales tax fraud cases.

**4.68** The ATO Fraud Section has developed and implemented a case management framework that incorporates the assessment and allocation of cases by the regional manager or assessment panel. Arrangements are also in place to advise the referring area, officer or agency of the action being taken. The ANAO considers this to be a positive initiative that overcomes the previous lack of any feedback arrangements for sales tax investigations. Investigators are required to plan and conduct investigations in accordance with the ATO's Statement of Investigation Standards and procedural guidelines, which are in the final stages of development. Measures to ensure that investigations are completed within a reasonable timeframe, and the implementation of the proposed quality assurance review program, will also improve case management practices.

**4.69** It is appreciated that the ATO Fraud Section was only established in late 2000 and that most investigators have completed the Certificate IV in Government (Fraud Control Investigation) Training Course. However, there are currently no promulgated national investigation standards, case management procedures and quality assurance guidelines for the ATO Fraud Section. These standards and procedures are being developed, but until such time as they are published, and implemented, and appropriate training provided, fraud investigators will have only limited guidance on how to properly undertake and manage fraud investigations. Consequently, until such action is taken, there could be an element of inconsistency in the way investigations are conducted across ATO fraud regions.

**4.70** Informal processes exist for the Fraud Intelligence and ATO Fraud Sections to communicate lessons learned, improve the quality of



assessments and identify emerging issues. However, the ANAO considers there would be benefits in formalising these arrangements to ensure that control breakdowns, system weaknesses and patterns and trends relating to fraud issues are identified and addressed ATO-wide.

**4.71** The GSTFC case management system has the potential to address the deficiencies identified with the CaMRA system. However, until proposed system developments are completed and the system is fully operational, the capacity of the system to be an effective case management tool is limited.

**4.72** Current restrictions on the printing capability of particular elements of the GSTFC search function may make monitoring cases difficult for team leaders and regional managers, particularly in larger regions. Although it is appreciated that this decision is based on the sensitivity of particular case information, the ANAO considers that, if it is found that regional managers and team leaders are having difficulty in reviewing cases, consideration should be given to providing them with the capability to print all case details.

**4.73** The capacity to generate summary and management reports for national managers, regional managers, and team leaders is currently limited. Phase 2 will extend the GSTFC reporting capability with a suite of standard reports available for different operational levels. However, the possibility that this reporting capability could be delayed due to resourcing difficulties has implications for the effective management of fraud cases.

**4.74** To ensure that the initiatives currently under development or in progress contribute to the effective management of fraud cases, the ANAO considers there would be benefits to the ATO Fraud Section if a post-establishment review was completed within the next 12 months. This review should address the following areas and evaluate whether:

- the case management framework has been implemented in all ATO fraud regions, is operating effectively and fraud investigations are being properly managed;
- the Statement of Investigation Standards and procedural guidelines have been implemented and clearly articulate the responsibilities of regional managers, team leaders and investigators and detail what is required to ensure that a case is investigated in a timely manner;
- a quality assurance review program has been implemented that provides an indication that investigations have been properly carried out and an opportunity for constructive feedback to be given to investigators and team leaders;
- the training program is meeting the specific needs of fraud intelligence officers and fraud investigators; and

- the case management system is fully operational and that the proposed system improvements allow cases to be recorded, monitored and reported on by case officers and all levels of management.

## Recommendation No.2

**4.75** To ensure that cases of alleged fraud are being adequately investigated and that the initiatives implemented by the ATO Fraud Section are facilitating the effective management of these cases, the ANAO recommends that the ATO Fraud Section complete a post-establishment review within the next 12 months. This review should focus on the following areas:

- case management framework;
- investigation standards and procedural guidelines;
- the quality assurance review program;
- training program; and
- case management system.

*ATO response*

**4.76** Agreed.

## Investigations with other entities

**4.77** There are instances when the ATO undertakes joint fraud investigations with other ATO compliance areas, Commonwealth agencies and law enforcement agencies. In these cases, the ATO currently operates under a Joint Operational Agreement with the agency concerned. As the capacity for joint operations<sup>120</sup> is increasing, the ATO Fraud Section advised the ANAO that, prior to drafting the ATO's formal policy for handling such investigations, it is seeking legal advice to address issues relating to access powers and information secrecy provisions.

