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## Findings reports

Findings reports on the income tax and GST assurance programs for the Top 100 and 1,000 business and super fund taxpayers.

### **Findings report – Public and multinational business disputes and settlements 2023–24**



Key findings and insights for disputes and settlements with public and multinational businesses for 2023–24.

### **Findings report – Top 1,000 income tax and GST assurance programs**



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QC 105136

# Findings report – Public and multinational business disputes and settlements 2023–24

Key findings and insights for disputes and settlements with public and multinational businesses for 2023–24.

**Published** 8 November 2024

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## About this report

This is the second year we are publishing our insights on settlements with public and multinational businesses.

This report broadens the scope reported last year (which focused solely on settlements for 2022–23) to include information on disputes and expand on the information included in the ATO annual report.

This report outlines our key findings and observations on income tax and GST disputes completed or undertaken in 2023–24 in relation to our:

- audit program<sup>1</sup>
- independent reviews

- objections
- mutual agreement procedures (MAP)
- litigation
- settlements.

## Key highlights

- We've observed increasing levels of tax compliance by public and multinational businesses.
  - An additional \$2.2 billion was paid voluntarily as a result of ATO preventative compliance intervention.
- We continue to see a consistent number of audits each year.
  - During the year, 24 matters were escalated and endorsed for audit. These matters are ongoing.
  - Throughout the year, we issued income tax assessments to 124 public and multinational businesses raising \$2.76 billion in liabilities. Of this, \$2.5 billion was raised in respect of 24 different taxpayers following intensive audit and review activities. Separately, total liabilities for GST raised were approximately \$363 million.
  - We continue to apply penalties in the appropriate cases. During the year we raised liabilities for penalties of approximately \$177 million. Some of the penalties relate to audits finalised in 2022–23. We're still considering penalties for most audits completed in 2023–24.
- Global profit shifting risks continue to be a major focus in our audit program. Global profit shifting arrangements are often complicated, both legally and factually. They typically involve related parties located in low or no tax jurisdictions around the world.
  - Around 65–70% of current income tax audits involve global profit shifting issues.
  - Transfer mispricing, mischaracterisation of business activities and capital flows and withholding tax avoidance issues are among some of the key profit shifting risks currently being investigated.

- Common dealings under audit include related party finance, intangible migration, embedded royalties, in-bound distributor arrangements and disposal of assets by foreign investors.
- Nearly 80% of income tax litigation decisions relating to public and multinational businesses handed down in 2023–24 involved issues related to global profit shifting, including transfer mispricing and the application of the general anti-avoidance provisions.
- We continue to investigate arrangements where tax avoidance is a concern.
  - The application of general anti-avoidance provisions, including the diverted profits tax, is being considered in approximately 30% of current income tax audits.
  - Increasing concerns (and audits) related to the mischaracterisation of business dealings is in part driving the increased application of the anti-avoidance provisions.
  - In appropriate cases, the anti-avoidance rules may be applied in preference to or as an alternative to the transfer pricing provisions.
- Where appropriate, and consistent with the Commonwealth's model litigant policy, we seek to resolve disputes by way of settlement.
  - Across all client groups, public and multinational businesses accounted for more than 20% of all parties to settlement agreements (67) and around 92% (\$1.8 billion) of the tax revenue secured.
  - Our total settlement variance for public and multinational businesses was around 31%, which means we secured 69% of the disputed amount that we considered payable under our starting position before settlement.
  - The 5 year average variance of 39% for settlements with public and multinational groups is broadly consistent with (or slightly less than) the 5 year average of other key taxpayer segments.
  - Income tax was the predominant revenue type settled. Around 65% of settlements with public and multinational businesses involved global profit shifting risks.

## Large business tax contribution

Public and multinational businesses play an important and integral role in the functioning of Australia's corporate tax system. In 2022–23, they reported:

- \$96.6 billion in corporate income tax (70% of total company tax)
- \$48.2 billion in GST (62% of total GST liabilities).

Corporate tax is highly concentrated with:

- the largest 10 businesses paying 30% of all corporate tax
- the largest 100 companies paying 55%
- large businesses (corporate groups with over \$250 million turnover) paying around 69%.

Our **annual corporate tax transparency report** provides insights into how much income tax is paid by our largest taxpayers.

Large business also collects and remits a significant amount of GST, collecting and remitting over 57% of total GST revenue.

We are responsible for ensuring that large businesses are meeting their Australian tax obligations. We do this primarily through the work of the Tax Avoidance Taskforce and specific GST compliance programs.

