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Four Corners

'Mongrel bunch of bastards'

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"Mongrel bunch of bastards": Taking on the extraordinary powers of the Tax Office.

"You might say that murderers have more rights than tax payers." Tax barrister

The Australia Taxation Office is a formidable enforcer with extraordinary powers. It can raid your home or business without a warrant, it can compel you to answer questions and treat you as guilty until proven innocent.

"(It) can effectively act like a judge, jury and executioner all rolled up into one. That's the problem." Tax barrister

While there's strong public support for a crackdown on major multinational corporations to force them to pay their fair share, there is growing concern that the Tax Office is targeting people a long way from the big end of town.

"They chase low-hanging fruit, people who are being honest and upright, and they whack them with a huge bill and then chase them." Small business lobbyist

In a major joint Four Corners/Fairfax investigation, reporter Adele Ferguson puts the actions of the Tax Office under the microscope, examining how it uses its extensive powers.

"How can you describe someone who's trying to destroy your livelihood and destroy your way of life? I'd call that evil." Business operator

Months in the making, this investigation shows what happens when a taxpayer finds themselves in the cross hairs of the ATO.

"There's an agenda that's going on in there, and the Australian public know nothing about it." Business operator

It examines whether the ATO is playing by the rules and acting fairly and ethically.

"Dealing with the ATO, I've never come across such a mongrel bunch of bastards in my entire life." Business operator

"Mongrel bunch of bastards", reported by Adele Ferguson and presented by Sarah Ferguson, goes to air on Monday 9th April at 8.30pm. It is replayed on Tuesday 10th April at 1.00pm and Wednesday 11th at 11.20pm. It can also be seen on ABC NEWS channel on Saturday at 8.10pm AEST, ABC iview and at abc.net.au/4corners.

Transcript

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- On the northern edge of the Adelaide Hills, a family run business is doing its best to stay afloat.

The problem isn't the remote location.

The Australian Taxation Office has its sights on the company and may well determine if it survives... or not.

ANNETTE PIKE: Adele, did you find the place ok? Welcome to the nerve centre of Outscribe.

ADELE FERGUSON: Any developments with the Tax Office?

ANNETTE PIKE, OUTSCRIBED: No nothing final we're still in the thick of it, we're still waiting for an outcome so everyone is still in limbo.

So we need to have an answer we need to be able to go forward because we can't sustain this.

ADELE FERGUSON: How would you describe the tax office?

ANNETTE PIKE: In one short word I would call what they're doing evil.

There's an agenda that's going on in there, and the Australian public know nothing about it.

We knew nothing about it.

We were naive. How can you describe someone who's trying to destroy your livelihood and destroy your way of life? I'd call that evil.

ADELE FERGUSON: Annette Pike has built a successful transcription business which gives her the freedom and flexibility to work from home.

With a swag of government, corporate and academic clients she can't do it all herself so she outsources jobs to 16 transcription typists around the country.

ANNETTE PIKE: I just let people know, let the contractors know, what work is available. If they want to pick up some work, they put their hand up. So, they get to dictate their own hours. So, they get to dictate when they work. The only thing they have to do is get that work back on time.

ADELE FERGUSON: Business at OutScribe was booming until the Tax Office came knocking in May 20-17.

ANNETTE PIKE: They were trying to ascertain whether our business model of utilising self-employed contractors or independent contractors, was legitimate. It would seem they were trying to say that we should be employing them. That that they should be our employees. That's not the way the industry works. That's not the way our business model works.

ADELE FERGUSON: Four months into the investigation, the ATO made a shock move.

ANNETTE PIKE That was the day that is seared into my memory, it was the 9th of the 11th and that was our terrorist attack from the ATO. The ABN's of the contractors, had been cancelled. Summarily cancelled. They were no longer able to work.

KATHRYN LITTLE: My world literally fell apart. I had the rug pulled out from under me by the ATO. I was gobsmacked, is probably the only way I can describe it.

ADELE FERGUSON: Kathryn Little is one of the contractors whose Australian Business Number was cancelled.