### Involvement of Customs in fraud cases

**4.78** In the context of this examination, the ANAO sought to identify the circumstances under which Customs may become involved in fraud investigations relating to GST, LCT and WET. The Customs process is that where officers suspect fraud involving customs duty and GST, LCT and WET, the matter is to be referred to Customs Investigations Branch,

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<sup>120</sup> The ATO advised that there is scope for joint operations with other Commonwealth agencies, Commonwealth and State law enforcement agencies, private sector accounting firms and financial institutions.

which will consult with the ATO in all cases. The referral of such cases could result in the ATO:

- declining to investigate the matter;<sup>121</sup>
- conducting a joint investigation and prosecution using the Crimes Act; or
- applying an administrative penalty.<sup>122</sup>

**4.79** Customs will not investigate the fraudulent use of ABNs or fraud cases relating to GST, LCT and/or WET that do not involve customs duty. These cases will be referred directly to the ATO.

**4.80** The ATO, in consultation with Customs, is currently developing its Practice Statement for administrative penalties. This statement will allow Customs to impose administrative penalties that are consistent with ATO policies for GST importations.

### **Referral of cases by ATO**

**4.81** The ATO process requires that where officers identify fraud cases relating only to customs duty, cases are to be referred to Customs. If during an ATO investigation, a customs duty component is identified, Customs will be advised. The decision will also be made as to whether a joint investigation is appropriate.

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Canberra ACT  
10 July 2001

P. J. Barrett  
Auditor-General

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<sup>121</sup> In these circumstances, Customs may decide to investigate and prosecute Customs offences and, with regard to LCT/GST/WET, apply an administrative penalty or, upon conviction for the Customs offences, seek a court order to recover GST/LCT/WET via s21B of the Crimes Act. The delegation to apply administrative penalties within the Customs lies with the Commercial Compliance Branch.

<sup>122</sup> In these cases, Customs may then decide to investigate and prosecute the Customs offences. Customs Investigation Notice Number 2000/2, dated June 2000.



# Appendices



## Appendix 1

### Example of the Goods and Services Tax

#### Supply of Goods

A bicycle importer imports a bicycle for \$400 (including duty, freight and insurance) and pays \$40 GST to Customs upon importation.

The bicycle importer then sells the bicycle to a wholesaler for \$550 (including \$50 GST).

The wholesaler packages and sells it to a retailer for \$660 (including \$60 GST).

The retailer sells the bicycle to a consumer for \$770 (including \$70 GST).

The bicycle importer pays \$40 to Customs when the bicycle is first imported. He offsets this \$40 against the \$50 GST payable on the supply to the wholesaler. The bicycle importer then pays \$10 GST to the ATO.

The wholesaler offsets the \$50 GST included in the price charged by the bicycle importer against the \$60 GST payable on the supply to the retailer. The wholesaler then pays \$10 GST to the ATO.

The retailer offsets the \$60 GST included in the price charged by the wholesaler against the \$70 GST payable on the sale to the consumer. The retailer then pays \$10 GST to the ATO.

Only the consumer bears GST on the final product, as consumers cannot claim input tax credits for GST included in the price paid.



Source: ATO, *Importing - The New Tax System* (2nd Ed). Australian Taxation Office, April 2000, p. 10.

## Appendix 2

### Customs functions relating to sales tax

The primary functions of Customs in relation to sales tax included:

- conducting live (time of importation) checks for both commercial and non-commercial goods, which involved examining all entry details including sales tax;
- ensuring that for imported goods the correct rate of sales tax was nominated and the appropriate amount paid, that a valid sales tax registration number has been quoted by an eligible individual, or that a valid exemption has been claimed;
- issuing notices of assessment for goods that were incorrectly entered, resulting in an underpayment of sales tax, and the subsequent collection of the underpaid tax;
- processing of claims for drawback of sales tax on goods to be exported, which had previously been imported;
- verifying that goods 'entered for export' were either exported or the entry was withdrawn;
- processing applications for refunds and drawbacks of both customs duty and sales tax paid at the time of importation (with the exception of claims exceeding \$10 000, or where a registration number has been quoted to enable deferral of sales tax payment)<sup>123</sup>;
- imposition of penalties for false statements relating to the value of goods which results in underpayment of sales tax, late payment of sales tax, or false statements for refunds or drawbacks;
- pursuit of debt collection for unpaid sales tax;
- initial processing of objections to or requests for review of Customs decisions relating to sales tax;
- referral of matters giving evidence to serious non-compliance or fraud relating to sales tax to Customs Investigation Branch (for referral to the ATO);
- the accurate recording of sales tax collections, refunds and penalties; and
- maintenance of liaison, communication and operation between ATO and Customs.