## Reducing the tax gap

Our tax gap analysis for large corporate groups shows that around 93.5% of income tax is paid without ATO intervention. This increases to 95.8% following ATO intervention. Our **Annual tax gap findings** offer more detail on this.

Our primary objective is to sustainably reduce the tax gap. We invest significant effort in helping large businesses get it right on lodgment. This provides for a better tax system and overall is a much more cost-effective way of administering the tax system. We do this through our assurance programs, providing certainty through public and private advice and guidance and working with advisors. See the **Top 100 justified trust program findings report** and the **Public and multinational business advice and guidance program findings report**.

While the tax gap indicates that large business has some of the highest levels of tax compliance of all taxpayer groups, there'll always

be the need to have a well-resourced and robust audit program. The economic characteristics of Australia (i.e. a net capital importer with a high tax rate), means that we are susceptible to profit shifting. The high reliance on corporate tax and high levels of concentration within the very largest entities, means that if tax risk proliferates it can have significant consequences for government revenues.

Through our justified trust programs, we aim to continually monitor the largest businesses in Australia via the Top 100 program and review the tax affairs of the largest 1,000 businesses at least once every 4 years. We also have sophisticated data and analytics programs that enable us to detect tax risk across public and multinational businesses. Where we detect material tax risk, we will undertake an audit to intensively investigate the tax issue and, if necessary, correct the tax outcome. We will also apply penalties in appropriate cases.

## **Large business compliance outcomes**

A look at the revenue impact from large businesses successfully complying with their tax obligations.

### **Tax Avoidance Taskforce**

We receive significant funding from government for the Tax Avoidance Taskforce to ensure large businesses meet their tax obligations. Since the Taskforce commenced in June 2016, we have raised \$22.8 billion in liabilities from public and multinational businesses (as at 30 June 2024). Around \$12.3 billion of this is attributed to the additional funding provided through the Tax Avoidance Taskforce, with the balance primarily attributable to base funding.

### **Preventative compliance actions**

When determining the total revenue impact we have in a given year, we include the additional tax paid voluntarily as a result of our prior interventions. Common ways this can occur for our interactions with public and multinational businesses include the following.

- Additional tax paid due to our past compliance actions having a lasting effect. Typically, this will be the additional tax collected in later years as a result of locking in go-forward outcomes under settlements, or the elimination of prior year tax losses.

- Estimated additional tax paid voluntarily where we have influenced tax outcomes through our preventative actions, where there is a clear causal connection with our engagements. This can include influencing the tax outcomes of transactions before lodgment in programs such as Top 100 justified trust, private rulings and advance pricing agreements.

For 2023–24 preventative compliance activities resulted in an additional \$2.2 billion in tax revenue. The vast bulk of this revenue is due to locking in go forward outcomes through settlements. This is on top of additional revenue that may have been raised via our audit program or reported as settlement collections.

## **Public groups audit program**

Our key compliance programs in relation to public and multinational businesses are run by the Public groups business line. The Public groups audit program typically has between 100 and 150 audits underway at any given time (in addition to other compliance activities). As at 1 July 2024, there were 111 public and multinational business audits in progress. Of these 107 involve income tax issues.

The vast bulk of our audits continue to relate to large businesses included in the Top 100 and Top 1000 programs. Of the audits on hand 40 relate to taxpayers in the Top 100 population and 54 relate to taxpayers in the Top 1,000 population. Almost all of these audits relate to income tax. Some of these taxpayers may be part of the same global economic group, and some taxpayers may be subject to multiple concurrent audits.

During 2023–24, 24 matters were escalated to audit, with around the same number of audits concluding. Of these 24 escalated matters, 9 matters related to taxpayers in the Top 100 population and 11 matters related to taxpayers in the Top 1000 population. Again, some of these taxpayers may be part of the same global economic group, and some taxpayers may be subject to multiple concurrent audits.

Around two-thirds of our income tax audit program is directed at investigating issues related to global profit shifting.

For the purposes of this report, 'global profit shifting' means arrangements that shift profits away from Australia (commonly to low or no tax jurisdictions) and includes common issues such as:

- transfer mispricing

- withholding tax avoidance and minimisation
- mis-characterisation
- thin capitalisation
- treaty shopping
- tax avoidance.

Around two-thirds (50) of the audits relating to global profit shifting involve at least one transfer mispricing related issue, including:

- 9 cases involving related party financing
- 14 cases involving sales, marketing and procurement
- 11 cases involving intellectual property and royalties.

These audits are an intensive investigation of a taxpayer's affairs that can cover one or more issues and income tax years, and can take a number of years to conclude. In over one-third (27) of these audits we are considering the application of our general anti-avoidance rules to determine if there is a purpose of avoiding tax. This may be in addition to considering other provisions such as the transfer pricing or anti-hybrid provisions.