KATHRYN LITTLE: They were literally taking away my capacity to pay my bills, pay my car loan, feed myself, live my life, with no concern whatsoever of the repercussions. It was just like it was just nothing to them. I just thought these are real people you're dealing with. I was so upset, sorry. I was so upset that I didn't ask the right questions. Sorry.

ADELE FERGUSON: Kathryn was once an environmental scientist but chronic depression forced her to rethink her life.

She travelled the country in a caravan funding it all by working for OutScribe and two other transcription companies.

ADELE FERGUSON: She made around \$700 a week. Now that was in jeopardy

KATHRYN LITTLE: No one could give me a reason why the ABN had been cancelled. No one could tell me what part of the legislation or what part of the guidelines or what part of the regulations I did not comply with. I actively asked them, what do I need to do to comply with the regulations behind the decision that you're making?

ADELE FERGUSON: She was running out of cash and feared she'd have to go on Centrelink benefits.

KATHRYN LITTLE: The government talks about dole bludgers and people who don't want to work. Well, I'm sorry, but that's rubbish.

Here's someone who wants to work. Hello, over here, want to work, let me do it. I don't want to be on the dole.

I don't want to have to do this. I don't need to be on the dole, I have the skills, I have the capacity, I have the equipment.

I can do it. Just let me do it, I don't need to be a drain on the taxpayer, let me be a taxpayer, because that's my role.

I have the ability, but, no, apparently, who knows?
(phone rings) Ken Phillips ..

KEN PHILLIPS, SELF EMPLOYED AUSTRALIA: I've seen this before. We've seen ABNs cancelled on people that are quite clearly running their own small business. What did surprise me about this is the attack of the tax office, not on reasonably well-off people, but on people who are really, truly vulnerable and that got me very angry.

ADELE FERGUSON: Ken Phillips, an advocate for small businesses, took on OutScribe's case.

KEN PHILLIPS: Well the first thing we did was get some lawyers involved, some people who know and understand the taxation office and we started bringing in the legal side of things. Ultimately, we were able to negotiate, I've got to say very hard negotiations, we're able to negotiate

to get the ABNs reinstated, but it took 13 weeks. So this was 13 weeks where these vulnerable, low paid, mostly women were without incomes and I've got to tell you, they were in crisis.

ADELE FERGUSON: 11 months on the ATO is still investigating OutScribe.

Kathryn and the other contractors don't know if they'll be able to keep their ABN's, and Annette Pike fears her business may not survive.

ANNETTE PIKE: If I had read this as a film script, I would say I was in an Eastern Bloc country in the 1950s behind the Iron Curtain because It's the government controlling the way people live in a way that's malicious.

There's no other word for it. It's malicious and it's vengeful. We're supporting the Australian economy. How do you make sense of that?

ADELE FERGUSON: The Australian Taxation Office is one of the most powerful institutions in Australia.

If the ATO suspects you owe it money, you are guilty until proven innocent.

It can raid your home or business without a warrant, and compel you to answer questions.

GRAEME HALPERIN, TAX BARRISTER: You've got tremendous power invested in an organisation which, because of its powers, can effectively act like a judge, jury and executioner all rolled up into one. That's the problem.

KEN PHILLIPS, SELF EMPLOYED AUSTRALIA: They can order money to be taken away from you simply on an allegation of debt, and this is unlike any other organisation, any other institution in Australia.

KEN PHILLIPS: They play games with you. They just pull you in, and then they cook you slowly, effectively until you are roasted and you are dead.

GRAHAM HALPERIN: People are brought up to believe that they have the presumption of innocence, that they have the right to remain silent, if they're questioned by the authorities, that the authorities are obliged to read them their rights, if they get into trouble, and that their assets can't be confiscated by the authorities. Now, in the world of tax, none of those things is true. You might say that murderers have more rights than tax payers.

ADELE FERGUSON: There is growing unease in the small business community the ATO is abusing its powers.

MARK FREEMAN: Honestly dealing with the ATO I've never come across such a mongrel bunch of bastards in my entire life.

