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AUTOMATED TAX DECISIONS: REVISITING PART IVC, THE ADJR ACT AND TAXPAYER RIGHTS

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Artificial intelligence is expected to play a substantive role in future Australian tax administration by automating aspects of assessments and administrative decision-making. Yet the legal frameworks governing review and accountability remain anchored in assumptions of human deliberation. This article examines the implications of automated tax decisions for taxpayer rights through an analysis of Part IVC of the *Taxation Administration Act 1953* (Cth) and the *Administrative Decisions (Judicial Review) Act 1977* (Cth). It argues that both regimes are poorly aligned with technology-driven administrative practices. The article suggests that targeted adjustments—particularly in relation to transparency obligations, evidentiary burdens and the legal status of automated decision letters—are necessary to preserve intelligibility, fairness and meaningful access to review. In turn, such reforms are essential to maintaining public trust in the tax system and supporting the effective operation of Australia’s self-assessment regime.

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I. INTRODUCTION

Automation and artificial intelligence are no longer peripheral tools in public administration. In revenue authorities, they are increasingly embedded in routine operational processes, including risk profiling, audit selection, data-matching, and the generation of assessments, penalties and compliance responses.¹ In Australia, the Australian Taxation Office (ATO) has repeatedly emphasised that technology is used to support, rather than replace, human decision-making.² Yet the legal framework governing the review of tax administration offers little explicit guidance on how automated or algorithmically assisted processes are to be accommodated, scrutinised or challenged.³

Since the late 1980s, the Australian tax system has rested on a self-assessment model that depends fundamentally on taxpayer trust in the legality and fairness of administrative action. That trust is underpinned by a set of well-established taxpayer rights—including the right to fair and reasonable treatment, access to information explaining how liabilities are determined, transparency as to the basis of administrative action, and the availability of meaningful avenues to challenge assessments and administrative decisions.⁴ It is expected that tax administration be intelligible, in a sense that

¹ OECD, *Tax Administration 3.0: The Digital Transformation of Tax Administration* (Report, 8 December 2020) 56; OECD, *Governing with Artificial Intelligence* (Report, 18 September 2025) 3. See also Duncan Bentley, 'Digital Tax Administration: Transforming the Workforce to Deliver' (2020) 18(2) *eJournal of Tax Research* 353; Helena Strauss, Tyson Gawcett and Danie Schutte, 'An Evaluation of the Digital Response of Tax Authorities to Optimise Tax Administration Within the Digitalised Economy' (2020) 18(2) *eJournal of Tax Research* 383; John Bevacqua, 'Tax Authority Immunity in a Digital Tax Administration World' (2020) 18(2) *eJournal of Tax Research* 402.

² 'Exercising human supervision' is listed in the fifth of the ATO's six data ethics principles, as set out on the website: Australian Taxation Office, 'How We Use Data and Analytics' (Web Page, 4 June 2025) <<https://www.ato.gov.au/about-ato/commitments-and-reporting/information-and-privacy/how-we-use-data-and-analytics>>.

³ The Australian National Audit Office has reported deficiencies in completed data ethics assessments across 74% of the ATO's AI models in production: Australian National Audit Office, *Governance of Artificial Intelligence at the Australian Taxation Office* (Web Page) (Auditor-General Report No 26 of 2024-25, 24 February 2025). A desktop review of 23 agencies, including the ATO, revealed that although all agencies were legislatively authorised to use automated decision-making, ten agencies failed to disclose such use under the *Freedom of Information Act 1982* (Cth), and none had published dedicated automated decision-making guidelines or policies: Office of the Australian Information Commissioner, 'Automated Decision-Making and Public Reporting under the Freedom of Information Act', *Australian Government* (21 January 2026) <<https://www.oaic.gov.au/freedom-of-information/information-commissioner-decisions-and-reports/foi-reports/Automated-decision-making-and-public-reporting-under-the-Freedom-of-Information-Act>>. Analyses examined algorithmic opacity and its implications for procedural fairness, reasons-giving and judicial review, alongside concerns regarding human capital management in technologically augmented administrations. See Barry Sullivan and Ed Hewings, 'What Does "ChatGPT" Mean for the Future of Tax?' (2024) 39(2) *Australian Tax Forum* 259; David W Marks and Gail Hartridge, 'Algorithms, Discretions and Decisions in the "Robo" Age' (2022) 25(3) *The Tax Specialist* 104; John Bevacqua, 'Unmasking the Robots – An Examination of the Tax Compliance Implications of Algorithmic Secrecy' (2021) 36(4) *Australia Tax Forum* 647; Elizabeth Bishop, 'Legal Issues Arising from the Use of Artificial Intelligence in Government Tax Administration and Decision Making' (2021) 1(1) *Journal of AI, Robotics and Workplace Automation* 99.

