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Your practice

Your practice is a central source of administrative and practice information for tax professionals.

Tax and BAS agents



Managing your practice, including administrative information and our approach when contacting your clients.

Legal practitioners



Information for legal practitioners on our approach to litigation and case law and our consultation activities.

Insolvency practitioners



Information for insolvency practitioners on contacting us, your responsibilities and how to use our online services.

Digital service providers



Services and support to help you stay up to date with the latest news and find the information you need.

Managing electronic activity statements and instalment notices



Electronic refunds



Most client refunds need to be sent by electronic funds transfer into the Australian financial institution accounts.

QC 43911

Tax and BAS agents

Managing your practice, including administrative information and our approach when contacting your clients.

Last updated 25 March 2021

Here you'll find information about starting and managing your practice, what records you need to keep, your obligations and how to contact us.

Follow the links for more information about:

- [Newly registered tax agents](#)
- [Newly registered BAS agents](#)
- [Practice administration](#)
- [You and your staff's obligations](#)
- [Security advice for tax professionals and businesses](#)
- [Recognising, rejecting and reporting tax avoidance](#)
- [Supporting clients that may be victims of tax fraud](#)
- [Primary contact and authorised contacts](#)
- [Protocols for contacting you or your clients](#)
- [Updating client details](#)
- [Risk assessment](#)
- [Disaster events](#)

- Early Intervention Program
- Independence standards for tax professionals with SMSF clients
- Feedback and complaints

See also:

- News and alert services
- Services and support

Agent Client Verification methods



Gives additional context on how agents may perform client verification when engaging with our systems.

Newly registered tax agents



If you are a newly registered tax agent, see key information to be aware of.

Newly registered BAS agents



If you are a newly registered BAS agent, see key information to be aware of.

Practice administration



Learn about the basics of running your practice, dealing with the ATO and what records you need to keep.

You and your staff's obligations



It is important for you to keep your personal tax obligations up to date to avoid compliance action.

Recognising, rejecting and reporting tax avoidance



How to recognise unlawful tax and super schemes and the red flags associated with them.

Primary contact and authorised contacts



Work out roles and responsibilities of primary and authorised contacts and who is authorised to appoint them.

Protocols for contacting you or your clients



Situations where we may contact your clients directly and how we will inform you.

Updating client details



How to update your client's details online using the practitioner lodgment service (PLS) or Online services for agents.

Working with you to manage risk



Our approach to assessing and understanding risk and our information exchange with the Tax Practitioners Board.

Disaster events



If you or your clients are affected by a recent disaster event, we have a range of options to help you.

Early Intervention Program



We provide support and education to reduce the number of agents who are at risk of becoming a concern in the future

Feedback and complaints

See the options available for tax and BAS agents to give feedback or make a complaint to the ATO.

Supporting clients that may be victims of tax fraud

What you can do if you have clients who have been the victims of tax fraud.

Independence standards for tax professionals with SMSF clients

Information for tax professionals with self-managed super fund (SMSF) clients on changes to the independence standards.


QC 43914

Agent client verification methods

Gives additional context on how agents may perform client verification when engaging with our systems.

Last updated 11 February 2025

Strong verification is important

Read this in conjunction with the Tax Practitioner Board's (TPB) [Practice Note TPB\(PN\) 5/2022](#)  *Proof of identity requirements for client verification* (TPB(PN) 5/2022).

Strong client verification helps to protect tax practitioners, their clients, and Australia's tax and superannuation systems from misuse and abuse due to identity theft and related issues. With an ever-

increasing reliance on technology and remote work practices, the risks presented by this continue to rise.

This information is intended for registered tax practitioners (registered tax agents and BAS agents) using [Online services for agents](#) or practitioner lodgment services through software. It outlines practical steps to perform client verification when using our systems. If you follow this guideline in conjunction with the requirements prescribed by the TPB, you are deemed to have met the client verification requirements of both agencies.

Who you need to verify

You must verify a client's identity prior to providing tax agent and BAS services, and on an ongoing basis, as prescribed in [TPB \(PN\) 5/2022](#). For more information on ongoing verification refer to paragraphs 18 to 21 'Well-established clients' and paragraphs 22 to 23 'Frequency'.

Where an individual is representing a client (including individual and non-individual clients) in engaging you as the client's tax practitioner (an individual representative), you must also take steps to ascertain and verify the individual representative's identity, and their authority to engage you on behalf of the client.

Minimum verification requirements

The minimum verification requirements are prescribed in [TPB \(PN\) 5/2022](#). You are encouraged to go beyond these requirements if you still have concerns about a person's identity, even if you meet the minimum requirements.

The ATO and the TPB seek to support you in managing client identity risks to your practice – the responsibility to verify client identity ultimately rests with you as the tax practitioner.

Verification methods

Unless a primary photographic proof of identity document can be verified using the visual method, you must verify 2 separate proof of identity documents. In addition to those listed in [TPB \(PN\) 5/2022](#) you can use one or a combination of the methods in Table 1.

Table 1. Verification methods

Method	Description
<u>Visual</u>	<p>Visually checking a client's identification documents.</p> <p>Suitable when you are interacting with the client in person or by video conferencing. For most clients, a visual check of a drivers licence will be all that is needed.</p> <p>Can also be used to prove the identity of an individual representative of your client.</p>
<u>Source ATO</u>	<p>Comparing data provided by the client against data on our systems.</p> <p>Suitable for in person (including video conferencing) interactions and remote interactions and digital interactions through software (for example, online customer portals).</p> <p>Must not be used to prove the identity of an individual representative of your client unless the representative is also your client. Using this method when the representative is not your client would represent a potential breach in client privacy as you are not authorised to act for that person and to see their tax-held personal information.</p>
<u>Source DVS (Document Verification Service)</u>	<p>Comparing a client's details on government issued identity documents against details held by a DVS provider.</p> <p>This method is suitable for in-person (including video conferencing) and remote interactions.</p> <p>Can be used to prove the identity of an individual representative of your client.</p> <p>Some DVS providers may also include facial (biometric) checks to confirm the face of the client matches the photograph on the identification</p>

document. Where this is available, we recommend this is utilised as this provides an additional layer of security.

Client-to-agent linking

The client-to-agent linking process doesn't override a tax practitioner's obligations to undertake client proof of identity. It only provides us with verification that someone has the authority to act on behalf of an entity within Online Services for Business.

It doesn't verify the identity of the person that has engaged your services as a registered tax practitioner.

Using a combination of verification methods

To complete the client verification, you will need to consider the interaction setting and method required and use in conjunction with the minimum requirements.

You may use a combination of the methods outlined in [Table 1](#) to achieve a total of 2 separate proof of identity documents as outlined in [Table 2](#).

Table 2. Combination of verification methods

Combinations	2 separate proof of identity documents
Visual + Visual	Verify at minimum 2 visual identity documents (original non-photographic identification document or secondary identification document).
Visual + Source ATO	Visual (original non-photographic identification document or secondary identification document) and verify at minimum 2 pieces of information verified using source ATO.
Visual +	Visual (original non-photographic identification document or secondary

Source DVS	<p>identification document)</p> <p>and</p> <p>name and date of birth (DOB) or address on a primary or secondary document verified through source DVS.</p>
Source ATO + Source DVS	<p>Verify at minimum 2 pieces of information verified using source ATO</p> <p>and</p> <p>name and DOB or address on a primary or secondary document verified through source DVS.</p>

When undertaking client verification, consider the following tips.


- Don't ask for multiple client details from the same source or information that could be obtained from social media or public domain.
- Don't confirm or deny responses to client verification questions. Instead, complete a series of questions and provide a final response at the end such as 'I am unable to verify your information at this stage'.
- Don't divulge to the client any private information during the client verification process including pre-fill information.

Verification methods in detail

Visual method

Visual involves visually checking a client's identification documents.

Step 1 – Ask for your client's name, TFN, or ABN along with their address or DOB.

Step 2 – You must use the documents specified by [TPB \(PN\) 5/2022](#) .

Sight your client's identity documents. Cross check the details on the documents match those given by your client such as name, gender, address and DOB.

Note: If primary photographic ID has been provided, ensure the photo is a reasonable match to the person.

Step 3 – Obtain written or electronic authority from the client to act on their behalf and to link them to the client record in online services using their TFN and DOB or ABN and name for example, an engagement letter.

Step 4 – Once linked confirm your client's name, TFN or ABN, address or DOB matches our records.

When undertaking client verification checks, don't:

- confirm or deny specific information from the ATO client record
- give the client any private information
- share or confirm pre-fill information.

Source ATO method

Comparing data provided by the client against data on ATO systems, requires linking to the client record. This can't be used to prove the identity of an individual representative of your client unless the authorised representative is also your client.

Step 1 – Begin by seeking your client's permission to link them using their TFN and DOB or ABN and name.

Step 2 – Once linked, verify the name your client gave matches the name on ATO systems.

Step 3 – Verify **2 further pieces of information** against ATO systems. You **can only use** the following information:


- bank account details
- details from an ATO-generated notice or lodged return that you can confirm on ATO systems
 - notice of assessment sequence number or reference number
 - activity statement document identification number
 - correspondence reference number
- ATO account details
 - recent account balance – information provided by client can be close, typically plus or minus 5%
 - amount of any refund, payment or interest (general interest charge and shortfall interest charge) imposed – information

provided by client can be close, typically plus or minus 5%


- amount and frequency of a payment plan
- pay as you go instalment amount or rate
- gross payment or tax withheld from income statement
- reportable super contributions
- HELP balance (a zero-balance value is not acceptable)
- information specific to the client, including
 - name and membership number of super fund
 - private health insurance membership number.

Source DVS method

Comparing a client's details on government issued identity documents against details held by a DVS provider.

To use this method, you will need to have an arrangement with an appropriate [Gateway Service Provider](#) .


Step 1 – Begin by asking your client for their name and DOB or address.

Step 2 – Access via your DVS provider and verify the client's name and DOB or address against 2 separate government identity documents as stated in [TPB \(PN\) 5/2022](#)  (at least one must be a primary identification document).

When using DVS, you can record the Verification Reference Number (VRN) as part of your record keeping notes for recording client verification.

Recording client verification

The ATO and the TPB don't require you to or recommend that you retain identification documents. Retaining identification documents may increase your risk of being targeted by criminals undertaking identity theft. Instead, maintain records to demonstrate that you undertook proof of identity steps.

The [TPB \(PN\) 5/2022](#)  specifically paragraphs 24 to 25 'Record keeping', has guidance on what should be noted as a

contemporaneous record.

Relationship verification


For clients who act on behalf of other people or entities, you must verify both:

- the representatives' **identity** using the methods described in Table 1
- that the representative **is authorised** through relationship verification.

Acting on behalf of another individual

To establish that an individual is acting on behalf of another individual. The steps are as follows.

Step 1 – Verify the identity of the representative using either visual or source DVS methods. Source ATO method can only be used if the representative is also your client.

Step 2 – Verify that the authorised relationship exists using one or more of the evidence prescribed by the TPB in [TPB \(PN\) 5/2022](#) .


You can also verify the authorised relationship by looking at the authorised contacts listed on the ATO individual client record in which you are authorised to act on behalf of. You can only access the client's record after verifying the identity of the authorised representative.

In applying reasonable care to verifying a relationship, consider the currency of the documents being used. If you have doubts about the authenticity of any document, consider asking for further proof.

Acting on behalf of an entity

If your client is acting on behalf of an entity or they are a representative of another person, the verification process is as follows.

Step 1 – Verify the identity of the representative using either visual or source DVS methods. Source ATO method can only be used if the representative is also your client.

Step 2 – Verify that the authorised relationship exists using one or more of the evidence prescribed by the TPB in [TPB \(PN\) 5/2022](#) .

You can also verify the authorised relationship by looking at the authorised associated contacts listed on the ATO client record in which

you are authorised to act on behalf of. You can only access the client's records after verifying the identity of the authorised representative and the agent nomination by the client has been completed.

In applying reasonable care to verifying a relationship, consider the currency of the documents being used. If you have doubts about the authenticity of any document, consider asking for further proof.

Additional considerations

Potential fraud

In some circumstances, you may need to ask for additional proof beyond the minimum requirements prescribed by the TPB. This might be appropriate where you have doubts about the client's identity even after completing the minimum checks. Examples are where the client:

- is dismissive of the client verification process
- is not forthcoming
- applies pressure or provides documents that appear to be fake or otherwise unusual.

In making these decisions we expect you to apply reasonable care, taking a risk-based approach and considering the circumstances of the client.

Some elements to consider in decision making include the risks associated with:

- the request, such as
 - changing contact or bank account details
 - lodging amendments or original tax returns or statements with higher refunds, or with significant or unusual refunds
 - rolling over super or early access to super
 - requests to provide information from our systems including pre-fill
 - requests to confirm personal information that the 'real' person or entity should already know
- a representative, such as
 - claiming to represent many people

- changes in representatives for a person
- an entity where the representative's identity authorisation can't be verified
- where there has been a relationship breakdown
- whether there has been continuity in the client's engagement of the practitioner or whether there has been a break in the engagement
- the extent of your relationship and familiarity with the client
- whether there has been a change in the circumstances or any discrepancies that arise about the client's identity or other affairs
- any requirements of the registered tax practitioner's professional association or Australian financial services licensee.

If you are unable to verify a client or the information provided and suspect potential fraud:


- don't confirm the specific incorrect information or provide the correct information – instead ask for additional information that you can use to verify their identity
- don't give the client any private information; importantly don't share or confirm pre-fill information
- **contact us** so that we can take action.

If you use the Source ATO method and suspect potential fraud, delink the client immediately and contact us.


Remote verification including online agents

Extra care should be taken when engaging with a client remotely, particularly if this is undertaken solely through online or electronic means.

All verification methods in [Table 1](#) are suitable for remote verification. Visual verification can only be undertaken through visual means of interaction, in an electronic sense this includes video conferencing or webcam where both the person being verified and their identity document can be compared. Source ATO, Source DVS and Client-to-agent linking methods may all be undertaken remotely without visual interaction with the client.

If you create your own online portal or software applications, you must ensure you protect the data from cyber-attacks. You should implement the [ACSC's Essential Eight](#)  mitigations.

We also have mandatory security requirements for software developers such as PLS providers. For example, you need to ensure that ATO data you access is not open to cybercrime.

Our Digital Service Provider (DSP) Operational Security Framework establishes the minimum level security requirements a DSP needs to meet to access ATO Digital Services. You can seek more advice from the [Digital Partnership Office](#) .

Clients without conventional identity documents

Some clients may not be able to provide identity documents to pass client verification. As outlined by the TPB, you should take a flexible approach to verify the identity of these clients.

For more information, refer to [TPB \(PN\) 5/2022](#)  paragraph 16 and 17.

Order of verification steps

We also recognise that some verification steps can be completed concurrently. However, it is critical that you don't inadvertently disclose any private information or pre-fill information about a client until all verification steps are completed successfully.

QC 67529

Newly registered tax agents

If you are a newly registered tax agent, see key information to be aware of.

Last updated 5 March 2026

Registration with the Tax Practitioners Board

We value the important role registered tax agents play in our tax system and are committed to providing products and services that

help you represent your clients.

A new registration with the [Tax Practitioners Board](#) (TPB) may not mean you're new to the industry, however, here is key information you need to be aware of.

Digital services for tax agents

You can use a range of services to help you in the day-to-day running of your practice, including Online services for agents, the practitioner lodgment service (PLS), and the Australian Business Register (ABR).

These services allow you to:

- communicate with us electronically
- access client account registration information
- lodge your clients' tax returns and other forms electronically
- apply for Australian business numbers (ABN) and other registrations
- apply for tax file numbers (TFN) for your clients
- view and update your clients' ABN details.

For more information, see [Digital services](#).

Data and cyber security

Strong security practices can help protect you, your practice and your clients from identity thieves and cybercriminals.

We recommend you follow our [Security advice for tax professionals and businesses](#).

Registered agent lodgment program

We provide the [Registered agent lodgment program](#) of concessional due dates to help you manage workload. It allows you to progressively lodge your clients' obligations over a 12-month period.

The [Lodgment program framework](#) ensures a level playing field among tax agents by benchmarking lodgment performance.

To receive lodgment program due dates, you must lodge returns and forms electronically. You should also aim to lodge 85% or more of your

clients' current year tax returns on time.

For information and tips to help your practice, see [Managing your lodgment program](#).


Advice and guidance

We have a range of public and private ATO advice and guidance products that will help you understand how the law applies to your clients.

To find law, interpretations and policy that we use when making decisions, see our [Legal database](#).

News and alert services

Our News services for tax professionals range from an online newsroom, a free weekly newsletter, alert service, live streams, videos and more.

We recommend you [subscribe to the Tax and BAS agents newsletter](#)  to receive all your news in one place. Tailored just for you, it links you to articles in the tax professionals newsroom and keeps you up to date with the latest news, including:

- information to help manage and protect your practice
- what's new in law, rulings and policy
- consultations and upcoming events
- scheduled system outages.

Keep your details up to date

It is important we have the correct contact details for your practice. You must notify the Tax Practitioners Board of any changes to your contact details. This will update some of our records.

For more information, see [Changing your details](#).

Support when you need it

If you or your practice are experiencing challenges beyond your control, we have a range of support options available.

QC 16520


Newly registered BAS agents

If you are a newly registered BAS agent, see key information to be aware of.

Last updated 6 March 2026

Registration with the Tax Practitioners Board

We value the important role registered BAS agents play in our tax system and are committed to providing products and services that help you represent your clients.

A new registration with the [Tax Practitioners Board](#)  (TPB) may not mean you're new to the industry, however, here is key information you need to be aware of.

Digital services for BAS agents

We have a range of services to help you in the day-to-day running of your practice, including Online services for agents, the practitioner lodgment service (PLS) and the Australian Business Register (ABR).

These services allow you to:

- communicate with us electronically
- access client account registration information
- lodge your clients' activity statements and other forms electronically
- apply for Australian business numbers (ABN) and other registrations.

For more information, see [Digital services](#).

Data and cyber security

Strong security practices can help protect you, your practice and your clients from identity thieves and cybercriminals.

We recommend you follow our [Security advice for tax professionals and businesses](#).

BAS agent lodgment program

We provide the BAS agent lodgment program to help you manage workload. It includes lodgment and payment concessions if you electronically lodge eligible activity statements.

For information and tips to help your practice, see [Managing your lodgment program](#).


Advice and guidance

We have a range of public and private [ATO advice and guidance](#) products that will help you understand how the law applies to your clients.

To find law, interpretations and policy that we use when making decisions, see our [Legal database](#).

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Keep your details up to date

It's important that we have the correct contact details for your practice. You must notify the Tax Practitioners Board of any changes to your contact details. This will update some of our records.

For more information, see [Changing your details](#).

Support when you need it

If you or your practice are experiencing challenges beyond your control, we have a range of [support options](#) available.

QC 23037

Practice administration

Learn about the basics of running your practice, dealing with the ATO and what records you need to keep.

Last updated 3 April 2025

Proof of identity for registered agents

You'll need to provide proof of identity (POI) information when contacting the ATO or when we contact you.

Your POI details may include information from a notice of assessment, lodged return or activity statement, provided it is no more than 5 years old.

When you contact us

Step 1 – Quote your registered agent number (RAN)

If you phone us on the registered agent phone line (**13 72 86**), you must provide your RAN.

Step 2 – Identify the account you want to access

You can identify the client account you want to access by providing one of the following:

- Australian business number (ABN)
- tax file number (TFN)
- name.

Step 3 – Provide POI for the account

The POI we need depends on whether your RAN is already on the account and for which taxpayer role, as shown in Table 1 below.

Table 1: POI requirements by access type

Access type 1: Registered agent listed on the client's account for the role	Access type 2: Registered agent listed on the client's account but not for the role	Access type 3: Registered agent not listed on the client's account
<p>You must provide details from an ATO generated notice or lodged return that is no more than 5 years old and relates to the client. These could include:</p> <ul style="list-style-type: none"> • a notice of assessment sequence number • a document identification number (DIN) • a correspondence reference number • the date and name or title of a letter or notice we have sent you that may or may not have a unique identification number but can be confirmed by our systems 	<p>You must refer to an ATO generated notice or lodged return that is no more than 5 years old and is relevant to the role. You must also provide one of the following relating to the client:</p> <ul style="list-style-type: none"> • their TFN (if not already provided as an identifier) • their date of birth, if applicable • their address – business, postal or email. <p>Where another registered agent</p>	<p>You must refer to an ATO generated notice or lodged return that is no more than 5 years old and is relevant to the role. You must also provide one of the following relating to the client:</p> <ul style="list-style-type: none"> • their TFN (if not already provided as an identifier) • their date of birth, if applicable • their address – business, postal or email. <p>Where another registered agent</p>

<ul style="list-style-type: none"> • income amounts • deductions claimed. 	<p>is listed on the account for a role, the notice you refer to must be more recent than any authority a taxpayer has provided for that role.</p> <p>Note: Our systems only support one registered agent against a role. Where you are the registered agent for the client and another registered agent is listed on the role, you must provide details from the latest lodged activity statement or tax return or another type of ATO generated notice specific to the role.</p>	<p>is listed on the account for a role, the notice you refer to must be more recent than any authority a taxpayer has given for that role.</p> <p>You must also provide verbal assurance that you have a signed authority.</p> <p>Note: Our systems only support one registered agent against a role. Where you are the registered agent for the taxpayer and another registered agent is now listed on the role, you must provide details from the latest lodged activity statement or tax return or another type of ATO generated notice specific to the role.</p>
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When we contact you

Step 1

If we contact you and can identify the name of your practice at the beginning of the conversation without any prompting, we will not ask for any further POI. However, if we can't, we will ask for your RAN and the name of your practice.

Step 2


Our officers will identify themselves clearly by providing their full name and the section in which they work. If at any stage you have doubts about the person contacting you being an ATO employee or you want a more formal confirmation, ask for the officer's contact details, including:

- their full name
- their extension number, if available
- the name of their team leader and their extension number.

You can ask the officer if you can phone them back on **13 28 69** between 8:00 am and 5:00 pm, Monday to Friday.

You can also ask the person phoning to confirm their identity by either emailing you or sending a secure mail message via Online services for agents.

When you write to us

When writing to us, always include your RAN. This helps prevent unnecessary delays in processing your correspondence. See [Proof of identity requirements for registered agents \(PDF, 325KB\)](#) .

Proof of identity checks for clients

To avoid errors and help stamp-out tax fraud through identity crime, it is important you take steps to check the true identity of individuals asking you to act on their behalf. We've seen increasingly sophisticated attempts by criminals and their accomplices to commit refund fraud by stealing the identities of taxpayers and posing as those taxpayers. These people may also be part of a larger fraud network.


Carefully checking proof of identity documents and questioning discrepancies in information provided by people is an important first step to stop these attempts.

It's also essential that you manage your **cyber safety**.

Verifying individual identities

Identity crime can happen to anyone at any time. We strongly recommend you perform identity checks for:

- all new clients before accepting them as clients
- existing clients, in particular when personal information has been altered or information relating to tax affairs is inconsistent with information you already hold (and have previously verified) about their tax affairs
- all representatives of clients (whether they claim to represent new or existing clients).

It is always best to check original documents to verify an identity. You may be able to use the Document Verification Service (DVS) which is a national online system that helps businesses build greater confidence in the identities of their clients. The DVS allows you to compare a client's identifying information with a government record. Businesses must meet certain eligibility criteria and pay a fee to use this online system. Find out more at [IDMatch](#) .

If you or your staff cannot confirm the identity of an individual, or you suspect fraudulent documents are being used, you can notify us of the incident so that we can stop any other attempts to use that identity.

Learn more about:

- [How to verify or report a scam](#)
- [Agent client verification methods](#)

Clients attending agent premises

New clients

For new clients that attend your premises (face-to-face), at least one piece of current photo identification documents can be used, including the following:

- passport (including an overseas passport with evidence of Australian immigration status)
- drivers licence
- government or student identity card, if applicable.

If the client is unable to provide photo identification, they'll then need to provide 2 of the following documents:

- either their
 - Australian full birth certificate, or
 - Australian citizenship certificate or Extract from the Register of Citizenship by Descent, **and**
- one of the following
 - last year's notice of assessment
 - Medicare card
 - recent bank statement (not credit card).

Temporary residents also need to provide a current valid passport.

Some temporary visa holders have work rights, although some classes of visas only allow limited work rights (for example, working holiday and student visas). Australian visa details should be checked to verify **both**:

- the working rights attached to the visa type
- that the individual is a resident for tax purposes.

