



Australian Taxation Office

ADMINISTRATION OF GARNISHEE ACTION

April 2007

Report by the Acting Commonwealth and Taxation Ombudsman,
Dr Vivienne Thom, under the *Ombudsman Act 1976*

REPORT NO. **01|2007**

Reports by the Ombudsman

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PART 1—INTRODUCTION

Taxation Ombudsman

1.1 The Commonwealth Ombudsman is also the Taxation Ombudsman. The Taxation Ombudsman investigates individual complaints about the Australian Taxation Office (ATO) and comments on general or broader aspects of tax administration. The garnishee action project reflects both these aspects of our work.

External projects program

1.2 Towards the end of 2005, the Ombudsman implemented a forward work program of projects into aspects of ATO administration. The projects examine individual tax complaints to assess the health of specific areas of tax administration, and to identify any potential problem areas in ATO administration.

1.3 These projects provide a useful perspective on the impact that government administration can have on individuals. This view is based on taxpayer feedback from complaints and from our outreach work in regional and rural Australia. It is intended that the projects contribute to improvement of both tax administration and to our own understanding of it, to the benefit of individual taxpayers who come to us with their problems.

Selection of garnishee action project

1.4 A significant proportion of tax complaints we receive occur as a result of ATO debt recovery action. Accordingly, our program includes a number of projects connected with ATO debt collection, including garnishee action.

1.5 Garnishee action was selected because it involves significant ATO powers to seize funds from third parties to discharge taxpayer debts. With the ATO's continuing focus on targeting outstanding debt, garnishee action is likely to continue to feature as an integral part of the ATO's debt recovery strategy. Taxpayers generally do not welcome ATO garnishee action, perceiving it as premature and intrusive. Because of its potentially adverse impact on taxpayers, our examination of the administration of garnishee action included consideration of what balancing protections exist for taxpayers.

1.6 The Commissioner of Taxation has also indicated that the ATO has a compliance focus on assisting taxpayers to meet their tax obligations.¹ A further consideration in selecting this project is that we have an interest in taxpayer understanding of garnishee action and how it can be used.

Project approach

1.7 We examined the ATO's use of garnishee action and related ATO policies and procedures. The report provides observations on themes or issues we identified from the garnishee action complaints received by our office.

¹ Australian Taxation Office, *Updated Compliance Program 2005/6 (updated 13 October 2006)*, 2006, p. 1.

1.8 Our consideration of the ATO's administration of garnishee action included the following:

- examining ATO guidelines relating to garnishee action, such as the ATO Receivables Policy
- analysing garnishee complaints received by our office between 1 July 2003 and 30 June 2006
- identifying any themes or issues that arose from those complaints
- considering data obtained from the ATO about its use of garnishee action, including frequency of such action, amounts subsequently recovered, the outcome of garnishee complaints to the ATO and the extent of staff guidance such as Practice Statements.

1.9 These matters are discussed in more detail later in this report.

PART 2—GARNISHEE ACTION

Collection of tax debts

2.1 The ATO collects tax revenue that assists or enables the Australian Government to provide services to the Australian community directly, or through funds provided to state and local governments. Payment of tax ensures a continuing funding source for such services. Failure by taxpayers to pay the full amount of tax owed has the potential to threaten government revenue, can be unfair to complying taxpayers, and can add to the ATO's administrative compliance costs.

2.2 Most taxpayers declare their income, pay their tax and have mostly incident-free interactions with the ATO. The Commissioner of Taxation recently noted that of the \$215 billion in tax revenue collected in the 2005–06 financial year, around \$4 billion was not paid voluntarily.² Where due tax is not paid, the ATO has a responsibility to collect outstanding debts as fairly and effectively as possible.

2.3 The ATO's Compliance Program outlines the ATO's compliance responsibilities, strategies and actions. The annual publication of the Compliance Program educates the taxpaying community and the tax profession about the ATO's perception of current compliance risks and its strategies to address those risks.

2.4 The Compliance Program is underpinned by the 'enforcement pyramid' of the ATO's Compliance Model. Essentially, recalcitrant or persistent non-compliant taxpayers are located at the top of the pyramid while what may be described as 'petty' or 'one-off' non-compliant taxpayers are placed towards the bottom. Those towards the bottom of the pyramid are encouraged to engage in cooperative compliance, while those towards the apex are subjected to progressively more severe sanctions in the face of persistent non-compliance. Our understanding is that garnishee action is not a first step in the ATO's debt recovery options. Rather, in accordance with the Compliance Model, it is taken where earlier recovery processes have been unsuccessful.

Legislative setting

2.5 The ATO is empowered to take garnishee action under subdivision 260-A of Schedule 1 of the *Tax Administration Act 1953*, which from July 2000 effectively replaced a range of provisions under various Acts. The Commissioner (or a delegate) may give a written notice to a third party if the third party owes or may later owe money to the debtor (s 260-5(2)) and a copy must be provided to the debtor (s 260-5(6)). The third party is indemnified for any money paid to the Commissioner (s 260-15). Failure to comply is an offence (s 260-20).

2.6 The ATO usually recovers debts owed directly from the debtor. However, the above legislative provisions enable the Commissioner to recover debt by issuing a garnishee notice to a third person, who owes money or may later owe money to the debtor, requiring them to pay that money to the Commissioner instead.

2.7 A third party is treated as owing money in various circumstances, including where money is held for, or on account of, the debtor, for example by a bank or similar institution. A third party can also be the debtor's employer, where a garnishee

² 'Consultation, collaboration and co-design: the way forward for the Tax Office', Commissioner of Taxation's address to the Australian Public Service Commission SES Breakfast, Canberra, 21 September 2006 (<http://www.ato.gov.au/corporate>).

notice is served on the employer and the ATO takes a regular amount from the debtor's salary towards meeting the debt.

Policy guidance—ATO Receivables Policy

2.8 The ATO Receivables Policy³ sets out in more detail the ATO approach to debt collection and lodgement matters. Taxpayers are expected to lodge correct returns and statements by the due date, and pay their tax debts as and when they fall due. Under tax legislation, the ATO can allow debtors to pay their tax debts by instalments, including where they face genuine difficulty and have the capacity to pay the debt (and any additional late payment charges) within a reasonable time.

