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Joint submission: ATO engagement with First Nations taxpayers

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Super Consumers Australia is the people's advocate in the superannuation sector. Super Consumers Australia advances and protects the interests of people on low and middle incomes in Australia's superannuation system. It was founded in 2013 and received funding for the first time in 2018.

Mob Strong Debt Help is a free nationwide legal advice and financial counselling service for Aboriginal and Torres Strait Islander people. The service specialises in consumer finance, banking, debt recovery, insurance and superannuation.

Introduction

Super Consumers Australia and Mob Strong Debt Help welcome the opportunity to contribute to the Tax Ombudsman's review of the ATO's engagement with First Nations taxpayers. Our joint submission focuses on the ATO's role and engagement on superannuation. It draws from our joint research on First Nations peoples' experiences of the superannuation system, and insights and case studies from financial counsellors and case workers supporting First Nations clients.

Super is mandatory but First Nations peoples are being shut out of this system and their own money. The ATO is a custodian of people's superannuation in Australia, holding $6.6 billion in lost or unclaimed super across 7.13 million accounts as at 30 June 2026 (Source: ATO). Helping people access their own super is a fundamentally different role from tax administration and requires a different engagement approach. Our joint research report, Building Futures Not Barriers: Superannuation that works (July 2025), found that:

- First Nations peoples were being denied access to super even in retirement or financial hardship.
- Customer service failures and culturally insensitive support across the superannuation system were driving many to abandon their rights.
- First Nations peoples faced enormous barriers to accessing death benefits, with benefits taking significantly longer to pay out compared with people who are not First Nations.

The research involved 99 First Nations consumers and 19 financial counsellors and caseworkers (half were First Nations identified) who support First Nations clients nationwide to navigate superannuation issues. Participants consistently identified engaging with the ATO as a major challenge, often more difficult than engaging with super funds.

Many of the ATO's policies and processes for superannuation also lack transparency and consistency. Financial counsellors working with First Nations clients reported that processes for identity verification, death benefits and deceased estates can often be ad hoc or inconsistent. There is often limited published information on the ATO's website outlining the varying approaches or support available for First Nations peoples facing these issues (Building Futures Not Barriers, 2025).

The ATO's custodian role in superannuation must be held to a higher standard than what is currently in place, with greater transparency and accountability on:

- defining the ATO's engagement approach to superannuation, as distinct from its tax-administration role.
- the ATO's customer service standards, which should be consistent with the standards being developed for super funds,
- how the ATO is addressing the service failures that deny First Nations peoples access to their super; and
- how the ATO identifies and responds to the needs of First Nations peoples in super and reports on this progress as part of its commitment to Closing the Gap.

Summary of Recommendations

Recommendation 1: Publicly define the ATO's role in superannuation as distinct from its tax administration role.

Recommendation 2: Recognise and address the systemic barriers for First Nations peoples that were historically designed into the tax and superannuation systems. Reforms to improve the ATO’s engagement with First Nations peoples should involve redesigning policies and processes to remove or reduce systemic barriers, not only incremental solutions.

Recommendation 3: Require the ATO to have the same customer service standards as the Government’s mandatory service standards for superannuation trustees. This should also be reflected in the Statement of Expectations for the ATO.

Recommendation 4: Require the ATO to proactively assist First Nations peoples to verify their identity, including those who cannot meet standard identity requirements, lack access to digital services and/or live in remote areas.

Recommendation 5: Take a risk-based approach to identity verification in superannuation, in line with AUSTRAC’s guidance, rather than a risk-adverse approach.

Recommendation 6: Improve identity verification pathways for First Nations peoples through Centrelink systems.

Recommendation 7: Publish a superannuation identity verification policy that is consistent with AUSTRAC’s guidance on accepting alternative forms of identification.

Recommendation 8: Publish ATO’s guidance on death benefits to outline when superannuation balances will be disclosed, to whom and based on what evidence.

Recommendation 9: Publish ATO’s administrative process of informing super funds about death benefit enquiries. This process should be communicated to all superannuation funds, as well as tracked and monitored by the ATO to ensure it is working.

Recommendation 10: Improve practices to identify First Nations taxpayers, in partnership with First Nations communities and in line with Indigenous Data Sovereignty and Priority Reform 3 under Closing the Gap.

Recommendation 11: Collect and analyse data to better understand the experiences and needs of First Nations peoples in superannuation. This information should be published, where appropriate, to support shared decision-making with First Nations communities.

Recommendation 12: Develop and publicly report on performance indicators for improving service and engagement with First Nations peoples. This should be part of annual reporting on the ATO’s Reconciliation Action Plan.