Discrepancies or claims that seem inconsistent with the individual's work rights or personal circumstances warrant your further attention.

Existing clients

For concerns regarding existing clients, you can use the following details to ensure your client's identity has not been stolen:

- tax file number (TFN)
- full name
- date of birth
- current residential address
- current contact telephone number
- current bank details
- employment details (including the employer's address and phone number) where applicable.

For temporary residents, check the details of their current valid passport.

It's unlikely the holder of a stolen identity would be able to verify these details without discrepancies with the information you already hold.

Where there are any discrepancies with information you already hold, the discrepancy should be checked directly with the client to see if it matches information you already hold.

Online interactions with new clients

An increasing number of agents are accepting new clients from online channels rather than those clients coming to their premises. There is a heightened risk for you dealing with information in an online environment, particularly with clients you have not physically met.

For any online or electronic transaction, you still need to take appropriate steps to be satisfied that the:

- client is a genuine taxpayer
- client is who they say they are and the identity has not been stolen
- information they are providing to you is correct and can be substantiated.

We strongly recommend that you use an appropriate level of scrutiny to check information provided through electronic and online channels.

For new online clients, a wide range of personal details can also be compared against existing ATO information on **Online services for agents**:

- TFN
- full name
- date of birth
- current residential address
- current contact telephone number
- Medicare number
- current bank details
- employment details (including the employer's address and phone number) where applicable.

If you're not satisfied the identity of the client is correct, then you should consider not accepting the person as a client.

Online interactions with existing clients

If you receive information from an existing client to prepare and lodge a tax return or activity statement via an online channel, you should use the recommended identity checks for existing clients to validate the information.

If the information you receive is inconsistent with the information and usual reporting patterns you hold for that client, you should make additional checks.

Preparing tax returns for clients

Questions to ask your client

You need to ask reasonable and direct questions to work out your client's income position, and the deductions and tax offsets they can claim.

When working out your client's deductions, ask them whether they have already incurred the expenditure in the relevant year. Also ask questions to understand whether the expenditure is allowable as a tax deduction.

If the substantiation rules apply, ask your client what evidence they have available that is necessary (for example, receipts) to support the deduction.

You do not have to sight receipts and records

You do not have to sight the receipts and records. However, if they're available, examine them as part of the tax return preparation process. It's good professional practice to:

- ask your client to provide all the relevant documentation relating to their claims
- make note of the evidence you've seen and the evidence your client advises you they have, even if they haven't produced it for you.

You do not have to audit tax returns you prepare

You do not need to conduct tax audits on tax returns you prepare to ensure they are correct. However, you're expected to adopt reasonable professional care.

You should ask questions to obtain the relevant information you need to prepare the tax return. However, we understand you have to rely on the accuracy of the information your clients provide.

If your client will not produce their records


If you have good reason to believe your client is making a false claim or omitting income, carefully consider whether or not to continue preparing their tax return. However, if you have reasonably ascertained what records the client has to support their claims and you have no good reason to doubt the accuracy of that information, you can rely on it when preparing the tax return.

Carefully advise your clients about the:

- relevant substantiation rules or other requirements to support their claims
- significance of the [declaration](#) they have to sign on their tax return.

Do not include a claim that is clearly not allowable

You must not knowingly include a claim in a tax return that is clearly not allowable.

The [Tax Practitioners Board](#)  (TPB) can apply a wide range of sanctions where breaches of the TPB Code of Professional Conduct have occurred. The Board will tailor its response to the severity of any misconduct, which includes making false or misleading statements.

This means that as a registered tax agent, you must not include a claim on a tax return if you know:

- your client has not incurred the relevant expenditure
- the claim is not allowable.

For example, you must not include a claim for total work-related expenses (other than car, meal allowance, award transport payments allowance and travel allowance expenses) that exceeds \$300 if you have not reasonably ascertained that your client has kept evidence to prove the total amount.

If your client instructs you to include a false claim

If your client instructs you to include a false claim, advise them of their responsibility to lodge a correct tax return and the possible

consequences of not doing so. Also explain your responsibility as a professional registered tax agent.

Try to persuade your client to exclude any false claims. If they insist on lodging a false tax return, neither you nor your staff should have anything further to do with the preparation of that tax return.

Record keeping

By law, you and your clients must keep business records, either paper or electronic:

- generally for 5 years after they are prepared, obtained or the transaction is completed, whichever occurs latest
- in English or in a format that we can access and understand.

Some records may need to be kept for longer periods, such as records relating to capital gains tax events. However, shorter record keeping periods apply for some records for individual clients with simple tax affairs.

While you and your clients are not required by law to keep records of tax returns, schedules, activity statements, tax objections or notices of assessment, we recommend you keep a copy for 5 years.

For further guidance, see:

- *TR 96/7 Income tax: record keeping – section 262A – general principles*
- *TR 2018/2 Income tax: record keeping and access – electronic records*
- *PS LA 2005/2 Penalty for failure to keep or retain records*

Taxpayer declarations

If you give a document to us in the approved form on behalf of a client, your client must make a **signed declaration** in writing stating **both** of the following:

- They have authorised you to give the document to us.
- The information they have provided to you to prepare the document is true and correct.

Your client must give you a signed declaration before you lodge any document on their behalf. Once your client makes the declaration and gives it to you, you can return it, or a copy of it, to them.

Examples of documents that must be in the approved form include tax returns and activity statements.

The declaration can be given:

- in paper form
- electronically
- by fax.

Certain requirements must be met when providing a declaration electronically.

Most of your clients must keep their declaration, or a copy of it, for 5 years after they make it, depending on their circumstances.

Reporting cash transactions

Cash is often used legitimately to pay for goods and services. However, it is illegal for people to use shadow economy activities to hide income and avoid tax and superannuation obligations.

Shadow economy activities include businesses 'skimming' cash takings, paying 'cash-in-hand' wages, operating off-the-books and not recording or reporting all sales and purchases.

Following are best practice examples of ways you can assist your clients to correctly record and report cash sales, cash expenses and cash drawings.

Determining the best practices you use in your business will depend upon the type of tax practitioner services you provide (BAS or tax agent).

It is possible that even if you adopt these or other practices that a business you service may still under-report income and may still come under our scrutiny.

The relevance of these practices may vary depending on the:

- size and nature of your clients' businesses – for example, an established larger business would be expected to have strong record-keeping systems and controls. A review of their record-

keeping processes, rather than of source records, may be more appropriate

- relationship you have with your clients – for example, in an initial engagement interview with a new client you may undertake a more comprehensive review of their record-keeping systems.

Best practice examples

Ask clients what records or evidence they have to support income and expense amounts

You could:

- sight a sample of source records, such as invoices, or last month's till tapes or electronic point of sale records
- sight source records during initial client engagement
- sight source records when anomalies appear
- make a note of the records sighted and the evidence your client advises you they have, even if they haven't produced it for you.

Advise clients of the consequences if records are not correct, complete or maintained appropriately

You could:

- advise that our risk models, or our **small business benchmarks**, may identify them as a compliance risk if amounts reported in returns are unreasonable or are outside the benchmark for their industry
- explain the consequences if they're unable to substantiate income and expense amounts reported in their returns
- advise of possible compliance actions, including audits, financial penalties and prosecution
- advise of the consequences of providing incomplete, incorrect or misleading information for preparation of their returns or activity statements.

Sight or perform reconciliations, for example:

- check the differences between total sales and banking
- check that reported sales reconcile with till tapes or electronic point of sale records

- check the differences between reported amounts in activity statements and income tax returns.

Check figures are reasonable, for example:

- check the consistency of current amounts with previously reported figures
- compare with our **small business benchmarks** or other industry benchmarks
- check income reported is consistent with your clients' lifestyle, including property and motor vehicle purchases
- use the **Personal living expenses comprehensive worksheet**
- check if profit and loss and cash flow are reasonable
- separate income received by cash from other payment methods and use ratios to compare cash income to non-cash income
- discuss figures with your clients if the figures appear unreasonable.

Ask sufficient questions to satisfy yourself the information your client provided is correct and complete

You could:

- ask direct questions to get the information you need to work out your client's income position
- enquire further about the completeness and correctness of information if there are grounds to doubt the information your client provides.

Ask clients to explain the processes they use to record and report cash transactions. For example, ask them to explain:

- their processes for recording sales from all income streams as they occur
- how they pay the business owner, staff and suppliers
- processes for recording expenses and drawings paid out of cash takings
- how they reconcile sales records.

Provide record-keeping advice or services, in an engagement interview or on an ongoing basis

You could:

- assess the record-keeping requirements of the business and the record-keeping capability of your clients to provide tailored advice or services
- recommend or set up a suitable record-keeping system for your client, such as a computerised or manual accounting system, or recommend they engage a bookkeeper
- review your client's records to ensure they have the processes and systems in place to manage tax records, including cash sales and expenses
- advise your clients of their obligation to maintain source records of all sales, such as cash register rolls or electronic point of sale records, including their obligation to provide those records if we request them
- advise your clients that it is illegal to possess or use software or electronic systems that manipulate or falsify original electronic point of sales records
- advise your clients in relevant industries that a separate sequentially numbered invoice book is recommended, and that invoices should be issued (and copies maintained) for all sales
- provide education to your clients who choose to calculate and lodge their own activity statements.


Maintain contact with clients throughout the year

You could:

- prepare or obtain a copy of your client's activity statements to maintain contact on a quarterly basis
- visit your client's business during the financial year.

For more information, see [Tax Practitioners Board](#) 

Changing your details

As a registered tax agent or BAS agent, you must notify the TPB of any [change of registration details or circumstances](#) . This will

automatically update some of our records.

You also need to update your contact details in your practice management software to ensure these details are accurate when you lodge. Contact your digital service provider if you need help.

Records we automatically update

We use the data the TPB sends us to automatically update your practice details, as well as the postal address on your client's income tax and fringe benefits tax role, providing:

- you have added them to your client list for these roles
- the postal address for the client is the same as your prior address.

You can check the **My details** screen in Online services for agents to verify if we have your latest practice contact details.

Details you need to update with us

Table 2: Update your contact details with us for selected communications and notifications

Communications or notifications	Action required	Find out more
Activity statements and related notifications	You can update the contact details on your client's activity statement role using Online services for agents .	Add client
Practice mail – email notification	You can change your email address for these notifications	Practice mail
Tax professionals newsletters and alerts	You must subscribe to receive these free weekly newsletters. By subscribing to either newsletter	Tax professionals newsletters


	<p>you'll also receive Tax professionals alert emails.</p> <p>To change your email address, select unsubscribe at the bottom of a newsletter you have received, then subscribe to enter your new email address.</p>	
Tax professionals alerts about system availability	<p>You must subscribe to receive these email alerts.</p> <p>To change your email address, select unsubscribe at the bottom of an alert you have received, then subscribe to enter your new email address.</p>	Tax professionals alerts and dashboards
ATO website – email updates	<p>You must subscribe to receive these updates.</p> <p>To change your email address, select the link in an email update message you have received.</p>	ATO website subscriptions

Retiring, selling or restructuring your practice

If you are restructuring your practice at the request of the TPB to **close your branches**, refer to [Closure of branch registrations](#) for instructions and actions you need to take.


If you're a registered agent and thinking of retiring, selling or restructuring your practice, there are a number of actions you need to

take.

You need to let us know straight away of your changing situation. You should also inform the [Tax Practitioners Board](#)  if your requirement for a registration changes.

Restructuring your practice can result in requiring a new ABN when using a Digital ID, such as myID, using **Digital ID and Relationship Authorisation Manager (RAM)**. You'll need to make sure your ABN details are updated in the in the Australian Business Register (ABR). You will also need to link your myID to your new ABN in RAM.

If you are restructuring your practice and are lodging through the **Practitioner lodgment service (PLS)** you may need to take some steps to enable easy lodgment.

See the [Tax Practitioners Board](#)  website for information about how to register a new business entity.

Informing clients

You should inform your clients about your practice changes in writing. Your letter should explain the reasons for the changes – usually selling, retiring or restructuring.

As a:

- retiring agent, you may take the opportunity to introduce the new or receiving registered agent
- transferring agent, you should also inform your clients about their right to either continue with the new registered agent or assume responsibility for their own tax affairs.

Transferring clients

We can process a whole-of-practice transfer to a new registered agent or entity if certain requirements are met. Some examples where this may happen are when:

- a practice is sold
- a sole practitioner becomes a company
- a sole practitioner becomes a partnership
- an existing partnership adds or removes a partner

- 2 or more partnerships or companies merge
- a practice now operates under a trust

We cannot perform a whole-of-practice transfer for a portion of a client base.

Your clients' new registered agents (tax agents or BAS agents) are responsible for updating their client details with us.

Note: Clients included in the client-to-agent linking process are **not** required to complete an **agent nomination** as part of a whole-of-practice transfer.

Deleting clients from your list


You should delete those clients you no longer represent from your client list, as well as those clients you have had no contact with for some time.

If you are the selling or retiring agent, it is in your interest to remove all clients from your client list, either through a whole-of-practice transfer or by deleting clients. This will ensure their mail is not sent to you in the future.

You can individually delete clients using [Online services for agents](#) or the [Practitioner lodgment service \(PLS\)](#).

Requesting a whole-of-practice transfer

Before completing and submitting your request, you need to:

- register for the PLS, if necessary
- update your address with the [Tax Practitioners Board](#) 
- update your client list, removing clients as necessary
- have consent from all your clients to transfer their information in compliance with Australian Privacy Principles
- check if there are any outstanding practice mail requests for your clients that have been initiated under the transferring RAN
- ensure you have saved copies of practice mail and other communications (such as audit letters) not appearing in the **Communication history** for your clients, as this information will not transfer to the new RAN

- check if any tax returns need to be re-keyed on the new RAN.

Once your clients have been transferred to the receiving RAN you will no longer be able to access their information under the transferring RAN. Practice mail associated with the branch RAN cannot be transferred to the new RAN. If a practice mail request has not been finalised before the client is transferred to the new RAN, you will need to resubmit the request under the new RAN. Refer to the previous request in your message and request any response issued be re-sent to the new RAN.

To request a whole-of-practice transfer include the following information:

- the registered agent name and RAN of both agents
- the new postal address and roles you want the transfer to apply to – for example, income tax, activity statements, fringe benefits tax
- a signed authority from both registered agents for the transfer to take place
- a signed statement indicating that all your clients consent to transfer their information.

For tax agents, include whether you want all the further return not necessary (FRNN) clients transferred. If not, they will need to be deleted or to have given their consent for the transfer.

Example: template to request a whole of practice transfer

I (name and RAN) – registered agent, hereby notify the Australian Taxation Office that I have transferred my practice to (name and RAN) – registered agent.

Or

I (existing entity, for example sole practitioner) – registered agent (name and RAN), hereby notify the Australian Taxation Office that I have restructured my practice and am now practising as (new entity, for example partnership) – registered agent (name and RAN).

I further notify the Australian Taxation Office that all my clients have agreed that (name of new registered agent) – registered agent, can prepare income tax returns and transact business in tax matters on their behalf.

Date of request:

Signature of existing registered agent or entity:

Print name:

Signature of new registered agent or entity

Print name:

Send your request to us online

Submit a practice mail request via Online services for agents, and:

- Select the topic **General questions/problems/help**.
- Select the subject **Whole of practice transfer**.
- Attach your whole-of-practice transfer request to the message.

If you have any queries about whole-of-practice transfers, phone us on **13 72 86** and use Fast Key Code **3 2**.

A whole-of-practice transfer takes 28 days to process.

For more information, see:

- Working with you to manage risk
- Tax and BAS agent feedback and complaints
- Cyber safety
- Our services for people with disability
- News services
- Support and communication

Restructuring your practice as a result of TPB direction to cancel branch RANs

If you have been contacted by the Tax Practitioners Board (TPB) to close your branch registration or registrations, follow these steps to

enable your new registration.

Before contacting the ATO to request a transfer of clients:

- remove clients you no longer represent
- inform your clients about your change in structure
- ensure you have addressed any unfinalised practice mail requests for your clients that have been initiated under your branch RAN
- save copies of practice mail and other communications (such as audit letters) not appearing in the **Communication history** for your clients
- check if any tax returns need to be re-keyed on the new RAN.

Any outstanding client matters initiated under the branch RAN should be finalised upon receiving direction from the TPB to close your branch RAN.

Once your clients have been transferred to the receiving RAN, you will no longer be able to access practice mail messages or other client information under the branch RAN. Practice mail associated with the branch RAN cannot be transferred to the new RAN. If a practice mail request has not been finalised before the client is transferred to the new RAN, you will need to resubmit the request under the new RAN. Refer to the previous request in your message and request any response issued be re-sent to the new RAN.

Transferring your clients to the new structure

Where practical, you should transfer your clients from your branch to the new structure yourself, to avoid delays in closing your branch. You can add clients to the new RAN and remove them from the branch RAN at any time. Refer to **How to add and remove clients**.

Where it is not practical to transfer your clients yourself, you can submit a whole-of-practice transfer request relating to the closure of your branch registration. While the transfer is being completed, you may not be able to access client information under either RAN.

To submit a whole-of-practice transfer request via practice mail in Online services for agents:

- Select the topic **General questions/problems/help**.
- Select the subject **Whole of practice transfer**.

- Include 'Branch closure – whole of practice transfer' in the message content.
- Attach your whole-of-practice transfer request to the message.

Refer to the example template below for the information required in the signed authority or statement.

Example: template for signed authority or statement

I (existing entity, for example sole practitioner) hereby notify the Australian Taxation Office that I am restructuring my practice and require assistance in transferring my clients from (branch entity) – registered agent (name and RAN), to (new entity) – registered agent (name and RAN).

I further notify the Australian Taxation Office that all my clients have agreed that (name of new registered agent) – registered agent, can prepare income tax returns and transact business in tax matters on their behalf.

Date of request:

Signature of branch registered agent or entity:

Print name:

Signature of new registered agent or entity:

Print name:

After your clients are transferred

If you requested a whole-of-practice transfer, we will notify you via practice mail when we have completed your request.

Once all your clients have been transferred to the new RAN, you must contact the TPB to request cancellation of the branch RAN.

You and your staff's obligations

It is important for you to keep your personal tax obligations up to date to avoid compliance action.

Last updated 12 July 2019

It's important for you to keep your personal tax obligations up to date. Failure to comply with your tax obligations may result in compliance action.

See also:


- Starting your own business

Practice staff obligations

Staff within your tax practice also have responsibilities, which include:

- quoting the practice's full registered agent number (RAN) on all communications with us
- being familiar with signature and declaration requirements and ensuring all returns, requests for amendment, and other documents lodged with us have been properly authorised by the registered tax agent
- being aware of their responsibilities regarding the use and disclosure of tax file numbers (TFN) as outlined in the TFN guidelines in the *Privacy Act 1988*.

See also:

- Client declarations and lodgment online
- [Privacy Act – Tax file numbers](#) 
- News services

QC 24455

Recognising, rejecting and reporting unlawful tax and super schemes

How to recognise unlawful tax and super schemes and the red flags associated with them.

Last updated 23 August 2024

How unlawful tax and super schemes operate

Unlawful tax and super schemes include tax avoidance and tax evasion schemes. They often involve a series of complex transactions. The schemes typically move funds through several entities, such as trusts, to avoid or minimise tax otherwise payable.

Schemes may include channelling money inappropriately through SMSFs either to:

- avoid paying tax
- encourage early access of super before a condition of release is met.



Schemes may also involve distorting the way funds are used to enable a taxpayer to claim deductions, tax credits or offsets that they are not entitled to.

How to recognise an unlawful tax scheme

Some indicators may include where the scheme:

- is carried out in a contrived or artificial way
- uses complex structures or intra-group transactions to create tax benefits that are unrelated to the commercial activity
- involves a low level of financial risk and a large tax benefit not usual for a commercially driven transaction
- includes any of the following:

- round robin finance
- circular funds movement
- non-recourse or limited recourse loans paid off by future earnings
- use of tax exempt entities such as charities, or entities with accumulated tax losses, to wash income
- use of a tax haven or bank secrecy country without any sound economic reason.

You can also watch [Tax Schemes](#)  and [Before you commit, check it's legit](#) 

For more information see:

- Tax and super schemes to watch out for
- Schemes targeting SMSFs
- Illegal early access to super
- Public rulings
- Private rulings
- Oral rulings

How to report an unlawful tax or super scheme

With your help, we can challenge promoters and take steps to protect your clients from participating in schemes that may lead to tax debts or penalties.

Advising us of unlawful tax or super schemes and scheme promoters helps us to protect the integrity of the tax and superannuation systems.

It helps maintain a level playing field for you, by preventing less reputable agents obtaining a competitive advantage through selling unlawful tax or super schemes.

Find out more about **how to make a tip-off**.

You can also **report schemes and promoters**.

If you are involved in promoting an unlawful tax or super scheme

You can be subject to penalties where:

- your conduct results in you or another entity being a promoter of an unlawful tax or super scheme
- you promote a scheme on the basis that is consistent with a public, private or oral ruling, but the scheme is materially different to that described in the ruling
- you implement a scheme promoted on the basis of compliance with a public, private or oral ruling in a way that is materially different to that described in the ruling
- you promote a scheme that involves super being accessed before the conditions of release are met.

If you find yourself inadvertently involved in the promotion or implementation of a scheme and you let us know, we will help you.

Depending on the conduct, we may accept a voluntary undertaking. We take a careful and considered approach to legal action. We only go to court after carefully considering a range of factors, including the seriousness and extent of the prohibited conduct.

For more information, see: [promoter penalty laws](#) and [PS LA 2021/1 Application of the promoter penalty laws](#).

QC 33370

Primary contact and authorised contacts

Work out roles and responsibilities of primary and authorised contacts and who is authorised to appoint them.

Last updated 1 February 2023

Primary contact

A primary contact (previously known as an entity representative) can:

- access all roles on their client's account
- add, remove and update the list of authorised contacts.

Primary contacts must be able to establish their identity at contact.

Different entity types will have different primary contacts. The following table shows the primary contact for each entity type.

Primary contacts by entity types

Entity type	Primary contact
Individuals	Only that individual
Company or incorporated association	Only the public officer Directors are authorised contacts .
Deregistered company	See more about deregistering a company .
Unincorporated association or body of persons (for example, sporting club, social club or trade union)	Office holder – they are a member of the committee of management and hold one of these positions: <ul style="list-style-type: none">• president• vice president• treasurer• secretary Public officer – must be appointed if the association or body is carrying on a business.
School (unless operating as a company)	Principal

Partnership	Named partners only
Trust	Trustee for the trust If the trustee is a company, it is the public officer. If the trustee company isn't registered with us and therefore doesn't have a public officer, it is the director of the trustee company as listed with the Australian Security & Investments Commission (ASIC).
Superannuation entity	Trustee for the entity If the trustee is a company, it is either the public officer or the board of directors (or a person appointed by them) where there is no legal requirement for a public officer to be appointed.
Deceased estate	Executor or administrator of the deceased estate where probate or letters of administration has been granted. We consider this person as the legal personal representative. Note: Due to the restrictive nature of the disclosure provisions, we will not record an executor without grant of probate as an authorised contact on the deceased person's record.
Government agency or entity (except schools)	Chief executive officer

Public officer

The public officer of a company is the person we normally deal with for the entity's tax affairs such as record keeping and submitting company

returns.

Appointing a public officer

The company's rules or articles of association determine who can appoint a public officer. This is a decision to be made by the company. In some cases, it may be made by a director or board of directors.

A public officer must be appointed within 3 months of the entity commencing business or deriving income in Australia.

Criteria for being a public officer

A public officer must be an individual who meets all the following criteria:

- They are 18 years old or over.
- They ordinarily live in Australia.
- They understand the nature of the appointment.

The public officer must be:

- recorded as the public officer for the entity on ATO systems
- able to establish their identity at contact.

Notifying us when a public officer is appointed

The notification of appointment must include:

- the public officer's name
- a contact address.

For new registrations, an individual authorised under the rules or articles of association of the company can notify us when a public officer is appointed.

For new appointments or notification of an update to public officer details, an individual must meet **all** the following criteria:

- They have been previously identified as the primary or authorised contact for the company.
- They can establish their identity at contact.
- They can provide a declaration they are authorised either
 - by the company's rules or articles to make the change

- to provide the information on behalf of the authorised person (including notification of the appointment of a public officer).

The new public officer can request the change if they provide evidence of their appointment. See [how to update contact details](#).

Authorised contact

Primary contacts can authorise someone to act on their behalf for some or all of the entity's tax affairs.