2.9 The ATO Receivables Policy currently provides the most comprehensive publicly available document of the ATO approach to garnishee action. Chapter 12 of the ATO Receivables Policy provides the policy guidance for the administration of garnishee action, setting out the Commissioner's powers in relation to garnishee action and the circumstances when those powers will be used. Paragraph 12.4.2 provides that the 'Commissioner will use garnishee notices in circumstances where that action is considered to be the most effective method of obtaining payment of a debt'. Paragraph 12.4.4 elaborates the relevant factors that tax officers might consider before initiating garnishee action:

Some matters that may be taken into account when considering whether to issue a 'garnishee' notice are:

- (i) whether a debt has been established and the value of that debt (including additional charges for late payment/GIC);
- (ii) the financial position of the debtor and the steps taken to make payment in the shortest possible timeframe having regard to the particular circumstances of the debtor;
- (iii) the extent of any other debts owed by the debtor;
- (iv) whether the revenue is placed at risk because of the actions of the debtor, such as:
 - evidence or suggestion of the debtor dissipating assets;
 - deliberate and continued efforts by the debtor to frustrate legal recovery action;
 - the debtor making payment to other creditors in preference to paying the Commissioner;
 - where the issue of a writ has proven to be unsuccessful, but information obtained indicates that 'garnishee' action may be appropriate in relation to the debtor's employment, bank and/or building society deposits and the like; or
 - the existence of a bar to legal action, but information to hand indicates that 'garnishee' action is available against payments from an employer or in relation to bank deposits;
 - the past compliance history of the debtor, including whether there has been previous non payment;
 - whether there are better alternatives to obtain payment;
 - whether the use of a 'garnishee' notice could be perceived as an abuse of power;
 - the steps taken by the debtor to acknowledge indebtedness and accept the responsibility to pay;

³ Available on the ATO's website (www.ato.gov.au).

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- the likely implications of issuing a notice on a debtor's ability to provide for a family or on the debtor's employment or business;
- the quantum of the amount to be forwarded if the notice is looking to a regular contribution (the amount to be deducted from gross salary or wages should not usually exceed 30 cents in the dollar where the debtor's only income is that salary or wage). However the Commissioner is not restricted to this percentage and may seek a higher percentage of the money where the debtor's financial position indicates that it would be fair and equitable to do so; and
- whether the debtor has requested the Commissioner to issue a 'garnishee' notice.

2.10 These factors are generally consistent with the ATO's Compliance Model, with the taxpayer's compliance history and willingness to cooperate to address any tax debt central to the ATO's considerations of the appropriateness of garnishee action.

Further guidance—ATO learning module

2.11 In response to our enquiries, the ATO provided us with additional policy guidance in the form of an electronic learning module for enhancing debt collection staff's understanding of garnishee action. The module provides detailed guidance for ATO staff administering garnishee notices, including their preparation, issue, amendment, revocation and withdrawal.

2.12 The module also appears generally consistent with the ATO Receivables Policy and includes some useful checks and balances, such as requiring escalation to a senior or technical officer in specified circumstances.

Garnishee action in practice

2.13 We asked the ATO for statistical information to assist our understanding of the extent of garnishee action and related matters, including the following:

- the number of taxpayers issued with garnishee notices by the ATO for the 2003–04 and 2004–05 financial years
- the number of garnishee notices issued for both periods
- amounts recovered by the ATO as a result of garnishee action
- complaints received by the ATO about garnishee action and their outcomes.

2.14 By requesting this information, we hoped to obtain a sense of the extent of ATO garnishee action, and its effectiveness as a debt recovery tool.

2.15 The ATO provided us with the number of garnishee actions and outstanding debts owed when the garnishee action was taken (Attachment B).⁴ This was broken down by market segments for the 2003–04 and 2004–05 financial years. These market segments include personal taxes, micro-business (turnover of less than \$2 million), small-to-medium enterprises (turnover of \$2 million to \$100 million), large business (turnover greater than \$100 million), and not-for-profit bodies.

2.16 The ATO figures indicate that between the 2003–04 and 2004–05 financial year, there was an increase in total garnishee actions from 4,574 for the 2003–04

⁴ Some issues arising from these figures are discussed in the sections on 'Record keeping' and 'Statistical records' in Part 3 of this report.

financial years to 10,976 for the 2004–05 financial year across all categories.⁵ This is consistent with the ATO's increasing focus on swifter and more efficient forms of debt recovery.⁶ The biggest segment for both years was for micro-businesses, comprising around three quarters of the actions taken, which also had the largest increase from the 2003–04 to 2004–05 financial years. Again, this reflects the micro-business segment's disproportionate representation amongst tax debtors, making up about 11% of net ATO collections⁷, but 67% of tax debtors.⁸

2.17 The 2005–06 ATO Compliance Program provides some insight into the challenges related to micro-businesses meeting their payment obligations.⁹

While some micro-businesses have very good record keeping and good cash flow management, a large number do not manage their cash flow well or pay their debts on time. Nearly 90% of the debts owed by micro-businesses to the Tax Office are less than \$25,000, with 60% of all micro-business tax debts being less than \$2,500 ...

Last year, we gave small businesses with debts under \$25,000 a one-off opportunity to clear their debts under favourable terms. At the time of the offer, we made it clear that firm action would follow for those who failed to take the opportunity to clear their debts ...

We will not allow micro-businesses to gain an unfair commercial advantage simply by not paying their taxes or by continually deferring payment. To this end, we will exercise a wider range of administrative powers available to us, including:

- increasing the use of our information-gathering powers
- taking garnishee action on funds held in business or payable to them by others.

2.18 Given the above, it would appear that the level of garnishee action in regard to micro-businesses is likely to remain significant.¹⁰

2.19 The personal taxes and large business segments had relatively fewer garnishee actions, although on average they were for comparatively larger debts.

⁵ For more discussion about the accuracy and meaning of these figures see the sections 'Record keeping' and 'Statistical records' in Part 3 of this report.

⁶ 'Tax focus for the year ahead', ATO Media Release—NAT 2005/53
<http://www.ato.gov.au/corporate/content.asp?doc=/content/62364.htm>

⁷ Australian Taxation Office, *2006–07 Compliance Program*, 2006, p. 14.

⁸ Australian Taxation Office, *2006–07 Compliance Program*, 2006, p. 15.

⁹ Australian Taxation Office, *Updated Compliance Program 2005–06 (updated 13 October 2006)*, 2006, p. 24.

¹⁰ See for example Australian Taxation Office, *2006–07 Compliance Program*, 2006, p. 20.

PART 3—THEMES ARISING IN COMPLAINTS

3.1 The Ombudsman's office receives a substantial number of complaints about ATO compliance action—generally over five hundred complaints (or about a third of all tax complaints) each year. Most relate to assessment, audit and recovery action.

3.2 We received around sixty complaints between 1 July 2003 and 30 June 2006 relating to ATO garnishee action. This represents a small proportion of total garnishee actions and a relatively steady but low number of tax complaints to this office. Such a small proportion of complaints should be reassuring for the public and tax profession and should be taken by the ATO as an encouraging sign. Nevertheless, there is still value in looking more closely at the complaints we received to see what issues were of concern to some members of the public, and to identify if there is any scope for improvements to ATO administration.

3.3 Some of the issues raised by these complaints include:

- whether the ATO could take garnishee action
- matters related to garnishee notification
- that garnishee action was premature
- serious hardship
- the effect of garnishee action on a taxpayer's ability to appeal
- privacy considerations.