ADELE FERGUSON: Mark Freeman is in the waste treatment business.

MARK FREEMAN: this is the Inflow coming in, this is the raw effluent

ADELE FERGUSON: At the Ulladulla Sewage Treatment Plant on the NSW south coast, Mark Freeman is trialling a system to turn waste into reusable water.

MARK FREEMAN: this is coming in from the houses from the hospitals the schools, people just

look at it and see it as a waste product, I look it as a resource

MARK FREEMAN So once your designated amount of water has actually hit the activation point the system then takes over everything for you so really nothing more for the person to do except receive their clean water back where they can reuse it back to the toilet back to the laundry.

ADELE FERGUSON: Mark Freeman's troubles began in mid-2011 when the Tax Office began auditing his company and told him he wasn't entitled to the research and development rebates he'd been claiming.

He was hit with a hefty tax bill.

ADELE FERGUSON: September 2013, the ATO says you owe them \$250,000. What was your reaction when you got that letter?

MARK FREEMAN Shocked, stunned, lack of comprehension as to how they could accumulate such a large debt.

The hardest thing is proving your innocence when they deem you as being guilty. And even then, having your innocence rejected without reason.

ADELE FERGUSON: Things got worse as the Tax Office applied more pressure.

ADELE FERGUSON: March 2014, the ATO calls you to say it intends to bankrupt your company to get the debt. How did you react to that call?

MARK FREEMAN: Dismay that they'd actually threaten to destroy the company, if I didn't pay the money then, that they would actually destroy this company

ADELE FERGUSON: Two months later the ATO issued an order known as a garnishee notice.

It gave the ATO power to seize control of his bank account and take money from it.

MARK FREEMAN: Obviously, it's quite a financial blow to the company and a massive blow to the company's credibility as such.

The bank couldn't enforce or couldn't comply with the garnishee order because the funds just wasn't there.

ADELE FERGUSON: Mark Freeman had to work out of his shed as he battled to clear his name.

MARK FREEMAN: They couldn't ignore the obvious in front of them. The information that was provided to the ATO was overwhelming that there was genuine research and development

ADELE FERGUSON: After 4 years of fighting, the ATO conceded its mistakes and completely wiped his debt.

"The Commissioner of Taxation has advised that errors identified during the audit process have been dealt with following your objection application.

The Commissioner apologies for any stress or inconvenience these errors have caused...

ADELE FERGUSON: On a personal level, what impact has it had on you?

MARK FREEMAN: It's stress. What else are you going to say?

It's like I've got two jobs: one dealing with research and development and the second one dealing with the ATO.

ADELE FERGUSON It's now been 7 years since the Tax Office came knocking and Mark is still fighting for adequate compensation.

MARK FREEMAN: We put in a very small estimate of about \$750,000, and we were offered \$1,500.

The second round they raised it to \$11,500.

It's an insult to the detriment the company has had to go through.

I'm angry at them. I really am. There are times when you just feel like grabbing them and trying to shake some sense into them.

KEN PHILLIPS, SELF EMPLOYED AUSTRALIA People can use the word aggressive, yes, we want an aggressive Taxation Office because they have to do their job of pulling in the money, no question of that at all.

What we do want is a taxation office that operates ethically, morally, and within the law. Our observation is that those principles are falling apart in relation to small business people

ADELE FERGUSON: Ken Phillips believes the Tax Office deliberately targets small business.

KEN PHILLIPS: They set targets, they chase low-hanging fruit, people who are being honest and upright, and they whack them with a huge bill and then chase them.

The big end of town and high wealth individuals can afford to get a whole lot of lawyers out and line the lawyers up at \$800 an hour and defend themselves properly against the tax office, small business person doesn't have that.

ADELE FERGUSON: What are some of the complaints you get from small business about the ATO?

KATE CARNELL, SMALL BUSINESS OMBUDSMAN: Look, a lot of the issues surrounding the ATO is that they're complex, they're difficult to deal with, they don't know who to talk to, but some of the real concerns are when there's a problem with an assessment at the ATO, what the ATO says you owe them isn't what you believe you owe them.

