Print whole section

What attracts our attention

The behaviours, characteristics and tax issues that attract our attention.

Behaviours and characteristics we look at

Behaviours and characteristics that attract our attention.

Areas of focus 2025–26

Learn about the key risk areas we're focusing on for privately owned and wealthy groups in 2025–26.

Non-lodgment

Avoiding or delaying payment of tax by not lodging your tax obligations when required will attract our attention.

Trusts

We focus on various trusts risks.

International transactions

Failure to report or incorrect reporting of international transactions attracts our attention.

Private company benefits (including Division 7A)

We focus on arrangements that extract wealth from private companies while avoiding the appropriate amount of tax.

Property and construction

In the property and construction industry, how you classify income from property development may attract our attention.

Business structure

Risks that attract our attention on the structure and transactions of privately owned wealthy groups.

Transactions and taxes

Explanation of transactions and taxes that attract our attention.

Private Wealth Adviser Program

Learn what the Tax Avoidance Taskforce's Private Wealth Adviser Program requires of advisers to private group clients.

Tax crime

We detect and deal with those who avoid paying their fair share of tax or try to claim payments they're not entitled to.

Succession planning tax risks

The ATO focusses on tax risks associated with succession planning for privately owned and wealthy groups.

QC 44834

Behaviours and characteristics we look at

Behaviours and characteristics that attract our attention.

Published 23 September 2024

We publish information on the behaviours and characteristics of privately owned and wealthy groups that attract our attention to help you get things right and be transparent in our dealings with you.

The following behaviours and characteristics may attract our attention:

- tax or economic performance not comparable to similar businesses
- low transparency of your tax affairs
- adviser influence on your tax affairs
- large, one-off or unusual transactions, including the transfer or shifting of wealth
- aggressive tax planning
- tax outcomes inconsistent with the intent of the tax law
- choosing not to comply, or regularly taking controversial interpretations of the law, without engaging with us
- lifestyle not supported by after-tax income
- accessing business assets for tax-free private use
- poor governance and risk-management systems
- not participating or selectively participating in the tax system
- failing to meet third party, employer and indirect tax obligations
- misreporting or incorrectly treating transactions
- accessing concessions or refunds you aren't entitled to
- structuring to minimise or avoid tax

- using cross-border transactions or structures to minimise or avoid tax.

Your concerns

If you're concerned about your tax or super position, you can:

- engage with us for advice about a complex transaction or arrangement
- correct a mistake by requesting an amendment or making a voluntary disclosure.

If you know or suspect illegal phoenix activity, tax evasion or shadow economy behaviour you can either:

- complete the tip-off form – the form is also available in the contact us section of the ATO app
- phone the Shadow Economy hotline on **1800 060 062**.

Your information is treated confidentially, and tip-offs can be made anonymously. You don't have to give your name if you don't want to.

QC 103063

Areas of focus 2025–26

Learn about the key risk areas we're focusing on for privately owned and wealthy groups in 2025–26.

Last updated 16 October 2025

Our focus for privately owned and wealthy groups

Our key areas of focus are based on the risks and issues identified through our intelligence collection, risk detection and analysis and case work.

While we're focused on improving tax performance across all tax and superannuation compliance obligations for the privately owned wealthy groups population, the following priority areas are where we'll be directing our attention and investing additional resources.

Watch a recording of our webinar to hear Private Wealth Assistant Commissioners Jenny Lin and David Hall unpack the key risks and compliance themes shaping our engagement with private groups in 2025-26.

Media: Areas of focus 2025–26 webinar
https://share.viostream.com/bi9or7orixymgq (**Duration:** 42:32)

Core tax and compliance issues

During our engagements with private groups, we frequently observe risks and issues that have arisen due to inadequate governance, internal controls or professional advice.

While processes and procedures will differ depending on a group's size, structure and industry, all private groups are expected to maintain appropriate documentation to support their transactions and tax positions. It's also important to recognise when specialist advice is required. As groups expand or evolve their business and investment strategies, their approach to identifying and managing tax risks should also evolve.