3.4 While the complaints do not point to any major systemic flaws in ATO garnishee policy and administration, they do prompt some observations about areas that might warrant further consideration by the ATO. In the following section, we outline our observations on:

- taxpayer awareness
- impact on the individual
- reasons for decision
- privacy
- record keeping.

3.5 We do not aim to provide a comprehensive analysis of the ATO's use of garnishee action, but rather to provide our views on some themes raised by complaints we have received.

Taxpayer awareness and understanding

3.6 Our experience in handling tax complaints suggests that some taxpayers do not have a good understanding and appreciation of the kinds of ATO compliance action to which they can be subjected. There are those who do not sufficiently appreciate the implications of ignoring their debts, or not engaging with the ATO about those debts. Further, some taxpayers do not know that the ATO can take garnishee action, which can impact on their personal finances by having their salary or personal bank accounts garnisheed. This is despite ATO communication measures such as annual publication of the ATO's Compliance Program, publication of the ATO Receivables Policy on the ATO website, and direct advice to individual taxpayers by phone and by letter.

Lack of awareness about garnishee action

3.7 We have had complaints where the complainant asked us whether the ATO had the authority to take garnishee action. In other cases, complainants misunderstood the meaning of 'garnishee action', incorrectly thinking it means the ATO applying taxpayer credits or refunds towards their tax debts.

3.8 These instances suggest to us that some taxpayers do not understand what garnishee means, or that it is action available to the ATO when tax debts are ignored or payment arrangements are not maintained. However, where taxpayers approach this office raising such concerns, we are able to inform them about the garnishee process and can provide some measure of reassurance where we conclude that ATO garnishee action has been reasonably taken.

3.9 Later in this section, we outline some of the steps the ATO is taking to improve taxpayer awareness of garnishee action.

Consequences of ignoring debts

3.10 ATO policy indicates garnishee action will usually only be considered where there is a history of non-compliance, failed payment arrangements and risk to the revenue. Taxpayers who fail to communicate with the ATO if they are having difficulty meeting their tax obligations face an escalation of recovery options, such as garnishee or legal action in accordance with the ATO Compliance Model.

3.11 We regularly receive complaints where the taxpayer incurs a tax debt, but for one reason or another, takes no action to address it, despite receiving warning letters. Sometimes taxpayers will choose to address other debts before their tax debt, or they might think that the ATO will just keep issuing them with more warnings without further consequences.

3.12 The following case study is typical of those complaints where garnishee action follows taxpayer failure to address tax debts or engage with the ATO about those debts.

Failure to address debt

Mr A contacted us about a substantial tax debt that was a few years old and had increased due to penalties and interest. After being advised by the ATO of the debt, Mr A did not make any attempt to negotiate a payment arrangement, nor did he make any payments. He was also late in lodging some tax returns. Mr A informed us that he had just received notification that his bank account had been garnisheed.

We did not investigate this complaint because, on the face of it, the ATO's decision to issue the garnishee notice was not unreasonable as the debt had been outstanding for a considerable period, and Mr A had taken no action in the interim to address the problem. However, we suggested that he contact the ATO as there was still the possibility of having the decision reviewed, particularly if the action had caused serious hardship. We also encouraged Mr A to talk to the ATO about how he might otherwise address his outstanding debt.

3.13 This case highlights the importance for taxpayers to engage with the ATO about their tax debts and any difficulties they might be having if they wish to avoid garnishee action. Further, early intervention will also help prevent the accumulation of interest, thereby minimising accumulation of the debt.

3.14 Garnishee action, or a warning that such action may be taken, can also assist the ATO in encouraging taxpayers to address their debts, as illustrated by the following case.

Garnishee action prompted taxpayer to engage on debt

Mr B complained that the ATO had garnisheed his bank account to repay an outstanding tax debt. He advised that he was on Austudy payments and that the garnishee action would cause him financial hardship.

We made enquiries of the ATO, which advised that Mr B had a tax debt of \$30,000 arising from the operation of a previous business. The ATO had communicated with Mr B numerous times, culminating in a final letter indicating that it would garnishee his account. It was not until garnishee action was taken that Mr B contacted the ATO.

The ATO subsequently withdrew the garnishee action once it was found that Mr B's only source of income was Austudy, on the grounds that the garnishee left him little money to live. Mr B was happy with this outcome. He indicated to us that he had been told by his accountant to ignore the debt, as the ATO would eventually be in touch with him.

3.15 An interesting feature of the above case is that the taxpayer appeared to ignore the tax debt based on advice given by his accountant. If he had suffered a loss as a result of that advice, he may have had a claim against the accountant, particularly if he paid for professional advice. This is not the only complaint we have seen where a tax adviser has expressed a mistaken belief about when the ATO will take recovery action such as garnishee. We consider it important that tax advisers take note of when a tax debt is due and understand the risks of ignoring ATO warnings about payment of the debt, to ensure they can correctly advise their clients. The ATO might also wish to explore how to better communicate to tax agents and advisers about the consequences of their clients ignoring tax debts.

The importance of communication

3.16 Once contact occurs between the ATO and the taxpayer, maintaining effective communication is important to ensure that both parties are in agreement about managing and finalising the debt, as the following case indicates.

Breakdown in communication

A firm of accountants complained that the ATO had garnisheed their client without warning.

After examining the ATO response, we confirmed that the taxpayer had a history of poor compliance, and that insufficient action had been taken by the firm to contact the ATO to discuss the debt. In particular, ATO case notes indicated that the ATO had made numerous attempts to call the accounting firm to discuss what were clearly considered to be serious concerns about the non-payment of the debt. These case notes also indicated that the ATO was concerned that insufficient effort was being made by the taxpayer and his agent to discuss the matter.

3.17 As the case above demonstrates, where risk factors exist regarding a debt—and this may well include past non-compliance with tax obligations—it is in the interests of the taxpayer to continue to engage in open and effective communication,

outlining and explaining any mitigating circumstances for not addressing the debt. If the ATO considers the taxpayer to be evasive or uncooperative, it will increase the likelihood that firmer action will be taken. This may include garnishee action.

3.18 An important role for the Ombudsman's office regarding debt recovery complaints is to facilitate open communication between the taxpayer and the ATO to ensure that the case gets back on track. In some cases, this can be helping a taxpayer better explain their individual circumstances to the ATO. In many other cases, it is helping the taxpayer understand that the action they are subject to is not unreasonable, and that talking with the ATO provides the best opportunity to get back into compliance with their tax obligations.

Increasing awareness

3.19 Our enquiries indicate that the ATO has taken a number of steps to better inform taxpayers about their compliance obligations, including that garnishee action is an available option to recover debts.