During 2023–24, we issued income tax assessments to 124 companies raising \$2.76 billion in liabilities. The bulk of the liabilities (\$2.5 billion) was raised against 24 different taxpayers following intensive audit and review activities. Total liabilities for GST raised was approximately \$363 million.

Global profit shifting accounted for approximately 80% of liabilities. This reflects 2 things:

- audits related to profit shifting make up a significant part of our audit program,
- while profit shifting adjustments can vary, some cases are materially significant (particularly if adjustments span multiple years).

Among audit assessments, transfer mispricing was prevalent, accounting for 33% of taxpayers, Part IVA (tax avoidance) assessments represented 13%, with capital gains tax and thin capitalisation each reflecting 8%.



As we consider penalties following the conclusion of an audit, we are yet to determine penalties for most audits concluded in 2023–24. We anticipate that penalties will be applied in a number of these cases.

GST audits are not as prevalent in our program as income tax. For 2023–24, 68% of GST liabilities were raised through voluntary disclosures made through the justified trust programs and targeted industry risk reviews, and assessments raised through our focus on international GST issues (such as low value imported goods and digital products).

The following tables show the trend of tax liabilities, interest and penalties over the past 3 years. Total income tax liabilities have grown over the past 3 years, with GST showing more variability.

Interest is calculated as per the statutory formula. Not all amended assessments will attract a penalty under the law. In certain circumstances, penalties may be doubled for taxpayers that are significant global entities. As we typically consider penalties following the conclusion of an audit some of these penalties will relate to audits concluded in 2022–23. Similarly, as noted above, we are still determining penalties for most audits concluded in 2023–24.

**Table 1: Income tax liabilities, interest and penalties raised in 2021–22 to 2023–24**

Financial year	Tax liability	Interest	Penalties	Total liabilities
2024	\$2.52 billion	\$0.10 billion	\$0.14 billion	\$2.76 billion
2023	\$1.81 billion	\$0.32 billion	\$0.50 billion	\$2.59 billion
2022	\$1.43 billion	\$0.44 billion	\$1.00 billion	\$2.87 billion

**Table 2: GST liabilities, interest and penalties raised in 2021–22 to 2023–24**

<b>Financial year</b>	<b>Tax liability</b>	<b>Interest</b>	<b>Penalties</b>	<b>Total liabilities</b>
2024	\$317 million	\$7 million	\$39 million	\$363 million
2023	\$190 million	\$6 million	\$6 million	\$202 million
2022	\$377 million	\$33 million	\$3 million	\$413 million

Notwithstanding the 3 year increasing trend of income tax liabilities, generally we are observing a reduction in the materiality of many of our audits compared to past years. This is the result of us already having addressed some large arrangements (for example related party finance). However, new emerging issues and business models as well as one-off events such as business disposals, are producing material income tax adjustments.

### **Tax in dispute**

Most taxpayers are typically not required to pay a tax liability following an audit if they are disputing the assessment. However, large business and other high-risk taxpayers are expected to pay all or part of the liability owing. Large business taxpayers are expected to enter a 50:50 arrangement whereby they pay 50% of the tax liability, and fully pay any DPT assessments.

Where the dispute is resolved in favour of the Commissioner (for example via litigation) the remaining 50% of primary tax, interest charges and any tax shortfall penalty are payable to us. If the objection decision is wholly favourable to the taxpayer, any primary tax paid is refunded to the taxpayer together with interest.

In 2023–24, \$2.76 billion in total liabilities were raised and \$533 million was not disputed and paid. The balance of \$2.22 billion is disputed, and \$1.09 billion of this disputed amount was also paid upfront under 50:50 arrangements in the same year.

## **Review of audit decisions**

Where taxpayers don't agree with the outcomes of their audit, they can request a review or object.

## **Independent review**

Large businesses may request an independent review of proposed audit adjustments if they meet certain eligibility criteria (see **ATO Large Market IR Guidelines**). These reviews occur before an audit assessment is issued. There is no legal right to an independent review pre-assessment. Independent reviews are conducted by our Objections and review branch.

The independent review service is generally not offered for audit matters that relate to transfer mispricing or which involve the application of general anti-avoidance rules.

In 2023–24 for public and multinational businesses, only 2 matters proceeded to independent review. One application was withdrawn during the independent review, and one matter was still in progress at the end of the year.

The low number of independent reviews in part reflects that many audits involve transfer pricing or the application of the anti-avoidance provisions and are therefore not eligible for this process. Some matters may also be ineligible if they are considered through other processes, such as the General Anti-Avoidance Panel.