Authorised contacts cannot add, remove or update an entity's authorised contacts unless they have been given authority to act on behalf of the entity in this capacity. The authorised contact must declare they have been given this authority (and have evidence of this). Otherwise, this authority is restricted to the primary entity.

However, in the case of a company, a person other than the primary contact may be entitled to access all roles on an account and to add, remove and update the list of other authorised contacts.

To do so, they must meet the following criteria:

- They can be identified as the authorised contact for the company.
- They can establish their identity at contact.
- They can provide a declaration they are authorised either
 - by the company's rules or articles to make the change
 - to make changes on behalf of the authorised person (including notification of the appointment of a public officer).

Criteria for being an authorised contact

Authorised contacts must be:

- recorded as an authorised contact for the entity
- able to establish their identity at contact.

Examples of authorised contacts include:

- directors

- registered tax agents
- registered BAS agents
- legal practitioners (includes barristers and solicitors)
- insolvency practitioners (includes liquidators, company administrators or trustees in bankruptcy)
- custodian organisation (for certificate of residency or overseas tax relief request only)
- power of attorneys
- debt management firms
- financial counsellors
- guardians
- family members or friends.

See [how to update contact details](#).

Registered tax professionals

Registered tax professionals may be authorised contacts for their clients.

Registered tax agents

Registered tax agents have authority to access all roles on their clients' accounts. They can also add, remove and update the list of authorised contacts if they have been given authority in this capacity. This excludes deceased estates.

The registered tax agent must be:

- recorded on the account for the entity
- able to establish their identity at contact.

If the registered tax agent is **not** recorded on an account, they must:

- be able to establish their identity at contact
- provide a declaration that they have a current signed authority to act on behalf of the taxpayer.

Registered BAS agents

A BAS agent's authority to act for the taxpayer is much more restricted than a registered tax agent's authority. It is limited to dealings with us in relation to a BAS provision.

Temporarily appointed tax professionals or specialist tax advisers

As a short-term authorised contact to assist in specific matters like audits, objections or GST matters, registered tax agents or primary contacts may appoint a registered tax professional, such as a:

- public trustee
- insolvency professional
- sub-contracts auditor
- specialist tax adviser.

Temporarily appointed registered tax professionals and specialist tax advisers cannot add, remove or update any details contained on the account. They can only access information contained on the account they have been given authority to access.

When a registered tax agent or primary contact notifies us of this appointment, we need the:

- name of the contact
- specific role (or roles) they will be the contact for
- time period for the authority.

Notifying us of a temporarily appointed tax professional

A registered tax agent or primary contact may give us a verbal declaration by phone or letter to authorise the temporary appointment of a registered tax professional or specialist tax adviser.

The original registered tax agent or primary contact must notify us when the authority finishes. This can be by phone or letter.

How to update contact details

Work out how to update contact details for:

- individuals
- non-profit organisations

- non-individual entities

You cannot add or update public officer details with us over the phone.

QC 22292

Protocols for contacting you or your clients

Situations where we may contact your clients directly and how we will inform you.

Last updated 14 November 2022

What the protocols do

These protocols provide a framework for effective and efficient communication when we make contact with taxpayers who have a registered tax or BAS agent.

The protocols apply to all correspondence we initiate – however, they do not apply to correspondence initiated by the taxpayer directly.

Where a taxpayer is represented by a registered agent, the postal address for service is often the registered agent's address. This means that all correspondence sent to the client's address for service goes to the registered agent. However, there are some instances where we will communicate directly with the taxpayer.

If you represent clients that have a myGov account linked to the ATO, they will receive some communications from us electronically in their myGov Inbox. These communications will be available for you to view in the Communication history in Online services for agents.

General principle

Our correspondence to taxpayers with a registered agent will be prioritised for direction to:

- Online services for agents, when the client's communication preferences have been set to your practice
- their myGov Inbox where applicable
- the preferred postal address for service of notice
- the correspondence channel as set by preference arrangements in our systems.

If the address listed is the taxpayer's address, and not the registered agent's address, then we send postal correspondence directly to the taxpayer.

We will send **SMS text messages and emails** to the mobile phone number or email address in our records.

Situations where we may contact the taxpayer directly, without informing the registered agent, are limited to:

- education letters for taxpayers
- marketing and research
- when a letter to registered agent has not resulted in action required
- legal documents required by law to be served personally on a taxpayer, or at the registered office of a company
- large business taxpayers
- where a registered agent has notified preferences for correspondence to be sent to the client
- where there is no recent evidence of registered agent and client relationship
- high-risk situations where the taxpayer is suspected of being seriously non-compliant – for example, of the taxpayer is suspected of being involved in fraudulent activities, offshore secrecy havens or tax evasion.
- **alerts for changes to a self-managed superfund (SMSF)** to reduce the risk of fraud and misconduct, including when
 - a new SMSF is registered
 - changes are made to an existing SMSF's information such as bank account details, electronic service address (ESA),

authorised contacts or members

- a super fund verifies the SMSF's details before processing a rollover.

A business area may need to communicate directly with registered agent clients but **doesn't satisfy** one of the exceptions listed. In this case, the business area must send a brief to the Assistant Commissioner, Individuals and Intermediaries, for consideration. If necessary, this will be taken to the Tax Practitioner Stewardship Group (TPSG) for their review and input.

Advising registered agents when writing directly to their clients

When we issue correspondence directly to clients of registered agents and it doesn't satisfy one of the above exceptions, the registered agent must be informed at least one week before the communication is sent, unless the correspondence will be available in the Communication history. We will inform the registered agent of:

- the title of the communication
- its purpose
- the names or types of taxpayers who are receiving the communication
- whether there will be any action required of either the taxpayer or the registered agent
- any timeframes or due dates involved.

If there are a large number of clients of registered agents involved, we may publish an article to clarify any required action or advice. This will be:

- in the Tax professionals newsroom
- linked to from the Tax professionals newsletters.

Updating client details

How to update your client's details online using the practitioner lodgment service (PLS) or Online services for agents.

Last updated 11 December 2024

Address changes

You can elect to have different postal addresses for a client's dealings with us.

Income tax address

A client's income tax address is automatically updated when an income tax return is lodged. However, this won't automatically update other addresses. You'll need to update your client's other addresses separately.

Activity statements address

You can update a client's address for receiving correspondence from us by:

- updating it in Online services for agents
- lodging a client update (CU) form via the **practitioner lodgment service (PLS)**.

Financial institution details

If we have up-to-date financial institution details (FID) for your clients, we can:

- process their tax returns faster
- automatically pay refunds for **interest on early payments**.

You can view, add, update and delete the FID for your client's income tax and activity statement accounts in **Online services for agents**.

When you lodge multiple returns for a client, each return must include their personal details, such as:

- email address
- phone number
- FID.

We'll only use these FID to deposit refunds and ATO-held super. We don't use them for direct debits.

To view and update a client's FID, follow the [Online services for agents user guide](#).

You can also watch our video [How to update financial institution details in Online services for agents](#).

When we request FID

From 1 January 2025, there are changes to the Taxation Administration Act 1953. The changes provide the ATO with a discretionary power to retain refunds for up to 90 days where we don't have a taxpayer's FID.

Currently this applies to certain:

- income tax refunds
- fringe benefits tax refunds.

If your client's FID have not been provided, you may receive a letter via [Online services for agents](#), or your clients may receive a message via myGov, email or letter requesting [updated FID](#).

Once the FID is updated, the refund will issue via EFT. EFT payments are faster and more secure than cheques.

If the details are not updated within 90 days, the refund will issue as a cheque.

If your clients' refunds are deposited into your practice's account, you'll need to make sure these details are also up to date.

Checking a client's name

You can check the name we have listed for your client by:

- viewing the 'Client details' in [Online services for agents](#)
- requesting an 'Income Tax Client List' through PLS.

Name changes for individuals and sole traders

If any of your individual or sole trader clients need to lodge returns under a name that isn't current on our records, it must be updated with us before you lodge their income tax return.

Your clients can update their name with us by quoting details from an [identity document we can verify](#).

Your client can sign in to [myGov](#) and select **ATO** from their linked services, then choose **Update contact details**.

If they don't have a myGov account, find out how they can create one at [myGov account and linking to the ATO](#).

Alternatively, you can update their details by phoning us on **13 72 86** Fast Key Code **1 2 5 2** and providing information from your client's identity document.

Identity documents

Identity documents we can verify are:

- Australian birth certificate (full certificate, not an extract)
- Australian marriage certificate
- Australian change of name certificate.

We'll verify the identity document details with the issuing agencies.

Lodge prior-year returns

When lodging income tax returns for multiple years, you must use your client's most current information on all returns. This applies even when you lodge them on or around the same day.

This includes their:

- name
- address
- Australian FID.

QC 43934

Working with you to manage risk

Our approach to assessing and understanding risk and our information exchange with the Tax Practitioners Board.

Last updated 19 January 2022

Find information about:

- how we work with you and other intermediaries to help your clients manage their tax and super affairs
- our approach to risk assessment and compliance issues.

In this section

Working with you

Find out about how we work openly and cooperatively with agents to support voluntary compliance in tax and super systems

Risk-assessment processes

Find out how we assess and deal with risk and your rights as an agent

Our information exchange with Tax Practitioners Board

What information we share with the board if we identify potential agent misconduct or unregistered practitioners

Working with you



We are open and cooperative to help support voluntary compliance of the tax and super systems.

Risk assessment processes



We prioritise how we apply our resources in order to maintain our service offers and address perceived compliance risk.

Our information exchange with Tax Practitioners Board



The TPB is notified if we identify potential activities involving agent misconduct or unregistered practitioners.

Work-related expenses



This is information for registered tax agents about the rules for claiming work-related expenses for employees.

QC 40885

Working with you

We are open and cooperative to help support voluntary compliance of the tax and super systems.

Last updated 19 January 2022

We acknowledge and appreciate your important role in helping your clients navigate the tax and super systems. We want a strong relationship with you and a shared commitment to support and protect the community.

A collaborative approach

Many Australians turn to tax professionals to help guide them through the tax and super systems. They trust their agents' knowledge, expertise and care to help them navigate and comply with their tax obligations.

Our relationship with you allows us to:

- understand the changing nature of risks in the tax and super systems
- identify new and emerging threats or areas of concern
- consult, collaborate and co-design on issues of importance.

As highlighted by the Commissioner in his speech at the 2021 Tax Institute Summit, we acknowledge and appreciate the importance of tax practitioners in helping clients navigate the tax and super system. We aim to maintain a:

- strong relationship with the tax profession
- shared commitment to support the community.

Through our dealings with you, we seek to maintain a mutually beneficial, open and collaborative approach.

We will always have a purpose when we seek to engage with you:

- In the majority of cases, it is to give you or your clients advice or support to help you understand and comply with an aspect of the tax and super systems.
- In other cases, we will be seeking your views to help us pilot new approaches or co-design processes.

There will be occasions where we will need to engage with you, your clients, or both of you to understand and manage potential compliance issues. To resolve these issues, we will:

- be open and direct
- seek the necessary information or action from you or your clients.

When our concerns are addressed through additional information you give, we will close our enquiries promptly. This minimises the compliance costs to you and your clients.

This relationship is two way. You can expect that we will follow agreed protocols when contacting you or your clients, including:

- having a cooperative approach to information gathering
- being open and honest about the intent of our engagement with you
- providing relevant materials to support our interaction with you
- maintaining respectful and professional behaviour at all times
- aiming to conclude our enquiries in a timely manner.

As a representative of your client, we expect you will:


- work with us to arrive at mutually agreeable outcomes

- engage with us to aid our understanding of a matter, or to design new processes that improve our administration of aspects of the tax and super system
- deal openly and frankly with us about your clients' affairs, within scope of any applicable **legal professional privilege** or concession governing sharing of information.

Our approach to compliance

Over 90% of small businesses and 60% of individuals use a tax agent. We recognise the significant influence agents have in helping clients correctly comply with tax and super laws and in helping to reduce tax gaps.

We use a 'teardrop' model of engagement as a framework to define and categorise practitioner behaviour. We use this information to apply strategies with corresponding tailored activities and interventions that promote compliance with tax and super obligations.


The teardrop model is based on extensive research conducted into tax practitioner attitudes to compliance, including [A will and a way: An analysis of tax practitioner preparation compliance](#) . The research found that rather than a continuum of taxpayer attitudes to compliance, tax practitioner behaviours to compliance was more in the shape of a teardrop.

Categories of behaviour researchers observed include:

- better practice behaviours – adherence to high personal and professional standards
- behaviours of interest such as not taking reasonable care, lack of education or opportunistic behaviours
- behaviours of concern including scheme promotion, providing false or misleading advice and facilitating reckless behaviour
- behaviours that threaten the tax and super systems, such as fraud, theft and other tax crimes.

By understanding the behaviours that attract our attention, you will support your clients to comply with their obligations. You will also support a level playing field for all practitioners.

Better practice behaviours

The [Code of Professional Conduct](#)  for tax and BAS agents outlines the personal and professional conduct expected of registered agents under the *Tax Agent Services Act 2009*, with the Tax Practitioners Board regulating the profession. We have an interest in the role tax and BAS agents play in upholding the integrity of the tax and super systems.

We recognise the majority of tax professionals try to do the right thing – adhering to high personal and professional standards. In our interactions with agents, we have observed a number of behaviours that go hand in hand with high levels of client compliance. These include:

- good internal controls and practices, such as **physical and IT security measures** and strong customer verification methods
- a strong technology foundation and review processes indicative of robust internal controls
- clear client acceptance and ongoing engagement policies and practices, such as refusing to act for clients that wish to engage in illegal or opportunistic behaviour or are not transparent about their affairs
- focusing on keeping skills and knowledge up to date, particularly around legislative changes
- taking reasonable care to
 - correctly establish a client's position
 - help their clients understand their tax obligations
 - not allow tax reporting that the agent knows to be incorrect, unjustified or unsubstantiated
- working with us collaboratively to support their clients' tax and super affairs
- taking on board our advice and guidance for you and your client.

Professional associations can support and help agents to achieve better practice behaviours.

Tax professionals who display behaviours of better practice can expect a low-touch approach from us. Our focus is on continuing to work with you, your professional associations and the Tax Practitioners Board. We will look at opportunities to collaborate and enable you to continue to maintain the integrity of the tax and super system.

Behaviours of interest

Our tax gap research has found that some tax and BAS agents make avoidable errors and appear more opportunistic in exploiting areas they believe are not being monitored.

This behaviour generally occurs due to:

- agents not taking reasonable care to correctly ascertain their clients' position, particularly where taxpayers are not being full and frank about their circumstances
- client pressure to achieve large refunds or reduced tax liabilities
- time and cost pressures
- lax practices such as limited or no internal controls
- outdated knowledge or agents operating outside their area of expertise.

Examples of indicators that may attract our attention include:

- for individual clients, clusters of clients claiming significantly higher deductions than comparable clients
- for small business clients, clusters of clients with income and expenses out of pattern with comparable clients
- audit outcomes indicating knowledge issues
- 'standard' deductions being claimed across a client base.

When we observe potential behaviours of interest in your practice, we try to engage with you early to avoid the risks escalating. We will contact you to begin a conversation to understand how your practice operates and what controls you have in place, such as through our early intervention program. We will:

- give you an overview of the risks we observe, in line with our **risk-assessment processes**
- discuss specific clients or instances of concern

- provide you with information to help you avoid common mistakes.

Our goal is to help tax and BAS agents to:

- stay on track in supporting their client compliance
- avoid costly audits in the future.

After our interaction, we continue to monitor for positive change, including changes to the agent's client base, lodgment patterns and tax and BAS return labels. We will advise you of this; however, if there is no improvement or your risk increases, we'll consider a more intensive response that might involve a review or audit.

Example: early intervention helps agent back on track

Agent C prepares BAS and tax returns for their clients. ATO risk assessment identifies the business income being reported for the agent's small business client base is out of pattern when compared against the small business client base of similar agents.

To better understand the factors contributing to the risk assessment the ATO engages with Agent C through their early intervention program. They discuss the risks observed and highlighted an example of where there was a significant difference between the income reported on one client's BAS compared to what was reported in the tax return for the same period.

The agent identifies that there is a reporting issue between the client's and the agent's software. They are able to correct this to ensure their clients are compliant in the future and avoid costly audits going forward. Agent C lodges an amendment to correct the issue.

Behaviours of concern

A smaller number of tax and BAS agents influence non-compliance by clients in ways such as:

- developing, promoting or using schemes
- consistently failing to correctly ascertain their client's situation

- giving false or misleading advice
- taking advantage of vulnerable clients.

Tax and BAS agents engaging in these kinds of behaviours not only expose their client base, their business and themselves to risk, they also gain an unfair advantage over those agents who try to do the right thing.

Examples of indicators that may attract our attention include:

- clusters of clients with significantly different reporting than comparable clients coupled with similar risk observed in the practice or agents own affairs
- promotion of schemes
- clusters of client phoenix behaviour
- detection of unexpected patterns in reporting across a client base
- clusters of audit outcomes indicating recklessness.

If we identify behaviours of concern for your practice, we will apply increased attention to understand your practice and your clients' affairs. We will actively engage with you to:

- advise you of the risks we observe
- undertake verification activities (reviews and audits) to examine these risks.

While the process is tailored on risks we observe, in many cases we will undertake verification activities for risks in your client base, your practice and your own personal tax affairs. If we suspect that there may have been a breach of the professional code of conduct, we will **share information with the Tax Practitioners Board** for their independent investigation.

Example: High risk behaviour leads to agent deregistration

Agent A is identified through ATO risk assessment as having behaviours of concern. There is an identified pattern where Agent A's new individual clients report business income and expenses for the first time in the initial tax return the agent lodges. The result is that clients receive larger refunds than they

had received in the past. ATO risk assessment also identifies that Agent A is not reporting all of their clients' income.

Several audits are conducted on Agent A's clients, resulting in the clients receiving liabilities and penalties. Agent A's clients are not in business and are unaware that Agent A is reporting business income and expenses in their tax returns.

Agent A's own affairs are also the subject of an audit finding that they are not reporting all of their income, which results in liabilities and penalties. The ATO refers the case to the Tax Practitioners Board, who then terminate Agent A's registration.

Behaviours of threat

While representing less than 1% of the profession, a minority of agents display behaviours that pose a threat to their clients, to the tax and super system and all Australians. These behaviours include agents misusing their position of trust to deliberately commit fraud, theft or evasion or engage in other illegal activity.

We have no tolerance for these behaviours. If we detect risk, we will take action to intervene as quickly as possible, such as removing access to online services. Our main objective is to contain the effect, and protect clients and the community.

We work across the ATO and with other government agencies to bring these people to account and remove their influence on the system. Consequences can include civil penalties and criminal prosecution.

Example: Agent fraud leads to deregistration and prosecution

Agent B is the principal of a tax and accountancy firm. One of their clients constructs residential units. Agent B prepares their business activity statements and adds extra amounts to the construction costs, which inflates the GST refund. The resulting refunds are deposited into the firm's accounts.

Agent B is found guilty of two counts of dishonestly obtaining a gain from the Commonwealth. Agent B's registration is also terminated by the Tax Practitioner Board as they had breached the Code of Professional Conducts and failed to comply with tax laws for their own affairs.

QC 53938

Risk assessment process

We prioritise how we apply our resources in order to maintain our service offers and address perceived compliance risk.

Last updated 19 January 2022

Our aim is to be transparent with tax professionals about the risk we see, how we categorise those behaviours and what you can expect from your interaction with us based on that behaviour.

How we assess risk

We have enhanced our tax professionals engagement strategies by improving our ability to:

- identify good compliance indicators
- detect concerning behaviour.

We draw on a range of data and information about a practice and their client base to find clusters of risk.

If we identify risk in an agent's client base, we:

- look at the risk holistically
- assess whether there are similar concerns in
 - the practice or the agent
 - their own obligations as a taxpayer (as compliance with personal tax obligations is a legal requirement of registration).

We look across a range of tax obligations including:

- correct registration
- lodgment patterns

- correct reporting and payment.

We also monitor trends and client migration. We don't consider performance against the 85% lodgment threshold as this can often indicate an agent is helping new clients get back on track with lodgment rather than being an indicator of risk.

We supplement our risk view with intelligence from the public, government agencies and other sources. Our modelling uses this information along with established statistical methods to produce a holistic risk view that is:

- observed at a given point in time – as data and information is updated and added, our view of risk will also change
- relative to your peers – aimed at identifying outliers and behaviour we do not expect to see when compared with similar practitioners and client base groups
- preliminary – we will use the risk view to start a conversation with you
- transparent – if we engage with you, we will share our risk view with you.

We use our risk view to make a preliminary categorisation of behaviour using the teardrop model, and this is always reviewed by a human decision maker before we engage with you.

We are working towards a future where our risk view will be available for all practitioners to access in confidence and on demand.

Right of review

Our internal risk assessments do not carry rights of objection or review under legal review processes.

Risk assessments are preliminary views we derive from information available at points in time and can change as we gather new information. These views help to inform our decision on whether to interact with you and your clients. Where we choose to engage, we will share our risk view with you and talk to you about our concerns. In doing so:

- we want to better understand your client's specific circumstances

- you and your client have the right to dispute our underlying assumptions.

Tell us if you have new information we may not have considered in our original deliberations.

Confidentiality of risk views

We are obliged by law to keep confidential any information we have that could identify you or your practice. We respect **your privacy**.

In some circumstances, the law allows us to disclose information about you or your practice to other regulators, such as the TPB, for specific purposes. Generally, this will be in the form of underlying administrative data and outcomes rather than our internal views on risk.

Dealing with matters arising from our interactions

During the course of our interactions with you, or other parties, we may identify information or behaviours which cause us to consider whether further action is warranted. This may take the form of

- internal referral or escalation
- referral to one of our partner agencies for advice or action.

Referrals

Internal referrals

Aggressive tax planning, avoidance and promotion

If we have concerns that you may be promoting contestable schemes or other arrangements we believe may contravene an Act we administer, we may consider the application of the **promoter penalty regime**.

The promoter penalty regime seeks to deter:

- the promotion of tax avoidance and evasion schemes

- the implementation of schemes that have been promoted on the basis of conformity with a product ruling, in a way that is materially different to that described in the product ruling.

Fraud and tax crime

We **fight against tax crime**. Where we identify behaviour or activities which we believe are representative of phoenix, tax evasion or shadow economy activity, we will refer that matter for further investigation. In cases warranting it, we may refer the matter for administrative or criminal prosecution, working with partner agencies including various taskforces and the Commonwealth Director of Public Prosecution.

We maintain a special focus on areas where these behaviours are particularly evident, including the cash economy, international tax evasion, refund fraud, tax avoidance schemes and organised crime.

External referrals

Tax Practitioners Board

While there is a clear separation of responsibilities between us and the Tax Practitioners Board, both parties help maintain community confidence by promoting a capable and well-regulated tax profession.

If we identify intermediaries who we suspect operate contrary to their obligations under the *Tax Agent Services Act 2009*, we will refer them to the Board for review. A breach of the law may fall within the following categories:

- There is evidence or information that a registered agent may have breached the Code of Professional Conduct or no longer meets the 'fit and proper' requirements to remain a registered agent.
- There is evidence or information that an unregistered entity has provided a service for a fee or other reward, advertised that service or otherwise presented themselves as a registered intermediary.

We may also support the Board by providing information we hold to aid investigations they may have initiated into the conduct of intermediaries. We may also use this process where we require information the Board may hold in relation to a matter we are investigating.

Australian Securities & Investment Commission

The Australian Securities & Investment Commission (ASIC) is responsible for the registration, licensing and regulation of some intermediaries including those conducting a financial services business and approved self-managed superannuation fund (SMSF) auditors.

Where we identify intermediaries who we believe to have acted contrary to their regulatory roles, we may refer those entities to ASIC for further investigation and action. We do not undertake an enforcement role in these situations as responsibility for enforcement falls to ASIC.

QC 53939


Our information exchange with Tax Practitioners Board

The TPB is notified if we identify potential activities involving agent misconduct or unregistered practitioners.

Last updated 27 January 2022

We provide information to the Tax Practitioners Board when we have identified potential activities involving agent misconduct or unregistered practitioner behaviour.

Roles

The Tax Practitioners Board (TPB) is a national body, independent of us. It is responsible for the registration and regulation of tax agents, BAS agents and tax (financial) advisers – collectively referred to as 'tax practitioners'. The TPB is also responsible for ensuring compliance with the *Tax Agent Services Act 2009* (TASA), including the [Code of Professional Conduct](#) .