3.20 At the highest level is the ATO Compliance Program, which outlines the ATO's approach to compliance and debt recovery. Each year's program is published and is also available to the public and tax professionals on the ATO's website. Recent Compliance Programs advise that where taxpayers who have difficulty in meeting their debts fail to come to an arrangement or pay by instalments, or fail to comply with arrangements made, the ATO will take firmer action that may include taking garnishee action or commencing bankruptcy proceedings.

3.21 At a more operational level, the ATO issues a warning letter to a tax debtor as a pre-requisite to the issue of a garnishee notice, except where the person has engaged in actions to avoid collection of the tax. Where the ATO does not propose to send a warning letter, there is an internal quality assurance measure that requires the matter to be escalated to a technical or more senior officer.

3.22 Similarly, ATO call centre scripting for debt collection staff requires that debtors who fail to make payment arrangements or comply with existing arrangements should be given full legal warnings, which can outline the options that may be considered. The options include taking garnishee action or initiating bankruptcy action. The scripting also requires that it is not sufficient for tax officers to state simply that a garnishee notice will be issued, but that they should also provide a more specific explanation and examples of what that action might include.

3.23 These measures suggest to us that the ATO understands the issues around taxpayer awareness and is taking action to ensure that taxpayers should be aware that firmer action, including possible garnishee action, will be taken in the face of increasing non-compliance.

3.24 Notwithstanding this, it may be useful for the ATO to review its garnishee action procedures and communication strategies in light of this project to identify any further areas for possible improvement. For example, while there is guidance for staff in the form of learning modules, we note there is no ATO Practice Statement dealing specifically with garnishee action. In other areas of tax administration, we have seen Practice Statements as a useful tool for providing more detailed guidance and information to the community about the ATO's approach to particular matters. The ATO might consider whether developing such a statement on garnishee action is worthy of further consideration.

3.25 We are also hopeful that this report might contribute to increasing community awareness of garnishee action and the consequences of ignoring tax debt.

Impact on the individual

3.26 As part of our consideration of complaints generally, we are mindful of whether administrative decisions take account of individual circumstances, and whether those decisions can impact on individuals in an unfair or unforeseen way. While it is important that there be consistency in the way taxpayers are treated, it is also important that tax policy and decision making take account of individual circumstances.

3.27 The ATO Receivables Policy provides some balancing protections in circumstances that could adversely impact on the individual. Some of these have come to light in garnishee complaints we have received.

3.28 Paragraph 12.4.4 of the Receivables Policy lists factors influencing the decision on whether to proceed to garnishee action (listed in paragraph 2.9 of this report), and includes ‘the likely implications of issuing a notice on the debtor's ability to provide for a family or on the debtor's employment or business’. The learning module also reminds ATO staff to ensure garnishee action does not adversely affect the debtor's normal living expenses (such as not going above a certain percentage of weekly earnings, and requiring that the matter be escalated to a more senior officer if such action is being contemplated). The module also reminds officers to take into account whether garnishee action against a business will have an adverse effect on the ability to run that business, including the payment of salaries.

3.29 Paragraph 12.4.6 of the Policy states that care needs to be taken to ensure that the garnishee power is not abused, nor perceived to be abused. It lists a range of examples, including that the power ‘not be used to prejudice to a significant degree the business of a debtor who is pursuing avenues of appeal against the assessments that raised the debt’.

3.30 These matters are outlined below in more detail.

Undue hardship

3.31 Sometimes complainants contact us not because garnishee action has been taken, but because the ATO has foreshadowed that it will be taken, and they are concerned that this will cause hardship.

3.32 Consistent with our general policy position on complaints, we usually encourage complainants to contact the ATO in the first instance. Our experience suggests that this is often more effective than not, as the following case study illustrates.

Difficulty paying debts following garnishee action

Mr C complained that the ATO intended to garnishee his bank account regarding a debt. He advised that he was having difficulty paying the debt as he did not have a job and was receiving a Centrelink payment.

We spoke to Mr C about the matter and suggested that in the first instance he raise the matter with ATO Complaints. We heard back from Mr C that he had taken our advice, that the ATO had agreed to put him on a payment arrangement, and that he was satisfied with the outcome.

3.33 This case study is a good example of how a proposal to take garnishee action can prompt a taxpayer to engage with the ATO and to explore ways of addressing the debt. It also suggests to us that the ATO is prepared to appropriately consider individual circumstances and the impact garnishee action might have on the taxpayer concerned.

3.34 Encouraging complainants to deal directly with the ATO enables them to explore the full range of options with respect to their tax debts. As well as exploring different payment arrangements, it is also possible for taxpayers to consider other options such as applying for release due to serious hardship and for interest remission. The usefulness of this approach is confirmed by advice from the ATO that during the 2004–05 financial year three complaints to ATO Complaints were made that garnishee action would cause hardship and in each case garnishee action was withdrawn.

3.35 In none of the cases investigated by this office in the last three years did we identify the ATO as having unreasonably initiated or continued with garnishee action such as to create undue hardship for the taxpayer.

Garnishee action affecting ability to appeal

3.36 One of the key checks and balances within the tax system is that taxpayers have the right to pursue their rights of objection and appeal if they dispute an assessment. Many of the complaints we receive are connected with, or set against, the background of such disputes.

3.37 Current ATO policy recognises that care needs to be taken to ensure that garnishee action does not negatively impact on a taxpayer's appeal rights. Many of the cases we see are those where complainants raise concerns that garnishee action has already been taken.

3.38 In our 2003–04 Taxation Ombudsman Activities Report, we reported on the following complaint in which we asked whether the ATO had considered the complainants' circumstances prior to issuing the garnishee notice.

Litigation and garnishee action

In September 2003, the ATO garnisheed over \$75,000 from the sale of a business partly owned by Mr and Mrs D, an elderly retired couple. The purpose of the garnishee was to recover an unpaid tax debt arising from a Director Penalty Notice (DPN) against Mrs D. Fourteen months earlier, the Supreme Court of Queensland had ordered that an application for summary judgment on the debt be dismissed and the matter be adjourned to the District Court to determine if Mrs D had a defence to the DPN. There had been no contact between the ATO, the courts and Mrs D between the handing down of the decision in July 2002 and the issue of the garnishee notices.

Although our investigation confirmed that, notwithstanding the decision in the Supreme Court of Queensland, the ATO had the legal authority to garnishee and we raised a number of concerns and issues with the ATO. We questioned why there had been no contact with either Mrs D or the District Court following the Supreme Court decision, and suggested this might amount to a breach of the Commonwealth Model Litigant Policy. We did not understand why having initiated the action in the first place, the ATO seemingly no longer wished to pursue the matter in the courts. We also questioned whether the issue of the garnishee notices had taken into account Mrs D's circumstances (including whether it would affect her ability to pursue appeal rights), and suggested the ATO consider its actions against the ATO Receivables Policy.