Our Tax governance guide for privately owned groups provides practical guidance to help private groups embed effective tax governance practices.

The following are core tax and compliance risks and issues we intend to focus on for privately owned wealthy groups.

Registration, lodgment and payment

All taxpayers, including those in privately owned and wealthy groups, are expected to meet key tax obligations that support transparency and effective engagement with the tax system. These include:

- registering for obligations, such as PAYG withholding and GST, where required
- choosing the correct accounting basis and reporting cycles

- lodging tax returns, activity statements, fringe benefits tax (FBT) returns and Taxable payments annual reports on time
- paying tax debts when due and engaging early with us where more tailored support is needed.

Reporting

Issues we continue to see, which often arise due to inadequate internal controls, include:

- incomplete reporting of tax returns, activity statements and schedules (including information labels, such as shareholder loans, assets and liabilities)
- omitted or underreported income, sales or fringe benefits
- companies incorrectly claiming base rate entity status
- incorrect or overclaimed deductions, GST credits, fuel tax credits and research and development (R&D) tax incentive, where not entitled – this includes situations where the legislative requirements for the entitlement aren't met and where there's insufficient evidence to substantiate claims, for example
  - trusts overclaiming deductions to reduce net income
  - businesses claiming for ineligible R&D expenditure or activities.

We take a data-driven approach to identifying potential risks and will continue to monitor for these risks through our engagements.

Capital gains tax (CGT)

There are a number of concessions, exemptions and rollovers that may result in capital gains being reduced, disregarded or deferred. We're focused on:

- reducing the instances of taxpayers claiming concessions without considering and meeting the eligibility requirements
- engaging with those restructuring in order to access the concessions.

Risk and issues we're focused on include:

- inappropriately applying the CGT discount

- claiming small business CGT concessions without eligibility requirements being met
- misusing the small business restructure rollover
- restructuring to access concessions they otherwise wouldn't have been eligible for
- trusts inappropriately applying Division 855 of the *Income Tax Assessment Act 1997* (ITAA 1997) to disregard capital gains for foreign beneficiaries – we've identified trusts misapplying the CGT exemptions for foreign residents under sections 855-10 or 855-40 of the ITAA 1997 to avoid tax payable on the capital gain.

Trusts

Our attention remains on private groups with:

- higher-risk trust arrangements or distributions
- tax planning outside the ordinary course of genuine business or family dealings
- arrangements that reflect a misinterpretation or disregard of the law.

Our focus areas include:

- distributions to lower-taxed beneficiaries where economic benefits flow elsewhere as this behaviour can be exploiting mismatches, inappropriately reducing trust income or tax avoidance. For more information, see
  - PCG 2022/2 *Section 100A reimbursement agreements – ATO compliance approach*
  - TR 2022/4 *Income tax: section 100A reimbursement agreements*
  - TA 2022/1 *Parents benefitting from the trust entitlements of their children over 18 years of age*
- circular trust distributions where tax hasn't been paid on some, or all, of a distribution, to ensure compliance with trustee beneficiary non-disclosure tax (TBNT)
- family trusts distributing outside the family group, triggering family trust distribution tax (FTDT) – we're concerned there's a lack of awareness about the compounding nature of FTDT, which is

resulting in significant liabilities, so we want to help taxpayers get it right and prevent future FTDT arising

- franked dividend distributions where beneficiaries claim the franking credit tax offset to reduce their tax liability without meeting the 45-day holding rule – of particular concern are newly-incorporated corporate beneficiaries that may not meet the 45-day holding rule.

Using business money for other purposes

Private groups often operate through multiple legal entities. While engagement with us may occur at a group level, it's important to remember that, unless part of a tax consolidated group, multiple entry consolidated group or GST group, transactions between entities in a private group may attract tax and be subject to specific taxing provisions.

It's important for private groups and their advisers to recognise that using business funds or assets for other purposes – whether personal or across entities within a group – can trigger significant tax consequences. In some instances, we also see opportunistic behaviours intended to avoid these consequences.