1) Recognise the ATO's distinct role as a custodian of superannuation

In its tax administration role, the ATO is the Government's principal revenue collection agency and engages with taxpayers to meet their tax obligations. In superannuation, the ATO is a custodian and helps people access their own money within a mandatory system. As at 30 June 2026, the ATO held $6.6 billion in lost or unclaimed super across 7.13 million accounts (Source: ATO). It is also responsible for facilitating early access to super on compassionate grounds. This is inherently a very different role to tax administration and requires a different engagement approach.

The ATO's engagement approach in super can have profound impacts on people's lives and those of their families and communities. However, the ATO rarely acknowledges the distinction between these two roles and often does not reference its significant role in superannuation (for example, this role is absent from the ATO's 2025 Vulnerability Framework). The rigid approach the ATO currently takes to identity verification is an example of not distinguishing between the two roles and it can shut First Nations peoples out of their own super. Other examples are provided throughout this submission.

The ATO must also recognise the systemic barriers historically embedded within the tax and superannuation systems that prevent First Nations peoples from engaging with these systems and accessing their super. This includes acknowledging that certain legislative, policy and practice settings were historically designed to discriminate against First Nations peoples or failed to account for their circumstances and needs (Section 13 Australian Consumer Law of the National Bench Book on Aboriginal and Torres Strait Islander Peoples and the Legal System, 2025). For example, both existing and historical barriers to tax file number (TFN) registration (such as employers submitting incorrect TFN forms for their First Nations employees) can prevent First Nations peoples from accessing their super or tracking lost and unclaimed super.

Solutions that do not explicitly recognise and address these barriers will only deliver incremental changes and not tackle the root causes. Addressing systemic barriers also requires an agency-wide commitment, not just training and support for staff who engage directly with First Nations peoples.

Recommendations

Recommendation 1: Publicly define the ATO's role in superannuation as distinct from its tax administration role.

Recommendation 2: Recognise and address the systemic barriers for First Nations peoples that were historically designed into the tax and superannuation systems. Reforms to improve the ATO's engagement with First Nations peoples should involve redesigning policies and processes to remove or reduce systemic barriers, not only incremental solutions.

2) Address customer service failures that deny First Nations peoples access to their super

There is currently no customer service standard for the superannuation industry. Mandatory service standards for superannuation trustees are being developed by the Government, however that will only cover one part of the system. The other part of the system administered by the ATO will remain with limited transparency and accountability for the quality, safety and fair service for people in Australia.

This gap must be closed. Financial counsellors and First Nations communities routinely report poor and culturally insensitive customer service from the ATO - often worse than the super funds. The feedback on how the ATO engages with First Nations peoples to access their super at retirement, track lost or unclaimed super or manage superannuation death benefits of deceased loved ones reflects a lack of service mentality to resolve issues in a culturally safe and trauma-informed manner. It also reflects a limited consideration of people's circumstances, needs or vulnerabilities, rather than offering flexibility within the boundaries of tax and super legislation (Building Futures Not Barriers: Superannuation that works, 2025).

The ATO should be held to the same customer service standards as the super funds will be. This should include:

- Culturally safe and trauma-informed support for First Nations peoples.
- How to deliver better outcomes for First Nations peoples in super while maintaining safeguards against identity fraud, financial abuse and other harms.
- How the ATO can exercise discretion to respond to individual circumstances.
- Appropriate resourcing for the ATO and expectations for meeting service standards across the organisation (not just frontline staff).
- Staff to be trained and supported to identify and resolve problems for First Nations peoples. This includes communicating to First Nations callers when the dedicated Indigenous Helpline is full and the caller is speaking with a non-Indigenous ATO customer service staff member.
- Ensure accessible alternatives are available for people who cannot use myGov or other digital services.

Customer service expectations should also be reflected in the Statement of Expectations for the ATO. Relevant standards should be developed, tested and implemented in partnership with First Nations communities, financial counsellors and other consumer or community organisations.

Stronger accountability is necessary. When people experience poor service from a super fund, they can complain to the Australian Financial Complaints Authority (AFCA) and in some circumstances, seek compensation. While people can complain about the ATO to the Tax Ombudsman, the purpose, scope and powers of the two agencies are substantially different. The Tax Ombudsman also cannot provide a pathway to compensation for harms or losses incurred.

Recommendations

Recommendation 3: Require the ATO to have the same customer service standards as the Government's mandatory service standards for superannuation trustees. This should also be reflected in the Statement of Expectations for the ATO.

