



THE LAW SOCIETY  
OF NEW SOUTH WALES

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26 October 2022

Taxpayers' Charter Review  
External Engagement and Governance  
Australian Taxation Office

By email: [taxpayerscharter@ato.gov.au](mailto:taxpayerscharter@ato.gov.au)

Attention: Mr Chris Cook

Dear Sir/Madam,

### **Taxpayers' Charter Review**

The Law Society appreciates the opportunity to participate in this consultation in response to the Australian Taxation Office's (ATO) review of the Taxpayers' Charter. The Law Society's Business Law Committee contributed to this submission

#### **1. How well does the Charter meet your expectations about how we should interact with taxpayers when administering the tax, super and registry systems?**

The Charter generally meets the expectations of taxpayer representatives.

However, the following matters continue to be of concern to taxpayer representatives and raise concerns regarding the comprehensive implementation of the Charter:

- The application of legal professional privilege (LPP), in practice. The release of the ATO's LPP Protocol has not reduced the often onerous compliance burden with claiming LPP.
- Lengthy call wait-times for assistance from registries.

#### **2. Does the Taxpayers' Charter provide enough clear information about:**

- a. your rights and obligations when interacting with us**
- b. what we should do to support your rights and treat you fairly and reasonably**
- c. your right to request a review of your situation or to make a complaint?**

Yes.

#### **3. Considering recent difficulties such as COVID-19 and natural disasters, is there any additional content that needs to be included in the Taxpayers' Charter? If yes, what, and why?**

Yes. Without limiting the circumstances of application, we support embedding additional taxpayer rights in the Charter on what is considered 'fair and reasonable' in circumstances which may cause financial hardship and/or unintended destruction of physical records.

For example, a specific right to reasonable additional, interest-free, time to meet tax compliance obligations (or additional time with a commitment to waive interest following compliance) for taxpayers affected by flooding, bushfires and other natural disasters would be mutually beneficial to the ATO and to taxpayers and their representatives.

Similarly, COVID-19 brought about unique challenges for taxpayers – large and small – in meeting existing compliance obligations, as well as new obligations which arose as a result of COVID-related legislation (such as JobKeeper payments). The ATO could consider including taxpayer rights to reasonable additional time to meet compliance obligations or a standard reduction in penalties where tax obligations are new or untested, and where ATO guidance on interpreting new legislation is limited.

**4. Is there anything in the Charter that you think is out of date or unnecessary?**

No.

**5. Do you think we are behaving as required by the Charter?**

Members generally perceive the ATO's Taxpayer Charter as robust and consider that it recognises the two-way relationship between the ATO and taxpayers.

However, refer to our Question 1 responses regarding matters that remain of concern for taxpayer representatives.


**6. If you have used the Charter for guidance when dealing with us, what sections of the Charter and in what role did you use it (for example, as a taxpayer, a tax practitioner or a taxpayer representative)?**

The Charter has been utilised by members in their capacity as legal representatives for taxpayers.

The Charter rights commonly referred to in members' practice are those of privacy and confidentiality. Members generally referred to those rights to provide assurance to clients that they would be applied by ATO officers.

If you have any questions about this submission, please contact Liza Booth, Principal Policy Lawyer, at [liza.booth@lawsociety.com.au](mailto:liza.booth@lawsociety.com.au) or on (02) 9926 0202.

Yours faithfully,



Joanne van der Plaats  
**President**