⁴ See the ATO's statement of commitments to taxpayers in Australian Taxation Office, 'Our Charter' (Web Page, 1 December 2025) <<https://www.ato.gov.au/about-ato/commitments-and-reporting/ato-charter/our-charter>>.

the considerations upon which a decision is based can be traced back to the relevant statutory criteria and evidence.

Recent developments in machine learning and advanced analytics mark a shift in how these administrative functions are performed. Automated systems are now capable of drawing inferences from large datasets and classifying taxpayers according to predicted risk and generating compliance interventions at scale. Unlike earlier rule-based systems, such tools do not merely execute pre-defined tasks but identify correlations and patterns that are opaque, probabilistic and often not readily explained in a reasoned way. While advanced technologies promise efficiency and broad consistency, they also risk displacing human evaluative judgment in ways that strain the assumptions on which existing review mechanisms are built.

From a legal perspective, the significance of this shift lies not in the use of technology as such, but in its interaction with doctrines that assume decision-making to be the product of a human mind applying statutory criteria to facts. Australian administrative law has long tolerated estimation, inference and even imprecision in tax assessments on the premise that human judgment remains responsible for the outcome and that taxpayers retain meaningful opportunities to contest liability.⁵ Automated systems challenge that premise by generating outcomes that may be legally consequential yet resistant to articulation or scrutiny.

This article argues that the principal statutory mechanisms for challenging assessments under Part IVC of the *Taxation Administration Act 1953* (Cth) ('TAA')⁶ and tax decisions under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) ('ADJR Act')⁷ are poorly aligned with these contemporary administrative realities. These mechanisms, designed for a human administrative state, may obscure the role of automated systems and weaken taxpayer protections unless deliberate action is taken to preserve fairness, transparency and meaningful access to review.

II. PART IVC AND THE INSULATION OF ASSESSMENT-MAKING

Part IVC of the *TAA* constitutes the principal and, in most cases, exclusive statutory mechanism through which taxpayers may challenge assessments. An assessment in this context is not merely a document but an 'act or operation' by which the Commissioner ascertains taxable income and the amount of tax payable.⁸ Once issued, an assessment is *prima facie* valid,⁹ and a notice of assessment constitutes conclusive evidence of its due making.¹⁰ These provisions operate together to insulate the assessment-making process from collateral attack and to confine review to the substantive correctness of the amount assessed. Procedural defects—whether arising from human error, flawed reasoning or administrative irregularity—are generally rendered irrelevant for the purposes of Part IVC proceedings.

⁵ See *Chevron Australia Holdings Pty Ltd v Commissioner of Taxation* (2017) 251 FCR 40, 68 (discussing the statutory protection of procedural irregularity and the challenge directed to particulars upon which liability depends).

⁶ *Taxation Administration Act 1953* (Cth) ('TAA').

⁷ *Administrative Decisions (Judicial Review) Act 1977* (Cth) ('ADJR Act').

⁸ *R v Deputy Federal Commissioner of Taxation (SA)* (1926) 37 CLR 368, 373 (Isaacs J).

⁹ *Income Tax Assessment Act 1936* (Cth) s 175.

¹⁰ *TAA* (n 6) sch 1 s 350-10(1) table item 2 (formerly *Income Tax Assessment Act 1936* (Cth) s 177(1)).