2.1 Identity verification

The ATO's approach to identity verification for superannuation is a key barrier for First Nations peoples. The ATO requires people to first verify their identity before they can engage with someone and respond to enquiries. This means disclosing a person's name, address and date of birth which must match the ATO's records. For more complex enquiries such as accessing super or tracking lost or unclaimed super, the ATO generally requires people to have standard identification (ID) documents such as a current driver's licence or passport. However, many First Nations peoples do not have standard forms of ID and are unable to meet these requirements. They also face barriers created by out-of-date or incorrect personal information within ATO records. For example: many older First Nations peoples do not have birth certificates and were assigned an arbitrary birthday on official documents or their employment records; or people are referred to by more than one name or spelling, which may be different across documents or records (A Gordon & N Boyle, 'Superannuation: A more collaborative approach needed to overcome Indigenous disadvantage' Indigenous Law Bulletin, 2015, 8:10−15).

The ATO is not subject to the Anti-Money Laundering and Counter-Terrorism Financing Act, administered by AUSTRAC. However, financial counsellors reported that the ATO rarely accepts alternative forms of identification (p.20, Building Futures Not Barriers, 2025). This highly risk-averse approach does not reflect best practice as AUSTRAC has published guidance for financial institutions on accepting alternate forms of ID. The increasing digitisation of the ATO and other government services will exacerbate this issue for First Nations peoples.

The risks associated with a person claiming their own ATO-held super is also different from the risk of tax fraud or evasion. The ATO's approach to identity verification for super should reflect that distinction and take a risk-based approach, in line with AUSTRAC's guidance. For example, many First Nations peoples, particularly those living in remote areas, already engage with Centrelink. The ATO should work with the Government and Services Australia to formalise or improve ways for people to verify their identity with the ATO through existing systems.

Financial counsellors reported that some clients had to pay for new identity documents or legally change their name to access their super. Other clients simply gave up. The ATO currently accepts alternative forms of identification for TFN applications from First Nations peoples. However, this approach does not appear to extend to superannuation and there is limited public information about the alternatives available. The lack of clarity, consistency and transparency must be addressed. The

ATO should publish its policies and processes to ensure communities understand what to expect under different circumstances and can exercise their rights.

Recommendations

Recommendation 4: Require the ATO to proactively assist First Nations peoples to verify their identity, including those who cannot meet standard identity requirements, lack access to digital services and/or live in remote areas.

Recommendation 5: Take a risk-based approach to identity verification in superannuation, in line with AUSTRAC's guidance, rather than a risk-adverse approach.

Recommendation 6: Improve identity verification pathways for First Nations peoples through Centrelink systems.

Recommendation 7: Publish a superannuation identity verification policy that is consistent with AUSTRAC's guidance on accepting alternative forms of identification.

2.2 Death benefits

The ATO's policies for superannuation death benefits and deceased estates do not work for many First Nations communities. These barriers add to families' distress and trauma during grief and a period of cultural significance for First Nations communities.

Financial counsellors reported that many First Nations clients were unable to find out which fund their loved one's super was held in or whether they had any ATO-held lost or unclaimed super. The ATO currently has strict rules for releasing this information and "generally requires the next of kin to obtain a court-issued document (a grant of probate if the person had a will, or letters of administration if there was no will) that proves their authority to act on behalf of the deceased estate. Without this document, the ATO will not disclose which super fund the deceased person had money in, the account balance, or even whether they had super at all" (p47, Building Futures Not Barriers, 2025). This includes circumstances where the relevant state or territory laws do not require probate or letters of administration to distribute the estate, such as for some small estates.

There are also significant inconsistencies in the ATO's approach to death benefits, which is not clearly published on their website - the ATO currently directs next of kin to call them to find out. Some financial counsellors reported "that if they were lucky, an ATO officer might hint whether the account balance was large enough to be worth pursuing - but most of the time they would not disclose anything until the client had obtained letters of administration" (p. 47, Building Futures Not Barriers, 2025).

WHAT FINANCIAL COUNSELLORS AND CASE WORKERS TOLD US

*I was trying to help a client. We had to struggle with long waiting times to talk to the ATO and then prove identities. The ATO said there was $500 in the super account. But then when we applied to have the money released, the ATO called my client and said there was no money there.**

*One of my clients actually went and got letters of administration. It would have cost them about $1200 with the cost of the lawyers. After this, they found out the super account only had $60 in it! The ATO doesn't tell people how much money is there, and whether it's even worth pursuing. The ATO is now asking for the death certificate again. We still don't know where the super is.**

*Dealing with the ATO on death benefits is like getting blood out of a stone, but even worse.**

When I first apply to the ATO, we have to prove the client is next of kin—and then usually wait 60 days and after that lodge a formal complaint with the ATO to get any action. But they can't tell you how much money there is, or where it is. In one case it took us about 12 months and it turned out there was only about $500 in the account.