We continue our focus on arrangements where private company money or other assets are used for personal or other group purposes, without the transactions being reported and characterised correctly for tax purposes.

Division 7A

We continue to see private groups not complying with their obligations under Division 7A. We're focused on:

- inadequate record keeping
- unreported shareholder loans
- non-complying loan agreements
- failing to make minimum yearly repayments (including not applying the correct benchmark interest rate)
- arrangements where minimum yearly repayments are made either from another loan or a subsequent reborrowing from the same company – for more information, see

  - TD 2025/5 *Income tax: disregarding certain payments under section 109R of the Income Tax Assessment Act 1936 in determining how much of a loan has been repaid in situations where notional loans are involved*

- arrangements to circumvent Division 7A through the guaranteeing by private companies of third-party loans – for more information, see

  - TA 2024/2 *Arrangements to circumvent Division 7A of the Income Tax Assessment Act 1936 through the guaranteeing by private companies of third-party loans*

  - draft Determination TD 2024/D3 *Income tax: Division 7A – does section 109U of the Income Tax Assessment Act 1936only apply to arrangements where a private company gives a guarantee to another private company?*

We'll also continue to scrutinise requests for the exercise of the Commissioner's discretion in section 109RB to disregard the operation of Division 7A or to allow a deemed dividend to be franked, particularly where the breach was not the result of an honest mistake or inadvertent omission.

For more information, see Division 7A Myths debunked.

Lifestyle assets

We see lifestyle assets being used when a private pursuit or 'hobby-like activity' is mischaracterised as a business activity. We often identify these where a taxpayer has been accumulating or improving assets without sufficient income reported in tax returns to demonstrate they have the financial means to fund them. Purchasing assets for use through another business in the group or related entities can lead to taxpayers:

- failing to recognise the application of Division 7A where assets have been provided to a shareholder or their associates

- claiming deductions or offsets that the taxpayer may not be entitled to

- claiming GST credits on motor vehicles and other assets without correctly apportioning for private use

- failing to recognise fringe benefits provided to employees and their associates.

Succession planning

We continue our focus on tax risks arising from the increase in succession planning activities as private groups restructure, dispose of assets or transfer wealth.

This may be through mature family-controlled businesses being sold or passed on to the next generation, or the accumulated wealth from those businesses being transferred.

Transactions and issues we commonly see that facilitate succession planning can include:

- movement of assets around the group
- restructure of family member interests
- accessing concessions, exemptions and rollovers
- entities failing to review the pre-CGT status of assets
- settlement of loans to shareholders or associates (Division 7A loans)
- use of trusts to transfer wealth.

For more information, see Succession planning tax risks.

Specific industries or activities in focus

Tax advisers and professional firms

Advisers play an important role in influencing the tax performance of their clients and in strengthening integrity of the tax system.

Through our Private Wealth Adviser Program, we'll continue to ensure advisers meet their own tax obligations. This reflects our expectation that advisers lead by example.

In addition to the foundational issues applicable to all private groups, we'll focus on:

- professional firms who fail to lodge partnership returns or statements of distributions

- compliance with PCG 2021/4 *Allocation of professional firm profits – ATO compliance approach* – we'll take action where we identify high-risk arrangements that reduce an individual professional practitioner's tax liability
- intermediaries (including R&D and GST advisers) who either
  - promote tax avoidance or exploitation schemes
  - encourage their clients to take high-risk tax positions and positions contrary to ATO guidance, including R&D, GST or fuel tax credit refund arrangements where adviser fees are charged on a contingency basis.

Property and construction

Our focus remains on private groups operating in the property and construction industry that have a higher risk of misclassifying their real property transactions due to misunderstanding or disregarding the law.