This statutory insulation presupposes that assessments are produced through human evaluative judgment, even where that judgment involves estimation, inference or incomplete information.¹¹ Courts have long accepted that an assessment may be ‘a guess to some extent’¹² on the premise that the taxpayer is best placed to know their own affairs and is therefore capable of disproving the Commissioner’s conclusions by demonstrating that an assessment is excessive.¹³ The allocation of the burden of proof under Part IVC reflects this assumption: once an assessment is issued, the taxpayer must establish not merely that the assessment is incorrect,¹⁴ but what the correct assessment should have been.¹⁵

Automated decision-making does not disturb the formal operation of Part IVC. The regime has always tolerated opacity in assessment-making and has never required taxpayers to be informed of the Commissioner’s inferential process. The insulation of assessments from procedural challenge, and the consequent shifting of the burden of proof to taxpayers, applies equally whether liability is inferred by human officers or generated through automated processes. In that sense, automation does not alter the legal mechanics of assessment review.

The significance of automation lies, however, in its effects. Where algorithmic systems generate conclusions that are severely wrong—whether through flawed data, inappropriate correlations or hallucinatory outputs—those errors may be produced at scale and with apparent decisional authority. Such conclusions immediately attract Part IVC’s presumptions, shifting the evidentiary burden to taxpayers. It is therefore necessary to consider whether this shift remains appropriate when errors move from being episodic and contestable, on the premise of human judgment, to being systemic and capable of causing psychological harm, as illustrated by the Robodebt scheme, which demonstrated how authoritative but erroneous automated conclusions can cause serious distress.¹⁶

Judicial review outside Part IVC is theoretically preserved through constitutional remedies, but only in a narrow and residual sense. Section 75(v) of the *Australian Constitution*¹⁷ entrenches the High Court’s original jurisdiction to grant relief in the nature of mandamus, prohibition or injunction against an officer of the Commonwealth, while s 39B of the *Judiciary Act 1903* (Cth)¹⁸ confers concurrent jurisdiction on the Federal Court. In an automated administrative environment, however, attributing decision-making to an officer of the Commonwealth may be difficult. Even where an officer can be identified, constitutional relief remains confined to cases of jurisdictional error, limiting its practical utility in addressing the ordinary effects of automated assessment-making.

¹¹ *Federal Commissioner of Taxation v Dalco* (1990) 168 CLR 614.

¹² *Trautwein v FCT* (1936) 56 CLR 63, 88.

¹³ The word ‘excessive’ refers to the amount assessed, not to the Commissioner’s conduct: *McAndrew v Federal Commissioner of Taxation* (1956) 98 CLR 263.

¹⁴ *Rigoli v Federal Commissioner of Taxation* (2014) 96 ATR 19.

¹⁵ *TAA* ss 14ZZK, 14ZZO; *Federal Commissioner of Taxation v Clarke* (1927) 40 CLR 246, 251; *Trautwein v Federal Commissioner of Taxation* (1936) 56 CLR 63, 88, 92.

¹⁶ The Royal Commission reported that the scheme was associated with severe psychological harm and suspected links to deaths by suicide: *Royal Commission into the Robodebt Scheme* (Report, vol 1, 7 July 2023) ch 10.

¹⁷ *Australian Constitution* s 75(v) (‘*Constitution*’).

¹⁸ *Judiciary Act 1903* (Cth) s 39B.

III. THE ADJR ACT AND REVIEWABLE DECISIONS

The *ADJR Act* provides a statutory framework for the judicial review of administrative action. In the taxation context, its role is limited to non-assessment, discretionary decision-making. Most decisions ‘making, or forming part of the process of making, or leading up to the making’ of assessments are expressly excluded from its scope.¹⁹ The residual decisions include audit selection,²⁰ the issue of information-gathering notices,²¹ extensions of time for lodgment or payment,²² penalty remission²³ and certain recovery actions.²⁴

The *ADJR Act* differs from Part IVC in both orientation and function. Rather than confining disputes to questions of substantive correctness, it foregrounds legality, procedural fairness and the proper exercise of statutory power. It enumerates grounds of review that include error of law, failure to take relevant considerations into account, improper exercise of power, denial of natural justice and decisions unsupported by evidence.²⁵ In principle, these features offer tools capable of responding to the risks associated with opaque or automated administrative processes.