Alongside this, our role is to ensure the integrity of the tax and super system. While there is a clear separation of responsibilities between us and the TPB, both agencies help maintain community confidence by promoting a capable and well-regulated tax profession.

To do this, we and TPB lawfully and regularly share information on areas of mutual interest through an information exchange with Tax

Practitioners Board. For us, this means sharing relevant information and referring suspected breaches of the TASA to the TPB.

Referral process

During normal activities, including internal reviews, our officers may identify potential breaches of the TASA. We refer these to the TPB where:

- the behaviour or actions of a registered practitioner indicate they may not be a 'fit and proper' person to hold registration as a tax practitioner
- there is evidence to suggest a registered practitioner may have breached the TASA, for example, one or more items of the code
- there is evidence to suggest an unregistered practitioner may have provided a service for a fee, advertised that service or otherwise represented that they are registered.

After a referral is made, the TPB may ask us for more information so they can carry out any further enquiry into the matter or request information for other investigations that they initiate.

See also

- [Investigations TPB](#) 

QC 53940

Work-related expenses

This is information for registered tax agents about the rules for claiming work-related expenses for employees.

Last updated 2 July 2019

This information is for registered tax agents about the rules for claiming work-related expenses for employees and the written evidence we may request during a review or audit. It may not cover all written evidence we may request due to the individual circumstances of each case.

See also:

- Deduction questions D1-D10
- For queries about work-related expenses, phone **13 72 86** Fast Key Code **2 1 4**.

Rules for claiming work-related expenses

To claim a deduction for a work-related expense for your client:

- they must have spent the money themselves and weren't reimbursed
- the expense must be directly related to earning their income
- they must have a record to prove it.

If there was a private component, your client can only claim a deduction for the work-related portion of the expense.

Your client must have spent the money

Your client must have incurred the expense in the relevant income year (for example, to claim a deduction in their 2019 income tax return, they must have incurred the expense between 1 July 2018 and 30 June 2019).

Deductibility test

You can only claim deductions for work-related expenses where they were incurred by your client in the course of gaining or producing their assessable income, and are not of a capital, private or domestic nature.

For an expense to be deductible, it must be:

- incurred in performing the client's employment activities – for example, travel, home office and phone expenses
- sufficiently connected to their employment activities – for example, work tools/equipment, eligible clothing and self-education expenses and the connection between the expense and your client's income earning activities must be more than remote or minor, and the incurring of the expense not merely peripheral to the activities.

If there was a private component, you can only claim a deduction for the work-related portion of the expense.

Records

If your client can demonstrate that an expense is deductible, then substantiation rules must be met.

Rules for written evidence to substantiate deductions

Your client must have written evidence to prove their claims if the total claims exceed \$300. The records must prove the total amount, not just the amount over \$300.

The \$300 limit doesn't apply to claims for car expenses, meal allowance, award transport payments allowance, or travel allowance expenses. There are special written evidence rules for substantiating these types of expenses.

Written evidence

The documentation must be in English unless the expense was incurred outside Australia.

The following constitute written evidence.

- A document from the supplier of the goods or services that shows the
 - name of the supplier
 - amount of the expense
 - nature of the goods or services – if not shown, your client may write this on the document before they lodge their tax return
 - date the expense was incurred
 - date of the document.

- Another document or combination of documents containing the information listed above, examples include

- bank and other financial institution statements
 - credit card statements
 - BPAY reference numbers (may be called receipt or transaction numbers)
 - email receipts
 - income statement or PAYG payment summary (may show union fees)
 - paper or electronic copies of documents – must be a true and clear reproduction of the original.
- Evidence recorded by the client
 - for expenses of \$10 each or less, providing the total of these expenses isn't more than \$200
 - if your client has been unable to obtain written evidence, for example, for toll or parking fees where a receipt cannot be obtained.

Each of these items of evidence must show the same details as a document from a supplier as described at the top of this list.

See also:

- Practice Statement PS LA 2005/7 *Substantiating an individual's work-related expenses*
- Taxation Ruling TR 97/24 *Income tax: relief from the effects of failing to substantiate*

Claims of \$300 or less

Your client doesn't need written evidence but we may ask your client to tell us how the claim was worked out and explain why the claim is reasonable, based on the requirements of your client's occupation.

Exclusions from record-keeping requirements

Specific exclusions from record-keeping or substantiation requirements are available for certain work expenses. These include the following.

- Total work-related expense claims of \$300 or less.
- Laundry (\$150 or less).
- Travel expenses that are covered by a travel allowance and are within the reasonable allowance amounts we publish. However, your client may still be required to show the basis for determining the amount of their claim, that the expense was actually incurred, and that it was for work-related purposes (refer to **Taxation Ruling TR 2004/6**).
- Small expenses (\$10 each or less and not more than \$200 in total).

How long to keep records

Your client needs to keep written evidence for five years from the due date for lodgment of the tax return in which the deduction is claimed. If the return is lodged after the due date, the five years start from this later date. If your client is in dispute with us over a deduction in a tax return after the five years has ended, the relevant records must be kept until the dispute is resolved.

If your client has claimed a deduction for decline in value, written evidence must be kept for five years from the date of their last claim for decline in value. This period is extended if, when the five years end, they are in a dispute with us that relates to a depreciating asset.

See also:

- Income and deductions
- Deductions for specific industries and occupations

QC 33372

Disaster events

If you or your clients are affected by a recent disaster event, we have a range of options to help you.

Last updated 30 November 2022

Current events

If your practice or clients have been affected by the recent floods, we understand that tax is not the number one priority at this time, however we encourage you to lodge if you can.

For more information, see [flood support](#).

How we can support you and your clients

Depending on the situation, we may be able to:

- provide **lodgment deferrals** allowing additional time to lodge without incurring failure to lodge on time (FTL) penalties
- help you set up a **payment plan** or apply for a **payment-only deferral** for your client
- find your or your client's tax file number (TFN) by verifying identity using key information such as date of birth, address and bank account details
- re-issue documents including income tax returns, activity statements and notices of assessment (for example if needed to access government payments or concessions)
- help **reconstruct tax records** that are lost or damaged so your clients can claim entitlements including income tax deductions or access government payments
- prioritise any refunds owed to you or your client
- remit **penalties or interest** charged during the time you or your client have been affected
- work with you on a **supported lodgment program** to tailor solutions and get you back on track if your whole practice has been affected by a disaster.

When appropriate, your clients may also consider varying their pay as you go (PAYG) instalments.

You or your clients can phone our emergency support line on **1800 806 218** to talk to us about what support is available.

More information can be found by going to:

- **Support for your practice**
- **Support in difficult times**
- **Online services for agents to access the range of support options available.**

Reconstructing records

For individuals

We can help if you have clients who have lost their records due to a major disruptive event by:

- making on-site visits to help them
 - reconstruct their lost or destroyed tax records
 - work out reasonable estimates if their records cannot be reconstructed
- providing information we keep on record, such as tax returns, notices of assessment and payment summaries or income statements
- speaking with third parties if appropriate
- working closely with you as a tax professional.

If you reconstruct records on your client's behalf

If you wish to help your clients reconstruct their records or make reasonable estimates, we ask that you follow a process similar to ours:

- ask for information from employers, for example, PAYG payment summaries or income statements
- use information from bank accounts where income was regularly deposited
- consider contributions made to super funds.

When to make a reasonable estimate

We will accept a reasonable estimate if your client's records cannot be reconstructed. Each client must provide a signed letter declaring their

estimate is true and correct and we will supply a **Reasonable estimate pro-forma** for them to complete.

For business

We can help if you have business clients who have lost their records due to a major disruptive event by:

- providing on-site visits to help them
 - reconstruct lost or destroyed tax records
 - work out reasonable estimates if their records cannot be reconstructed

- providing information we keep on record
- speaking with third parties if appropriate
- working closely with you as a tax professional.

Records we can provide

We can help by providing records of your clients':

- activity statements and tax returns, if lodged
- pay as you go (withholding) annual reports, if lodged by employers.

If you reconstruct records on your client's behalf

If you wish to help your clients reconstruct their records or make reasonable estimates, we ask that you follow a process similar to ours:

- use bank and other third-party information, including information from suppliers
- use activity statements that have already been lodged, along with information from the affected business or individual, to reconstruct their tax returns
- consider all information we have on record to work out a trend-based average, preferably over three years, this average includes
 - tax statistics
 - other external industry norms and factors in economic events.

When to make a reasonable estimate

We will accept a reasonable estimate if your client's records cannot be reconstructed, However, each client must provide a signed letter declaring their estimate is true and correct and we will supply a Reasonable estimate pro-forma for them to complete.

QC 43989

Early Intervention Program

We provide support and education to reduce the number of agents who are at risk of becoming a concern in the future.

Last updated 27 June 2022

Tax agents and their advisors play an important role in helping their clients to get their tax and super right. Tax agents who do not meet professional standards may be gaining an unfair advantage over others who do the right thing, leaving their clients with significant consequences and liabilities.

The ATO has been provided with funding under the Shadow Economy program to better understand the drivers behind agent behaviour. In turn, these insights will help tailor our strategies for agents and encourage willing participation in our tax and super systems. Our proactive support and guidance aim to reduce the number of agents who are at risk of becoming a concern in the future. The Early Intervention Strategy plays a key role in addressing this agent population, where prevention and early action is critical.

We work closely with the Tax Practitioner's Board and Professional Associations to identify opportunities for us to jointly improve how we maintain the integrity of the tax and super system.

How the program works

Leveraging the full scope of our data and analytics, we take a holistic approach to identifying tax agents at risk. These may be agents who:

- show partial compliance in certain areas

- have let their internal quality controls slip or they were never present
- may lack capability in one or more areas
- may display opportunistic behaviours

We develop a tailored approach to engage with the identified agent. This will include a conversation with the agent around the data and our concerns. Where we identify opportunities or gaps we will advise of educational and support products to assist agents. We may also ask agents to review their practices and allow them the opportunity to correct information where there are identified issues.

We will monitor future performance and we expect that a majority of agents we work with through this program will see improvement, enabling a better experience for their clients. However, if we detect a reluctance to engage with us or a deterioration of behaviour, we may escalate to other treatment strategies.

Find out about:

- [Services and Support](#)

QC 58494

Tax and BAS agent feedback and complaints

See the options available for tax and BAS agents to give feedback or make a complaint to the ATO.

Last updated 30 September 2025

Before lodging a complaint

We welcome your feedback about the services we provide and how people experience the delivery of ATO services. If you're **not** a tax or BAS agent, see [Complaints](#).

Decisions about tax or super

If you disagree with or want to discuss our decisions, services or actions, we recommend you first talk with the:

- tax officer you have been dealing with, and if necessary, the
- tax officer's manager if you are not satisfied.

If you still think we made a wrong decision, you can ask us to review the decision. See [If you disagree with an ATO decision](#) for more details about your options.

Tax practitioner assistance

For registered tax professionals who have not been able to resolve an issue through our existing channels, see [Tax practitioner assistance](#) to help resolve certain matters.

Support and helpful information for your practice

If you, your practice, or your clients are feeling overwhelmed, we have a range of support options available. We can support you to manage your clients' and your own tax obligations during difficult times when you may need more help. For more information, see [Support and helpful information for your practice](#).

Tax crime

To report any known or suspected illegal behaviour you can either:

- complete the [tip-off form](#)
- phone us on the ATO tip-off hotline on **1800 060 062**.

For more information, see [Making a tip-off](#).

Providing feedback or lodging a complaint

You can provide feedback or lodge a complaint with the ATO [online](#) or by [phone](#).

Online

You can:

- provide general feedback about our decisions, services or actions at [Compliments and feedback](#)

- submit a complaint using the *Tax practitioner complaint online form* through **Online services for agents** by
 - going to **Reports and forms**
 - selecting **Forms**
 - selecting **Tax practitioner complaint**.

You should lodge separate complaints for unrelated clients. Sending a bulk complaint may result in delays actioning your complaint.

Phone us

For feedback or to make a complaint, you can phone us on **13 72 86** (Fast Key Code 3, 2, 1).

How we'll work with you

Acknowledgment

Once you've lodged a complaint, we'll acknowledge it by Online services for agents, SMS, phone, email or letter within 3 business days.

Resolution timeframes

We aim to resolve complaints within 28 business days. If your complaint is complex and involves several issues, it may take longer to resolve your complaint. If we can't resolve your complaint, we'll explain why and let you know your other options.

Confirming your identity

We may need to contact you to confirm your identity if we need to access and discuss personal information. If you're making a complaint for someone else, we may contact you to make sure that you're authorised by that person to speak on their behalf, and to access information that may be needed to manage the complaint. If you're not an authorised contact, you can still make a complaint, but we will only be able to respond in general terms.

If we phone you

If we phone you to discuss your complaint, it may display on your phone as 'Unknown caller', 'No Caller ID', 'Private number' or similar wording. If you're not sure whether it's really us, phone the ATO switchboard on **13 28 69** to confirm. For privacy reasons, we may not leave a message unless your voicemail clearly identifies who you are.

Complaint process

We'll handle your complaint independently: it will be assigned to a complaint resolver team that have not been involved in decisions about your issue.

During the complaint resolution process, the resolver may:

- keep you informed of the progress by Online services for agents, SMS, email, phone or letter
- allow you the opportunity to give additional information or comments before finalising the complaint
- give you a clear and concise explanation of the action taken to resolve the complaint and the reasons for the decision
- give you information about your options if you aren't satisfied with the outcome of the complaint.

If you have lodged a complaint, you can check the progress by phoning us on **13 72 86** (Fast Key Code 3, 2, 1).

What we expect

We expect you to do the following:

- Be clear, factual and tell us the outcome you'd like.
- Provide your name and contact details so we can resolve your complaint.
- Treat us with courtesy and respect – we don't accept abuse or threats.
- Cooperate with us and provide relevant information, including details of
 - letters that you have sent or received from us
 - phone calls or other discussions you have had with our staff about the issue.

- Tell us if you need help, such as using an interpreter or talking with someone who is authorised to make enquiries or act on your behalf.

We may be unable to progress your complaint if your conduct during the process is unreasonable.

How we will treat you

The ATO Charter outlines the relationship we seek to have with the community – a relationship based on mutual trust and respect. Key factors in this relationship are:

- our commitments to you
- what we ask of you
- the steps to take if you aren't satisfied.

Our Charter is available in 25 languages and an easier to read version.

If you believe we haven't met your expectations or conducted ourselves as outlined in our Charter, we support your right to make a complaint. Complaints give us important feedback and help us to improve our service to the community.

We are committed to treating complaints seriously by:

- dealing with them quickly and fairly
- learning from them.

Making a complaint won't affect your relationship with us.

Escalate a complaint


If you've previously lodged a complaint and you're not satisfied with the outcome, you can ask for your complaint to be escalated to a more senior officer for review. To escalate your complaint, [phone us](#) or contact us [online](#).

When to contact the Tax Ombudsman

If you're not satisfied with the outcome of your complaint with us, you can request an independent investigation by the Tax Ombudsman.

You must first lodge a complaint with the ATO and receive your outcome before you can request an independent investigation by the Tax Ombudsman.

To contact the Tax Ombudsman, you can:

- access [Tax Ombudsman](#) 
- phone **1300 448 829**
- write to:
TAX OMBUDSMAN
GPO BOX 551
SYDNEY NSW 2001

QC 17267

Supporting clients that may be victims of tax fraud

What you can do if you have clients who have been the victims of tax fraud.


Last updated 8 May 2025

How to help your clients

We do everything in our power to detect and prevent fraud on the tax system. We take firm action against perpetrators. In rare cases, tax agents commit fraud and may involve their clients.

If you suspect your client is a victim of fraud you should advise them to:

- report the circumstances to the police
- phone the ATO Client Identity Support Centre on **1800 467 033**.

If you suspect the wrongdoing involves a tax practitioner, you can also lodge a complaint with the [Tax Practitioners Board](#) .

We may request your client to provide information such as:

- their former tax agent's contact details
- documentation provided to the former tax agent
- evidence of payments made.

If you suspect someone may be engaging in fraudulent behaviour you can report them to us by either:

- phoning the Tax Integrity Centre hotline on **1800 060 062**
- completing the online tip-off form.

Increasing online security

You can assist your clients who are individuals or sole traders by encouraging them to set up a [Strong myID](#) and use this to access ATO online services to automatically set their online access strength.

Once set, your client must use their Strong myID to access ATO online services.

You can help them understand the benefits of having a Strong online access strength. For example:

- it's the most secure sign in option, unlike multifactor authentication, myID requires your client to verify their ID in the app making it harder for fraudsters to impersonate them
- where a client's access to ATO online services has been restricted to protect against further harm, setting a Strong online access strength may allow them to continue to access certain tax information online to support your interactions
- if a client or malicious actor unlinks a myGov account from the ATO or disconnects a myID, it does not affect the existing online access strength. Online access strength remains in place to protect the client against identity crime, including tax fraud.

Assistance we can provide

We are serious about fraud and support taxpayers who fall victim to fraud. We can help if fraudulent action has occurred on their behalf by a third party. This could be activity on the client account without their knowledge or authority by a third party.

During the process of correcting a client's tax accounts, we may help you in the following ways.

Extension of time to lodge a replacement return

We may grant a time extension if your client is lodging a replacement tax return or activity. This may be:

- 30 days from the date we notify you that we require a replacement return or activity statement
- extended based on their circumstances.

Remission of general interest charge

If it is fair and reasonable, we can remit (reduce or cancel) interest charged on unpaid tax debts or shortfall amounts that occur as a consequence of fraud.

Arrangements to pay by instalments

If an outstanding debt causes financial difficulties, we may allow your client to pay instalments over an agreed period of time.

Providing help during audits or investigations

We will support you as a trusted tax agent during the audit process to correct your client's tax accounts after fraud has occurred.

When we are unable to help

We are generally unable to intervene in civil matters where:

- we determine a lodgment or assessment is valid and reflects your client's correct tax position
- any refund amount has issued to the destination instructed by your client or their authorised representative.

We are unable to help where there is insufficient evidence of fraud, or to trace misdirected or misappropriated funds. The parties involved are to resolve these matters.

Your client can consider seeking independent advice through the court or by contacting consumer affairs bodies in these circumstances.

QC 61366

Independence standards for tax professionals with SMSF clients

Information for tax professionals with self-managed super fund (SMSF) clients on changes to the independence standards.

Last updated 25 March 2021



Recent changes to the independence standards may change the way tax professionals and approved self-managed super fund (SMSF) auditors represent their clients. This may affect your practices and businesses.



A new and updated Independence Guide – Fifth Edition, May 2020 (the Guide) was recently published by The Accounting Professional & Ethical Standards Board (APESB), in collaboration with the three professional accounting bodies – Chartered Accountants Australia and New Zealand (CAANZ), CPA Australia and the Institute of Public Accountants (IPA).

The Guide incorporates changes to the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the restructured Code). This became effective 1 January 2020 and is mandatory for audits and reviews in Australia.

This page provides guidance on the changes to the independence requirements under the Code. It is essential information for SMSF auditors and tax professionals. Review these changes to understand how they affect your practice and business and how you represent your clients.

See also:

- Auditor independence
- [APES 110 – Code of Ethics for Professional Accountants \(including Independence standards\) \(2018\) – effective 1 January 2020](#) 
(PDF 2.7MB) – download from the [APESB website](#) 

- [APESB Independence Guide – Fifth edition, May 2020 \(PDF 1.56MB\)](#)  – this link will download the Guide as a pdf file from the [APESB website](#) 

Who the independence requirements apply to

The independence requirements in the Code apply to SMSF auditors including those who are also tax professionals.

This also applies to tax professionals who service SMSF clients by providing a combination of audit and non-assurance services such as:

- accounting and bookkeeping services, for example, the preparation of financial statements and accounting records (including the coding of transactions)
- completion and lodgment of fund activity statements and SMSF annual returns (SARs)
- advice in relation to a fund's compliance with the super laws
- tax and financial planning advice.

The Code and the Guide make it clear that tax professionals who provide both non-assurance and auditing services in-house will now need to review their arrangements to ensure they are complying with the Code. You may need to change how you service your SMSF clients and the combination of work you undertake for them.

Review your services for SMSF clients

If your practice or business provides SMSF services to clients, you will need to consider your current arrangements, and how the changes to independence standards may affect you.

You will need to:

- review the type of SMSF services you provide and the arrangements in place for providing those services
- assess the impact of the changes on your practice, including individual arrangements in place with SMSF clients

- start planning as soon as possible for any changes that may be required to your business and or practice models, staffing and outsourcing agreements
- communicate any changes to your SMSF clients.

To support tax professionals through any changes that may be required to their businesses or practices we will not enforce compliance until 1 July 2021.

Key areas for review


If your business or practice has been providing both auditing and non-assurance services, you can use our guidance on SMSF auditor independence to help you understand whether you are meeting the requirements under the Code.

Our guidance outlines key areas which may require your review, such as:

- audit pooling arrangements
- outsourcing arrangements
- reciprocal auditing arrangements.

You will need to make sure you comply with the Code by 1 July 2021. If we find approved SMSF auditors aren't complying with the Code after this date they may be referred to the Australian Securities Investments Commission.

We will continue to update you as we approach the compliance date. To receive the latest information, we encourage you to subscribe to our:

- Tax professionals newsletter
- [ATO newsletter alerts and subscription centre](#) .

QC 65151

Safe harbour

The safe harbour provisions aim to ensure the services provided to the public by registered agents are appropriate.

Last updated 1 July 2021

The safe harbour provisions aim to ensure that services provided to the public by you are of an appropriate ethical and professional standard.

Under the safe harbour provisions, a client will not be liable to certain administrative penalties if they provide all the relevant tax information to you, and you:

- do not take reasonable care and make a false or misleading statement that results in a shortfall amount
- take reasonable care or lack reasonable care and fail to lodge a document by the due date.

The safe harbour provisions can only apply to a:

- false or misleading statement penalty, when the statement is made on or after 1 March 2010
- failure to lodge on time (FTL) penalty, when the document has a due date for lodgment of 1 March 2010 or later.

Safe harbour does not apply where the penalty arises from recklessness or intentional disregard of the tax law by you, nor does it apply to other administrative penalties, including when tax avoidance schemes are involved.

When safe harbour is granted, we may refer the matter to the Tax Practitioners Board to consider whether there has been a breach of the Code of Professional Conduct under the *Tax Agent Services Act 2009*.

See also:

- [Code of Professional Conduct](#) 

Eligibility for safe harbour from FTL penalty

If you lodge a client's return, notice, statement or other document late, they are not liable for an administrative penalty for the late lodgment if both of the following apply:

- They can show they provided you with all relevant tax information to enable you to lodge their return, notice, statement or other document by the due date.
- Failing to lodge the return, notice, statement or other document with us did not result from your intentional disregard or recklessness as to the operation of a tax law.

'All relevant tax information' means all the relevant information to enable you to prepare and lodge the document on time in the approved form. This also means your clients must meet deadlines you specify as their registered agent to provide all the relevant tax information. Relevant tax information also includes a signed document where applicable.

The taxpayer carries the burden of proof to establish that they provided all relevant information as required.

See also:

- *Miscellaneous Taxation Ruling MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard*

Making a request

If your client requests safe harbour

If we apply a FTL penalty, your client can ask for an exemption from the penalty under the safe harbour provisions.

They will have to prove to us that they provided all relevant tax information to you so you could lodge the return, notice, statement or other document with us by the due date. When we assess a safe harbour exemption request, we will contact you for your comment on the claim that the document was lodged late due to your actions.

If you request safe harbour on behalf of your client

As a registered agent, you may request safe harbour on behalf of a client.

If you admit your client provided all their information to you in enough time for you to lodge the document by the due date, we will accept your admission as proof that your client did so. You will also have to explain why you lodged the document late, so we can decide whether or not the safe harbour request will be allowed.

If your client is refused safe harbour

Neither you nor your clients can object to our decision about whether or not to apply safe harbour.

If you are dissatisfied with our decision not to apply the safe harbour, you can seek a review of our decision under the *Administrative Decisions (Judicial Review) Act 1977*.

However, your clients can still seek a remission of penalty regardless of the safe harbour provisions - we will consider if a FTL penalty remission is appropriate in the circumstances.

Disputes between you and your client over FTL penalty safe harbour

Your client must prove they provided you with all the relevant tax information in enough time for you to lodge their document by the due date. If you dispute your client's claims and they cannot provide enough proof, we will not apply the safe harbour.

If one of your former or current clients requests an exemption from FTL penalty, we will notify you and give you the opportunity to comment on their claims.