## **Objections**

Generally, taxpayers have the legal right to object to some decisions we make. This includes, for example, amended assessments we issue following an audit or private binding ruling decisions. Alternatively, a taxpayer may object against their own self-assessment, seeking a review into lodged tax returns (referred to as self-objections).

### **Objections lodged**

In 2023–24, 171 new objections were lodged by public and multinational businesses. Out of the 171 new objections lodged, 92 were objections to ATO decisions and 79 were self-objections.

Of the 92 objections to ATO decisions, 24 of these related to objections against amended assessments issued through audits by Public Groups. Some of these objections related to audit assessments

issued in 2022–2023. Other significant categories of objections included:

- penalties (29)
- audit related assessments issued by other business lines (15)
- private ruling decisions (8).

The following table shows the total liabilities in dispute for assessments issued in the past 3 years that are still in dispute, and the number of cases subject to objection or litigation as at 1 July 2024.

We expect the number of objections related to assessments issued in 2023–24 to increase as some taxpayers had not yet lodged their objection by 30 June 2024 but are expected to (these taxpayers may already have entered into a 50:50 payment arrangement). Some taxpayers may also have multiple objections in progress at any one time.

**Table 3: Remaining tax in dispute for assessments issued from 2021–22 to 2023–24 (as at 30 June 2024)**

<b>Year audit assessment issued</b>	<b>Number of matters in objection</b>	<b>Number of matters in litigation</b>	<b>Tax in dispute as at 30 June 2024</b>
2023–24	14	0	\$2.22 billion
2022–23	17 <sup>2</sup>	0	\$1.58 billion
2021–22	12	2	\$1.91 billion

Objections for disputes involving public and multinational businesses can often take years to determine. This is partly due to the factual and legal complexity of the matters. Some matters will also be put on hold pending other processes such as the mutual agreement procedure under double tax treaties.

Taxpayers are legally able to and typically do provide substantial additional information as part of the objection process. Similarly, we may seek additional information through this process. New information can impact the outcomes reached at audit. We continue to encourage taxpayers to provide all relevant information as part of the audit process to ensure that this can be considered and factored into our position as early as possible.

## **Objections resolved**

In 2023–24, 82 objections to ATO decisions for public and multinational businesses were determined. Of the objections to ATO decisions that were resolved, around 44% involved income tax issues, 20% GST and 29% penalties.

Of the 82 objections, 18 were in respect of investigations conducted through the Public Groups compliance programs. Of these 18, 9 were determined either wholly or partly in favour of the ATO, while 2 were determined in favour of the taxpayer. The balance of 7 were either found to be invalid or withdrawn for various reasons including settlement.

These statistics suggest that the decision of the audit team is being at least partly upheld in most cases either through final resolution as part of a settlement or determination of the objection itself.

## **Dispute resolution**


Settlements and litigation are both important components of our dispute resolution strategy. We look to settle disputes where appropriate, alternatively we pursue other matters in court.

### **Settling disputes with large businesses**

Settlements contribute to a well-functioning tax system, providing overall fairness and the best use of our resources. Settlements secure revenue that may otherwise be at risk or difficult to pursue due to time and cost.

### **Our approach to settlements with public and multinational businesses**

We only settle disputes when it is appropriate to do so. We are guided by the ATO's Code of Settlement and our obligations under the [Legal](#)

[Services Directions](#) , including the obligation to act as a 'model litigant'.

When deciding whether to settle disputes, we weigh up litigation prospects, the cost of the dispute continuing and the overall value for the Australian community. We may engage experts and senior legal counsel to assist in determining the prospects of success and whether settlement is appropriate. See **Managing disputes with large corporate groups**.

## **Settlement statistics for public and multinational businesses 2023–24**

In 2023–24, we settled 29 separate cases with 67 public and multinational businesses. This includes settlements across all parts of the ATO not just Public Groups.

It is common for disputes with public and multinational businesses to involve several legal entities within an economic group. As a result, settlements will typically have multiple counterparties as signatories to the settlement deed.

These 67 parties to settlement agreements accounted for more than 20% of parties to settlements across all client groups and around 92% of the total tax revenue secured.

Settlements with public and multinational businesses secured around \$1.8 billion of tax revenue. This is consistent with the 5-year average. Given the size and differences in disputes, there can be volatility in amounts. However, the 5 year average suggests that we are securing approximately \$1.8 billion each year via settlements with public and multinational businesses.