However, several features indicate that the *ADJR Act* assumes human decision-making for effective judicial review. The first relates to the scope of decisions under the *ADJR Act*. In-scope decisions are administrative decisions made under an enactment and must have a final or operative, rather than merely preparatory, character so as to affect legal rights and obligations.²⁶ In defining in-scope decisions, prevailing authority has insisted that a reviewable decision must involve a human mental process of reaching a conclusion. This requirement, articulated in cases such as *Semunigus*²⁷ and reinforced by the Full Federal Court in *Pintarich*,²⁸ reflects a conception of administrative action grounded in human cognition and deliberation.

The decision in *Pintarich* is of particular interest as it concerned a tax matter. There, a computer-generated letter issued under the authority of the Commissioner appeared to convey a decision as to the remission of interest. The majority held that no reviewable decision existed because the

¹⁹ *ADJR Act* (n 7) sch 1 s 3(e).

²⁰ *Industrial Equity Ltd v Deputy Commissioner of Taxation* (1990) 170 CLR 649; *Knuckey v Federal Commissioner of Taxation* (1998) 87 FCR 187.

²¹ *Deputy Commissioner of Taxation v Clark and Kazan* (1984) 1 FCR 322; *Sixth Ravini Pty Ltd v Federal Commissioner of Taxation* (1985) 6 FCR 356; *Southern Farmers Group Ltd v Deputy Commissioner of Taxation* (1989) 21 FCR 66; *Industrial Equity Ltd v Deputy Commissioner of Taxation* (1990) 170 CLR 649; *F H Faulding & Co Ltd v Federal Commissioner of Taxation* (1994) 54 FCR 75; *Knuckey v Federal Commissioner of Taxation* (1998) 87 FCR 187; *May v Commissioner of Taxation* (1999) 92 FCR 152.

²² *Thurecht v Deputy Commissioner of Taxation* (1984) 3 FCR 570; *Balnaves v Commissioner of Taxation* (1985) 8 FCR 589; *ARM Constructions Pty Ltd v Commissioner of Taxation* (1986) 10 FCR 197; *Nestle Australia Ltd v Commissioner of Taxation* (1986) 12 FCR 257.

²³ *Mostyn v Deputy Commissioner of Taxation (NSW)* [No 2] (1987) 18 ATR 912. Part IVC must be sought if the taxpayer aims to object to the correctness of the penalty calculated.

²⁴ *Federal Commissioner of Taxation v Auctus Resources Pty Ltd* (2021) 284 FCR 294.

²⁵ *ADJR Act* (n 7) s 5(1).

²⁶ *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321, 338 (Mason CJ).

²⁷ *Semunigus v Minister for Immigration and Multicultural Affairs* [1999] FCA 42, [19] (‘For present purposes I am prepared to hold that the making of a decision involves both reaching a conclusion on a matter as a result of a mental process having been engaged in and translating that conclusion into a decision by an overt act of such character as, in the circumstances, gives finality to the conclusion - as precludes the conclusion being revisited by the decision-maker at his or her option before the decision is to be regarded as final.’).

²⁸ *Pintarich v Deputy Commissioner of Taxation* (2018) 262 FCR 41 (‘*Pintarich*’).

relevant officer had not formed the necessary state of satisfaction; the content of the letter was the product of system design rather than human deliberation. Although the case did not involve sophisticated AI, its reasoning has broader implications. It confirms that where automated systems produce outcomes without conscious human engagement, those outcomes may be legally invisible for the purposes of the *ADJR Act*.

Kerr J, in dissent, observed that administrative decisions should not be invalidated by an officer's internal psychology, and that the letter should stand because it objectively bore all the hallmarks of an authoritative decision. The effect of the decision by the majority was that interest was not remitted despite the contrary appearance of the letter. Applied to automated decisions falling within the scope of the *ADJR Act*, this approach means that taxpayers may experience outcomes generated by automated systems as authoritative and legally consequential, yet, if the matter is disputed, the ATO may avoid responsibility by asserting that no decision was made. In doing so, the Commissioner can effectively nullify administrative action incorrectly performed by machines, notwithstanding the taxpayer's loss and suffering arising from the outcome and their subsequent attempts to resolve the matter. As administrative functions are increasingly performed through automated systems, this insistence on human deliberation risks creating accountability gaps.