Areas of focus include:

- disposals of property, in particular we're currently seeing increased activity in relation to property renovation (flipping), residential suburban block development and large-scale subdivision
  - capital versus revenue – while most try to do the right thing, we're seeing non-compliance ranging from misclassification to disregarding the law – we want to ensure a level playing field
  - GST on disposal of real property, including the application of going concern or margin scheme – we're concerned about the lack of awareness around increasing adjustments, eligibility and calculation of the margin scheme – we want to help taxpayers get it right and understand their obligations
- non-arm’s length dealings between entities within the same private group to reduce their taxable income or incorrect reporting of real property sales or omitted income within the group – private groups may be higher risk, where they have ongoing real property sales and sustained losses or minimal taxable income
- failure to lodge or report sales or income (or both) as identified by the Taxable payments reporting system, particularly where taxpayers have received income as a subcontractor and should be meeting their reporting and compliance obligations to the ATO.

Private equity

In recognition of the growing size and scale of private capital investment in Australia, we've established a Private Equity Program focusing on tax risks associated with transactions and activities of Australian-based private equity firms and their associated private equity participants. These participants include investors, funds, target entities, owners of domestic private equity firms and family offices that undertake or participate in private equity activities.

Our focus includes all stages of the private equity investment lifecycle: pre-acquisition, acquisition, holding, pre-exit, and exit.

Retail

We continue to focus on GST risks within the retail industry where we've observed that GST reporting errors often occur from a lack of appropriate systems and controls. These risks typically increase during periods of business growth or when there are changes to the business structure or operating model. Specific focus areas include:

- transactions between entities within the same private group
- omission of income from sales
- misclassification of voucher sales and warranty payments
- claiming input tax credits for non-creditable acquisitions.

Cross-border transactions

We've observed a number of privately owned wealthy groups engaging in diverse cross-border transactions without understanding or being aware of their reporting obligations. Risks and issues related to cross-border transactions include:

- intangible migration arrangements
- incorrect self-assessment of significant global entity (SGE) status
- related-party financing, thin capitalisation and debt deduction creation rules
- controlled foreign company (CFC) compliance (see common CFC errors)
- failure to disclose international related-party dealings in the international dealings schedule.

For more information, see Private Wealth International Program.

Crypto assets

We're focused on ensuring crypto asset transactions are reported correctly. Our specific focus areas include:

- crypto asset investors omitting or incorrectly reporting capital gains or losses from crypto transactions
- crypto asset businesses omitting or incorrectly reporting income and expenses.

Our Crypto assets data-matching program matches what private groups report in their tax return with data on crypto asset transactions and accounts from service providers.

Use of tax-exempt or concessionally taxed entities

While there are many reasons for having a self-managed super fund or not-for-profit organisation, we'll focus on arrangements where private groups inappropriately use tax-exempt or concessionally-taxed entities and structures in order to minimise or avoid tax.

This includes private groups:

- inappropriately using self-managed super funds to access the concessional tax rate
- inappropriately setting up or using income tax exempt vehicles, including ancillary funds, to access tax concessions and private benefits they otherwise would not be able to access.

Private groups need to consider the potential tax consequences for entities within their group that may arise from these arrangements.

Retirement villages

We continue our focus on retirement villages based on insights from our engagements to date. We review both GST and income tax positions taken through the retirement village lifecycle. Areas we're focused on include:

- incorrect application of GST-free provisions
- omission or incorrect calculation of the GST increasing adjustment when purchasing a retirement village as a GST-free going concern

- related-party transactions and incorrect valuations
- land-lease structures.

For more information, see Retirement villages and tax.

GST refund fraud

We're maintaining a strong focus on arrangements designed to improperly obtain GST refunds, particularly those involving artificial and contrived transactions between entities within the same private group, such as those described in TA 2025/2 *Arrangements designed to improperly obtain goods and services tax refunds*.

These arrangements will generally involve the manipulation of structures, reporting, timing, or non-payment of GST obligations, and may include either:

- false or exaggerated invoicing
- mismatched accounting methods
- the appearance of high-value transactions where no genuine economic activity has occurred.

Our compliance efforts are informed by intelligence and data analytics, and we're working across the system to detect and disrupt these arrangements early.