Lodging your request

To help you lodge your safe harbour requests quickly and easily:

- Use Online services for agents - navigate to Practice Mail, select the Topic **Debt and Lodgment** and the Subject **Cancellation of FTL penalty (Safe Harbour)**
- phone us on **13 72 86** Fast Key Code **1 2 2** between 8.00am and 6.00pm AEST, Monday to Friday
- post your request to

Operations – Debt and Lodgment Correspondence

**PO Box 327
ALBURY NSW 2640**

See also:

- Interest and penalties
- 'Safe harbour' in Statements and positions that are not reasonably arguable
- 'Safe harbour' in Failure to lodge on time penalty
- *Miscellaneous Taxation Ruling MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard*
- *PS LA 2011/19 Administration of penalties for failing to lodge documents on time.*
- For more information about the FTL penalty, including the FTL penalty safe harbour, phone us on **13 72 86** Fast Key Code **1 2 2** between 8.00am and 6.00pm AEST, Monday to Friday.

QC 34570

Legal practitioners

Information for legal practitioners on our approach to litigation and case law and our consultation activities.

Last updated 30 September 2021

Here you'll find information about our approach to litigation and case law, introductory information for those new to the industry, administrative information, including proof of identity (POI), freedom of information (FOI) and forms for clients to nominate legal representatives.

Find out about

- ATO and Australian Bar Association service commitment
- Practitioners new to the industry
- Client record administration

- [Litigation and case law](#)
- [Objections, amendments and reviews](#)
- [Compliance and voluntary disclosure](#)

See also

- [News services](#)
- [Technical tailored assistance](#)

ATO and ABA service commitment



The service commitment that was agreed between the ATO and ABA.

Practitioners new to the industry



If you're new to the legal practitioner industry, here's a quick look at key information you need to be aware of.

Client record administration



Information about proof-of-identity requirements, ways to be nominated, privacy and freedom of information requests.

Litigation and case law



Find out about our approach and philosophy to litigation and alternative dispute resolution and links to case law.

Objections, amendments and reviews



When your client can ask for a review and request an amendment to fix a mistake or omission on a tax return.

Compliance and voluntary disclosure

Your client may ask you to make a voluntary disclosure for them if they have made a mistake or omission.

QC 43990

Service commitment between the ATO and the Australian Bar Association (ABA)

The service commitment that was agreed between the ATO and ABA.

Last updated 14 February 2024

The ATO and Australian Bar Association (ABA) agree that it is important for:

- barristers to willingly meet their taxation and superannuation obligations when and as they arise
- a harmonious and productive relationship to exist between them so that taxation and superannuation matters impacting the profession can be identified and raised early with the ATO
- consistency, that this service commitment apply to all state and territory bar associations
- barristers to have a clear understanding of the service offerings provided by the ATO in relation to meeting their taxation and superannuation obligations and in particular how they can raise or escalate issues with the ATO
- barristers with lodgment, compliance and/or payment difficulties to voluntarily and fully disclose them in a timely manner to the ATO and to engage early with the ATO to resolve any difficulties.
- barristers to seek professional help as required in discharging their taxation and superannuation obligations including seeking help from

registered tax agents, accountants and insolvency practitioners,
and

- barristers to be educated, particularly during their reading period, in the skills and knowledge necessary to meet their taxation and superannuation obligations.

The ATO and ABA agree that they should work together to assist all barristers in all Australian jurisdictions achieve the objectives outlined above in paragraph 1, by:

- providing guidance material and/or continuing professional development to barristers about compliance with their taxation and superannuation obligations
- explaining and educating barristers about the link between meeting their taxation and superannuation obligations and discharging their professional and ethical obligations to the profession and the consequences of non-compliance.

In the case of the ATO, when actioning any queries received under paragraphs 5 and 7 of this service commitment that:

- they are actioned as soon as practicable; and
 - in line with the way other individual taxpayers are treated, due consideration is given to the guiding principles for the Reinvention Program of tailored experience, excellent service and fair and respectful treatment.
1. In recognition of the improved service commitment by the ATO to all taxpayers, in the first instance barristers should use the normal and usual channels for all queries when contacting us. Where barristers experience difficulties in using these normal and usual channels, they should then use the further channels outlined in this service commitment.
 2. The ATO acknowledges the nature of cash flow difficulties that can arise in barristers' practices as well as the professional implications of debt recovery actions such as garnishees and bankruptcy. Such matters will be a consideration for the ATO in deciding whether or not to approve any proposed payment arrangement or to take alternative recovery actions, along with other considerations such as the level of willing compliance, risk and integrity of the tax and super system.

3. Where an income tax or an activity statement debt is \$200,000 or less, barristers are encouraged to use the ATO's **online and automated payment plans**. This will require a myGov account linked to the ATO.
4. Barristers who have administrative matters or tax and superannuation law-related matters relating to their client, should email **LegalProfessionRelationships@ato.gov.au**.
5. For the purposes of paragraph 6, the following details should be included within any email:
 - contact details
 - full details of the issue
 - details of any interactions that have already occurred within the ATO in relation to the matter.
6. For all other queries outside of those contemplated by paragraph 6, including difficulties by barristers in meeting lodgment commitments, due dates for payment or existing payment arrangements that have not been properly dealt with through the normal and usual ATO channels, email your query to **LegalProfessionRelationships@ato.gov.au**.
Queries will be acknowledged by the ATO within three business days.
7. For the purposes of paragraph 8, any email should contain sufficient detail to ensure that the matter can be easily identified and routed to the appropriate part of the ATO for action. Details should include:
 - the barrister's name and Australian Business Number
 - contact details
 - the following identifier in the subject of the email: 'Service Commitment query'.
 - full description of matter including details of all prior communication with the ATO and any relevant account details
 - if relevant, the full name and telephone number of the barrister's authorised contact.
8. If the contact person specified in the email for the purposes of paragraphs 7 and 9 is not listed already with the ATO as an

authorised contact for a barrister, then the contact details held by the ATO will need to be updated. Adding an authorised contact as the nominated representative can be done:

- online through updating the barrister's details on the myGov website.
- by phone - speaking to an ATO customer service representative on **13 28 61**
- by downloading the **change of details for individuals** form and posting it to the address on the form.

9. If barristers are not satisfied with the outcome of their query they can escalate any matter in accordance with the ATO's **complaint processes**.
10. Nothing in this Service Commitment prevents the Commissioner from taking any action to ensure confidence in the administration of the taxation and superannuation systems, including litigation and recovery action, where barristers fail to co-operate, meet commitments or comply with their taxation or superannuation obligations or where the Commissioner perceives a risk to revenue or the integrity of the system.
11. The operation and effect of these Guidelines will be reviewed and agreed annually as between the ATO and the ABA.

QC 58054

Practitioners new to the industry

If you're new to the legal practitioner industry, here's a quick look at key information you need to be aware of.

Last updated 30 September 2021

Your personal tax obligations

It's important you keep up to date with your personal tax obligations. Failing to comply with your personal tax lodgment and payment

obligations may result in ATO compliance action, including:

- audit action
- civil litigation
- imposition of interest and penalties
- prosecution

Your dealings with us

For you to deal with us on behalf of an individual or entity:

- your client will need to advise us you are representing them, or
- you can provide written advice of your appointment on your firm's letterhead.

Once your appointment is recorded on your client's ATO file, you will need to provide proof of identity (POI) information when you contact us on your client's behalf.

Next steps:

- Nomination of legal representative
- Proof of identity requirements for legal practitioners

Our dealings with you

We are committed to providing effective advice and guidance to both you and your clients. To do this, we provide:

- a law administration practice statement (LAPS) - **Provision of advice and guidance by the ATO** - which sets out the:
 - type of advice and guidance we provide about the application of laws we administer
 - level of protection available to taxpayers who rely on each form of advice and guidance
- information through newsletters, webinars, online services and other avenues to help you keep up to date with developments in tax law and our activities

- list of forms organised by tax topic.

See also:

- News services
- Technical tailored assistance
- Approved forms - overview

QC 43999

Client record administration

Information about proof-of-identity requirements, ways to be nominated, privacy and freedom of information requests.

Last updated 11 February 2022

Information about administering client records, including notification of a legal practitioner, proof-of-identity (POI) requirements and links to relevant law administration practice statements.

Before you contact us on behalf of a client, you must be:

- authorised to represent them in relation to their tax affairs, in whole or in part
- able to meet POI requirements.

Proof-of-identity requirements for legal practitioners

Once you are recorded as your client's authorised legal practitioner, you must be able to provide the following POI information about your client when you phone us:

- one of the following account identifiers
 - tax file number (TFN)
 - Australian business number (ABN)

- account name
- one item of proof from an ATO generated notice or lodged return relating to the taxpayer.

Nomination of legal practitioner

Before you deal with us on behalf of an individual or entity, either:

- your client needs to advise us that you are representing them
- you must provide written advice of your appointment on your firm's letterhead.

Any nomination will continue indefinitely until we are notified it no longer applies.


Nominating a legal practitioner does not cancel any previous nomination.


Notification by your client

The quickest way for your client to nominate you as their legal practitioner is by using our online services. To update the authorised contact for:

- individuals – the individual will need to sign in to their myGov account linked to the ATO (see [Update your authorised contacts in ATO online](#))
- non-individuals – use Online services for business or Australian Business Register (see [Update your details](#)).

If your client doesn't have access to our online services, they can either:

- phone us on
 - **13 28 61** (for individuals)
 - **13 28 66** (for non-individuals)
- complete one of the following forms
 - *Nomination of a legal representative to act on behalf of an individual* – [paper form \(PDF, 208KB\)](#)  NAT11525

- Nomination of a legal representative to act on behalf of a non-individual – [paper form \(PDF, 216KB\)](#)  NAT15898.

Notification by you

If your client cannot notify us of your appointment, you can provide written proof of your appointment on **your firm's letterhead**.

Copy and paste the information from the example below to your firm's letterhead. Complete the relevant details and send to us via Secure Mail in **Online services for business** using the:

- topic 'View more topics'
- subject 'General questions/problems/help'
- additional subject 'Notification of legal representative'.

If you don't have access to Online services for business or, it is an [urgent case](#), you can notify us of your [appointment by fax](#).

Example – Template to notify appointment of legal practitioner

The person identified below has appointed *<select either*

- 'me to represent them as a legal practitioner'
- 'me and the additional legal practitioners identified in this letter to represent them'>.

Client details

Name: *<insert>*

Date of birth: *<insert for individuals only>*

TFN or ABN: *<insert>*

Phone number: *<insert>*

Address: *<insert>*

Legal practitioner details

<If there's more than one legal practitioner, include details for each person. Each practitioner must be enrolled to practice in the

relevant state, territory or federal court.>

Name: *<This must be the name of an individual legal practitioner, enrolled to practice>*

Legal practice name: *<insert>*

Phone number: *<insert>*

Email: *<insert>*

Purpose

This notification is for *<select either 'me, as a legal practitioner' or 'the legal practitioners identified above'>* to represent the client in relation to the selected matters below *<select as appropriate>*:

- all of their tax matters *<include only this option if you are representing all their tax matters>*
- the following tax matters *<include each relevant one if you are representing only some of their tax matters>*
 - income tax
 - goods and services tax (GST)
 - superannuation
 - excise
 - fringe benefits tax
 - pay as you go (PAYG) withholding
 - pay as you go (PAYG) instalments>
- another specific matter *<name matter, for example, 'GST objection'>*

This notification will endure until the client gives notice to the ATO that the client has terminated *<select either 'my appointment as a legal practitioner' or 'the appointment of the legal practitioners identified above'>* to represent them.

Declaration

I have informed the client that, as <select either 'a legal practitioner' or 'legal practitioners'> nominated to represent them, the ATO will provide <select either 'me' or 'us'> with information concerning their affairs for the purposes indicated above until such time as the client notifies the ATO that <select either 'I' or 'we'> no longer represent them. A copy of this letter has been provided to the client.

Yours faithfully

<Your name and signature>

<Date>

Urgent requests

An urgent notification of your appointment may be where your client has received a summons to appear in court and you have been appointed late in the process.

The details will be updated by close of business the next business day. Any other actions will be subject to our normal service standards.


When sending a request by fax:

- write 'Urgent LR' in the subject line
- fax it to **1300 130 917**.

Freedom of information

You or your client can make a Freedom of Information request for an individual or a business.


See also

- Freedom of Information Act 1982
- [Freedom of information](#) 

Privacy


Under the *Privacy Act 1988*, you must handle your client's personal information in accordance with the Australian Privacy Principles, including:

- protecting an individual against unauthorised disclosures of personally identifiable information
- maintaining physical and electronic copies and internal practices and procedures to ensure personal information is safeguarded.

Find out more about your privacy obligations, as well as privacy resources and guides, by visiting the [Office of the Australian Information Commissioner](#) .

For details about the information we collect see [Privacy notice – Nomination of a legal representative to act on behalf of an individual](#) or [Privacy notice – Nomination of a legal representative to act on behalf of an entity](#).

See also

- [Subpoenas and service on the ATO](#)
- [Tax Practitioners Board – Who needs to register as a tax agent?](#) 
- Risk assessment
- [Online services for business to request copies of documents, including tax returns and notices of assessment](#)

QC 43937

Litigation and case law

Find out about our approach and philosophy to litigation and alternative dispute resolution and links to case law.

Last updated 21 January 2020

Here you'll find information about our approach and philosophy to litigation and alternative dispute resolution, and links to case law and decision impact statements.

See also:

- [Subpoenaing the ATO](#)

Conduct of ATO litigation

Our approach and philosophy to litigation is set out in our practice statement, [PS LA 2009/9 Conduct of Tax Office Litigation](#). It provides:

- guidance to tax officers about our obligations to act as a model litigant under the Attorney-General's Legal Services Directions
- the processes tax officers must follow to ensure those obligations are met, including how to engage external legal service providers.

The practice statement also explains our commitment to alternative dispute resolution (ADR) in litigation and discusses the various obligations that are imposed under the different court and tribunal rules.

Case law

In our [legal database](#) we list Australian court and tribunal decisions that involve tax matters. We also provide a compilation of recent case law decisions, listed alphabetically.

See also:

- [Browse the legal database – recent case law, court and tribunal decisions](#)
- [What's new on the ATO legal database](#)

Decision impact statements

We publish decision impact statements (DIS) on significant court or tribunal decisions to inform the community of our view on the implications of the decision.

They set out how the law will be administered as a consequence of the decision, noting any implications to existing ATO rulings. They are not public rulings and are not normally expected to contain advice.

DIS are published on our [legal database](#), and are listed by calendar year.

Test case litigation

Usually, taxpayers fund their own litigation. However, there are some issues where it is in the public interest to have the law clarified through litigation.

While only a taxpayer can start such litigation, under the test case litigation program, we provide financial assistance to taxpayers whose litigation is likely to be important to the administration of Australia's revenue and super systems.

Next step:

- For detailed information, and how your client can apply for test case funding, see [Test case litigation program](#).

Alternative dispute resolution

We recognise and support the use of alternative dispute resolution (ADR) as a cost-effective, informal, consensual and speedy means of resolving disputes. This extends to using ADR to deal with only part of a dispute, or to deal with procedural or interlocutory matters in relation to a dispute. All tax officers handling disputes must consider whether ADR processes might assist in the resolution of the dispute or limit the scope of the dispute in some material way. ADR processes include direct engagement and negotiation with taxpayers and their representatives.

See also:

- [PS LA 2013/3 Alternative Dispute Resolution \(ADR\) in ATO disputes](#)
- [Options for resolving disputes](#)

QC 43936

Objections, amendments and review

When your client can ask for a review and request an amendment to fix a mistake or omission on a tax return.

Last updated 24 October 2019

If your client doesn't agree with a decision or action on our part, they can generally ask for a review. They can also request an amendment to fix a mistake or omission on their tax return.

Follow the links for more about:

- [Objections](#)
- [Amendments](#)
- [Reviews](#)

See also:

- Code of settlement - guidance for settling disputes

Objections

Under the law, your client has the right to object to certain decisions and have them reviewed. Decisions they can object against include assessments, amended assessments and some private rulings. We advise taxpayers to consider lodging an objection if:

- they disagree with an assessment they have received from us
- there is a dispute over how we have interpreted the law
- they are uncertain about their interpretation of the law.
- we have made a decision to retain a refund.

See also:

- Object to an ATO decision

Amendments

If your client realises they did not include something on their tax return, or that there is a mistake on their tax return, they need to correct it as soon as possible by requesting an amendment. For example, amendments can be requested where your client:

- forgot to include some income they received, such as interest from a bank account
- received another payment summary or income statement after lodging their tax return

- forgot to claim an allowable deduction
- forgot to claim an offset they are entitled to
- made an error when completing a question on their tax return, such as the Medicare information.

To amend a tax return, see [Correct a mistake or amend a return](#).

Reviews

Many of the decisions we make about tax affairs can be reviewed if requested. We try to resolve any problems as quickly as possible. Reviews are free.

There are different time limits for requesting reviews for different taxes and situations. In some cases, the law gives you several years, while in other cases the time limit may be as short as 21 days.

Reviews are conducted by a tax officer who did not make the original decision.

See also:

- Risk review and audit processes

QC 22633

Compliance and voluntary disclosure

Your client may ask you to make a voluntary disclosure for them if they have made a mistake or omission.

Last updated 24 October 2019

If your client has made a mistake or omission in their tax return or other statement, they may ask you to make a voluntary disclosure on their behalf.

Eligible taxpayers, who voluntarily bring their tax affairs in order before we notify them of an audit, may be entitled to concessional treatment

of penalties and interest charges that apply.

Next step:

- How to make a voluntary disclosure

QC 22631

Guidelines to accessing professional accounting advisers' papers

The ATO's official statement of the administrative concession.

Last updated 14 October 2024

1 Introduction

The Commissioner of Taxation is charged to administer Australia's taxation laws in a fair and impartial manner. Reflecting the wider public interest, Parliament has granted the Commissioner and his authorised officers powers to ensure that they are able to review documents and other information to ascertain a taxpayer's compliance with the tax laws.

Subject to legal professional privilege, which is dealt with in other guidelines, the right of access to books, documents and other papers is limited only by the requirement that the power must be exercised in good faith and for the purposes of the taxation laws. Also, where the taxpayer and Australian Taxation Office (ATO) are engaged in litigation, limits applicable to the courts and the ART procedures in relation to documents apply. See also part 5.

While recognising that the Commissioner has the legislative power to request access to most documents, it is accepted that there is a class of documents which should, in all but exceptional circumstances, remain within the confidence of taxpayers and their professional accounting advisers. In respect of such documents the ATO acknowledges that taxpayers should be able to consult with their

professional accounting advisers on a confidential basis in respect of their rights and obligations under taxation laws to enable full and frank discussion to take place and for advice to be communicated on that basis.

These guidelines describe how that acknowledgment applies in practice. They are an administrative concession and will be adhered to by ATO officers provided that taxpayers and their professional accounting advisers use these guidelines in the spirit in which they were formulated.

The restrictions contained in these guidelines do not apply to the extent that a taxpayer decides to make available to the ATO any documents covered by these guidelines.

These guidelines apply only to documents prepared by external professional accounting advisers who are independent of the taxpayer.

These guidelines apply to requests for access to documents that are made in the course of all ATO income tax audits. They are equally applicable to any access request made for any other purposes of the Income Tax Assessment Act (ITAA) or any other Act administered by the Commissioner.

In addition, the guidelines are to be used as a guide in determining the appropriate circumstances for requesting external professional accounting advisers to furnish information or produce their papers etc. in accordance with Division 353 of the Taxation Administration Act or its equivalents. The guidelines were developed in consultation with members of the National Tax Liaison Group (NTLG), which includes:

- CPA Australia
- Institute of Public Accountants
- Chartered Accountants Australia and New Zealand
- The Tax Institute
- Corporate Tax Association
- Law Council of Australia.

ATO officers will follow these guidelines in dealing with access to papers prepared by professional accounting advisers. For their part, the professional bodies will encourage their members and clients to positively assist in meeting requests, made in accordance with these guidelines, from ATO officers.

All of the professional bodies involved in the compilation of these guidelines have indicated their willingness to discuss with their respective members, on an individual basis, any specific points of disagreement that they may have with the ATO in the interpretation of these guidelines. In circumstances where there is disagreement, the ATO encourages taxpayers and their professional advisers to approach the relevant professional body (of which the adviser is a member) to seek clarification on interpretation of the guidelines.

2 Types of documents

2.1 Source documents

In order for the Commissioner to carry out his responsibilities under the tax laws it is essential for ATO officers to have full and free access to all documents which record a transaction or arrangement entered into by a taxpayer. These documents, which are referred to in these guidelines as 'source documents', include papers prepared in connection with the conception, implementation and formal recording of a transaction or arrangement and which explain the setting, context and purpose of the transaction or arrangement. These documents are source documents because, in effect, they explain the basis and form part of the fabric of the transaction or arrangement.

Documents and papers of this nature can be an integral part of the process leading up to a transaction or an arrangement or to the recording of a transaction or an arrangement in the formal books of account or the tax return.

Traditional accounting records such as ledgers, journals, working papers for financial statements (including consolidated financial statements), profit and loss accounts, balance sheets are obvious source documents. However, books of account and working papers in themselves may not necessarily give a clear picture of the tax consequences of a transaction or arrangement. For example not all papers prepared in connection with the conception, implementation and the completion of the transaction, including matters leading up to the recording of the transaction or arrangement will be represented in the formal accounting records. In addition some provisions of taxation law require ATO officers to examine the purpose of a transaction, in which event the rationale for entering into a transaction may be relevant.

Documents comprising the permanent audit file held by a professional accounting adviser performing a statutory audit are source documents, as they either explain or lead to an understanding of the taxpayer's organisation and operations. However, in the first instance, such information will be sought from the taxpayer. Where such information is sought from a professional accounting adviser, the adviser may ask for the request to be in writing. The permanent audit file contains papers of a continuing interest to an independent auditor over many years of audit of the same client. Documents expected to be found within this file include:

- those outlining an organisation's history
- those outlining an organisation's structure
- those outlining an organisation's chain of command
- a company's memorandum and articles
- the chart of accounts, and
- copies of an organisation's continuing contracts (eg leases).

Tax working papers are also considered to be source documents because they are used in assembling and compiling information preparatory to the completion of tax returns. These papers may include those compiled in preparing trial balances and reconciliation statements. As these papers serve to reconcile the information in the taxation return with the taxpayer's records, they are, in essence, an extension of the taxpayer's own records. Any files or collection of documents which have been created and maintained for the purposes of satisfying any record retention requirements of the self-assessment system are considered to be tax working papers.

2.2 Restricted source documents

Advice and advice papers prepared by an external professional accounting adviser solely for the purpose of advising a client on matters associated with taxation would fall within the key concept contained in part 2.1 above where they are prepared in connection with the conception, implementation and completion of the transaction or arrangement. For example, advice given to a taxpayer on how to structure or record a transaction or arrangement, and which is acted upon, forms an integral part of what has actually occurred.

Thus, advice papers created prior to or contemporaneously with a relevant transaction or arrangement, because they shed light on the transaction or arrangement, may themselves represent a record of what has actually occurred. However, such advice is likely to canvass the issues in circumstances in which a need for candour is a necessary element. Access to such documents will only be sought in exceptional circumstances. These documents are referred to in these guidelines as restricted source documents.

2.3 Non-source documents

Other advice and advice papers are referred to in these guidelines as non-source documents. For example, these may include advice provided after a transaction has been completed where the advice did not affect the recording of the transaction or arrangement in the books of account or tax return. Advice papers (that would otherwise be restricted source documents) which relate solely to transactions or arrangements which the taxpayer has not, and does not intend to, put into effect are non-source documents, provided they do not materially contribute to an understanding of the tax strategy or the specific courses of action actually implemented by the taxpayer.

Non-source documents also include papers contained in the current audit file prepared or obtained by an external professional accounting adviser in the course of an audit (under any statutory code or stock exchange listing requirement), in the course of a prudential tax audit, or in the course of a due diligence report. Papers contained in the current audit file are those documents, etc. not properly forming part of the permanent audit file. Typical of these papers are the engagement letter, the audit plan, letters of confirmation, test details, analyses, working schedules and commentaries. These working papers are an important part of the professional accounting adviser's evidence of compliance with the audit standards (or other external reporting requirements) and of the decisions made throughout the audit. Similarly, tax working papers which in substance merely state a professional accounting adviser's opinion on the matters presented in a tax return are non-source documents.

3 Access to documents

3.1 Source documents

ATO officers will seek full and free access to source documents, other than those referred to in these guidelines as restricted source documents, during the course of an audit of a taxpayer's taxation affairs.