A second aspect showing the presumption of human decision-making under the *ADJR Act* is the statutory right to reasons.²⁹ The obligation to provide reasons presupposes that a decision maker can articulate findings on material questions of fact and explain the reasoning process leading to the decision. However, machine-learning systems do not 'reason' in a manner that can be readily translated into findings of fact or chains of legal reasoning. Rather, their outputs are typically generated through probabilistic analysis of large datasets and pattern recognition, not through a sequence of conscious and evaluative steps directed to the application of legal criteria. Even where reasons are formally provided (or such provision has been prompted), they may represent an approximation or reconstruction after the fact, rather than a genuine account of a decision-making process and how the outcome was achieved. They may therefore amount to little more than a restatement of the outcome, offering limited insight into how or why the result was reached.

To be sure, the *ADJR Act* contains mechanisms that may in some cases facilitate scrutiny of automated decision-making. Grounds such as failure to consider relevant considerations, improper exercise of power or legal unreasonableness are not conceptually confined to human decision-making. Nor does the Act preclude the use of discovery or other procedural tools where appropriate. However, these mechanisms depend on the initial identification of a reviewable decision. Where machine learning replaces human cognitive engagement, taxpayers may be unable to seek reasons or identify where errors have occurred in order to determine an appropriate course of action.

This does not suggest that the *ADJR Act* is irrelevant in automated tax administration. Rather, it highlights its limits. As automation expands, the Act risks operating at the margins—capable of addressing some non-assessment decisions where human involvement remains clear, but unable to respond effectively to outcomes generated through diffuse or system-driven processes. The result is a fragmented review landscape in which taxpayer protections depend not on the significance of the outcome, but on the degree to which human deliberation can be demonstrated.

²⁹ *ADJR Act* (n 7) s 13. Section 13A provides exclusions relating to certain information concerning personal or business affairs of any person.

IV. RESIDUAL SAFEGUARDS AND ACCOUNTABILITY GAPS IN AUTOMATED TAX ADMINISTRATION

The analysis in Parts 2 and 3 demonstrates that the principal statutory mechanisms governing review of assessments under Part IVC of the *TAA* and administrative decisions under the *ADJR Act* are both structured around assumptions of human judgment, intelligibility and attributable decision-making. Where automated systems perform a substantive role in shaping administrative outcomes, those assumptions may undermine the efficacy of existing review mechanisms. It is necessary to consider whether other legal avenues operate as effective residual safeguards and whether, taken as a whole, the existing framework protects the taxpayer rights discussed at the outset of this article.

Outside the statutory review regimes, judicial supervision of public administration is, as briefly mentioned, constitutionally entrenched through s 75(v) of the *Constitution*,³⁰ and concurrent jurisdiction is conferred on the Federal Court under s 39B of the *Judiciary Act 1903* (Cth).³¹ These provisions are designed to ensure that jurisdictional error cannot be wholly insulated from judicial scrutiny. They preserve a minimum level of accountability for the exercise of Commonwealth power.

However, their practical significance in the context of automated tax administration is limited. Constitutional review has consistently been confined to cases of jurisdictional error, bad faith or deliberate failure to administer the law according to its terms. Ordinary errors in assessment-making, even serious administrative mistakes, often do not suffice.³² As discussed in Part 2, the increasing use of automation does not of itself lower this threshold.

Indeed, the diffusion of decision-making across technological systems may further weaken the utility of constitutional remedies. Where outcomes are generated through automated processes, it may be difficult to attribute the requisite conduct or state of satisfaction to an ‘officer of the Commonwealth’.³³ In this respect, constitutional review operates as a backstop of last resort rather than as a mechanism capable of addressing the routine accountability challenges posed by automated decision-making.

Private law remedies offer even less assistance. Australian courts have consistently rejected claims in negligence, breach of statutory duty and misfeasance in public office arising from the administration of the tax laws.³⁴ The Commissioner’s functions are characterised as public duties

³⁰ *Constitution* s 75(v) (n 17).

³¹ *Judiciary Act* (n 18) s 39B.