QC 103062

Non-lodgment

Avoiding or delaying payment of tax by not lodging your tax obligations when required will attract our attention.

Last updated 24 August 2022

Our focus

We focus on occasions when taxpayers avoid or delay paying taxes by not lodging their tax return, fringe benefit tax (FBT) return or activity statement when required.

Our focus is targeted by applying improved data matching processes across a range of sources that identify entities who have:

- received income and are required to lodge an income tax return or activity statement but haven't done so
- lodged an income tax return or activity statement but haven't reported all their income.

Examples of non-lodgment

Examples include when an entity has:

- not lodged and has a high amount of incoming and outgoing cash amounts
- not lodged a return when returns for previous and subsequent years had been lodged
- lodged business activity statements during the year but did not lodge a tax return
- not lodged and has reportable fringe benefits amounts included in their employee's payment summaries or STP reporting.

Other things we look at

We also look at:

- outstanding business activity statements
- entities that did not lodge a return for the year under review and where instalments are low compared to the previous year
- directors with a number of outstanding lodgments
- directors who lodge a return not necessary.

QC 58472

Trusts

We focus on various trusts risks.

Last updated 24 August 2022

We focus on several risks including complex distributions, lodgment of trust and beneficiary tax returns, and trust and taxable income mismatches.

The Tax Avoidance Taskforce – Trusts continues to target higher risk trust arrangements in privately owned and wealthy groups. In particular, these possess risk characteristics beyond ordinary trust arrangements or tax planning associated with genuine business or family dealings.

QC 69459

Private company benefits (including Division 7A)

We focus on arrangements that extract wealth from private companies while avoiding the appropriate amount of tax.

Last updated 22 November 2022

The transactions we monitor

Transactions that attract our attention, include those that:

- are conducted through one or more interposed entities
- involve excessive or non-arm's length payments.

To target areas of concern, we continue to improve data matching processes across a range of sources to identify entities that received income or other benefit but haven't reported it and may have a tax liability.

These areas of focus may include:

- director loans
- dividend access share schemes
- deemed dividend
- unpaid present entitlements.

Anti-avoidance rules may also apply to such arrangements.

Director loans

We focus on:

- directors who are shareholders of private companies and who report low levels of salary and wages with minimal other sources of income
- whether shareholders and their associates are maintaining a lifestyle that cannot be supported by the level of income reported to us.

For information on private company benefits, see Payments and other benefits affected.

Dividend access share schemes

Situations that attract our attention include:

- using dividend access shares as part of a scheme to enable dividend stripping
- arrangements that involve the use of 'dividend access shares' to distribute accumulated profits of a company in a tax-free (or lower tax) form to an associate of the ordinary shareholders of the company.

We encourage taxpayers to review their affairs if they have entered into such arrangements.

For more information on dividend access share arrangements, see:

- TA 2012/4 *Accessing private company profits through a dividend access share arrangement attempting to circumvent taxation laws*

- TD 2014/1 *Income tax: is the 'dividend access share' arrangement of the type described in this Taxation Determination a scheme 'by way of or in the nature of dividend stripping' within the meaning of section 177E of Part IVA of the Income Tax Assessment Act 1936?*

Deemed dividend

A deemed dividend may arise where a payment or other benefit is provided by a private company to a shareholder or their associate.

The payment or benefit provided can be treated as a dividend for income tax purposes even if the participants treat it as some other form of transaction, such as a loan, advance, gift or writing off a debt. The deemed dividend is included in the assessable income of the shareholder or their associate.

Our attention is attracted when:

- amounts are taken from a company and not repaid
- a complying loan agreement has not been put in place
- minimum yearly repayments on a loan are not paid
- income from interest on a loan is not declared
- company funds or assets are used for private purposes
- transactions occur through interposed entities which appear to be an arrangement involving a payment or loan from the company to a shareholder or their associate
- money has been borrowed directly or indirectly, from a company to repay an existing loan, or make minimum yearly repayments on a complying loan, from the same company
- payments are made on an existing loan (either full amount or minimum yearly repayments) and when the payments were made the shareholder or their associate intended to, directly or indirectly, reborrow a similar or larger amount from that company
- arrangements appear to be designed to avoid the application of Division 7A or otherwise achieve an inappropriate tax advantage.