### **Figure 1. Five-year trends for tax revenue secured from settlements with public and multinational businesses**

#### **Figure 1. Five-year trends for tax revenue secured from settlements with public and multinational businesses**

Where relevant our settlements also secure outcomes for future periods. This means that in addition to resolving past years, we can achieve future behavioural change and increased tax collections through the settlement process. This creates greater certainty for the tax system and government revenues. More than 75% of all public and multinational business settlements in 2023–24 included future-year obligations.

## **Types of issues settled**

In 2023–24, income tax was the predominant revenue type settled which accounted for around 96% of all settlements with public and multinational businesses. GST and other miscellaneous issues represented the balance of settlements.

Around 65% of cases involved global profit shifting risks. This is consistent with the proportion of these cases we observe in the audit program.

Global profit shifting cases are typically highly fact-dependent in nature, potentially involving the consideration of complex valuation, pricing and economic issues. Further, there may be considerable risk in litigating these cases, so settlement may sometimes be a desirable resolution pathway for both parties. The ability to 'lock in' future satisfactory pricing (rather than potentially having to re-audit and then re-litigate) is also a strongly desirable feature.

In appropriate cases we will seek judicial guidance to obtain law clarification. Where this risk is systemic in nature spanning multiple years, for example related party loans, we will only settle these cases if the taxpayer agrees to changes in their tax behaviours moving forward.

## **Stage at which matters settle**

Settlement can occur at any stage, including before an audit commences, during an audit, objection or litigation. However, we will not settle a case until we have sufficient information to understand the facts and issues.

In 2023–24, around 78% of all public and multinational business settlements occurred before or during an audit. A further 9% of settlements occurred during an objection and 13% at the litigation stage.

## **Settlement variance**

Settlement variance reflects the amount that we have conceded in reaching settlement as compared with our starting position.

In 2023–24, our total settlement variance for public and multinational businesses was 31%. This means we secured 69% of the disputed amount that we considered payable under our starting position.

Given that the size of some public and multinational business disputes (and therefore settlements) can be particularly significant, the settlement variance may move sharply from year to year. Our 5 year average of settlement variance is around 39% (that is, on average around 61% of revenue is secured). This is broadly consistent with (or even slightly lower than) the average variance in other client segments.

## **Figure 2. Five-year trends for public and multinational business settlement tax variance**

### **Figure 2. Five-year trends for public and multinational business settlement tax variance**

The nature and extent of adjustments made in our settlements depend on the facts and legal issues in dispute. The variance from our starting position does not necessarily represent an amount that would have been collected had the dispute continued. For example, the taxpayer may provide further and better evidence to support their position over time.

Rigorous processes are in place when we decide our settlement positions. When deciding our settlement position, we will consider advice by legal counsel and experts, as well as the surrounding circumstances of each case.

For our significant settlements, our decision-making process is considered in an independent review by a former federal court judge when assessing whether a significant settlement was fair and reasonable as outlined below, see [Independent assurance of settlement outcomes](#).

## **Ensuring compliance for the future**

To create certainty for both ourselves and the taxpayer, our settlements will often secure future tax outcomes by setting the basis on which a taxpayer will lodge in future years.

Where a settlement provides for ongoing or future treatment of an arrangement, we monitor subsequent tax return lodgments to ensure compliance with the terms of the settlement.

Taxpayers are required to disclose annually via the **reportable tax position (RTP) schedule** whether they have complied with the terms of a settlement agreement in place for the year and whether there have been changes in the relevant and material facts on which the



settlement was based. We provide information on the aggregated disclosures made by large public and multinational businesses through Category C of the RTP in our RTP Findings Report.

During 2023–24, there were 3 disclosures made in relation to material changes to settlement positions. We engaged with each taxpayer and confirmed all are taking active steps to ensure compliance with the terms of the settlement deeds or future compliance arrangement. See RTP Findings Report.

We may also verify compliance with settlement terms as part of our engagement with our Top 100 taxpayers, Top 1000 taxpayers through the Justified Trust program or as part of a specific engagement.

## **Transparency and settlements**


We are committed to being transparent about our approach to collecting revenue and delivering results for the Australian community. The details of specific settlements are covered by confidentiality provisions and the tax secrecy requirements of the taxation law.

Recognising the public interest in significant matters, we encourage large businesses to publicly disclose when they enter settlements with us, and in particularly sensitive cases may require a public disclosure as part of the settlement agreement. In some cases, we will also issue a media statement following a public disclosure of a settlement.

## **Sharing settlements with other jurisdictions**

International Exchange of Information (EOI) is the key mechanism used to share taxpayer-related information between Australia and other jurisdictions to administer and enforce Australia's tax laws. Settlement information may be exchanged with our treaty partners where they are relevant to the administration and enforcement of each other's domestic tax laws.