³² *Federal Commissioner of Taxation v Futuris Corporation Ltd* (2008) 237 CLR 146; Sue Milne, ‘The Bottom Line for Review of an Assessment – A Case Note on Commissioner of Taxation v Futuris Corporation Ltd’ (2010) 36(2) *Monash University Law Review* 181.

³³ An officer of the Commonwealth must be identified under s 75(v) of the *Constitution* (n 17) and s 39B of the *Judiciary Act* (n 18).

³⁴ See *Harris v Deputy Commissioner of Taxation* [2001] NSWSC 550, [12]; *Commissioner of Taxation v Futuris Corporation Limited* (2008) 237 CLR 146, 164. See also unsuccessful proceedings by taxpayers in *Federal Commissioner of Taxation v Donoghue* (2015) 237 FCR 316; *Henderson v Deputy Commissioner of Taxation* (2005) 61 ATR 317; *Engler v Commissioner of Taxation (No 3)* (2003) 54 ATR 61; *Gates v Commissioner of Taxation* (2006) 63 ATR 56; *Madden v Madden & Ors* (1996) 65 FCR 354; *Denlay v Federal Commissioner of Taxation* (2011) 193 FCR 412. In *Farab Custodians Pty Limited v Commissioner of Taxation (No 2)* [2019] FCA 1076, the court allowed a negligence claim to proceed at an interlocutory stage; however, the matter did not progress to trial.

owed to the community at large, directed to the protection of the revenue rather than to individual taxpayers. Recognising private law duties has been viewed as incompatible with the comprehensive statutory scheme governing assessment, collection and review. Equitable doctrines such as estoppel are similarly unavailable, reflecting the principle that representations by revenue officials cannot prevent the application of statute.

In an automated administrative environment, these limitations are accentuated rather than alleviated. Errors may arise not from the conduct of individual officers, but from system design, data quality or inferential models operating at scale. Where identifiable officers are rarely subject to private law duties, algorithmic processes are even less amenable to tortious accountability. As a result, taxpayers have limited recourse to private law remedies when automated processes are involved.

Taken together, the existing legal architecture reveals that Australian tax law has long accepted a degree of procedural insulation and administrative imperfection on the assumption that human judgment remains central, responsibility is identifiable, and taxpayers retain meaningful opportunities to contest liability. Automation introduces tension into these assumptions, as its decision-making processes may be opaque, unintelligible and difficult to articulate in reasoned terms.

V. CONCLUSION: REVISITING REVIEW IN AN AUTOMATED ADMINISTRATIVE STATE

This article has revisited the operation of Part IVC of the *TAA* and the *ADJR Act* in light of the increasing use of automated and algorithmically assisted decision-making in Australian tax administration. It has argued that these review mechanisms, while doctrinally coherent within a human administrative state, are poorly aligned with contemporary administrative realities in which automated systems play a substantive role in shaping outcomes.

Part IVC continues to operate as a robust mechanism for contesting substantive tax liability, but one that deliberately insulates the assessment-making process and places the evidentiary burden squarely on taxpayers. That structure has long been justified by reference to human judgment and the tolerability of episodic error. As automated systems generate conclusions at scale, including conclusions that may be hallucinatory and psychologically harmful, the normative foundations of that justification warrant reconsideration. The persistence of the burden-shifting model becomes more difficult to defend where liability is materially shaped by opaque, probabilistic or system-generated inferences that taxpayers are not well placed to interrogate or disprove.

The *ADJR Act* offers a contrasting, process-oriented model of review, including the right to access reasons, but one that is itself anchored in assumptions of human deliberation, identifiable decision-makers and articulable reasoning. As demonstrated by *Pintarich*,³⁵ automated outcomes may be experienced by taxpayers as authoritative and legally consequential, yet be treated by judicial authority as legally non-existent on the basis that no human mental process can be identified. This inconsistency undermines taxpayer trust in accountable and responsible public administration.

This analysis does not suggest that automated or AI-assisted decision-making is inherently incompatible with lawful tax administration, nor does it call for the wholesale abandonment of existing review structures. Rather, it points to the need for targeted recalibration to preserve

³⁵ *Pintarich* (n 28).

taxpayer trust that underpins Australia's self-assessment system. At a minimum, three reform directions warrant consideration.