For more information on arrangements that avoid the application of Division 7A, see Taxpayer Alert TA 2023/1 *Interposition of a holding company to access company profits tax-free.*

Unpaid present entitlements

An unpaid present entitlement (UPE) is where a private company is a beneficiary of a trust and is presently entitled to an amount of trust income but does not actually receive payment of that distribution.

Situations that attract our attention include:

- private companies, including assessable trust distributions, not receiving payment of the distribution from the trust before the earlier of either
  - the due date for lodgment
  - the date of lodgment of the trust's tax return for the year in which the present entitlement arose
- a failure to put funds retained by the trustee in a sub-trust for the sole benefit of the private company beneficiary
- a failure to pay the UPE at the conclusion of the term specified in an investment agreement
- arrangements releasing the trustee from having to pay the UPE to the private company beneficiary.

For information on the tax avoidance taskforce for trusts, see What attracts our attention.

QC 69482

Property and construction

In the property and construction industry, how you classify income from property development may attract our attention.

Last updated 24 August 2022

Where entities have conducted property development, we focus on how they include the profit or income from those activities on their tax returns. A particular focus is how the income should be classified, depending on whether the development was:

- part of a business of property development
- undertaken for a profit-making purpose.

Situations that attract our attention include:

- entities that use an SMSF to fund the development and subdivision of properties leading to sale
- property that has been disposed of shortly after the completion of subdivision where the amount is returned as a capital gain (refer to TD 92/124)
- where there's a history of property development or renovation sales in the entity's wider economic group but the current sale is returned as a capital gain
- an entity that is a land-owner and has related entities that undertake a property development (refer to TR 2018/3)
- claiming inflated deductions for property developments that are not in accordance with the trading stock provisions, or spreading headworks and other costs over the inventory in line with the decision in Federal Commissioner of Taxation v Kurts Development Limited [1998] FCA 1037 (Kurts Developments)
- an entity that undertakes multi-purpose developments with both revenue and a capital purpose, for example an entity that retains units for rent after development (the entity needs to make sure that costs are applied appropriately).

QC 69456

Private Wealth Adviser Program

Learn what the Tax Avoidance Taskforce's Private Wealth Adviser Program requires of advisers to private group clients.

Last updated 30 October 2025

About the program

The Private Wealth Adviser Program has been established under the Tax Avoidance Taskforce and aims to help strengthen the integrity of the tax and super systems by recognising the important role advisers have in influencing the tax performance of privately owned and wealthy groups.

We recognise there are many types of advisers operating in the privately owned and wealthy groups market, including tax and BAS agents, insolvency practitioners, legal practitioners, research and development consultants, and financial advisers.

The program recognises the influence of these advisers on their client's behaviour to drive voluntary compliance and improve the tax performance of professional firms, advisers and their clients.

We use a tailored, risk-based approach depending on:

- the type of adviser
- the degree of influence the adviser has on tax planning and decisions affecting the tax outcomes for their clients
- the adviser's behaviour both in their capacity as an adviser, and as an individual taxpayer.

Our focus areas

The focus of this program is to:

- ensure that professional firms and advisers are paying the right amount of tax in relation to their own affairs
- leverage the influence that advisers have on their clients' behaviour in our treatment strategies to get better compliance outcomes
- detect and escalate behaviours of advisers who are doing one or both of the following
  - designing and promoting unlawful tax schemes to privately owned and wealthy groups
  - influencing their clients to adopt high-risk or uncertain positions.

We use a range of data to identify risks, behaviours of concern, and common errors. We'll progressively share these insights with advisers and their clients to help them put corrective actions in place. Wherever possible, our focus is on prevention rather than correction.

Tax advisers' own affairs

Taxpayers take their lead from their advisers, who set the standard for integrity, so, it's critical that advisers ensure their own tax and super affairs are in order.