## **External scrutiny of our settlement decisions**

Our settlement practices have been subject to external scrutiny by the Australian National Audit Office (ANAO), see [The Australian Taxation Office's Use of Settlements](#) . The ANAO found that our practices are effective, and that settlements have been entered into, negotiated and followed up in line with our settlement policies and procedures, including the principles outlined in the **ATO's Code of Settlement**.

The ANAO found, when compared to other national revenue authorities, that we provide the highest level of public reporting around settlement activities. Since then, we have further increased our reporting and transparency.

## **Independent assurance of settlement outcomes**

Under our Independent Assurance of Settlements (IAS) Program, we engage a former federal court judge to independently assure our largest and most significant settlements. The former federal court judge will assess whether the settlement is fair and reasonable for the Australian community.

Settlements satisfying the following criteria will be subject to assurance by a former federal court judge:

- where a pre-settlement starting position is greater than \$50 million
- a settlement amount greater than \$20 million, or
- the settlement variance is greater than \$20 million.

Deputy commissioners can also refer a settlement for review under this program, even if it does not meet the standard materiality criteria. Examples of where this has occurred include, where there is likely to be public interest in the settlement, a former ATO assistant or deputy commissioner is representing the taxpayer in the settlement process, or the settlement is the first dealing with particular matters and we want to test our approach.

Outcomes from the IAS program are reported in our annual report. During 2023–24, 13 settlements with public and multinational businesses were independently reviewed under our IAS Program. All 13 settlements were found to be a fair and reasonable outcome for the Australian community.

As independent assurers review settlements only after they have been finalised, they may not be reviewed in the same income tax year in which they were settled. We expect 13 settlements with public and multinational businesses to be reviewed in 2024–25 which related to settlements in prior years.

## **Public and multinational business litigation**

Litigation is an important part of our dispute resolution strategy and we aim to have appropriate matters pursued in court. Typically, this will

be where it is appropriate to clarify the operation of the law, where we want to send a strong signal about unacceptable behaviours (such as tax avoidance) or where there are significant intractable disputes.

In recent years, we have pursued important international tax issues in court, including related party financing, marketing hub and embedded royalty arrangements. The courts have provided important judicial precedent for example, *Chevron v Commissioner* and *Singtel v Commissioner*, both of which were found in favour of the ATO. However, we don't succeed in every matter, such as in *Glencore v Commissioner* and *Mylan v Commissioner*.

**Table 4: Significant litigation cases handed down in 2023–24**

Matter	Issues	Outcome
<i>Singtel v Federal Commissioner for Taxation</i> [2024] FCAFC 29	Related party financing and transfer mispricing.	A favourable case for the Commissioner at the Full Federal Court. The High Court denied SingTel special leave to appeal.
<i>PepsiCo, Inc. v Commissioner of Taxation</i> [2024] FCAFC 86	Embedded royalties and withholding tax avoidance, and diverted profits tax.	An unfavourable outcome for the Commissioner at the Full Federal Court. The Commissioner has applied for special leave to appeal to the High Court.
<i>Mylan Australia Holding Pty Ltd v Commissioner of Taxation (Commissioner)</i> (No 2) [2024] FCA 253	Restructure and push down of debt into Australia and tax avoidance.	An unfavourable outcome for the Commissioner.

In 2023–24, all litigation outcomes (IT, GST, FBT and PRRT) involving public and multinational businesses were favourable 53% of the time and unfavourable 47% of the time. Of these outcomes, 74% were

related to income tax issues with nearly 80% of those dealings involving profit shifting related issues.

For income tax decisions, 50% of the decisions were favourable and 50% unfavourable.

We carefully consider all litigation outcomes and adjust our compliance approach and guidance to reflect the courts' decisions and interpretation of the law. To further guide large business, we issue decision impact statements to ensure taxpayers understand our view of the decision.

## **Mutual agreement procedure**

Australia's network of double taxation treaties provides taxpayers with a right to request a mutual agreement procedure (MAP) if they consider that they are not being taxed in accordance with a tax treaty.

Where we take action in relation to cross-border dealings, for example raising an amended assessment, this may give rise to the taxpayer being assessed on the same income, profit or gain twice – once in Australia, and once in the other jurisdiction. In practice, the taxation of the amount included in the other jurisdiction may be at much lower rates than Australian corporate rates, so is unlikely to result in total tax being double that payable in Australia.

Nonetheless, if there is a tax treaty between Australia and the other jurisdiction, the taxpayer may request a MAP to relieve taxation caused by double inclusion. We will also receive MAP applications generated from compliance activities of treaty partner jurisdictions (known as inbound MAPs).