3.2 Restricted source and non-source documents

Access to restricted source and non-source documents prepared by external professional accounting advisers, whether in the possession of taxpayers or their professional accounting advisers, will not be sought except in accordance with the following paragraphs. The opinions expressed by professional accounting advisers in such documents are considered to be within the class of documents referred to in part 1 above.

Where access to documents is sought, a mutually agreed time will be allowed to enable the taxpayer and professional accounting adviser to consult and ascertain whether the taxpayer wishes to claim client confidentiality in relation to those documents. The professional accounting adviser and/or client will be allowed a mutually agreed time to obtain legal advice in relation to those documents. In the circumstances where the ATO officer has attended upon the professional accounting adviser or taxpayer in person, the ATO officer may wish to remain on the premises while the consultation takes place, at the same time respecting the privacy of the consultations.

Where a request for files or groups of documents is made by ATO officers and the taxpayer and/or the adviser consider that the documents, or some of the documents, are properly categorised as restricted source and/or non-source documents, the taxpayer or the adviser shall provide a list of the documents in question. The list will contain the following details:

- (i) the nature of the document(s), eg letter, opinion, statement of account, advice file note or other form of document, in relation to, for instance: a takeover, lease, financial arrangement, etc. The more specific a description of the nature of the document is, the better placed the ATO officer will be to determine whether or not to concede the claim
- (ii) the exact number of documents and pages contained in that document withheld
- (iii) the date each document was prepared or executed, if not available this should be indicated

- (iv) the identity of the person who prepared and/or signed each document, to whom directed and all entities party to the transaction/advice, if known
- (v) a physical description of each document, eg typed or handwritten
- (vi) whether the document is an original, a photocopy, facsimile or a carbon copy, and
- (vii) the reason why a document is categorised as restricted source and/or non-source document, in respect of each document.

However, the details provided pursuant to paragraphs (i) to (vii) above should not result in the disclosure of restricted source and/or non-source information. The document should also be designated by number or letter on the document to enable accurate identification. The disclosure of the above information in no way waives the restricted source and/or non-source claim. While it will not always be necessary to do so, Division 353 may be used at any time during an audit to obtain such a list.

Requests for documents by ATO officers will usually be made on the basis of 'files' or some other description for a group of documents. Any claims for classification of entire groups of documents as restricted source or non-source documents will not be accepted. Categorisation must be substantiated on a document by document basis. It is the responsibility of the professional accounting adviser and/or the taxpayer to identify any individual documents which are claimed to be in the restricted source or non-source categories.

4 Records disclosed to third parties

These guidelines recognise that documents prepared by professional accounting advisers may maintain their confidential status when disclosed to independent third parties. Where such documents are disclosed to third parties they will maintain their confidential status (as between the taxpayer and professional accounting advisers) for the purposes of these guidelines only in circumstances where both parties agreed to the disclosure to specific nominated independent third parties. Where documents are disclosed to independent third parties, other than on an agreed confidential basis as between the taxpayer and the professional accounting advisers, then such documents are

considered to be source documents for the purposes of these guidelines. The reason for this is that the confidential nature of such documents has been lost.

5 Approval required

Access to restricted source and non-source documents may only be sought in exceptional circumstances with the (personal) written approval of a Deputy Commissioner or another appropriate ATO SES officer.¹ In these circumstances, ATO officers will specify, to the extent practicable, the relevant documents applicable to the issue under review.

In a litigated case before the courts and the ART, the ATO recognises the rights of the courts or the ART to inform themselves about the issues in dispute. However, the ATO will not seek to inspect or obtain documents listed in litigation procedures except with the (personal) written approval of a Deputy Commissioner or another appropriate ATO SES officer. If written approval was given to access restricted source and non-source documents during an audit then further approval at the litigation stage is not required. There could be instances where the rules of evidence will mean that alternative avenues of demonstrating to the court known facts relating to a contested assessment are unavailable to the ATO in arguing its case. In such an event, the ATO will not preclude itself from seeking the use of restricted source and non-source documents that would otherwise not be obtained.

6 Insufficient information

In the first instance and subject to these guidelines, all reasonable effort will be made to obtain sufficient information from the taxpayer. Where source documents do not provide sufficient factual information the ATO officer may request a statement by the taxpayer of both the facts and the taxpayer's understanding of the tax consequences of any transaction or arrangement. The taxpayer may ask for this request to be made in writing. If such a statement is not provided by the taxpayer within 30 days of the receipt of the request or within such period as is agreed between the taxpayer and the ATO officer (each using their best endeavours to agree to such a period) or if the statement does not contain such information as to enable the ATO officer to ascertain the facts, circumstances and purpose, then the

ATO officer may seek access in accordance with these guidelines. In relation to non-source documents access in those circumstances to relevant papers in the current audit file will only be sought where access to restricted source documents does not provide the necessary information.

ATO officers shall seek the approval of a Deputy Commissioner or another appropriate ATO SES officer (in person) for access to restricted source and non-source documents without following the procedures outlined above in the following circumstances:

(i) Where there are reasonable grounds to believe that fraud or evasion, or an offence under the Taxation Administration Act, or any other illegal activity has taken place.

(ii) Where the taxpayer's source documents have been lost or destroyed and the ATO officers are not able to obtain from the taxpayer or the taxpayer's professional accounting advisers sufficient information to describe, verify or determine the tax consequences of a transaction or arrangement, then access will be sought to the restricted source documents and non-source documents relevant to that transaction or arrangement. Where such information is sought the professional accounting adviser may ask for the request to be in writing. Likewise, where the source documents appear on reasonable grounds to have omissions or other material deficiencies, and an explanation or a statement of the facts and tax consequences provided by the taxpayer does not adequately explain the transaction or arrangement, then access will be sought to relevant restricted source documents and non-source documents.

(iii) Where, subject to part 3.1, the taxpayer or the taxpayer's professional accounting advisers refuse to provide, or have not within 30 days provided (from the receipt of the request), source documents, and other parties' available source documents are insufficient for the ATO officer to ascertain the facts and purpose of, and such of the surrounding circumstances as are necessary to determine the tax consequences of, the transaction or arrangement, then access to restricted source documents and non-source documents may be sought.

(iv) Where neither the taxpayer's records nor the taxpayer can be located, then access may be sought to restricted source documents and non-source documents.

(v) Where some or all of the records of a taxpayer are maintained overseas, and the taxpayer denies access to, or claims an inability to obtain those records or documents, ATO officers will first seek a statement from the taxpayer of both the facts and of the taxpayer's understanding of the tax consequences of any transaction or arrangement. If such a statement is not provided or does not enable ATO officers to ascertain the facts and purpose of, and such of the surrounding circumstances as are necessary to determine the tax consequences of, the transaction or arrangement, then the ATO officers will seek access to restricted source documents and non-source documents appropriate to the transaction or arrangement.

7 Papers prepared for the purpose of appeal to the ART or courts

ATO officers will not seek access to any papers prepared by professional accounting advisers solely for the purpose of representing a taxpayer in legal proceedings (including an objection, appeal or review) under a taxation law.

8 Procedures for resolving disagreements

Where the ATO officer and the professional accounting adviser and/or taxpayer are not in agreement that access to particular documents may be sought, those documents are to be placed in envelopes and sealed to the satisfaction of both the ATO officer and the professional accounting adviser and/or taxpayer. If those documents are at the time on the taxpayer's premises, then, as a next step and in the company of the ATO officer, the envelopes are to be lodged with the taxpayer's professional accounting adviser.

All documents in respect of which a claim has been made should be placed by the professional accounting adviser and/or his/her staff, in the presence of the ATO officer, in envelopes/containers which should be sealed and placed in a secure place on the professional accounting adviser's premises (such as a locked filing cabinet or safe). The accountant should be permitted to take copies of any of the documents before they are placed in the envelopes/containers (copies should be made by the professional accounting adviser if he/she will need to show the documents to the client or to enable him/her to carry out his/her duties to the client or to seek advice). The sealed

envelopes/containers will not be opened unless in the presence of the ATO officer or subject to the agreement of the ATO. However, the ATO officer shall not be entitled to inspect these documents. Copies taken of the documents will be covered by the claim.

The professional accounting adviser is to give an undertaking that the secured papers are not to be removed from the professional accounting adviser's office within a period of 30 days, otherwise than with the agreement of the ATO officer, pending a decision by the relevant Deputy Commissioner on whether access should be sought to all or some of those documents. The professional accounting adviser and/or taxpayer is to provide a list identifying each of the documents in question.

The basis upon which, approval by a relevant Deputy Commissioner to seek access to restricted source and/or non-source documents is to be given, and the basis for determining whether a document is a source document or a restricted source document or non-source document is to be in accordance with these guidelines.

9 Review

It is intended that these guidelines will be monitored and reviewed from time to time, to ensure the required outcomes are being attained.

1. For the purposes of these guidelines another appropriate SES officer is an SES officer who does not have leadership responsibility for the audit team and who has not been involved in any matter in relation to the audit.

QC 17796

Insolvency practitioners

Information for insolvency practitioners on contacting us, your responsibilities and how to use our online services.

Last updated 21 May 2021

Contacting us about insolvency



How insolvency practitioners can contact us about insolvency matters.

Online services and forms



Information for insolvency practitioners on using Online services for business to access client information and forms.

Administrative responsibilities of a bankruptcy trustee



Information for trustees appointed under the Bankruptcy Act 1966.

Unfair preference payments



Information for insolvency practitioners on how to lodge, substantiate and seek recovery of unfair preference payments.

Indemnities for trustees and liquidators



What trustees and liquidators need to consider when making an indemnity request to the Deputy Commissioner of Taxation.

Superannuation and insolvency



Information about how superannuation affects various insolvency administrations.

PAYG withholding



Insolvency processes that support small business



Insolvency processes to help eligible small businesses restructure.

Disclosure of taxpayer information – insolvent entities



How and when we can release information about insolvent entities to insolvency practitioners

QC 43994

Contacting us about insolvency

How insolvency practitioners can contact us about insolvency matters.

Last updated 29 September 2025

Secure mail message in Online services for business

Online services for business is our preferred means to receive notices and documents required or permitted to be given under the:

- *Bankruptcy Act 1966*
- *Bankruptcy Regulations 1996* regulation 16.01(1)(e)(i)
- *Corporations Act* purpose and provisions listed in section 600G(1)
- *Corporations Regulations 2001* purpose and provisions listed in section 5.6.11A(1).

To send us a secure mail message:

1. Log in to Online services for business.

2. From the top menu select **Communication** then **Secure mail**.
3. Select **New**.
4. Select **View more topics**, then **Insolvency** from the available topics.
5. Choose the appropriate [subject](#) from the list.
6. Enter your message and attach your documents.
7. Complete the **Contact details** section and tick the **Declaration** box.
8. Select **Send** to preview and send your message.

You will receive a receipt identification number as confirmation that your correspondence has been received. A service standard of 28 days applies to correspondence you submit through Online services for business.

Remember to save a copy of your message and the receipt ID for your own records.

Your next steps:

- [Log in to Online services for business](#) 

For more information see [Online services and forms](#) – including the *Appointment or cessation of a representative of an incapacitated entity* form

Fax or mail

When sending correspondence by fax or mail, first complete the [Debt insolvency cover sheet \(NAT 14588, PDF 117KB\)](#) .

Send the cover sheet with your form, request or supporting documents to us by either:

- fax to **1300 726 594**
- mail to

**AUSTRALIAN TAXATION OFFICE
PO BOX 9003
PENRITH NSW 2740.**

You must complete a separate cover sheet for each unrelated taxpayer request. Where correspondence concerns a group of related

taxpayers, complete one cover sheet with details of only the principal or holding taxpayer.

To use the cover sheet:

- open and complete the cover sheet online (average file size is 48KB)
- select the correct subheading for the information you are providing from the drop-down box (see the [insolvency subject list](#) for examples)
- print the completed document on blank paper only (using letterhead may cause problems when we scan your documents)
- use it as your fax header or cover sheet for correspondence sent by mail
- keep a copy of the document and correspondence for your own records.


Insolvency subject list

When submitting information to us by secure mail message in Online services for business or via fax or mail, use one of the following subjects to classify your correspondence:

- Bankruptcy – for example
 - requests or advice regarding bankrupt individuals
- Creditors reports - no resolutions - for example
 - reports to creditors where no voting is required for all insolvency types (excluding small business [SB] restructuring and simplified liquidation)
- Deed of company arrangement (DOCA) – for example
 - requests or advice regarding companies under a DOCA
- Dividend advice (excluding dividend advice under SB restructuring) - for example
 - for bankrupt estates
 - under a DOCA
 - for companies in liquidation

- due under Part IX agreements
- in relation to a Part X personal insolvency agreement
- Finalisations – notification of all finalisations of insolvency – for example
 - advice of finalisation of liquidation of the company
 - advice of finalisation of administration of the company
 - notice of deed of company arrangement (DOCA) wholly effectuated or terminated
 - notice of finalisation of a receiver/receiver manager
 - advice of finalisation of bankruptcy
 - advice of finalisation of personal insolvency agreement (Part X)
 - advice of final dividend of Part IX
- Indemnities – for example
 - a request for funding to pursue further legal action against an insolvent entity
- Liquidation – for example
 - super guarantee charge
 - general employee entitlements and redundancy scheme (GEERS)
 - requests or advice regarding companies in liquidation
- New insolvency advice – all appointments – for example
 - appointment of insolvency practitioner
 - advice of appointment as joint and several or official liquidator of the company
 - notice of an execution or appointment of deed of company arrangement (DOCA)
 - notice of appointment of a receiver or receiver manager advice of appointment as trustee of bankrupt estates
 - advice of appointment of trustee of the personal insolvency agreement (Part X)
 - advice of acceptance of a Part IX proposal

- New insolvency advice – voluntary administration
 - advice of appointment as joint and several administrators of the company
- Notice of meeting of creditors – for example
 - resolutions requiring approval by creditors – voting form only
 - first meeting – voluntary administration or liquidation
 - second meeting – voluntary administration
 - annual, general, remuneration or final meeting – liquidation or deed of company arrangement (DOCA)
 - DOCA termination or variation
 - Part IX debt agreement proposal
 - Part X personal insolvency agreement proposal
 - virtual meeting
 - section 73 composition
- Part IX – for example
 - requests or advice in relation to Part IX Debt Agreements
- Part X – for example
 - proposed terminations of personal insolvency agreements
- Preferences – for example
 - notification of legal action to recover money paid by an entity during a period of insolvency
- Receiver and manager appointed – for example
 - super guarantee charge
 - requests or advice regarding companies with a receiver manager
- Request for documents – for example, documents and information relating to your insolvency appointment, including
 - statements of account for running balance, income tax, super guarantee charge and fringe benefits tax accounts
 - business activity statements

- tax returns
- notices of assessment
- SB restructuring
 - advice of appointment of a small business restructuring practitioner
 - all correspondence relating to small business restructuring plan
- Section 129 demand – for example
 - credits be issued to the trustee in bankruptcy. (These requests should be demanded in accordance with section 129 of the *Bankruptcy Act 1996*, using the prescribed form available on afsa.gov.au)
 - lodging a demand pursuant to section 129 of the *Bankruptcy Act 1966* requesting that any available pre-sequestration credits be issued to the trustee in bankruptcy (the prescribed form is available on afsa.gov.au )
 - requesting under section 58 of the *Bankruptcy Act 1966* that pre-sequestration credits be issued to the trustee in bankruptcy. (These requests should be demanded in accordance with section 129, using the prescribed form on afsa.gov.au)
- Simplified liquidation
 - advice that the company is eligible to use the simplified liquidation process
 - all correspondence relating to the simplified liquidation process
- Tax clearance
 - requesting a tax clearance under section 260 of the *Taxation Administration Act 1953*
- Voluntary administration – for example
 - super guarantee charge
 - requests or advice regarding companies under voluntary administration.

Note: Don't mail correspondence if you have already sent it to us by fax or secure messaging via Online services for business.

Contacting us by email or phone

If you have any enquiries or require assistance, you can send an email to InsolvencyPractitionerServices@ato.gov.au.

We don't accept emailed forms. Send forms by a [secure mail message in Online services for business or via fax or mail](#).

Speak to us about insolvency matters, by phoning **1300 303 570** (select option **1**) between 8 am and 6 pm, Monday to Friday.

Before you contact us on behalf of a client, you must be nominated as your client's ATO representative. You must also satisfy proof of identity requirements.

QC 18224

Online services and forms

Information for insolvency practitioners on using Online services for business to access client information and forms.

Last updated 13 November 2024

Insolvency practitioners can use our Online services for business to securely access client information and submit forms and documents.

See also

- [Contacting us about insolvency – for other correspondence](#)
- [Insolvency practitioners](#)

Online services for business

Online services for business provides easy and convenient 24-hour access to information. It also allows insolvency practitioners to transact with us in a secure online environment.

Liquidators and voluntary administrators can manage the tax affairs of insolvent entities they represent. Only the current appointed liquidator

or administrator will have access to Online services for business for an insolvent entity.

In Online services for business, insolvency practitioners can:

- access itemised accounts of incapacitated entities
- prepare and lodge business activity statements
- submit correspondence
- notify us of new appointments
- manage existing appointments
- send us supporting documents
- request refunds online
- view account balances
- update details.

To access Online services for business you'll need to use a Digital ID such as myID and be authorised in Relationship Authorisation Manager (RAM). Your:

- myID identifies you when accessing government online services
- RAM authorisation allows you to act on behalf of a business when linked with your myID.

After we have been notified of your practice's appointment as a representative of an incapacitated entity, we will advise you when you have Online services for business access to your client.

To authorise staff with access to the client, the principal authority or authorisation administrator will need to [set permissions in Access Manager](#).

See also

- [Online services for business](#)
- [Contacting us about insolvency](#) – send a secure mail message in Online services for business

Set permissions in Access Manager

Access Manager is used to manage access and permissions for our online services. When we give your firm access to an insolvent entity via Online services for business, we set the overall business permissions (usually all) available to the practice. An Administrator can then set the permissions for individuals in your practice at the insolvent entity level in Access Manager.

To ensure your staff only have access to the insolvent entity's records and not your firm's records, there are two separate sets of permissions – one set for your firm and the other for any insolvent entities. An Administrator can manage permissions for the firm.

To authorise staff access to a client in Online services for business, the principal authority or authorisation administrator will need to:

- log in to **Access Manager**
- select **Whose business I have access to**
- select the Australian business number (ABN) to view the permissions allocated to your business
- select **View authorised credential holders**
- select **Authorised new credential holder**
- select the permissions you want that user to have.

For more information refer to **Access Manager**.

Notify us of new appointments

If you are an insolvency practitioner and you are appointed as a representative of an incapacitated entity, notify us within 14 days using the *Appointment or cessation of a representative of an incapacitated entity* form. This form covers appointments and cessations of representation as a:

- liquidator
- bankruptcy trustee
- voluntary administrator
- deed administrator
- receiver.

If you are an insolvency practitioner appointed as a voluntary administrator or liquidator (only) you can use this form to request direct access to your client's details in Online services for business to manage your appointments.

When your appointment ceases, your Online services for business access to the client will be removed. For privacy reasons, access will also be removed if another practitioner is appointed for the entity.

Next step

- Complete and lodge the **Appointment or cessation of a representative of an incapacitated entity (NAT 73785)** form

Manage existing appointments

If you have already notified us about your appointment as a voluntary administrator or liquidator, you can request direct client access to manage your existing appointments using Online services for business.

To request access to the client, send a secure mail message under the **Insolvency** topic and relevant subject in Online services for business. Attach a document, written on your practice's letterhead, requesting access.

The document must include:

- the entity's name and ABN
- your practice's ABN, to which your myID is linked
- the type of appointment.

As with new appointments, we will notify you when your access has been granted.

Cease being an appointed representative

When you cease to be a representative of an incapacitated entity, you should notify us within 14 days using the *Appointment or cessation of a representative of an incapacitated entity* form. Your Online services for business access to the client will be removed. For privacy reasons, access will also be removed if another practitioner is appointed for the entity.

Next step

- Complete and lodge the Appointment or cessation of a representative of an incapacitated entity (NAT 73785) form

Voidable transaction claim

If you are a liquidator who is making a claim against the Commissioner of Taxation for payment believed to be unfair preference payments or uncommercial transactions, complete the *Voidable transaction claim* form.

Complete all sections of the form that are relevant to the case. Sections that are not relevant may be left blank.

Some information in **Section F: Entity financial details – in support of insolvency**, of the *Voidable transaction claim* form is requested in six-monthly intervals. These intervals are the preferred format. If you are unable to provide six-monthly figures, provide the information in accordance with how the information is available to you.

We do not require litigation to have commenced in order to pay a preference claim where no indemnity is sought from the directors but may require external legal advice. If you are considering commencing legal proceedings, you should notify us at least 14 days in advance.

You do not need to provide your signature when submitting the completed form by Online services for business. By submitting the completed form by Online services for business you declare that the information given on the form is true and correct to the best of your knowledge.

Next steps

- complete the Voidable transaction claim form (NAT 74757)
- attach [supporting documents](#)
- see [what we don't need](#)
- Submit the form

Bankruptcy preference payment claim

If you are a trustee making a claim against the Commissioner of Taxation for payments believed to be preference payments in

accordance with section 122 of the *Bankruptcy Act 1966*, complete the *Bankruptcy preference payment claim* form.

Complete all sections of the form that are relevant to the case. Sections that are not relevant may be left blank.

Some information in **Section F: Financial details** of the *Bankruptcy preference payment claim* form is requested in six-monthly intervals. These intervals are the preferred format. If you are unable to provide six-monthly figures, provide the information in accordance with how the information is available to you.

We don't require litigation to have commenced in order to pay a preference claim but may require external legal advice. If you are considering commencing legal proceedings, notify us at least 14 days in advance.

You do not need to provide your signature when submitting the completed form by Online services for business. By submitting the completed form by Online services for business you declare that the information given on the form is true and correct to the best of your knowledge.

Next steps

- complete the *Bankruptcy preference payment claim form* (NAT 75019)
- attach [supporting documents](#)
- see [what we don't need](#)
- submit the form

Supporting documents

Any supporting documents attached to the claim must be clearly labelled, listed and numbered on the annexure cover sheet on the form.

The Statement of financial performance and Statement of financial position must be attached to this claim. Make sure the information in each statement is allocated to the relevant components of the statements, and the information presented is correct, to the best of your knowledge.

An insolvency report is not required to be prepared for the purpose of the claim. However, if one has already been prepared, attach a copy to

this claim.

Any further information obtained after lodging the form can be sent to us using a **secure mail message in Online services for business**.

Explain that it is additional information for this claim.

What we don't need

We don't need any information regarding the interaction between the entity and us which is already available to us, for example:

- case notes
- copies of tax returns
- copies of activity statements
- insolvency report (unless already prepared)
- copies of running balance accounts or statements of account
- any correspondence between the entity and the ATO.

QC 43996

Unfair preference payments

Information for insolvency practitioners on how to lodge, substantiate and seek recovery of unfair preference payments.

Last updated 27 March 2026

Unfair preference payments for individuals

In order to expedite the processing of an unfair preference claim, the trustee is required to provide the following information:

- the name and tax file number or Australian business number of the taxpayer

- details of the alleged preference payments, including the amounts, date of issue and date the cheque was presented for payment
- the name and address of the trustee and the date of their appointment
- details of the relation-back day
- grounds of insolvency, including
 - the facts which support the trustee's claim that the person was insolvent at the time of each alleged preference payment
 - if payments (that form all or part of the preference claim) were made by third-party entities, documentary evidence of those transactions (detailing the source of the payments).

There may be cases where further information is required from the trustee. In this case, we will request this information in writing. Even when sufficient information has been supplied, we usually issue an interim response to the trustee as a courtesy. This confirms receipt of the request and provides the name of a contact officer for any enquiries.

Garnishee notices and preferences

The Commissioner of Taxation can recover debts through the issue of a statutory notice under section 260-5 of the *Taxation Administration Act 1953* ('garnishee notice'). Payments received under effective garnishee notices are not characterised as voidable transactions or unfair preferences. (See *DFC of T v Donnelly & Ors* 89 ATC 5071; *Macquarie Health Corp Ltd v FC of T* 2000 ATC 4015.)

Application of credits and preferences

Credits, other than payments, can arise on a debtor's account as a result of account adjustments, transfers or credit assessments or GST refunds.