After reconsideration, the ATO agreed that it had not adhered to the Taxpayers' Charter and the Commonwealth Model Litigant Policy in its recovery action against Mrs D. The ATO agreed to repay the amount garnisheed (plus interest) and to refrain from any further recovery action against Mrs D unless a change in her circumstances makes future recovery appropriate.

3.39 It is not clear to us whether the ATO routinely takes account of whether an appeal is planned or in progress at the time garnishee action is being considered. Although these cases are rare, the impact on the individual taxpayer is such as to warrant close attention and careful consideration by the ATO before taking garnishee action. The ATO might therefore consider examining its current procedures and information systems to determine if these are adequate in detecting whether garnishee action would adversely affect appeal rights, prior to that action being taken.

Providing reasons

3.40 Since its inception, the Ombudsman's office has consistently encouraged agencies to provide reasons for decisions as a matter of fairness, transparency and accountability. In our view, it is appropriate that administrative decisions should be explained, particularly where those decisions impact on individuals.

3.41 Garnishee action is a significant use of power. Even where it is used appropriately, it will often be unwelcome to the taxpayer affected, who may well wish to challenge the action. Taxpayers who are the subject of garnishee action are entitled to be provided with the reasons for such action. This would usually mean receiving reasonable warning that such action could be taken, and if garnishee action is taken, being provided with reasons as appropriate.

3.42 According to ATO procedures, garnishee action should be preceded by warnings that garnishee or other recovery action could be taken, usually because of failure to engage with the ATO to address debt, and all previous attempts at recovery or negotiation have failed. We appreciate that there may be circumstances where advance warning of garnishee action may not be appropriate, such as where a person is taking deliberate action to dissipate or hide assets. In any case, by the time a garnishee notice is issued, our understanding is that the person affected would generally be aware of the reasons why the action is being taken.

3.43 Under the ATO Taxpayers' Charter, the ATO undertakes to explain its decisions. On its website under 'Explaining our decisions', the ATO states:

We try to provide a clear explanation of decisions we make about your tax affairs except in very limited circumstances ... Under the *Administrative Decisions (Judicial Review) Act 1977* you have the right to obtain, for free, a written statement detailing the reasons for a range of decisions, other than those relating to assessments we make about your tax affairs.

3.44 Paragraph 2.7.2 of the ATO Receivables Policy states that the decision to issue a garnishee notice is reviewable under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act). As such, there would be an obligation on the ATO under s 13 of the ADJR Act to provide a statement of reasons to an aggrieved person. Even so, we consider that providing reasons is good administrative practice, and is something an agency should aspire to without the person affected having to rely on statutory rights.

3.45 Again, we understand that the law provides that the ATO must notify the taxpayer once garnishee action has been initiated. From what we have seen, the letter of notification sets out the legal basis for the garnishee action and provides a general explanation of why the action has been taken. In our view, the ATO should be able to expand upon those reasons if requested to do so by the taxpayer.

3.46 Issues around the provision of reasons for garnishee action would appear to be coupled with the more general issues about taxpayer awareness and understanding of garnishee action. That some taxpayers do not understand why garnishee action has been initiated against them suggests that there may be further work to be done by the ATO in better explaining why such action is being taken.

3.47 Following this project, and in light of the Commissioner's recent announcement concerning ATO correspondence,¹¹ we would encourage the ATO to include garnishee letters and notices in its review of communication with taxpayers. We would also encourage any ATO review of current garnishee practices and procedures to include consideration of whether adequate reasons are provided both at the warning stage and at the time garnishee notices are issued.

3.48 We will continue to monitor future garnishee complaints and will pass on feedback to the ATO where complaints indicate there is some deficiency regarding the provision of reasons.

¹¹ See Elizabeth Kazi, 'Tax boss read the write act to letter drafters', *The Australian Financial Review*, 20 November 2006, p. 3.

Privacy

3.49 Some garnishee complaints have raised concerns about the privacy implications of garnishee action. For example, a garnishee notice to an employer will alert the employer to the employee's unpaid tax debt, which may cause the employee to be concerned that such action could impact on their employment prospects. Similarly, a garnishee notice to a debtor's bank may cause a taxpayer to be concerned that this may prejudice his/her prospects of obtaining further finance from that bank. In any such case, the taxpayer might also be concerned that his or her reputation could be affected by garnishee action being taken.

3.50 Garnishee action by its very nature involves disclosure to third parties that the ATO is taking recovery action against the debtor. Further, as mentioned earlier, debtors are usually warned that escalating recovery action such as garnishee action may be taken. Therefore, taxpayers facing garnishee action would generally have had the opportunity to pay any tax debt or to enter into a payment arrangement and so avoid the prospect of third party notification.

3.51 Although garnishee action is usually accompanied by some disclosure to third parties, it is clear that the ATO has taken steps to protect privacy where possible. For example, paragraph 12.5.3 of the ATO Receivables Policy provides that:

It is essential when dealing with third parties that the secrecy provisions of the *ITAA 1936*¹² and the *Privacy Act 1988* are strictly observed at all times. Where notices are being served on a debtor's employer to attach a percentage of salary or wages, care should be exercised to preserve the debtor's privacy. Where the debtor's employer is a large organisation, it is likely that the notice may pass through the hands of a number of employees before reaching the designated person responsible for complying with the notice. In order to restrict exposure of the notice to a minimum number of personnel at an employer's office, the office of the Privacy Commissioner has endorsed a recommendation that an envelope marked 'Private and Confidential' and addressed 'To be opened by the Paymaster only' be dispatched to the recipient employer.

3.52 This clearly indicates to us that the ATO is aware of the privacy implications of garnishee action and has taken steps to help protect privacy where it can, including working with the Privacy Commissioner.

Record keeping

3.53 One of the most common themes identified in Ombudsman complaint investigation involves issues around record keeping. While rarely the subject of the complaint, any problems with record keeping are generally quickly evident in any investigation, and in the worst cases can undermine the effectiveness of the investigation. While none of the garnishee investigations conducted by this office fit into the latter category, we have noted some issues around ATO record keeping in this area, which are discussed in further detail below.

Recording reasons for decision

3.54 We discussed above the importance of the ATO being able to provide taxpayers with specific and detailed reasons for taking garnishee action when requested. Effective processes and systems for contemporaneously and comprehensively recording reasons for taking garnishee action is an integral element to the provision of such reasons.

¹² *Income Tax Assessment Act 1936*.

3.55 As we have already noted, garnishee action is a significant and invasive use of power by the ATO, and it is important that it is taken in accordance with the law and policy, and with due regard to the circumstances of the individual. One way of providing assurance that the power is being used appropriately is for ATO decisions relating to garnishee action to be properly recorded, including listing the reasons for the decision at the time it was made.

3.56 Accurate and thorough records of decisions are also essential for the effectiveness of any internal or external investigations, particularly in response to complaints. Complete records provide protection for taxpayers that any garnishee action has been taken in accordance with lawful practices and procedures, as well as providing protection for ATO decision makers against unfounded allegations or complaints.