Trying to get those things sorted out is still very, very difficult.

ADELE FERGUSON: Deborah Jenkins is the ATO's Deputy Commissioner for Small Business.

ADELE FERGUSON: There is a perception out there from people we've spoken to that small business is an easy target because most don't have the money to fight back.

DEBORAH JENKINS: Yes, I certainly don't want small businesses to feel like they are an easy target and if they've heard me out there defending them, we are hugely passionate, small businesses are the backbone of the Australian economy.

For me, if there was any sense that they were an easy target, that's absolutely, they should not be an easy target, and certainly, I mean the work that we do is on education, prevention, and support.

I want to be helping small businesses. In fact, our mission in small business is to help viable small businesses thrive. We absolutely believe in that.

ADELE FERGUSON: The ATO is actively chasing more than 20 billion dollars in outstanding taxes.

It says small businesses owe two thirds of that amount.

DEBORAH JENKINS: So, it's around 13 or 14 billion dollars.

Obviously, we don't want to be in a position where small businesses are owing us debt.

So that's where a lot of the work that we're doing is to actually do it at the front end to actually work out why are businesses getting into debt in the first place.

GRAEME HALPERIN: At the end of the day what we're talking about is raising revenue all governments of all persuasions are desperate for revenue.

Business is an obvious target, small business is the best target, because they haven't got people there, out there, to protect them the way big business has.

They don't have the barrage of lawyers. They can't afford them.

RON SHAMIR: The Tax Office generally produces an estimate of how much revenue it's going to collect in the financial year, we refer to it as the Plan, we call it the Plan at leadership meetings when we discuss it and when staff discuss it amongst themselves.

ADELE FERGUSON: Ron Shamir worked in the ATO's serious evasion branch in Melbourne where he says the pressure to meet revenue forecasts put the focus on small business.

RON SHAMIR: If halfway through the financial year it appeared that we were short of that target that was supposed to be just an estimate, then a lot of pressure would be put on for cases to be done more quickly procedures would be changed, even staffing changes would occur in order for senior management to deal with, to address, the shortfall compared to the Plan.

You would be looking at taxpayers who are less able to resist the might of the tax office.

Taxpayers that are more vulnerable and that often-meant individuals and small businesses rather than larger businesses.

ADELE FERGUSON: Ron Shamir turned whistle-blower in 2015 accusing the ATO of breaching taxpayer rights.

He was eventually sacked over non-performance.

RON SHAMIR: Unfortunately, the culture that I saw at the ATO is what you would expect in a powerful, large agency that has very little effective scrutiny.

There's not much of somebody looking in from the outside into what's happening.

ADELE FERGUSON: The ATO's Adelaide office plays a key role in collecting debt.

An insider who has worked there for more than a decade provides an insight into the world of debt recovery.

RICHARD BOYLE: So this document Adele shows that these are basically our performance data

and it shows exactly how much money's coming in from all the work that we do so we can measure quite effectively how much debt we're collecting and why.

ADELE FERGUSON: so they're really analysing your time?

RICHARD BOYLE: Absolutely to death, it tells us the average handling times how long each phone all takes what break code you're in at the time, it's pretty incredible, then if we turn over...

ADELE FERGUSON: Staff are monitored on their performance and how much debt they recover.
RICHARD BOYLE: So it shows here through negotiation I collected \$300,000 through payment arrangements I collected \$130,000 through garnishees I collected \$3,000.

ADELE FERGUSON: So what does this data tell you?

RICHARD BOYLE: well that data shows me that blindly issuing standard garnishees and potentially damaging certain sections on the community is not a very effective way to collect the debt.

ADELE FERGUSON: He describes a culture where staff were encouraged to notch up garnishee notices, allowing them to seize money from taxpayer's bank accounts.
In May an email was sent to staff towards the end of the working day encouraging them to issue more garnishee notices before their shift ended.

The last hour of power is upon us...That means you still have time to issue another five garnishees... right?