Whilst the Commissioner must offset credits that arise under various taxation laws, the Commissioner has on occasions been challenged as to whether the application of such credits would be a preferential payment. In the case of *Driver (as liquidator of Tilse Building Pty Ltd) v Federal Commissioner of Taxation (1999)*, the liquidator sought to claim a preferential payment from the Commissioner where the

Commissioner had offset a credit arising from an amendment, against an existing tax debt.

The application of the credit is in fact a unilateral act of the Commissioner. It was held that a company cannot be a party to a transaction unless it takes some part in it. Hence, under section 588FA of the *Corporations Act 2001*, the transaction did not constitute an unfair preference. We consider that the principle in Tilse's case is of relevance to credits which have been applied to an individual's tax debts prior to the appointment of a trustee under the *Bankruptcy Act 1966*.

To make a claim complete the Bankruptcy preference payment claim form (NAT 75019).

Unfair preference payments for companies

Unfair preferences usually involve transactions that discriminate in favour of one creditor at the expense of other creditors. The aim of the law outlined below is to ensure creditors are treated equally by preventing any unsecured creditors from receiving an advantage over others.

The proceeds of any property you, as a liquidator, recover and realise will form part of the funds available for distribution amongst all unsecured creditors after the winding-up expenses have been paid.

New developments

Since 1 March 2011, we have been able to settle all unfair preference claims, regardless of the amount of the claim, without you needing to obtain a court order under section 588FF of the *Corporations Act 2001* (the Act) where:

- we are satisfied you have proved that an unfair preference or uncommercial transaction, as defined by the Act, has been received
- the amount repaid is in full and final settlement of your claim
- we do not intend to defend the claim or seek an indemnity against directors under section 588FGA of the Act.


Where you meet these criteria, being able to settle unfair preference claims without a court order means the repayments can be made promptly and costs can be kept to a minimum for both parties.

You will still need to take legal action where we intend to defend your claim or seek an indemnity against the directors of the company. If we intend to seek an indemnity against the directors of the company, we will ask you to institute proceedings in the court. The directors will be put on notice that they will be joined as a party to the legal proceedings.

Under **subsection 588FF(3)** of the Act, we cannot settle unfair preference claims after the latter of the following:

- 3 years from the relation-back day
- 12 months from the date a liquidator was first appointed as part of winding up the company.

Our obligations

We have certain obligations we must meet under the [Legal Services Directions 2025](#)  (the Directions) when handling monetary claims.

Monetary claims are to be handled and litigation is to be conducted by the ATO in accordance with the Commonwealth's obligation to act as a model litigant at Part 5 of the Directions.

We are unable to settle claims unless we can establish the proposed settlement is in accordance with legal principle and practice. This must take into account the legal rights of the parties and the financial risk to the Commonwealth of pursuing its rights. In forming this view, we may rely on the advice of our Objections and Review branch or external legal advisers.

The four elements of a preference claim

In assessing claims for repayment of alleged unfair preferences, we must consider all of the relevant evidence, including evidence of the company's insolvency at the time of the alleged transactions. We must:

- assess whether a court would be satisfied that you can prove each element of the claim
- consider whether any of the statutory defences are available to us.

To demonstrate that a preference has been made, as the liquidator, you must provide documentary evidence showing the following:

1. The company was insolvent when each transaction was entered into or became insolvent as a result of entering into each transaction.

You should place emphasis on the cash flow test, rather than profitability analysis or a deficiency in working capital alone. You should also supply evidence that supports cash flow insolvency. If you choose to rely on deemed insolvency, we will need full details of the circumstances you relied on.

You should also provide documents including the following:

- a copy of the company's bank statements from at least 6 months leading up to the relation-back day, to the date of liquidation
- a copy of the company's list of aged creditors for periods leading up to and including the relation-back period
- identification of whether the company maintained an overdraft facility or was using any other type of financing such as debtor financing (factoring) and if so, the details of that facility
- monthly or quarterly balance sheets, profit and loss statements and cash flow statements for the period leading up to and during the relation-back period
- a general ledger cashbook reconciliation
- copies of demands and similar documents (or a sample) received from the company's creditors during the relation-back period
- copies of an insolvency report already prepared as part of your duties, if available.

You do not have to incur the expense of preparing an insolvency report solely in support of an unfair preference claim. It is only necessary to demonstrate to a reasonable standard that an unfair preference has occurred. This means you should not incur any unreasonable additional duties or costs when providing this information.

2. The ATO and the company were parties to each transaction.

You should provide evidence of how and when the impugned payments were made, such as copies of the company's bank statements and cheques records. If any payments were made by a third party entity on behalf of the company, you should also provide a detailed explanation of the circumstances surrounding those payments.

3. The transaction resulted in the ATO receiving more than it would have if the transaction were set aside and the ATO proved for the debt in the winding up of the company.

To help work out whether this is the case, review the company's payment history with other creditors.

4. The transaction was entered into during the 6 months ending on the relation-back day, or if after that day, on or before the day on which the winding up began.

Providing us with this information in the original letter of claim will save time and reduce the need for us to request more information. If we do need more information, we will contact you as soon as practicable after we receive the letter of claim.

You must also provide the following information:

- the company's name and Australian company number
- details of the alleged preference payments, including the amounts, date of issue and date the cheque was presented for payment
- your name and address as the liquidator, the date of your appointment and where applicable, the relevant court making the winding-up order
- if an administrator had been previously appointed to the company, the date of the administrator's appointment and details of the administration, such as their name and address of the administrator(s)
- details of the relation-back day
- grounds of insolvency, including the facts supporting your claim that the company became insolvent due to the alleged preference payment or was insolvent when the payments were made
- if payments (that form all or part of the preference claim) were made by third-party entities, documentary evidence detailing the source of the payments.

There may be cases where we need more information from you. Even when you have provided sufficient information, we usually issue an interim response to confirm we have received the request and to provide the name of a contact officer for any enquiries.

We will advise you of our decision as soon as practicable.

Liability of directors under indemnity provisions

Under section 588FGA of the *Corporations Act 2001* (the Act), directors may be liable to indemnify us against any loss or damage resulting from an order under section 588FF of the Act that requires us to repay an amount as an unfair preference. As this indemnity is dependent on the court making an order under section 588FF of the Act, legal proceedings will be necessary in cases where we intend to seek an indemnity against directors.

The courts have:

- recognised we have a statutory right to bring indemnity proceedings as an interlocutory application in the liquidator's recovery proceedings in accordance with subsection 588FGA(4) of the Act
- found the directors have a right to be heard on the primary dispute between the liquidator and us.

Where we accept that we have received the benefit of an unfair preference, any offer of settlement we make with you must be conditional on the directors of the company not disputing your claim.

If we intend to seek an indemnity against the directors of the company, we will ask you to institute proceedings in the appropriate court. The directors will be put on notice that they will be joined as a party to the legal proceedings. In these circumstances, we will resist any premature application you make for judgment against us without reference to the rights of the directors. We may also seek costs in relation to that application.

Particular payments not transactions

Section 260-5 of the *Taxation Administration Act 1953* allows us to collect tax debts by serving a notice, commonly referred to as a garnishee notice, on a debtor of the company. Payments made under such a notice cannot be regarded as unfair preference payments because they do not constitute a transaction between the company and us.

We will scrutinise claims involving third-party payments since individuals often pay outstanding company withholding debts from their own funds to satisfy the compliance provisions in Part VI, Division 9 of the *Income Tax Assessment Act 1936*.

Application of credits and preferences

Credits other than payments can arise on a debtor's account as a result of account adjustments, transfers, credit assessments or GST refunds.

Under our statutory offset provisions, credits owing to the company must be offset against any outstanding debts. These offsets are not transactions of the company.

Whilst we must offset credits that arise under various tax laws, we have occasionally been challenged as to whether the application of such credits would be a preferential payment. In the case of **Driver (as liquidator of Tilse Building Pty Ltd) v. Federal Commissioner of Taxation (1999)**, the liquidator sought to claim a preferential payment from us where we had offset a credit arising from an amendment against an existing tax debt. The application of the credit is in fact a unilateral act of the Commissioner. It was held that a company cannot be a party to a transaction unless it takes some part in it. Because of this, under section 588FA of the *Corporations Act 2001*, the transaction did not constitute an unfair preference.

Provision of information

We can provide information to an insolvency practitioner who has an alter ego status in relation to the insolvent entity. For example, as a liquidator, you are an insolvency practitioner with alter ego status because you effectively assume the same role the directors had as the controlling mind of the company. In such cases, you have the same entitlement to the company's information as the company, and we can provide you with any information that would normally have been available to the company. You can obtain this information without charge by requesting it from us. You do not need to submit an application under the *Freedom of Information Act 1982*.

Before requesting copies of documents we hold, consider whether obtaining those documents is necessary for your claim and limit your request to only those documents you believe will help you identify any payments that may be preferential. This will allow us to action claims in a timely and efficient manner, particularly where we do not intend to raise a statutory defence.

Where you obtained information supporting an unfair preference claim, do not return this information to us in support of the claim. You do not have to demonstrate that a statutory defence is not available to us. We

rely on you to provide sufficient proof that the elements of a preference exist and that the claim is valid. When assessing claims for repayment of alleged unfair preference, we examine all of the relevant evidence available to us about the solvency of the company and then work out whether any of the statutory defences ordinarily available to us exist.

Further information can be found by going to:

- [Service of legal documents](#)
- Disclosure of taxpayer information – insolvent entities
- PS LA 2011/16 *Insolvency – collection, recovery and enforcement issues for entities under external administration*
- PS LA 2011/21 *Offsetting of refunds and credits against taxation and other debts*
- Voidable transactions claim form (NAT 74757)

Service of legal documents

We advise that the Commissioner's address for personal service in respect of legal documents related to voidable transaction claims is as follows:

- [Australian Capital Territory](#)
- [New South Wales](#)
- [Northern Territory and South Australia](#)
- [Queensland](#)
- [Tasmania](#)
- [Victoria](#)
- [Western Australia](#)

Australian Capital Territory

**Australian Taxation Office
Office of General Counsel
26 Narellan Street
CANBERRA ACT 2600**

New South Wales

**Australian Taxation Office
Litigation and Legal Services
Level 17, 255 George Street
SYDNEY NSW 2000**

Northern Territory and South Australia

**Australian Taxation Office
Litigation and Legal Services
Ground Floor, 26 Franklin Street
ADELAIDE SA 5000**

Queensland

**Australian Taxation Office
Litigation and Legal Services
Ground Floor, 55 Elizabeth Street
BRISBANE QLD 4000**

Tasmania

**Australian Taxation Office
Litigation and Legal Services
Level 1, 200 Collins Street
HOBART TAS 7000**

Victoria

**Australian Taxation Office
Litigation and Legal Services
747 Collins Street
MELBOURNE VIC 3000**

Western Australia

**Australian Taxation Office
Litigation and Legal Services
Ground Floor, 45 Francis Street
NORTHBRIDGE WA 6003**

QC 43997

Indemnities for trustees and liquidators

What trustees and liquidators need to consider when making an indemnity request to the Deputy Commissioner of Taxation.

Last updated 15 May 2020

This information provides a general guide for company liquidators and bankruptcy trustees for making an indemnity request to the Deputy Commissioner of Taxation (DCT).

Find out about:

- Requirements for indemnity requests
- Checklist to assist insolvency practitioners
- Legal and policy obligations
- Engaging solicitors and legal counsel and negotiating rates
- Deed of indemnity
- Repayment of indemnity
- Rejection of indemnity
- Contacting us with questions about indemnity requests

Requirements for indemnity requests



All indemnity requests from insolvency practitioners must comply with the minimum standard.

Checklist to assist insolvency practitioners



Indemnity checklist to assist insolvency practitioners prepare indemnity requests.

Legal and policy obligations



Information on the range of legal obligations and government policies in relation to indemnities.

Engaging solicitors and legal counsel and negotiating rates



Information for insolvency practitioners on engaging solicitors and legal counsel and negotiating the best rates.

Deed of Indemnity



Information for insolvency practitioners on drafting and executing a Deed of Indemnity once it has been approved.

Repayment of indemnity



Information regarding the repayments of indemnity in relation to the Corporations Act 2001 and the Bankruptcy Act 1966.

Rejection of indemnity



The DCT will write to insolvency practitioners when an indemnity request that meets minimum standards is rejected.

Contacting us with questions about indemnity requests



If you have questions about indemnity requests, you can contact us with your enquiry.

QC 23051

Requirements for indemnity requests

All indemnity requests from insolvency practitioners must comply with the minimum standard.

Last updated 21 May 2021

All indemnity requests from insolvency practitioners must comply with a minimum standard in order to be considered. This is due to legal and policy obligations imposed on the Deputy Commissioner of Taxation (DCT) for the expenditure of public money.

This standard requires that all requests:

- fully address part 1 of the *Indemnity checklist for insolvency practitioners*, as well as part 2 if indemnity is being sought to commence a litigation action
- are accompanied by the *Annexure A* document, clearly setting out the costs and particulars for each task to be undertaken
- are in writing and sent either
 - via secure mail in **Online services for business**
 - by fax or mail, and accompanied by the *Debt insolvency cover sheet* (NAT 14588) with **Indemnities** selected in the subject.

Requests must be addressed to the Deputy Commissioner of Taxation (DCT) and be made for the sole purpose of seeking an indemnity. They cannot be included as one of numerous items contained in lengthy reports or circulars to creditors.


The first page of the indemnity request must be clearly marked as 'Indemnity request' to ensure requests are referred to the correct team for actioning.

Except in exceptional circumstances, all indemnity requests must be made before an action is commenced and before committing to the use of particular solicitors, legal counsel or other experts. This will

enable the DCT to provide input regarding appointments and the rates proposed. The DCT will also need to assess the risks, merits and prospects of success and recovery of a proposed action before making a decision to commit any Commonwealth resources.

Indemnity requests which do not comply with the above minimum standards will usually not be treated as a genuine request and may not receive a response. Where it is clear an insolvency practitioner made an attempt to comply with these standards but not all aspects were properly addressed, we may consider the request and seek further information if necessary.

Next steps:

- **Checklist to assist insolvency practitioners** – instructions and links to the indemnity checklist (part A and part B) and Annexure A
- **Contacting us about insolvency** – information on how to submit your requests, by Online services for business, fax or mail
- Refer to the online version of **Practice Statement Law Administration PS LA 2011/16 *Insolvency – collection, recovery and enforcement issues for entities under external administration*** prior to preparing and submitting each indemnity request as it is updated regularly
- If you have any general questions about indemnity requests, you can direct your enquiries to [Indemnity register administrator](#) .


QC 43961

Checklist to assist insolvency practitioners

Indemnity checklist to assist insolvency practitioners prepare indemnity requests.

Last updated 27 August 2025

How to access the checklist

To assist insolvency practitioners when preparing an indemnity request, we have developed an [Indemnity checklist for insolvency practitioners \(PDF, 230KB\)](#) .

It is important you refer to the online version each time you prepare an indemnity request. This will ensure the information is current.

This checklist is a fillable form that will not load on a mobile device, tablet or within a browser. To complete the form, you must save it to your desktop computer or laptop (with the latest version of Adobe Acrobat installed):

1. To download, right click on the link and select **Save target as** (or a similar option depending on your internet browser) to save it to your computer.
2. Open the form with Adobe Acrobat Reader DC and enable JavaScript, if prompted before filling in the form.
3. Once you've completed your form, save it using the **Save and print form button** at the end of the form.

Tip: Update your default app for PDF file types to Adobe Acrobat Reader DC to open all PDF files with Adobe Acrobat.

How to use the indemnity checklist

The indemnity checklist comprises Part 1 and Part 2 with a fillable form at Annexure A:

- All indemnity requests must be in writing and address Part 1.
- Part 2 will also need to be addressed where the indemnity is being sought to start a litigation action.
- Annexure A requires a breakdown of the total costs of an indemnity sought on a task-by-task basis, which will provide a total for the indemnity being sought.

The Annexure A document will be incorporated into a Deed of Indemnity in the event that the indemnity is approved.

Terms of the Deed of Indemnity

The terms of the Deed of Indemnity will not only limit the amount of the indemnity to the overall total approved but will also limit the amount that the Deputy Commissioner of Taxation (DCT) will

indemnify on a task-by-task basis, unless approved otherwise in a **Deed of Variation**.

The indemnity will specifically exclude payment of certain costs incurred by insolvency practitioners, including such costs relating to:

- duties a liquidator or trustee are required by relevant legislation to perform
- preparing and submitting the indemnity request
- communicating with the DCT's officials in relation to the request
- executing the indemnity agreement
- reporting to the DCT
- preparing invoices and all tasks associated with invoicing, including forecasting
- general ongoing administration of the Deed of Indemnity and any variations agreed to.

Costs and expenses should be treated as costs of the liquidation or bankrupt estate and paid in the prescribed order of priorities pursuant to section 556 of the *Corporations Act 2001* (in the case of company liquidations) or section 109 of the *Bankruptcy Act 1966* (in the case of bankrupt estates).

For more information see:

- Requirements for indemnity requests
- Deed of Indemnity.

QC 43958

Legal and policy obligations

Information on the range of legal obligations and government policies in relation to indemnities.

Last updated 21 January 2020

The Deputy Commissioner of Taxation (DCT) must consider a range of legal obligations and government policies in order to approve an

indemnity and grant Commonwealth resources (public monies).

Sufficient information must be provided to enable the DCT (through their delegated officials) to make an informed and justified decision, which complies with all the necessary legal and policy obligations. If the necessary information is not provided, the DCT may reject the indemnity request.

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) came into effect on 1 July 2014. It is the Commissioner of Taxation (Commissioner)'s responsibility, pursuant to the PGPA Act, to ensure the affairs of the ATO are managed in a way that promotes the efficient, effective, economical and ethical use of Commonwealth resources and in a manner that is not inconsistent with Commonwealth policies.

Similarly, the Commissioner has issued Chief Executive Instructions (CEIs) governing the approval and management of spending public monies. CEIs are issued to promote and ensure adequate accountability of the proper use and management of public money, public property and other government resources.

Due to these requirements, the decision-making process can take considerable time. Any indemnity request should be made as soon as the need is identified.

QC 43951

Engaging solicitors and legal counsel and negotiating rates

Information for insolvency practitioners on engaging solicitors and legal counsel and negotiating the best rates.

Last updated 15 May 2020

Legal and policy obligations imposed on the Deputy Commissioner of Taxation (DCT) require that all spending proposals must make efficient, effective, economical and ethical use of Commonwealth resources.


The DCT will normally seek to negotiate the best possible rates with the insolvency practitioner. They will require the insolvency

practitioner to negotiate the best possible rates with their solicitor and legal counsel.

The DCT will require the practitioner to engage solicitors and or legal counsel based on value for money. They will need to take into account the nature and complexity of the action, the tasks required to be undertaken and the level of knowledge, skills and experience that are required to achieve the desired outcome in each case.

The DCT may suggest solicitors and legal counsel or provide a short list for the insolvency practitioner to consider. Ultimately, as the indemnifying creditor, the DCT will need to be satisfied of the solicitors and legal counsel to be engaged and the rates they propose to charge in order for the indemnity to be approved. However, the DCT will work with insolvency practitioners to resolve any difference of opinion.

The same applies to other experts of any nature that may need to be engaged by an insolvency practitioner during the course of litigation and pursuant to the terms of a Deed of Indemnity.

The DCT may require insolvency practitioners, through their solicitors, to engage a legal counsel who is prepared to charge daily and hourly rates. This will be at their Commonwealth rate as set by the Attorney-General's Department (AGD), Office of Legal Services Coordination (OLSC), pursuant to the [Legal Services Directions 2017](#)  (in particular Appendix D – Engagement of counsel) which is issued by the AGD.

The approval of an indemnity and entering into of a Deed of Indemnity does not remove any legal obligations that may be imposed on insolvency practitioners to seek creditor, committee of inspection, or court approval of their remuneration, or any other amounts where approval is required to be obtained before being paid.

Where such approval is required, the DCT will only pay amounts that have been properly approved and only up to the limits specified in the Deed of Indemnity. For example, if creditors, the committee of inspection, or the court approves a lesser amount than has been provided for in the Deed of Indemnity, the DCT will only pay the lesser approved amount.

Deed of Indemnity

Information for insolvency practitioners on drafting and executing a Deed of Indemnity once it has been approved.

Last updated 15 May 2020

If an indemnity is approved, the Deputy Commissioner of Taxation (DCT) will draft a Deed of Indemnity. The DCT will not be liable to pay any amounts until a Deed of Indemnity agreement has been executed by both parties. The Annexure A document will be incorporated into a Deed of Indemnity.

General terms relating to the conduct of litigation and a list of costs not included by the deed are articulated in Annexure B and Annexure C of the deed.

If the terms of the Deed of Indemnity agreement cannot be agreed upon by the parties, the DCT's offer to provide an indemnity will be withdrawn.

QC 43962

Repayment of indemnity

Information regarding the repayments of indemnity in relation to the Corporations Act 2001 and the Bankruptcy Act 1966.

Last updated 15 May 2020

Where any amounts are paid to an insolvency practitioner pursuant to an executed Deed of Indemnity (indemnity expenses) and any recoveries are made, the Deputy Commissioner of Taxation (DCT) will expect as a minimum that the indemnity expenses will be repaid as a priority expense.

The supporting legislation is in:

- paragraph 556(1)(a) of the Corporations Act 2001 – for company liquidation matters
- paragraph 109(1)(a) of the Bankruptcy Act 1966 – for bankruptcy matters.

Where property has been recovered, realised, protected or preserved as a result of the indemnity provided by the DCT, the DCT will usually require an application be made to court to obtain a priority dividend on the DCT's proof of debt.

The supporting legislation is in:

- section 564 of the Corporations Act 2001 – for company liquidation matters
- subsection 109(10) of the Bankruptcy Act 1966 – for bankruptcy matters.

Whether an application is made will depend on the circumstances of each case and whether the outcome is likely to benefit the DCT. The application will be made by the insolvency practitioner and funded from the assets of the liquidation or bankrupt estate. The outcome of any application will be at the discretion of the court.

The DCT reserves the right to make their own application to the court if they consider it to be in the interests of the Australian Government to do so.

Terms covering the above will be incorporated into all Deeds of Indemnity.

QC 43963

Rejection of indemnity

The DCT will write to insolvency practitioners when an indemnity request that meets minimum standards is rejected.

Last updated 15 May 2020

Where an indemnity request that meets the minimum standards is rejected, the Deputy Commissioner of Taxation (DCT) will write to the insolvency practitioner notifying that the indemnity has been rejected.

Decisions made by the DCT to reject an indemnity are not reviewable decisions and the DCT is under no obligation to provide reasons for rejection. However, it is the normal practice of the DCT to provide general reasons, unless the DCT determines providing reasons could be in breach of privacy or confidentiality

The DCT may reject an indemnity in circumstances where an insolvency practitioner believes that the proposed action has very good merit and prospects of success and recovery. Such situations may arise from time to time for reasons which include:

- Staff resources and /or budgetary constraints.
- The DCT may have other viable means of recovery which are more cost-effective and efficient, for example director's penalties.
- The likely indemnity expenses will exceed the value of the DCT's proof of debt unless there are exceptional circumstances which justify such a decision.
- The DCT will need to be satisfied that the defendant(s) will have sufficient recoverable assets to enable the insolvency practitioner to repay the indemnity expenses in full, plus pay a reasonable dividend on the DCT's proof of debt unless exceptional circumstances exist.

QC 43965

Contacting us with questions about indemnity requests

If you have questions about indemnity requests, you can contact us with your enquiry.

Last updated 15 May 2020

If you have any general questions about indemnity requests, you can direct your enquiries to [Indemnity register administrator](#).

QC 43967

Superannuation and insolvency

Information about how superannuation affects various insolvency administrations.

Last updated 23 February 2026

The following information sets out how superannuation affects various insolvency administrations.

Since 31 December 2007, the super guarantee charge (SGC) has been required to be paid before payments to ordinary unsecured creditors. This means it ranks equally with employees' entitlements for wages and super contributions, as long as there are assets available for distribution to priority creditors.

Consequently, the SGC is included in the capped amount of \$2,000 that certain excluded employees can claim as priority, such as directors and their relatives.

Super guarantee charge

The quarterly super guarantee charge (SGC) is the total of the:

- individual employee shortfalls, plus
- administration component, plus
- nominal interest component.

Insolvency practitioners need to report any super shortfalls by lodging an SGC statement with us.

We require the following information for each employee to raise the correct assessment:

- full name

- date of birth
- address
- tax file number (TFN)
- super guarantee (separate for each quarter)
- excluded and capped employees clearly identified.