3.57 The learning module for ATO debt collection staff regarding garnishee action states that they should record the reasons why a garnishee notice was issued, although it does not provide further elaboration. In our experience, ATO records reflect elements of the decision-making process, but are not always as clear and comprehensive as we would like. In particular, ATO records we have seen have not always clearly connected the ATO policy reasons for taking garnishee action with the particular individual circumstances of the taxpayer concerned. This is a problem we have identified in other areas of ATO decision-making.¹³

3.58 In light of the comments above, the ATO might consider whether more guidance is required to ensure that factors taken into account are consistent with the ATO Receivables Policy and that all factors considered are recorded on the system. The ATO might also wish to consider whether there is value in making the recording of decisions for garnishee action subject to some form of quality assurance.

Statistical records

3.59 One element of our project was to look at the available statistical information around the ATO's use of garnishee action. In response to our inquiries, the ATO advised that it does not compile statistics on garnishee notices issued or on taxpayers subject to garnishee action, but rather it records the number of actions against each debt case on the ATO's Receivables Management System (RMS).¹⁴ For example, where a garnishee notice is issued which covers both a taxpayer's income tax and activity statement debt, the action would be recorded against both the taxpayer's income tax and activity statement cases on RMS. Any statistical

¹³ See for example, 'The ATO's administration of the General Interest Charge: a scoping study', Damien Browne, Special Tax Adviser to the Commonwealth Ombudsman, to Mr Neil Olesen, First Assistant Commissioner, Policy Management Division, 8 November 2006.

¹⁴ The ATO advised that depending on a taxpayer's reporting responsibilities, the ATO records their resulting tax obligations under different account types: an Income Tax Account which records annually assessed income tax obligations together with associated penalties and charges; and an Integrated Client Account which records obligations notified via an Activity Statement, including any Pay As You Go instalment amounts that the Commissioner may be required to notify a taxpayer of, and any associated penalties and charges. Where a taxpayer's account shows a debit balance past the legislative due date, the ATO uses a case management system call the Receivables Management System (RMS) to record and monitor actions taken to collect the outstanding debt. As this system creates a case for each outstanding account, a taxpayer may have more than one case, for example where the taxpayer has both an income tax debt and an activity statement debt.

analysis would reflect two garnishee actions, even though only one notice has actually been issued.

3.60 The ATO also advised that it does not record the amount actually sought by way of garnishee action. Instead, it records the balance owing on the RMS on the date the garnishee action was taken, rather than the value of actual garnishee notices which have been issued. For example, if a taxpayer's case reflected a debt balance of \$20,000 on the date the garnishee action was recorded, but the garnishee notice claimed an amount of \$6,000, any count would reflect one garnishee action to the value of \$20,000.

3.61 Further, the ATO advised that payments received are not allocated against specific actions that have been taken and recorded in the RMS. Consequently the ATO informed us that it could not determine the amounts recovered as a result of garnishee notices that have been issued.

3.62 It is worth noting that the primary reason set out by the ATO for using garnishee action to recover tax debts is its effectiveness.¹⁵ While we can agree with this at an anecdotal or instinctive level, it would seem to us useful if the ATO could confirm this quantifiably and statistically. This type of information is of particular interest to oversight bodies, such as this office, the Australian National Audit Office, and the office of the Inspector-General of Taxation, all of which are interested in assessing the health and effectiveness of elements of the tax system.

3.63 We appreciate that a large part of the inability of the ATO to provide the level of detailed statistical analysis that we were seeking is due to the continuation of older legacy accounting systems within the ATO. We also understand that the ATO's Change Program—which is aimed at bringing in a completely new approach to ATO systems, including ATO accounting systems—should make the collection and detailed analysis of ATO data more practicable in future.

Complaint records

3.64 As this project was intended to focus on the concerns of taxpayers affected by garnishee action, we were also interested to assess our own complaints profile against that of the ATO.

3.65 The ATO advised that prior to September 2004 only general complaint information was recorded, such as the general cause of the complaint, the relevant revenue line, and the Taxpayer Charter standard that may have been contravened. The recording mechanism did not provide for the specific recording of complaints regarding garnishee action or the outcomes of those complaints.

3.66 In September 2004, a new process for the recording and actioning of complaints for the Debt business line was introduced with the creation of a specific Ministerials and Complaints section. This enabled more refined classifications of complaints. The number of garnishee complaints received by the ATO for the period September 2004 to June 2005 was 62 complaints (excluding any complaint referrals and investigations by our office). This compares to around 17 garnishee complaints received by the Ombudsman for the same period. As indicated earlier, this level of complaint suggests to us a certain confidence in the ATO's administration of its garnishee powers.

¹⁵ See paragraph 12.4.2 of the ATO Receivables Policy.

3.67 The ATO informed us that the new complaints process in its Debt area does not provide a classification as to how the complaint was resolved, and therefore specific complaint outcomes could not be provided. However, as we understood it, the ATO moved onto a complaints management system that would enable the recording of outcomes against specific complaints. We would suggest, therefore, that the ATO Debt complaints area work with ATO Complaints to better capture more detailed complaint data.

PART 4—CONCLUDING COMMENTS

4.1 Our review of complaints about ATO garnishee action has disclosed no major concerns or significant systemic problems within its administration. However, the ATO might consider our suggestions below and review its garnishee administration to determine whether it has been operating effectively and whether further improvements can be identified.

Further consideration

4.2 Some matters referred to in this report, which might be considered as part of such a review, include the following:

- development of a Practice Statement for garnishee action
- adequacy of guidance and procedures to ensure garnishee action does not affect a taxpayer's ability to pursue an appeal
- adequacy of reasons provided to debtors at the warning and garnishee notice stages
- documentation of reasons for taking garnishee action
- whether data regarding amounts sought and collected by garnishee action would be useful to the ATO
- reviewing the recording of garnishee action complaints, including the value of more detailed outcome data.

4.3 The Ombudsman's office welcomed the ATO's response to these suggestions. See Attachment A.

The future

4.4 Given the ATO's ongoing focus on debt issues, we will also continue to monitor trends and issues relating to garnishee action through the individual complaints we receive. We may revisit this project at some future stage to determine whether there have been any significant changes.

ATTACHMENT A

Response from ATO to report

30 March 2007

Dear Dr Thom

We welcome your report regarding the ATO's administration of garnishee action. It is pleasing to note that your review of garnishee complaints and the ATO's administration of garnishee action did not disclose any major concerns with, or significant systemic problems within, the ATO's administration of garnishee action.

We also note your comments that the number of complaints received between 1 July 2003 and 30 June 2006, 60 in total, represented a small proportion of total garnishee actions and a relatively steady but low number of tax complaints to your office.

While we agree that this is a relatively small proportion of complaints, acting on intelligence gathered from taxpayer complaints and reports from external scrutineers like yourself, is a good way of helping the ATO to lift the bar in excellence of tax administration.