RICAHRD BOYLE: I was horrified.

ADELE FERGUSON: As the end of the financial year approached, Richard Boyle says his team was told to use standard garnishee notices almost all the time.

A standard garnishee notice gives the ATO ongoing access to funds in the taxpayer's bank account.

RICHARD BOYLE: We were essentially ordered and directed to start doing standard garnishees on every case, and I was absolutely shocked. I started taking copious minutes because I was really concerned that taxpayers were going to be adversely affected by what I could only say is an unethical decision of the Australian Taxation Office.

ADELE FERGUSON: What was so abhorrent to you about issuing garnsihees, why was it unethical?

RICHARD BOYLE: That meant and I stated that we may be shutting down the wrong businesses and causing great distress to the community, and possibly even pushing people towards suicide that needed our compassion, as opposed to the people that we should rightly be targeting with standard garnishees.

ADELE FERGUSON: The following week, there was an email on how to escalate debt recovery from taxpayers who owed money:

"These clients are not entitled to any additional time and shouldn't be granted any unless they have unbelievably exceptional circumstances."

ADELE FERGUSON: And what do you think was the motivation?

RICHARD BOYLE: The motivation appeared to be that we were just collecting revenue before the end of the financial year and it didn't matter if we hurt members of the community.

ADELE FERGUSON: A cash grab?

RICHARD BOYLE: That's probably a good summation that's what my colleagues were saying on the floor.

ADELE FERGUSON: Sorry what were they saying?

RICHARD BOYLE: That that this was a cash grab. My colleagues were saying, this is a cash grab, clearly a cash grab.

ADELE FERGUSON: Then in late August, everything changed.

Adelaide staff were told they'd been issuing more standard garnishee notices than anywhere else and a "significant amount" of these were inappropriate.

RICHARD BOYLE: We had been issuing too many standard garnishees in Adelaide and this was possibly inappropriate.

In my particular meeting, a couple of us spoke out quite clearly that this was astounding that they could on the one hand, give a clear directive to make decisions that I thought were unethical, and then two months later, to make up what was almost a concocted story about how they'd made an apparent mistake, that it was not a mistake.

ADELE FERGUSON: Deborah Jenkins wouldn't comment on Richard Boyle but says garnishee notices are only used as a last resort.

ADELE FERGUSON: How many garnishees would you issue a year?

DEBORAH JENKINS: It's around 24,000, 14,000 of which relate to small businesses, and it's around 0.5% of our total collectable debt.

ADELE FERGUSON: if there's a directive to issue garnishees, would that alarm you?

DEBORAH JENKINS: Look, I don't know the details about who it was sent to or anything like that, but what I do know is we use those powers very sparingly.

ADELE FERGUSON: Richard Boyle has had repeated run-ins with management over his handling of cases.

In 2016 he was sanctioned for inappropriately accessing files of clients he says he was trying to help.

RICHARD BOYLE: Because the tax office was failing these tax payers, they were not processing their debt correspondence.

As many of my colleagues experienced colleagues in debt know, we are failing to action correspondence in a timely manner, and we are making incorrect decisions, and we are not following through and making sure that people's debt is correct.

It's highly unethical for me to be garnisheeing a person and taking money out of their bank account if their debt is incorrect.

ADELE FERGUSON: Richard Boyle was suspended with pay last September.

RICHARD BOYLE: I was suspended for allegedly remitting interest incorrectly on two cases and for storing information on my hard drive on my computer, which is tax office property.

ADELE FERGUSON: So what sort of information?

RICHARD BOYLE: All of my notes to do my day to day job. They told me you're not allowed to keep information on your hard drive. Where else am I going to keep it?

ADELE FERGUSON: In February the ATO offered him a confidential payout to leave his job.

He says he knocked it back because he wanted to expose debt collection tactics.

RICHARD BOYLE: They offered me quite a substantial sum of money.

I thought it more important that I tell the story of what's happening in the community to these taxpayers that have been affected by this unethical directive.