To submit the information electronically, see our [Super guarantee charge statement and calculator tool](#).

Once you submit the form, the super account will be updated automatically. We will issue a statement of account without delay.

For information about the SGC for periods from 1 July 2026, see [The new super guarantee charge](#).

Liquidation

Since 31 December 2007, the SGC together with super contributions has been included in section 556(1)(e) of the *Corporations Act 2001* (Corporations Act).

SGC claims regarding excluded employees, such as directors and their spouses, will be a priority on the first \$2,000 claimed. Any amounts exceeding \$2,000 will rank with unsecured creditors.

Deeds of company arrangement

Since 31 December 2007, all deed of company arrangement have been required to include a clause to the effect that 'eligible employee creditors' will enjoy a priority under the administration. This is at least equal to what they would have received had there been a winding up.

The term 'eligible employee creditor' is defined to include a creditor with a liability that falls within the priority afforded by section 556 (1) (e) of the Corporations Act. Our claim for the SGC falls within this definition.

Claims by an 'eligible employee creditor' are to be paid:

- in priority to other unsecured creditors

- ahead of any priority that otherwise might be enjoyed by a charge holder.

Affected employees may vote down the inclusion of such a provision at a meeting held prior to the second meeting of creditors. This will depend on their notice of that meeting receiving a written opinion from the administrator with reasons for the opinion and other relevant information. This is on whether the non-inclusion of that provision would likely result in the same or better outcome for them compared with what they would have received on an immediate winding up.

Receivership

Although not specifically legislated for, the inclusion of the SGC as a priority debt in section 556 (1)(e) of the Corporations Act means that the SGC will obtain a priority in a receivership through the operation of section 433 (3)(c) of the Corporations Act. The SGC will be treated in the same way as other wage related priority debts under section 556 (1)(e).

Bankruptcy

The SGC has been afforded priority in bankruptcy under section 109 (1C) of the *Bankruptcy Act 1966* (Bankruptcy Act) since 5 May 2003. This priority extends to general interest charge in respect to the non-payment of the SGC. The SGC is included in the category of employee entitlements including salary, wages or commission.

The maximum amount subject to the priority is adjusted annually:

- \$4,550 for the year ending 30 June 2019
- \$4,600 for the year ending 30 June 2020.

Part IX and X arrangements

There is no legislative requirement for the SGC to be afforded a priority in arrangements made pursuant to Parts IX and Part X of the Bankruptcy Act. However, trustees frequently address this anomaly by including a clause in the deed that gives the SGC a similar priority to that which it would have received in bankruptcy. The Commissioner of Taxation may vote against a deed that does not provide priority for SGC if bankruptcy would yield a greater return.

Double proofs

Since 31 December 2007, external deed of company arrangement (DOCA) administrators have been required to reject a proof of debt from a super fund for a super contribution that results in a SGC (section 444 DB). The SGC will be preferred since it includes an interest component, providing employees a greater benefit. All DOCAs must now contain a provision to that effect.

Liquidators will also have the power under section 553 (1A) of the Corporations Act to reject the whole or part of a proof of debt for super where the amount has already been paid by way of the SGC or there is an admissible proof for the SGC.

How dividend payments are applied

Section 64 B of the *Superannuation Guarantee Administration Act 1992* sets out a formula for the allocation of payments received on a pro rata basis.

QC 18228

PAYG withholding

The administrative obligations for administrators and trustees of bankrupt estates under PAYG withholding system.

Last updated 21 January 2020

Information about your administrative obligations under the pay as you go (PAYG) withholding system:

- PAYG withholding for external administrators and trustees of bankrupt estates

See also:

- PAYG withholding – general

QC 43971

Insolvency processes that support small business

Insolvency processes to help eligible small businesses restructure.



Last updated 5 March 2026

What processes are available for small business

There are insolvency processes designed to help more small businesses restructure.

Where restructuring is not possible, businesses will be able to wind up faster, enabling greater returns for creditors and employees.

Two processes are available for eligible companies:

- [simplified liquidation process](#) 
- [small business restructuring \(SBR\) plan](#) 
 - our approach to small business restructuring.

Eligibility


These processes are available to eligible incorporated businesses with liabilities of less than \$1 million.

You must have all your lodgment up to date to be eligible.

You can view your lodgment information in [Online services for business](#).

What practitioners need to do

You can notify us of the proposed plan with supporting documents by either:

- secure mail message in Online services for business
- fax or mail using the [Debt insolvency cover sheet \(PDF, 117KB\)](#)  (NAT 14588).

Subject selections in Online services for businesses are available for both:

- simplified liquidation
- SBR.

For more information, you can contact us about insolvency.

Small business restructuring

Understand how small business restructuring works and what factors influence our approach to a restructuring plan.

QC 64484

Small business restructuring

Understand how small business restructuring works and what factors influence our approach to a restructuring plan.


Last updated 27 March 2026

What is a small business restructure

A small business restructure (SBR) is a formal process under Part 5.3B of the *Corporations Act 2001*. It allows an eligible company to restructure their debts by proposing and agreeing to a restructuring plan with their creditors (usually involving a debt compromise), while the directors stay in control of the business.

The SBR process is specific to small incorporated companies with non-complex debt. SBR doesn't apply to unincorporated businesses or individuals.

Restructuring process

Visit [Australian Securities & Investments Commission](#)  for information about the restructuring process, including eligibility requirements and appointing a restructuring practitioner (RP).

Our approach to restructuring

We are a creditor of most companies using the SBR process, and we are often the majority value creditor. Our vote on a restructuring plan is often decisive.

The best offer possible under the circumstances should be presented, as the restructuring plan can't be altered once the voting period begins. We generally support a restructuring plan for an eligible company where:

- the plan would result in a higher payment to creditors within a reasonable period than would be received if winding up
- there are no potential public interest concerns or risks that would make support for the plan inappropriate.

The ATO will only disclose information regarding a company's taxation affairs to authorised contacts.

Feedback on restructuring plans

Where we are a major creditor, we are open to reviewing draft restructuring plans and providing feedback. You must provide the draft restructuring plan with all the supporting information as soon as possible, no later than 5 full business days before the day the plan is required to be issued to the creditors.

The draft report and supporting information should be sent via **Online services for business**.

We won't consider a restructuring plan until all the supporting information has been provided.

Supporting information for restructuring plans

To allow us to consider a restructuring plan, you must provide:

- 3 years of profit and loss accounts, balance sheets and interim financials for the period prior to the appointment of the RP
- details of assets as at the date of appointment of the RP
- any amounts owed above the \$2,000 priority cap for excluded employees
- estimated dividend to creditors in a liquidation scenario
- transaction reports for any loans relating to directors, shareholders or related entities
- any research and development offset claims for the current financial year
- cashflow forecasts including key assumptions
- documented changes to management and operations teams aimed at improving financial performance
- confirmation of lump sum payments or contributions from third parties if applicable.

Other information requests will be made on a case-by-case basis.

Tax lodgment and superannuation requirements

Before a company can issue a restructuring plan to its creditors, all employee entitlements that are currently due (including super) must be paid, and all lodgments must be up to date. If these obligations aren't completely met, the company must demonstrate it is [substantially compliant](#).

Superannuation entitlements are protected in the same way as priority payments in a liquidation, however, for excluded employees, only the first \$2,000 is treated as a protected payment.

For more information, see section 556(1) of the Corporations Act 2001 and regulations 5.3B.14 (1)(e) of the Corporations Regulations 2001.

Substantial compliance test

The substantial compliance test only applies to those that are not completely up to date with their lodgment obligations and all employee

entitlements that are currently due.

The test is used to determine whether a company has taken reasonable steps to meet its tax and superannuation obligations before a restructuring plan can be put forward to creditors.

Super guarantee charge statement

If a company fails to pay superannuation in full, on time, and to the correct fund, it must lodge and pay a **Superannuation Guarantee Charge (SGC)** statement.

While the SGC is not an employee entitlement under section 596AA(2) of the *Corporations Act 2001*, payment of outstanding SGC that results in super contributions to employees' funds can demonstrate substantial compliance with regulation 5.3B.24 of the *Corporations Regulations 2001*.

Tax lodgments

Each lodgment obligation is assessed separately. If a required tax return, notice, statement, application or other document hasn't been lodged, the company must demonstrate that reasonable steps to lodge (for example, a genuine attempt to lodge on time). The company must also show that external factors, prevented it from lodging.

Consequences of non-compliance

If the plan is provided to creditors before these obligations are met, the restructuring process will terminate.

It's essential that the RP is satisfied the company has met these requirements before distributing the plan to affected creditors.

Tax implications to consider

When preparing and submitting your restructuring plan, practitioners should carefully consider the tax and compliance implications.

Director penalties

A successful SBR will not remit a lockdown **director penalty** or a standard director penalty that has not been remitted within 21 days of the director penalty notice, as the director penalty liability exists parallel to the liability of the business. While payments received under

the restructuring plan may reduce the director penalty liability, the director remains personally liable for any balance.

GST groups

Where a business subject to a restructuring plan is a member of a **GST group**, the directors and RP will need to consider the implications of the groups GST liability for the purposes of the restructuring plan.

Consolidated income tax groups

When the company is a member of a **consolidated income tax group**, the directors and RP should evaluate the income tax implications arising from group membership.

ATO garnishee notices

Where there is an ATO garnishee notice in place on the date of appointment of the RP, the garnishee notice will not generally be withdrawn, the notice will continue to operate on the relevant amounts.

Superannuation guarantee charge and associated liabilities

The following superannuation guarantee charge (SGC) and associated liabilities where they apply should be included in the plan:

- SGC amounts for excluded employees which exceed the priority cap
- Part 7 penalties (section 59 of the *Superannuation Guarantee (Administration) Act 1992*)
- General interest charge on Part 7 penalties
- General interest charge on the superannuation guarantee shortfall.

Offsetting rules under a restructuring plan

Offsetting applies automatically under the tax law whenever credits arise.

In an insolvency context, there is no discretion to modify the offsetting outcome.

For SBR plans, we apply offsetting in the same way as under a Deed of Company Arrangement (DOCA), consistent with PS LA 2011/21.

The offsetting outcome depends on the period the credit is attributed to, not the lodgment date.

Credits relating to the pre restructuring period

Any credit that relates to a pre-restructuring period must be applied to pre-restructuring debts.

This applies whether the plan is still in place or has been completed, and even if those debts are taken to be released under the plan.

Credits arising in the post restructuring period (while the plan is still in place)

If a credit arises in respect of a period after the company goes into SBR but before the plan is completed, the credit will be applied to post-restructuring liabilities first.

Any excess may then be applied to pre-restructuring debts.

Credits arising after the plan has been successfully completed

Once the plan has been completed and the company is released from its admissible debts, credits relating to post-restructuring periods will generally be refunded, provided there are no outstanding post-restructuring liabilities.

Credits relating to pre-administration periods continue to be applied to pre-restructuring debts, despite the release.

Practitioner considerations

Tax liabilities included in a restructuring plan may be reduced following the lodgment of income tax returns or activity statements that generate credits or refunds.

Any credits that relate to periods before the RP's appointment (including amounts under the **Research and development tax incentive**) will be considered as a pre-insolvency credit and must be allocated accordingly.

Practitioners should assess the potential impact of such adjustments on:

- final tax debt amounts
- business cash flow
- overall viability of the restructuring proposal.

Assessment of restructuring plans

We assess each restructuring plan based on its own merits. We aim for outcomes that benefit all parties while ensuring the integrity of the tax and superannuation systems.

We'll support financially viable small businesses, while taking a firm approach with those who present a risk to the system or have a poor compliance history.

Rejection of restructuring plans

If we decide to reject a restructuring plan, it can't be reviewed. We are under no obligation to provide reasons for the rejection. However, it's our normal practice to provide general reasons, unless we determine that doing so could breach privacy or confidentiality.

The most common reasons for rejecting a restructuring plan are:

- non repayment of director or related entity loan accounts
- poor tax compliance history
- non-payment of tax liabilities
- it would provide an unfair advantage over other businesses.

Tax compliance following implementation of a restructuring plan

Once a restructuring plan is in place, it is essential that the company continues to meet all ongoing tax reporting and payment obligations in full and on time.

If the company fails to comply with its obligations after the plan has started, we may take stronger enforcement action. This may occur

even if the company is otherwise meeting its obligations under the restructuring plan.

Maintaining tax compliance is critical to the successful completion of the plan. Any failure to manage ongoing obligations may place the viability of the restructuring arrangement at risk.

QC 105543

Disclosure of taxpayer information – insolvent entities

How and when we can release information about insolvent entities to insolvency practitioners

Published 8 March 2024

Insolvency practitioners

An insolvency practitioner may include:

- a trustee in bankruptcy
- a liquidator
- a voluntary administrator
- a receiver
- small business restructuring practitioner
- an administrator of a deed of company arrangement.

The information we can disclose varies according to the type of insolvency administration.

As a general rule, we will not disclose information that is more than 2 years prior to the date of your appointment as the entity's representative.

Legal basis for disclosure of information

As an insolvency practitioner, you can obtain copies of many documents that we hold without making a request under the *Freedom of Information Act 1982* (FOI Act).

The confidentiality provisions in the *Taxation Administration Act 1953* (TAA) permit us to disclose taxpayer information in certain specified circumstances. However, it must be an authorised disclosure and we need to exercise our discretion before disclosing the information.

The information we disclose must be about an insolvent entity (the incapacitated entity) you formally represent.

Where third-party information or substantial amounts of information are requested, we require specific reasons for the documents, including the purpose they will serve in the liquidation or administration process.

Disclosure by practitioner type

The information we can disclose varies according to the type of insolvency administration:

- [Liquidators and voluntary administrators](#)
- [Deed administrators](#)
- [Trustees: bankruptcy or personal insolvency agreements](#)
- [Receivers](#)
- [Small business restructuring practitioner.](#)

Liquidators and voluntary administrators

If you are a liquidator or voluntary administrator, you can use Online services for business to access:

- business activity statements (BAS) that have been lodged and processed
- statements of account (for example, income tax account or BAS running balance).

You can request other types of information, including:

- tax returns
- payment summary or income statements

- relevant court documents
- notices of assessment
- relevant correspondence
- relevant case notes.

Requests for disclosure of correspondence and case notes are assessed on a case-by-case basis. You will need to specify the event, transaction or period you require case notes for, and detail the purpose they will serve in the liquidation or administration process.

You can find out more at [Obtaining information from us](#).

Deed administrators

Access to Online services for business is not available to deed administrators. However, we can generally provide copies of the following information in relation to 'provable' debts:

- statements of account
- BAS that have been lodged and processed
- tax returns that have been lodged and processed
- payment summary or income statements – the overall statement which was lodged by the company
- notices of assessment
- relevant court documents – for example, a judgment obtained.

Trustees: bankruptcy or personal insolvency agreements

Access to Online services for business is not available to the trustee. However, we can generally provide copies of the following information to trustees in bankruptcy and trustees of personal insolvency agreements:

- statements of account
- notices of assessment (pre-insolvency)
- pre-insolvency BAS that have been lodged and processed
- pre-insolvency tax returns that have been lodged and processed

- director penalty notices
- individual payment summary or income statements
- relevant case notes (Disclosure is assessed on a case-by-case basis. You'll need to specify the event, transaction or period you require case notes for, and detail the purpose they will serve in the liquidation or administration process).

Trustees of personal insolvency agreements are required to provide specific reasons for the request for information, including the purpose the information will serve in the administration process. In some cases, we may require a copy of the personal insolvency agreement before providing any information.

Post-insolvency information will only be given to the trustee where we can establish that providing this information is relevant to the administration.

Receivers

If you're a receiver or a receiver manager (or both), we can only disclose limited information about the entity. The information must be required for you to comply with your obligations on behalf of the incapacitated entity under the tax laws.

If you're a receiver appointed pursuant to a circulating security interest, you'll be required to pay employees' debts, including super guarantee charge, that were outstanding at the date of your appointment as receiver.

Small business restructuring practitioner

Access to online services for business is not available to small business restructuring practitioners. We can only disclose information to authorised contacts of the company. You can obtain the information by requesting the Public Officer or existing authorised contact of the company to make the request. If you are not an authorised contact of the company, the Public Officer of the company may **appoint you as an authorised contact** using the approved form.

Obtaining information from us

Using Online services for business

All practitioners can **contact us about insolvency** using the secure messaging function in Online services for business. You can electronically request the documents you need, and we can provide the information in a digital, more convenient format.

If you are a liquidator or voluntary administrator, this is the most efficient way to obtain information.

You can obtain BAS and statements of account in relation to incapacitated entities you represent.

For other types of information, you can use the service's **secure messaging** function to make a request to us – select **Insolvency** as the subject.

Writing to us

If you are unable to access Online services for business, you can write to us for information about an insolvent entity you represent. Complete the *Debt insolvency cover sheet* and send your request to us by fax or mail.

Find out more about:

- **Procedures for disclosing protected information**
- using Online services for business to access client information and forms - see **Online services and forms**
- accessing information under the Freedom of Information Act - see **Our approach to information gathering**.

QC 101276





Digital service providers

Services and support to help you stay up to date with the latest news and find the information you need.

Last updated 4 April 2023

We have a wide range of services and support to help you stay up to date with the latest news and find the information you need. You can:

- visit the [Software developers website](#) 

- subscribe to the weekly [Digital service providers newsletter](#) 
- visit our [Digital service providers newsroom](#) 
- bookmark the [Industry engagement](#)  page
- [contact us](#) .

QC 48500

Managing electronic activity statements and instalment notices

Managing electronic activity statements and instalment notices.

Last updated 4 February 2022

End of paper activity statements

We no longer issue paper activity statements after electronic lodgment.

Electronic activity statements will be available instead of paper ones. They are available one week after the activity statement is generated.

You can lodge electronically through either:

- Online services for agents
- practitioner lodgment service (PLS)-enabled software
- myGov when a client links their account to the ATO.

You can access electronic activity statements through your PLS software or Online services for agents. In Online services for agents you will find the information at the **Client summary** screen or **Lodgment** menu.

You or your client may receive one last paper activity statement if the first electronic lodgment is after the activity statement generate date. If this happens, you should continue to lodge electronically.

We will make exceptions and continue to send paper activity statements only in a few circumstances.

Digital quarterly GST and PAYG instalment notices

A digital instalment notice for quarterly GST and Pay as you go (PAYG) instalments (forms R, S and T) is available in Online services for agents for your clients with a digital preference.

This notice contains all the relevant information for your clients to pay their instalment amounts. You can download the notice from **Communication history** in Online services for agents, allowing you to easily pass it on to your clients.

If your client's registered delivery preference is paper, we will continue to send paper instalment notices. We don't change their delivery preferences from paper to electronic unless you have lodged electronically.

Self-preparers will continue to receive an email reminder 21 days before the due date if we have an email address for them. If your email is listed on the client's account, we will not send a reminder. For self-preparer clients who have had a delivery preference changed to digital and do not have access to online services, we will update their preference to paper on request.

See also

- [Activity statement generate dates](#)
- [Online services for agents user guide - Communication history](#)
- [Practitioner lodgment service user guide – Reports](#)

Form types R, S and T

The following forms are available through Online services for agents and PLS-enabled software:

- **R** (quarterly PAYG instalment notice)
- **S** (quarterly GST instalment notice)
- **T** (quarterly GST and PAYG instalment notice).

Form types **R**, **S** and **T** are linked to a preference to pay quarterly instalments. Lodgment is only required when the client is varying the instalment amount.

One-off electronic lodgments, revisions and variations

If you lodge, revise or vary a single activity statement electronically, this will change how we issue future activity statements and instalment notices. You and your client need to consider the following when deciding how to lodge or vary a statement or instalment notice:

- If you lodge a quarterly activity statement electronically for your client and they lodge their own monthly activity statement by paper, paper activity statements will stop.
- If you lodge a one-off electronic revision for a client and they lodge their own activity statement by paper, paper activity statements will stop.
- If you lodge or vary an instalment amount online for a client and they normally receive paper instalment notices, paper instalment notices will stop.

If your client can't transition to electronic self-lodgment, you or your client will need to **contact us** to revert their preference to paper.

myGov users – end of paper

If you have a delivery preference for your individual and sole trader clients, and they have linked their myGov account to the ATO, we will no longer send you paper activity statements.

Your clients can access their activity statements and instalment notices using myGov. They will receive a notification in their myGov Inbox when their activity statement is ready.

You can view this notification in **Communication history** in Online services for agents.

You can still lodge, vary and revise on your client's behalf through your preferred electronic channel.

For more information see **ATO and the myGov Inbox**.

Activity statement lodgment notifications

If your client lodges their own activity statements, we can send them an email reminder 21 days before the due date.

To enable your client to receive notifications complete the following steps in Online services for agents:

- Select a client
- Select **Profile** then **Communication preferences**.
- Under **Activity statement lodgment notifications**, select **Client**.
- Ensure your client's email address is correct. To check, select the **emails** hyperlink under the **Activity statement lodgment notifications** heading.

Note: You can also update your client's email address by going to **Profile** then **Email addresses** – see Email addresses – Online services for agents.

We no longer issue notifications to agents. However, you can generate [on demand reports through Online services for agents and PLS](#) to see a current list of your clients with activity statements and their due dates. These reports will be available after the activity statement generate date.

For more information see [Activity statement generate dates](#).

Lodgment obligation reminders

Your clients are obligated to understand their lodgment and payment due dates.

Paper activity statements and instalment notices should not be used as reminders to prepare, lodge and pay, or as a prompt for clients to make an appointment with you.

Reports are available to show the status of your clients' lodgments.

You can access the **Outstanding activity statement report** through Online services for agents. This report lists all outstanding activity statements for your clients for the current financial year and the previous three years, where you are a:

- tax agent authorised for the client's income tax or activity statement account
- BAS agent authorised for the client's activity statement account.

You can access the **Activity statement lodgment report (ASLRPT)** through the practitioner lodgment services. This report:

- provides a list of activity statements that have not been lodged
- also allows you to filter by form type.

Here are some other ways you can create reminders about due dates:

- **Check Online services for agents** – the client summary page has a 'for action' summary of your client's lodgment and payment obligations.
- **Generate dates and lodgment due dates** – refer to activity statement generate dates and the lodgment and payment due dates to set up your own reminders.
- **Create calendar events** with your smartphone, tablet, email or other software. You can do this through **Key dates** on the **ATO app**.
- **Create spreadsheets** with details of your clients' activity statement lodgment and payment due dates.

See also

- Reports and forms – Online services for agents
- Activity statement client report

[Back to contents](#)

QC 39708

Electronic refunds

Most client refunds need to be sent by electronic funds transfer into the Australian financial institution accounts.

Last updated 31 July 2019

The fastest, most secure way for your clients to receive refunds is through electronic funds transfer (EFT) into an Australian financial institution account. Financial institutions include banks, building societies and credit unions.

You can add or update your clients financial institution details (FID) using:

- the practitioner lodgment service (PLS)
- Online services for agents by selecting the client then **Profile** and **Financial institution details (FID)**.

We recommend you check the account information for your client each time you lodge. This will prevent refunds going to a wrong account.

Using your trust account

Depending on arrangements you have with your clients, refunds can be deposited directly into their accounts, or into your trust account on their behalf.

The Electronic funds transfer report (EFTRS) is available in the practitioner lodgment service (PLS) and can help you reconcile your trust account.

To receive the report through PLS, add the report to your subscription and provide us with details of your trust account through your software.

If you are unable to forward the refund to your client, you should return the refund to us. You will need to use the same lodgment reference number as the original refund so we can correctly identify the refund belongs to your client.

Return the refund to:

Electronic funds transfer (EFT) to ATO Deposit Trust Fund

Bank: Reserve Bank of Australia

BSB: 093003


Account number: 310362

Account name: ATO Deposit Trust Fund

Reference: Lodgment reference field number

You can obtain the lodgment reference field number from the original refund. The lodgment reference field number will be shown on your client's bank statement.

See also:

- PLS user guide - reports
- The Tax Practitioners Board – [Code of Professional Conduct – Holding money or other property on trust](#) 

No account available

We understand there may be circumstances when a client may not be able to provide account details. If this is the case, and you cannot provide your own trust account details, you can phone us on **13 72 86** Fast Key Code **1 3 1 2** for help.

Clients who have to pay tax

If an assessment results in an amount owing, we will issue a notice of assessment providing details on how to pay, including paying online using BPAY® or credit/debit card.

You can make the payment for your client or set up a payment plan using [Online services for agents](#). Our existing debt-collection practices continue to apply.

See also:

- How to pay
- Other payment options

QC 39709

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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