All privately owned and wealthy group advisers need to keep their personal tax obligations up to date, in line with community expectations and taxation laws.

In addition, all taxpayers need to pay their tax bills in full and on time to avoid interest charges and firmer action. Advisers shouldn't wait for us to follow up about payments or expect concessions from us. Read Paying tax to learn our expectations and your obligations.

PCG 2021/4

Practical Compliance Guide PCG 2021/4 *Allocation of professional firm profits – ATO compliance approach* helps practitioners self-assess their risk (and those of their clients) of what we consider inappropriate income alienation, against a range of risk assessment factors. These factors rate the arrangements as **low**, **medium** or **high risk**. This determines the appropriate compliance action we'll take.

A transitional period applied for the PCG until 30 June 2024. After that date, high-risk arrangements are subject to increased enforcement action following the lodgment of the relevant tax returns.

We're using risk modelling and a range of data to assess compliance with PCG 2021/4. Through our analysis of profit distributions, we've seen examples of distributions being:

- reported at incorrect labels
- only partially reported
- omitted in full.

We remain focused on income alienation by all taxpayers, including advisers. This approach is not restricted to a specific structure or arrangement utilised by taxpayers.

Influence on taxpayers

Our cluster approach regarding tax risks

We're seeking to work collaboratively with advisers where we identify clusters of their clients who exhibit similar tax risks and issues. This helps advance interactions and lessens the impact on tax practitioners in dealing with our inquiries.

Getting the basics right

We've seen advisers sometimes not getting the basics right, which can lead to bigger issues down the track. Keep an eye out for warning signs like:

- being consistently time-poor
- understaffed
- spread too thin
- fees based on refunds
- having inconsistent treatments across the firm.

Advisers' clients who get the tax basics right are more likely to report correctly. This means that one of the best ways you can support them is to ensure they have good governance and record-keeping processes in place.

Good tax governance means having clear processes and procedures in place in a corporate governance framework to support tax decision making and manage tax and super risks. A group's tax governance is effective when the processes and procedures it has in place consistently results in the correct tax outcomes and in ensuring they're meeting their obligations.

Read more information about behaviours, characteristics and tax issues of privately owned and wealthy groups that attract our attention.

What we expect

As part of our program, we'll be showcasing the best practices we see many advisers already using. That way, others can adopt the same high standards in a way that works for their business.

Some of these best practices are:

- keeping up to date with developments in the areas of tax and super law that they advise on

- understanding their client's business and having the right information and records to lodge correctly
- encouraging their clients to use digital solutions, such as accounting and point of sale software
- engaging positively with us
- ensuring their own tax and super affairs are in order
- being dedicated to promoting ethical and compliant tax strategies.

Sanctions and consequences

Our Private Wealth Adviser Program addresses the full spectrum of adviser behaviour ranging from those who make mistakes to those who engage in uncooperative, misleading or obstructive behaviour.

While we monitor the role of advisers in the market and intervene where appropriate, it's the presence of tax risk that attracts our attention. How an adviser engages with us during a review will influence how we engage in that process.

We'll act quickly with advisers who undermine the integrity of the tax system or who facilitate non-compliance. In serious cases, promoter penalty laws may apply to promoters of unlawful tax schemes.

The types of behaviour that cause us concern include:

- engaging in conduct designed to frustrate and prevent the collection of facts and information, and the proper administration of tax laws
- the promotion of unlawful tax schemes.

Tax Practitioners Board

We work closely with the Tax Practitioners Board (TPB) to address tax practitioners who are not meeting their own obligations or are driving non-compliance, including tax avoidance and evasion. We'll continue to work with the TPB to maintain trust and integrity in the tax system and ensure a level playing field in the community and tax professional service industry.

We make referrals to the TPB where any of the following occur:

- The tax practitioner, during a case engagement, consistency fails to respond to formal requests for information, causing delays. This is a potential breach of the *Tax Agent Services Act (TASA) 2009* for obstructing the proper administration of the taxation laws.
- The tax practitioner doesn't meet their own lodgment obligations.
- The tax practitioner fails to take reasonable care in ascertaining a client's state of affairs, which then results in serious penalties.