ADELE FERGUSON: When the Tax Office discovered he was talking to Four Corners, there was swift retribution.

RICHARD BOYLE: I received this after I was paid and it says here that I won't be paid any longer I'm now suspended without pay.

It says here you've provided comments or statements to the media without authorisation it's because you've got in contact with me about this story.

ADELE FERGUSON: And they're punishing you by stopping your pay?

RICHARD BOYLE: It would seem so, yes.

ADELE FERGUSON: Last week the ATO and the Australian Federal Police caught Richard Boyle by surprise with an early morning raid on his home.

RICHARD BOYLE: They're here to do a raid to check for taxpayer information seems very vindictive they would do this, use public resources massive amounts of public resources to investigate someone who's blown the whistle on unethical behaviour in the Australian taxation office when the tax office has withdrawn money from taxpayers' accounts en masse in the month of June 2017

ADELE FERGUSON: They seized his mobile phone and went through his computer, taking a raft of documents which the ATO believes contained confidential information.

PETER FORTUNATOW: They've got a charter to provide income to run the country and that's, I respect that, but at the end of the day, there's a tax system, and it needs to be administered properly, and from my experience, they're not administering it properly in this area.

ADELE FERGUSON: Do you think they play fair?

PETER FORTUNATOW: Not always. In my case, it's been very grubby.

ADELE FERGUSON: Adelaide based I.T consultant, Peter Fortunatow has been embroiled in a fight with the Tax Office that he says has almost ruined him.

PETER FORTUNATOW: They relied upon fear and intimidation, so they intimidated me at every opportunity and they threatened me that if I didn't do this, there would be this consequence.

If I didn't oblige to them with this, then this would happen. That's their stock and trade, it's fear and intimidation.

Financial torture and emotional torture, as well.

ADELE FERGUSON: His troubles with the Tax Office go back to 2008 when his family trust was audited over GST claims on property investments.

PETER FORTUNATOW: There was an audit, they looked at the matter and it was quickly resolved., a clean bill of health and I got a follow-up letter saying, "Everything's fine and that we'll process your return".

ADELE FERGUSON: Astonishingly, seven years later the Tax Office revisited the case and changed its mind accusing him of fraud and tax evasion.

Peter decided to fight back.

PETER FORTUNATOW: So I've had to sell assets just to stay afloat. And I've just had to basically weather the storm.

ADELE FERGUSON: He applied for his 2008 case file through Freedom of Information and discovered it had been changed.

PETER FORTUNATOW: I found this entry of an alleged conversation and at the end of the text there are two sentences that I believe have been added.

ADELE FERGUSON: Peter believes the record had been changed to indicate he knew he was claiming the rebates he wasn't entitled to.

ADELE FERGUSON: So you're saying that they go back into your old file notes and tamper with them?

PETER FORTUNATOW: That's what I'm seeing, they went back to this Word document, added two sentences so they could readily form an opinion of fraud and evasion, and that's just so wrong.

ADELE FERGUSON: Peter complained to the tax watchdog that his file notes had been manipulated.

The ATO conceded the case notes weren't in their original format but denied the content had been changed.

Following his complaint, the ATO dropped the fraud and evasion charge and wiped Peter's debt.

Peter is still at war with the Tax Office over a separate audit of his company.

PETER FORTUNATOW: It's been a journey of being depressed, being desperate, not being able to speak to people about it, not knowing who to go to, and not knowing what's going to happen. Whether I really have a future doing what I'm doing in my business or whether I have a business moving forward.

ADELE FERGUSON: Deborah Jenkins would not discuss individual cases.

DEBORAH JENKINS: if there are cases that you've got, I'm personally happy to have a look into those cases.

For me it's really, really important because if we're to make the system work then we need people to have trust and confidence in that system.

ADELE FERGUSON: Ali Naroozi is the Inspector General of Taxation. His job is to oversee the ATO.

ADELE FERGUSON: How often does the ATO get it wrong?

ALI NOROOZI, INSPECTOR -GENERAL OF TAXATION: I think it's you know perhaps in 5% of the cases or so, an organisation that size may not get it right.