Your report on garnishee action was one of a number of external research projects conducted by your office in 2006 that looked at ATO debt collection matters. Given the breadth of coverage of the projects, it is pleasing to note that you didn't identify any major issues across the board.

The ATO is committed to working with taxpayers to either clear their debt or help them into a sustainable payment arrangement that meets their individual circumstances and facts of the case.

There are nonetheless instances where a taxpayer's circumstances may warrant the use of garnishee action as an appropriate collection strategy. Generally, the ATO would have taken a number of steps to recover the debt before taking this action and the taxpayer would be aware, through either phone contact or by letter, of our intention to issue a garnishee.

We acknowledge your comments about the micro business segment, particularly the level of garnishee action being consistent with their disproportionate representation amongst the total debtor population.

Micro business debt remains an area of concern to the ATO. We continue to undertake strategies aimed at making early contact with these businesses in order to work with them while their debt is at a manageable level. This also supports the ongoing viability of the taxpayer's business.

We also continue trial new approaches, including dialler technology, to extend our contact with taxpayers in this segment that have not accepted previous offers including the Small Business Debt Assistance Initiative.

While the ATO doesn't want to send a viable business into liquidation, we have an obligation to ensure that we are not providing an unfair commercial advantage to businesses that continually accrue tax debt.

In making your report, you referred to a number of matters which you considered might form the basis of an internal review of our garnishee administration.

These included the following:

- development of a Practice Statement for garnishee action
- adequacy of guidance and procedures to ensure garnishee does not affect a taxpayer's ability to pursue an appeal
- adequacy of reasons provided to debtors at the warning and garnishee notice stages
- documentation of reasons for taking garnishee action
- whether data regarding amounts sought and collected by garnishee would be useful to us, and
- reviewing the recording of garnishee complaints, including the value of more detailed outcome data.

We understand that these suggestions broadly cover the following themes and address these separately below:

- taxpayer awareness and understanding
- impact on the individual
- reasons for the decision
- privacy, and
- record keeping.

The ATO welcomes your suggestions and will consider these as part of our ongoing commitment to listen and respond to community feedback. I have arranged for the Best Practice capability in the Debt business line to undertake a review of our administration of garnishee action including communication activities. This is with a view to developing a framework of delivery based on your suggested themes.

The Best Practice capability underpins the broad debt collection strategy of the ATO. Its role is to ensure consistency, fairness and transparency in national collections processes. It also contributes to continuous improvement in practices by both reviewing and renewing practices, concepts and operating models.

I have asked for a report detailing the findings of this review to be provided to me by 30 June 2007 and expect the final report to be available by mid July 2007.

Notwithstanding the undertaking of this review, we make the following comments in regard to a number of matters referred to in your report.

Taxpayer awareness and understanding

We acknowledge your observations that some taxpayers do not have a good understanding of the kinds of ATO compliance action to which they may be subject if they either ignore their debts, chose not to engage with us or continually default on their promise to pay.

While you recognised the number of measures the ATO takes to ensure that taxpayers are aware of the consequences, you suggested that it might be useful for the ATO to review its communication strategies.

To this end, the ATO will explore how to better communicate to taxpayers, tax agents and advisers the consequences of ignoring tax debts, including the possibility of garnishee action.

We will explore co design opportunities, which may include briefings at external forums, for example, the National Tax Liaison Group / Lodgement Working Party, articles in tax agent newsletters, presentations at tax time seminars, addition of information to the ATO's website and possibly a speech from the Commissioner / Deputy Commissioner.

The ATO is also currently in the process of conducting a review of its *ATO Receivables Policy* to assess, amongst other things, readability, format and style. In doing so we have sought feedback from a number of stakeholders including staff, professional associations, tax agents, scrutineers including yourself and the Inspector-General of Taxation, and CCH Australia.

Impact on the individual

We were pleased to note your comments that in none of the cases investigated by your office in the last three years did you identify the ATO as having unreasonably initiated or continued with garnishee action such as to create undue hardship for a taxpayer.

Firmer action taken by the ATO is based on the key principles of fairness, equity, consistency, and differentiated treatment based on individual circumstances. These principles are inherent throughout the *ATO Receivables Policy*, the Compliance Program, the Compliance Model, our key guiding principles, learning modules, guidelines and scripting used by staff when speaking with taxpayers.

Despite the presence of these products and ongoing training, the ATO recognises there may be occasions where, due to human error, we make a mistake.

As with the case study example in your report 'Litigation and garnishee', we are always prepared to listen to the taxpayer and the community, admit to our mistakes, take the necessary action to remedy the issue and put into place mitigating strategies to stop it from happening again.

The ATO is confident that this example is not a systemic issue and that the robust procedures and guidelines now in place significantly limit the potential of this instance occurring in the future. Nevertheless, this matter will form part of the review to be conducted by the Best Practice capability.

Providing reasons

The ATO aims to provide a clear explanation of the reasons for a decision we make about a taxpayer's affairs. We agree that providing reasons for a decision to taxpayers is good administrative practice. It also ensures we remain open and accountable and helps to build a fair, efficient and sustainable tax system.

In line with the Commissioner's announcement in November 2006 about ATO letters, the ATO has commenced to review all outbound correspondence, including garnishee notices and letters.

More broadly, your suggestion that the ATO consider whether adequate reasons are provided both at the warning stage and at the time garnishee notices are issued will form part of the review to be undertaken by the Best Practice capability.

Privacy

We note your comment that ‘the ATO is aware of privacy implications of garnishee action and has taken steps to help protect privacy where it can’.

The ATO is entrusted to maintain the strictest standards of privacy. We treat taxpayer and other personal information with confidentiality and sensitivity according to the law.

Protection of taxpayer privacy is a fundamental tenet of fair tax administration and helps to build trust and community confidence in the management of the tax system.

Record keeping

While you indicated that none of the garnishee investigations conducted by your office found any problems with ATO record keeping, you did note some issues around our record keeping in this area.

These included considering whether more guidance is required to ensure relevant factors are taken into account and that these are recorded on ATO systems, enhanced collection of quantifiable statistics on garnishee action, and better capturing of complaints data.

We agree that it would certainly be useful to have the systems capability to confirm the effectiveness of garnishee action, both quantifiably and statistically, and also better capture more detailed complaints data.

While current system constraints do not allow us to do this, as noted in your report, we expect to have improved system functionality with full implementation of the Change Program in 2009. In the meantime, I have asked for the Complaints section in the Debt business line to work closely with ATO Complaints to identify opportunities for enhanced reporting, particularly around complaints regarding firmer action including garnishees.

The Debt business line is committed to supporting taxpayers who want to do the right thing. Notwithstanding, there are instances where we need to be firm but fair, including the use of garnishee action, to ensure a level playing field for both businesses and individual taxpayers alike.