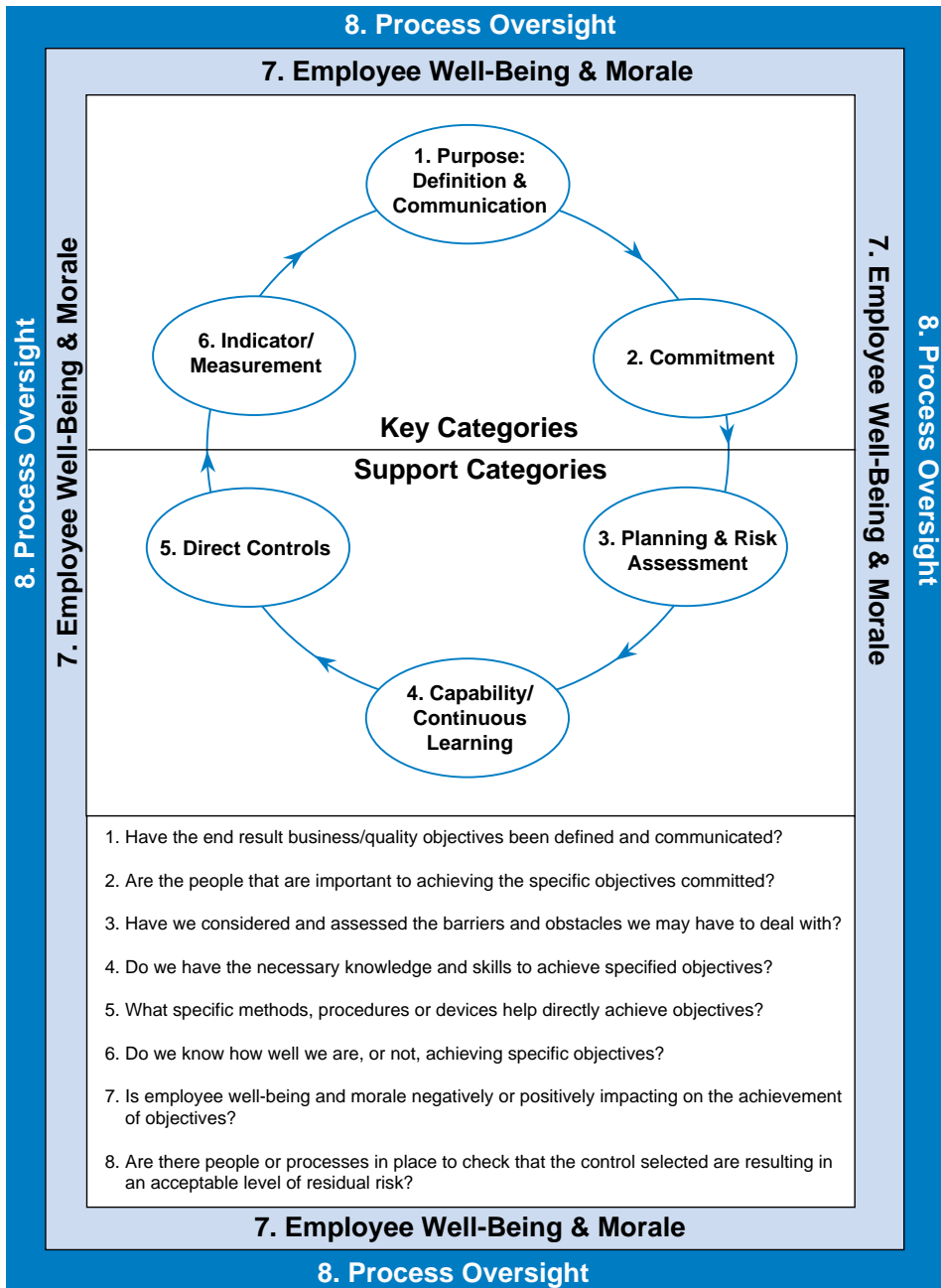
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<sup>123</sup> Prior to the MoU being signed between ATO and Customs on 26 June 1997, Customs had been authorised to process and refund all claims less than \$1000 without referral to the ATO.



### Appendix 3

## Control and Risk Self Assessment (CRSA) Model



Source: ATO documentation on CRSA Model modified by ANAO, based on MCS Control Training and Design Inc. (MCS), 1997.

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