ADELE FERGUSON: 5% is still a lot in such a big organisation?

ALI NOROOZI: As I said, even one case is too many, and that's why it is important to have the right checks and balances in place.

DEBORAH JENKINS: I think that figure seems a little bit high, but for us it's about what you do when you make a mistake and owning up to those mistakes and trying to make it right.

ADELE FERGUSON: And what do you do when you make a mistake?

Deborah Jenkins: Yeah so there are a number of processes, and so if we identify the mistakes, I'd encourage people to actually have that conversation, say, "Look, we got it wrong, we are human, but what can we do about it?"

That's a really important conversation we need to be having.

ADELE FERGUSON: Ali Noroozi believes all taxpayers should be able to put their case to an independent umpire.

At the moment, only big business has that right.

ALI NOROOZI: The large businesses can request and they can be granted an independent review.

That process is not available to other taxpayers such as small businesses, individuals.

Now, I think it's appropriate that all taxpayers have access to such an independent review, or some form of pre-assessment review, particularly because small business and individual have less funds and are less able to head off to court and have the things challenged in court.

I think it's appropriate that all taxpayers have, and particularly small businesses with fewer resources.

ADELE FERGUSON: The watchdog could do with more bite. Its recommendations aren't binding.

KATE CARNELL: Not much point in having an independent entity if it doesn't have the powers or the capacity or the size to actually deal with the issues that we're talking about.

If you're going to have an independent entity, it's got to have teeth, and it's got to have size.

DEBORAH JENKINS: We have so much scrutiny in the ATO.

We've got various committees, so Senate Estimates, other revenue committees, we've got the Inspector-General, and there's a whole other range of people who are doing various reviews, so yeah, absolutely, we have got enough scrutiny of the work that we're currently doing.

ADELE FERGUSON: The Tax Office couldn't know what it was up against when it took on Helen

Petaia.

HELEN PETAIA: A lot of people said, "Give up, it's not worth it, it's the tax office, you won't get anywhere."

ADELE FERGUSON: Why did you keep fighting?

HELEN PETAIA: Because I knew they were wrong

ADELE FERGUSON: The ATO has destroyed her business and wiped her finances but through dogged determination she's managed to expose a comedy of errors, inaction and incompetence.

HELEN PETAIA: Your life is put on hold your business is put on hold and it's up to you to prove your innocence.

VIDEO: ESD for family, don't gamble with you and your loved one's wellbeing

ADELE FERGUSON: 12 years ago, Helen Petaia started a technology company to deliver immediate access to critical medical information.

VIDEO: Using a QR app on the smartphone you can access the emergency summary for the person being cared for

it was inspired by a medical emergency during the birth of her youngest son when hospital staff couldn't find vital medical information.

HELEN PETAIA: the market response we were getting was very responsive, so I quickly realised that if we were going to grow the business we needed to bring in more capital, so we established a second company in 2010.

ADELE FERGUSON: Major sporting codes like the Queensland Rugby League jumped on board ... and she won government research and development grants. Then In late 2012 the ATO announced an audit of her businesses.

HELEN PETAIA: they notified us that they were going to audit both companies, but it was just a research and development audit. It wasn't a companywide audit. It was fine. We had no concerns and at the conclusion of the audit meeting we almost didn't give it a second thought.

ADELE FERGUSON Almost a year went by with little contact from the ATO.

And then in late 2013 there was a bombshell, the ATO issued tax bills for \$370,000 and accused Helen Petaia of claiming research and development grants that she wasn't entitled to.

HELEN PETAIA: they gave a decision paper that claimed that we had been reckless, that we had made false and misleading statements, and that because of that we had to pay an additional 50% penalties.

I took it that it was an allegation against me and my character.

It was suggesting I'd been dishonest, that I'd been fraudulent, I just felt my head was now on the chopping block, so then we endured very aggressive debt recovery actions.