Note: asterisks (*) indicate quotes from financial counsellors and case workers who identified as First Nations

Source: p48, Building Futures Not Barriers: Superannuation that work, July 2025

Superannuation was designed to be separate from a person's estate, unless otherwise directed by the individual. The ATO's rigid requirement for letters of administration - even where there is a binding death benefit nomination in place - does not reflect this and is another example of failing to distinguish between its tax and superannuation roles. This can create significant challenges in the death benefits system, particularly for First Nations peoples. The ATO should work to reduce barriers in telling the next of kin where a deceased's super is held. Amending tax secrecy laws is one legislative option. However, the ATO can also take immediate steps within its control to improve customer service, transparency and consistency of the death benefits process for First Nations communities. This should include public guidance on death benefits that outlines when superannuation balances will be disclosed, to whom, and based on what evidence.

The ATO should also confirm and publish its process for informing super funds about death benefit enquiries, to provide transparency on this process and whether funds are contacting a deceased member's next of kin. The ATO should also track and monitor this process to ensure the process is working as intended. These changes would address the inconsistent and seemingly ad hoc experiences of First Nations peoples and the financial counsellors that support them.

Recommendations

Recommendation 8: Publish ATO's guidance on death benefits to outline when superannuation balances will be disclosed, to whom and based on what evidence.

Recommendation 9: Publish ATO's administrative process of informing super funds about death benefit enquiries. This process should be communicated to all superannuation funds, as well as tracked and monitored by the ATO to ensure it is working.

3) Improve transparency and accountability for meeting the needs of First Nations peoples

The ATO has also made limited efforts to understand and respond to the needs of First Nations peoples in superannuation. It is unclear what mechanisms exist within the ATO to systematically:

- identify First Nations taxpayers;
- analyse existing data to identify and address the barriers First Nations people experience in superannuation; and
- engage with First Nations communities and organisations to validate insights and co-develop solutions.

The ATO is a Commonwealth agency with obligations under the National Agreement on Closing the Gap. This commitment is reflected in the ATO's Reconciliation Action Plan 2024-2027 with explicit goals to "improve engagement with Aboriginal and Torres Strait Islander clients" and to "improve the management of available data and information to inform shared decision making, while meeting privacy requirements" (p.6).

We welcome these commitments. However, there should be greater transparency, reporting and accountability for achieving them. In addition to Action 11 of its Reconciliation Action Plan (which commits the ATO to tailoring tax, superannuation and registry services for Aboriginal and Torres Strait Islander peoples), the ATO should uplift its practices to identify First Nations taxpayers, analyse data to better understand the experiences and needs of First Nations peoples in superannuation and establish performance indicators for improving services and engagement with First Nations peoples.

The ATO should ask and support people to identify as First Nations in a culturally safe manner and train staff to support people in this process. This includes establishing systems to collect and manage the information appropriately, in partnership with First Nations communities and in line with Indigenous Data Sovereignty, which is the right of First Nations peoples and communities to control how data about them is collected, used and accessed. Indigenous Data Sovereignty includes collecting data with free, prior and informed consent, using the data to advance self-determination and development for First Nations communities and interpreting data with First Nations expertise to ensure it reflects First Nations lived experiences and perspectives (Lowitja Institute, 2021).

The ATO should also systematically collect and analyse data to better understand the experiences and needs of First Nations peoples in superannuation. This information should be published, where appropriate, for shared decision-making and to support the advocacy of First Nations communities and the organisations supporting them. The ATO previously published data on lost and unclaimed super by postcode. Super Consumers Australia and CHOICE used this data to demonstrate how lost and unclaimed super disproportionately affected First Nations communities. Since that report, the ATO decided to stop publishing this data, meaning there is no transparency over rates of lost and unclaimed super impacting First Nations peoples.

There should be clear performance indicators established to measure the ATO's customer service and engagement with First Nations peoples. The ATO should report on these indicators as part of annual reporting on its Reconciliation Action Plan. Public reporting would make it possible to assess whether the agency is translating its commitments into better experiences and outcomes for First Nations peoples.

Recommendations

Recommendation 10: Improve practices to identify First Nations taxpayers, in partnership with First Nations communities and in line with Indigenous Data Sovereignty and Priority Reform 3 under Closing the Gap.

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Recommendation 12: Develop and publicly report on performance indicators for improving service and engagement with First Nations peoples. This should be part of annual reporting on the ATO's Reconciliation Action Plan.