The ATO encourages taxpayers (or their representatives) to contact us as early as possible if they are having difficulty in meeting their payment obligations or promises to pay. This helps us to better understand the taxpayer’s individual circumstances and tailor our collection treatments accordingly.

Thank you for providing the ATO with the opportunity to respond to your report.

Yours sincerely

Margaret Crawford
Chief Operating Officer

ATTACHMENT B

Garnishee actions/case balances for 2003–04 and 2004–05

The following statistics were provided to the Ombudsman as part of the ATO's response to our enquiries regarding garnishee action.

Table 1—Number of garnishee actions—financial year ended 30 June 2004

| Market segment | Micro business | Not for profit | Personal taxes | Small to medium enterprises | Large | Unknown | All market segments |
|-------------------------------------|----------------|----------------|----------------|-----------------------------|-------|---------|---------------------|
| Debt Level 1 (<\$2,500) | 182 | 0 | 6 | 9 | 0 | 112 | 309 |
| Debt Level 2 (\$2,500–\$7,499.99) | 305 | 0 | 5 | 9 | 0 | 107 | 426 |
| Debt Level 3 (\$7,500–\$24,999.99) | 709 | 0 | 5 | 25 | 0 | 89 | 828 |
| Debt level 4 (\$25,000–\$49,999.99) | 931 | 4 | 7 | 66 | 0 | 116 | 1,124 |
| Debt Level 5 (\$50,000–\$99,999.99) | 852 | 2 | 7 | 118 | 0 | 51 | 1,030 |
| Debt Level 6 (>\$100,000) | 547 | 8 | 6 | 246 | 2 | 48 | 857 |
| All Debt Levels | 3,526 | 14 | 36 | 473 | 2 | 523 | 4,574 |

Statistics are compiled from actions recorded on each RMS case. The ATO does not compile statistics on actions taken against each taxpayer. The ATO is unable to provide statistics on the number of actual garnishee notices which have been issued, only the number of actions recorded against cases.

Table 2—RMS case balance when garnishee action was taken—financial year ended 30 June 2004

| Market segment | Micro business | Not for profit | personal taxes | Small to medium enterprises | Large | Unknown | All market segments |
|-------------------------------------|----------------|----------------|----------------|-----------------------------|-----------|--------------|---------------------|
| Debt Level 1 (<\$2,500) | \$197,147 | 0 | \$5,683 | \$4,378 | 0 | \$105,793 | \$31,3001 |
| Debt Level 2 (\$2,500–\$7,499.99) | \$1,478,525 | 0 | \$27,071 | \$32,079 | 0 | \$486,005 | \$2,023,680 |
| Debt Level 3 (\$7,500–\$24,999.99) | \$10,853,245 | 0 | \$66,960 | \$407,036 | 0 | \$1,282,296 | \$12,609,538 |
| Debt level 4 (\$25,000–\$49,999.99) | \$34,926,700 | \$165,804 | \$293,584 | \$2,353,409 | 0 | \$4,308,027 | \$42,047,525 |
| Debt Level 5 (\$50,000–\$99,999.99) | \$58,428,959 | \$174,335 | \$529,858 | \$8,101,870 | 0 | \$3,450,706 | \$70,685,728 |
| Debt Level 6 (>\$100,000) | \$192,734,560 | \$3,910,250 | \$932,740 | \$123,688,407 | \$534,643 | \$20,095,497 | \$341,896,098 |
| All Debt Levels | \$298,619,137 | \$4,250,390 | \$1,855,897 | \$134,584,178 | \$534,643 | \$29,728,325 | \$469,575,571 |

Statistics reflect the balance of the RMS case on the date the action was taken. The ATO is unable to provide statistics on the value of actual garnishee notices which have been issued, only the value of the case against which the garnishee action was recorded.

Table 3—Number of garnishee actions—financial year ended 30 June 2005

| Market segment | Micro business | Not for profit | Personal taxes | Small to medium enterprises | Unknown | All market segments |
|-------------------------------------|----------------|----------------|----------------|-----------------------------|--------------|---------------------|
| Debt Level 1 (<\$2,500) | 1,619 | 0 | 73 | 15 | 719 | 2,426 |
| Debt Level 2 (\$2,500–\$7,499.99) | 1,813 | 0 | 79 | 18 | 730 | 2,640 |
| Debt Level 3 (\$7,500–\$24,999.99) | 2,005 | 1 | 70 | 51 | 492 | 2,619 |
| Debt level 4 (\$25,000–\$49,999.99) | 1,154 | 1 | 32 | 63 | 74 | 1,324 |
| Debt Level 5 (\$50,000–\$99,999.99) | 951 | 1 | 18 | 124 | 42 | 1,136 |
| Debt Level 6 (>\$100,000) | 494 | 7 | 19 | 259 | 52 | 831 |
| All Debt Levels | 8,036 | 10 | 291 | 530 | 2,109 | 10,976 |

Statistics are compiled from actions recorded on each RMS case. The ATO does not compile statistics on actions taken against each taxpayer. The ATO is unable to provide statistics on the number of actual garnishee notices which have been issued, only the number of actions recorded against cases.

Table 4—RMS case balance when garnishee action was taken—financial year ended 30 June 2005

| Market segment | Micro business | Not for profit | Personal taxes | Small to medium enterprises | Unknown | All market segments |
|-------------------------------------|----------------------|--------------------|--------------------|-----------------------------|---------------------|----------------------|
| Debt Level 1 (<\$2,500) | \$2,197,230 | 0 | \$104,759 | \$20,796 | \$1,096,669 | \$3,419,454 |
| Debt Level 2 (\$2,500–\$7,499.99) | \$8,129,865 | 0 | \$315,098 | \$83,467 | \$3,021,726 | \$11,550,156 |
| Debt Level 3 (\$7,500–\$24,999.99) | \$30,275,050 | \$24,890 | \$1,124,177 | \$836,790 | \$7,719,353 | \$39,980,260 |
| Debt level 4 (\$25,000–\$49,999.99) | \$42,549,672 | \$48,505 | \$1,082,222 | \$2,411,363 | \$2,546,778 | \$48,638,540 |
| Debt Level 5 (\$50,000–\$99,999.99) | \$65,552,977 | \$86,397 | \$1,341,644 | \$8,841,539 | \$3,120,324 | \$78,942,881 |
| Debt Level 6 (>\$100,000) | \$189,011,108 | \$4,243,491 | \$3,289,510 | \$149,249,723 | \$17,161,083 | \$362,954,915 |
| All Debt Levels | \$337,715,902 | \$4,403,284 | \$7,257,409 | \$161,443,679 | \$34,665,933 | \$545,486,206 |

Statistics reflect the balance of the RMS case on the date the action was taken. The ATO is unable to provide statistics on the value of actual garnishee notices which have been issued, only the value of the case against which the garnishee action was recorded.