Under a MAP, Competent Authorities (CA) of the relevant jurisdictions engage to resolve the treaty issues and double taxation. In most cases we can reach agreement with the other jurisdiction to resolve the MAP. The taxpayer is not involved in these negotiations and is not legally bound by them, although in practice will usually observe the outcome of the negotiations, particularly where both countries have comparable corporate tax rates.

Some treaties provide taxpayers with the ability to request mandatory arbitration, if an agreement has not been reached by the jurisdictions in the specified time period (usually 2 years). If this occurs, the jurisdictions will be required to progress to arbitration. To date, Australia has not participated in any mandatory arbitration processes.

We anticipate a similar practical challenge with mandatory arbitration, in that the resolution is not necessarily binding on the taxpayer.

As at 30 June 2024, we had 24 open MAPs arising from ATO Public group audit activities. During 2023–24, we received 8 new MAP requests resulting from ATO audits. During the year we concluded 6 MAPs (all commenced in prior years) related to ATO disputes (in most cases closed due to a relevant Australian court decision). More commonly agreement is reached, and Australia has received several awards from the OECD for the management of the overall MAP program across multiple taxpayer segments.

Common issues of these MAPs reflect issues in the audit program, that is, intangibles migration, inbound distribution and commodity exports.

For the avoidance of doubt, we note that this data does not include MAP requests received as a result of other jurisdictions' compliance activities or requests not arising from compliance actions (for example, requests for residency determination).

The following table shows details of concluded MAPs (15 in total) following ATO audit actions and treaty counterparts.

**Table 5: Concluded outbound MAP cases for financial years 2022 to 2024**

Financial year	Closed cases	Primary Issue	Countries
2022	2	Transfer pricing	France Singapore
2023	7	Transfer pricing	Germany India Ireland Japan Singapore
2024	6	Transfer pricing, royalties	China India

1. Note: all audit related data reflects compliance activity conducted by the Public groups business line. Public groups is the business line responsible for compliance of public and multinational businesses. Occasionally some other business lines may conduct audits relating to entities classified as public and multinational businesses. These tend to be small in number and materiality. Data in relation to other business lines has not been included in this report.
2. This relates to 15 taxpayers.

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## Findings report RTP – Public and multinational businesses

What we've learned from Reportable tax position (RTP) schedule Category C disclosures made in the 2022–23 income year.

**Last updated** 18 September 2024

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## About this report

In this report, we provide the aggregated disclosures made by large public and multinational companies for the 2019–20 to 2022–23 income years under Category C of the reportable tax position (RTP)

schedule as of 30 June 2024. Further lodgments of RTP schedules after this date will not be included for this report.

The data provides insights as to the prevalence of key corporate tax risks in relation to large public and multinational entities. The range of risk levels can vary across the lodging population. We consider and verify the level of risk reported as part of our compliance program. Generally, this corresponds with our assessment of the disclosed arrangements.

RTP disclosures are provided to our specialist tax performance teams and reviewed under our compliance and assurance programs, which include the Top 100 Justified Trust program, the Top 1,000 Combined Assurance program and the Top 1,000 Next Actions program.

To ensure RTP lodgment obligations are met, we undertake an annual RTP non-lodgment program and take action when required.

RTP disclosures help us understand and assess changes in tax positions and arrangements, including new arrangements taxpayers are entering into. The disclosures also allow us to prioritise our assurance activities.

We tailor our compliance approach to the risk rating disclosed by taxpayers. Taxpayers who have achieved **justified trust** (high assurance) will have a less intensive engagement approach during the monitoring and maintenance period.

We apply more intensive scrutiny for high-risk disclosures to determine if they comply with the relevant legislative provisions. If we can't gain this assurance at the review stage, we may undertake an audit or more intensive investigation through our assurance programs.

For more information about how we use RTP disclosures and our assurance programs, see **RTP and our assurance programs**.

For more information about the purpose of the RTP and information disclosed, see **Reportable tax position schedule**.

## Report highlights

This is the fifth year of publishing this report. It includes high-level observations on trends over the 4 income years 2019–20 to 2022–23, where practicable.