First, transparency as to the use of automation should be strengthened. Where assessments or administrative decisions are generated or materially shaped by automated systems, taxpayers should be informed of the extent and nature of that technological involvement. Disclosure of whether, and to what degree, evaluative functions are performed by automated systems would support intelligibility, facilitate engagement with review processes and align administrative practice with stated commitments to transparency and fair treatment.

Second, the point at which the burden of proof shifts to taxpayers under Part IVC warrants reconsideration where automated systems perform a substantive evaluative role. While Part IVC has never required disclosure of the Commissioner's inferential process, the presumption that taxpayers are best placed to disprove liability becomes less persuasive where conclusions are generated from rich resources available to the ATO, equipped with sophisticated data-matching capabilities and technological tools. A statutory adjustment—whether through a modified evidentiary burden or enhanced obligations on the Commissioner in automated cases—may be necessary to ensure that review remains meaningful rather than formal.

Third, the legal consequences of automated administrative action require closer attention, particularly where such action causes significant psychological harm. The capacity of public administration to legally undo or deny responsibility for system-generated outcomes, when disputed, is a significant catalyst for eroding taxpayer trust. Legislative intervention may be required either to preserve the legal effect of decisions that objectively present as authoritative, notwithstanding their automated origin, or to provide alternative compensatory mechanisms where administrative action is later disavowed. Consideration may also be given to introducing statutory consequences or penalties that attach responsibility to the use of automated systems, reinforcing accountability rather than allowing it to dissipate through technological design.

Fourth, a further avenue identified in the ATO's *Our Charter* is escalation to the Taxation Ombudsman for addressing concerns about administrative conduct.³⁶ While this mechanism plays an important role in promoting administrative fairness and improving systemic practice, it operates outside the formal judicial review architecture and does not provide legally binding remedies in individual cases. In the context of automated tax administration, recourse to the Taxation Ombudsman may offer an accessible forum for complaint and investigation, but it does not extend to resolving questions of legal responsibility arising from automated decision-making.

³⁶ Australian Taxation Office, 'Our Charter' (Web Page, 1 December 2025) <<https://www.ato.gov.au/about-ato/commitments-and-reporting/ato-charter/our-charter>>.

These suggestions would not displace established law but adapt it to contemporary conditions to preserve fairness, transparency and meaningful access to review in an automated administrative environment. Further work is necessary to accurately predict the impact of AI-assisted tax administration and to learn the ways in which the existing tax architecture can be improved to protect fundamental taxpayer rights³⁷ and maintain public trust in the Australian tax system.

³⁷ Questions have been raised as to whether existing taxpayer rights instruments, including the Australian Taxpayers' Charter, are adequate for a digitalised administrative environment: see Duncan Bentley, 'Timeless Principles of Taxpayer Protection: How They Adapt to Digital Disruption' (2019) 16(3) *eJournal of Tax Research* 679; Duncan Bentley, 'Taxpayer Rights and Protections in a Digital Global Environment' in Robert F van Brederode (ed), *Ethics and Taxation* (Springer, 2020) [insert starting page here]; John Bevacqua, 'Digital First- An Australian Taxpayers' Charter Fit for the Digitalisation Revolution' (2023) 38(2) *Australian Tax Forum* 441; Evgeny Guglyuvatyy, 'Balancing Innovation and Integrity: AI in Tax Administration and Taxpayer Rights' (2025) 12(1818) *Humanities & Social Sciences Communications*, [insert starting page] <10.1057/s41599-025-06099-73>. Bentley has called for renewed engagement with the principles articulated by the Administrative Review Council in its 2004 report to the Attorney-General. These include the propositions that automated systems must not displace lawful human discretion absent statutory authorisation; that administrative decisions must remain lawful, fair, rational and intelligible; that systems must accurately reflect current law and policy; and that processes must be auditable, reviewable and subject to effective oversight. See Duncan Bentley, 'Tax Officer 2030: The Exercise of Discretion and Artificial Intelligence' (2022) 20(1) *eJournal of Tax Research* 72.