

Tax disputes - what to do

As the old saying goes there are two certainties in life; death and taxes. Every man, woman, child and business entity in this country, whether they realise it or not, will have their day-to-day lives impacted by Australian taxation laws whether in their work, what they buy, their assets or investments, how their business operates or the cost of goods and services.

As it is the Australian Taxation Office (ATO) that administers and enforces Australian taxation laws, it pays to know what to do should you ever wish to dispute a decision by the ATO. Fundamentally, if you do not agree with a decision made by the ATO in relation to your taxation liability or position you are in dispute. The real question is what are you to do about any such dispute?

1. **Seek professional advice** – speak to your advisors, early. Be proactive with your tax affairs. If you think there are issues, then it pays to consult with your accountant and/or tax lawyer as soon as practicable. By initiating discussion with the ATO, before a decision on an issue is crystallised, and providing alternative arguments and/or evidence, the final position taken by the ATO may be more favourable to the taxpayer than would otherwise be the case. If the ATO has taken a contentious position or your tax position is justifiable on the facts and the law, then it may pay to get professional advice and assistance quickly.
2. **What is the dispute** – assess the nature and extent of the dispute. Even where the ATO may only be conducting an initial review or audit it may be possible to assess what is the nature of the likely dispute. The sooner you can identify and scope the dispute, the sooner you can deal with the real issue/s with the ATO.
3. **Engage with the ATO** – it is never too late (or arguably too early) to engage with the ATO in relation to a dispute. For example, where the ATO may have issued an amended assessment raising further tax liabilities against you, the sooner you talk to the ATO about their issues the greater your scope to influence their ultimate decision. Even where a decision has been made, you may be able to convince the ATO their position is incorrect and not consistent with the facts, the law or the current ATO view resulting in you achieving a positive outcome.
4. **Escalate and seek to resolve** – there is a significant push from the Attorney General's Department throughout the Commonwealth government, including the ATO, to seek resolution of disputes with taxpayers by way of alternative dispute resolution. This is to attempt to fast track the resolution of those matters that can be resolved and/or narrow those issues between the ATO and taxpayer where they cannot. With finite resources and an ever-increasing field of responsibility over the administration and enforcement of taxation laws, the imperative upon the ATO to resolve disputes quickly and efficiently will only increase.

In summary, quick, professional assessment of the nature of the dispute and the client's risk profile along with engagement with the ATO, will deliver more positive outcomes in dealing with matters that may otherwise lead to ongoing and expensive litigation.

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