They came through and took, they issued garnishee notices on our bank account. We were financially ravaged, yes but we just had to go into debt to survive

ADELE FERGUSON: Her business was in freefall as her investors pulled out. The family lived off

credit, there was no money to pay school fees and other expenses for her five children.

HELEN PETAIA: The children would come home and need money for things. I suppose I was always making excuses a little bit or, "Do you really need that now?"

Constantly every time there's bills, mobile phones, I mean every bill, rates. We fell into arrears. The local council took us to court as well for falling into arrears on our rates on our property, I think I just got so used to it that I probably don't realise how bad it was.

ADELE FERGUSON: Another year later there was a stunning development with the ATO admitting it had got it wrong.

An Assistant Commissioner for Small Business rang to offer a personal apology:

Darryl Richardson, ATO Assistant Commissioner: It was clear to me that there had been a breakdown in the ATO processes.

So Helen, again, I apologise firstly for the manner in which it's been conducted and also the impact that it's had on you personally and also on your colleagues.

ADELE FERGUSON: You apply for compensation?

HELEN PETAIA: At their suggestion.

ADELE FERGUSON: How much did you get back? How much did they offer you?

HELEN PETAIA: So, we originally got offered \$20,000 and the letter said that it was for me to pay my accounting and legal fees.

ADELE FERGUSON: So how much would you estimate you've lost out of all this?

HELEN PETAIA: Oh, millions of dollars.

ADELE FERGUSON: Helen Petaia launched her own forensic investigation to build her case for realistic compensation.

HELEN PETAIA: I felt that eventually there was possibly a way to find out what went on behind the scenes of the tax office.

ADELE FERGUSON: Case notes she obtained through Freedom of Information revealed a litany of problems.

Crucial information had not passed on between case officers.

The ATO misplaced important documents she'd given them, yet accused her of withholding this information.

It built its case against Helen despite her company not even having been properly assessed.

ADELE FERGUSON: Was that company ever audited?

HELEN PETAIA: No

ADELE FERGUSON: So you received a bill and a position paper without a company that had been audited?

HELEN PETAIA: Yes

HELEN PETAIA: A subsequent case officer was instructed by the case manager to cut and paste the first company's document and use that as the position paper for the second company.

ADELE FERGUSON But the first one is bogus?

HELEN PETAIA: Yes, and so so's the second one

ADELE FERGUSON So they really screwed up?

HELEN PETAIA: I suppose that's what you'd call it politely yes

ADELE FERGUSON: In February the ATO organised a mediation to try and reach an agreement on how much compensation it would pay.

HELEN PETAIA: Well the offer, it was just poles apart. I mean we'd done some calculations, we knew what the reasonable figure would be based on our sunken costs, based on what the business would've been worth, and based on what the opportunity that was stolen from us, and we were poles apart.

They treat me as if I'm just this mum in the suburbs what would I know what I do how much money is it going to take to shut her up and that's the attitude I feel comes across.

ADELE FERGUSON: They obviously didn't offer you enough to shut you up?

HELEN PETAIA: I'm not shutting up at all Adele I mean if anything its empowered me its motivated me to basically continue to move forward.

ADELE FERGUSON: She's suing the Australian Taxation Office in the Supreme Court.

HELEN PETAIA: I suppose the only way to get fairness is to take it outside the tax office and to have people not involved in the tax office that don't work for the tax office become the judge of my destiny

HELEN PETAIA: We've lost our investments, we've lost our home, I've personally lost my business reputation, the only thing I haven't lost is my family.

Now I'm fighting for fairness, I'm fighting for them, I'm looking to recover what we've lost.

Everybody could have this happen to them with the Tax Office.

It came out of nowhere, it was completely unexpected, it's turned my life upside-down, it's caused myself and my family to have to go in a whole different direction, and the truth is it could happen to anybody

ADELE FERGUSON: Helen Petaia is not backing down in her quest for compensation for all that she's lost.

She wants to pave the way for others caught in the same David and Goliath battle.

HELEN PETAIA: Somebody eventually has to win against the tax office.

They can't keep winning just because they have more money, just because they have more power.

That doesn't mean they can keep winning.

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