This may result in the TPB undertaking an investigation that may result in:

- termination of registration
- a written caution for more governance
- education
- no further action (for intelligence only).

Refer to Tax Practitioners Board.

In the news

See our recent newsroom articles about the program:

- Driving adviser integrity in 2025
- Professional firms – get your lodgments right
- Lawyers in our compliance spotlight
- Remember: all partnerships can now lodge SODs digitally

QC 102993

Tax crime

We detect and deal with those who avoid paying their fair share of tax or try to claim payments they're not entitled to.

Last updated 1 May 2023

Illegal phoenix activity

When a company is liquidated, wound up or abandoned to avoid paying its debts, it is known as Illegal phoenix activity. A new company is then started to continue the same business activities without the debt. When this happens:

- employees miss out on wages, superannuation and entitlements
- other businesses are put at a competitive disadvantage
- suppliers or sub-contractors are left unpaid
- the community misses out on revenue that could have contributed to community services.

We're working with other government agencies through the Phoenix Taskforce to stamp out illegal phoenix activity. We take action against phoenix operators by:

- working together to disrupt their business model and make it financially unviable
- removing their ability to operate
- applying financial penalties
- prosecuting the worst offenders.

Refund fraud, identity crime and organised crime

Tax crime affects the whole community by reducing the revenue that is used to fund essential community services. Those people who try to evade or cheat the tax and super system will get caught and we will prosecute them accordingly. We will not tolerate this behaviour.

We take all forms of Tax crime seriously and we are constantly increasing our ability to tackle it. We partner with domestic and international intelligence, and regulatory and law enforcement agencies, to disrupt perpetrators of serious financial crime and bring them to account. Our focus is on activities involving refund fraud, identity crime and organised crime and those who enable them.

As part of our fight against tax crime, we are a member of a number of taskforces, including the:

- Joint Chiefs of Global Tax Enforcement (J5)
- Serious Financial Crime Taskforce (SFCT)
- Illicit Tobacco Taskforce (ITTF)

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**.

QC 58475

Succession planning tax risks

The ATO focusses on tax risks associated with succession planning for privately owned and wealthy groups.

Last updated 22 May 2025

Succession planning transactions and arrangements

We focus on private groups that incorrectly recognise the tax consequences of transactions or structure to minimise or avoid tax when undertaking succession planning. This can be when you are preparing to sell a business or passing control or wealth to family members.

Situations that attract our attention include:

- entities failing to recognise a capital gains tax (CGT) event happened where they have restructured or transferred an asset
- entities incorrectly applying tax concessions or rollovers
- entities adopting complex structures or entering into an arrangement to access tax concessions or rollovers that are not otherwise available

- entities failing to review the pre-CGT status of assets after an event that affects the beneficial ownership of such assets
- transferring wealth through loans, payments or forgiveness of debt and failing to consider the application of Division 7A
- the use of trusts where
  - there are amendments to the trust deed, such as changes to the trustee or appointor, adding or removing beneficiaries and amending the vesting date
  - trusts have made family trust elections or interposed entity elections, and are distributing outside the family group
- entities inappropriately using self-managed super funds to access a lower rate of tax.

Tax governance

We have seen evidence of private groups subject to unintended tax consequences because they do not have good tax governance in place. For example, when they:

- do not put a succession plan in place
- do not have documentation to support transactions and arrangements
- fail to lodge returns on time.

To learn how to put a sound tax governance framework in place to help you manage tax issues, refer to our guidance on succession planning in our *Tax governance guide for privately owned groups*.

More information

Be aware of potential tax risks that may arise from succession planning and what activities attract our attention. For more information, see:

- Areas of focus 2024–25
- Capital gains tax
- Private company benefits (including Division 7A)
- Self-managed super funds

- Trust activities that attract our attention

QC 104930

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.