- **Increase in taxpayer disclosures**

- Once again, there has been an increase in taxpayers making disclosures and an upward trend in low-risk disclosures for large public and multinational entities.
- **Arrangements of concern are declining**
  - The data shows that high-risk or arrangements of concern are declining for large public and multinational businesses. This finding is consistent with our view that most large businesses do the right thing and are paying the right amount of tax. It is also reflected in our estimate of the **large corporate groups income tax gap**.
- **15% increase in lodged schedules over 4 years**
  - The number of disclosures made has more than doubled and the number of schedules lodged has increased by more than 15% over the 4 years 2019–20 to 2022–23. This reflects the progressive expansion of the lodgment requirement from our Top 100 population to all entities that meet the total business income threshold and ownership criteria.
- **We continue to focus on ensuring ongoing compliance by large corporates**
  - While the data from RTP schedule disclosures and the tax gap estimates indicate high levels of voluntary compliance, we still see room for improvement, such as the rate of errors made by taxpayers on their schedules. We will continue our scrutiny of the large corporate groups population to ensure their ongoing compliance. We will also take firm action with those who choose to do the wrong thing.

For more information on how we're improving the system for those who want to comply, and taking firm action against those who choose not to, see [Tax and Corporate Australia](#).

## Category C of the RTP schedule

Questions in Category C of the RTP schedule are typically linked to ATO public advice and guidance (PAG) products, such as:

- taxpayer alerts (TAs)
- practical compliance guidelines (PCGs).



Together these products cover the key systemic risks in relation to large public and multinational businesses. As such, the aggregate data provides insights about the prevalence of key tax risks in the population.

There are generally no materiality thresholds on Category C questions. Taxpayers who meet the lodgment criteria must disclose arrangements irrespective of the impact on their overall tax outcomes.

## Questions

Nearly two-thirds of Category C questions in 2022–23 relate to arrangements described in taxpayer alerts. A third of the questions relate to PCGs and require taxpayers to self-assess the risk rating by applying the criteria in PCGs; the remaining questions relate to other risks.

**Table 1: 2022–23 Category C questions and the related PAG product**

Question number	PAG product
7, 9, 14, 22–24, 27, 37 and 39	PCG
2, 3, 10–13, 17, 25, 26, 32–36 and 41	Taxpayer alert
16, 19, 21 and 42	Other

**Note:** Questions 28–31 and 40 have not been included as they relate to private company arrangements. All disclosures will be monitored; however, the risks are not part of the compliance program for public and multinational businesses.

## Disclosures

Taxpayers are only required to provide a response to a question under Category C if they have an arrangement covered by the question. This means every schedule lodged won't contain a response to every Category C question. For example:

- some taxpayers will have no disclosures to make
- some taxpayers will only have one question related to an arrangement

- some taxpayers may have multiple arrangements to disclose, or a question may ask them to make multiple disclosures.

Care needs to be taken when making comparisons across multiple years as taxpayers and arrangements change year on year. Any comparison across years may not be a comparison of the same arrangements or taxpayers. The population has changed over the years as a staggered approach to the expansion of the schedule has occurred to take account of substituted accounting periods and the expansion to private entities. Disclosures made by private entities have not been included in this report. Population changes over time will mean taxpayers will move in and out of the public and multinational businesses demographic.

**Note:** Only questions included in the 2022–23 schedule have been included in the analysis. Any questions from prior years that have been removed are not included in this report.

For more information, see [How we use RTP disclosures](#).


## RTP lodgments and disclosures

There has been an increase in lodgments, a high level of lodgment compliance and increase in disclosures over the past 4 years due to:

- improvements in processes
- an increase in questions
- the expansion to the schedule made over the period.

There were over 1,400 public and multinational taxpayers that made disclosures against a Category C question in 2022–23. This has increased 14% over the 4 years from 2019–20 to 2022–23. These taxpayers reported 4,208 disclosures against Category C questions in 2022–23, which has more than doubled over the 4 year period to 2022–23–□

Figure 1: RTP lodgments and disclosures from 2019–20 to 2022–23

 Bar chart showing number and percentage of RTP lodgments and disclosures by year, as detailed in table 1 linked below.

You can also view data for [RTP lodgments and disclosures by year in table format](#).


**Note:**

- Nil RTP disclosures refer to taxpayers that have lodged an RTP schedule but do not have any arrangements to disclose.
- This graph only includes questions that are current for public and multinational businesses in 2022–23. Taxpayers may have made disclosures on questions that were current in prior years, but which are not included for comparative purposes.

## Disclosures by public advice and guidance product

Most Category C questions ask taxpayers to disclose whether they have arrangements covered by specific ATO public advice and guidance products, including taxpayer alerts and PCGs. The majority of disclosures relate to PCGs, which may apply to an entity irrespective of the risk level self-assessed by the entity.

Figure 2: proportion of disclosures by public advice and guidance product for 2019–20 to 2022–23.

 Bar chart showing number and percentage of disclosures by year as detailed in table 2 linked below.

You can also view data for the proportion of disclosures by public advice and guidance product in table format.

## Disclosures by PCG related questions


The following RTP questions relate to PCGs. Table 2 and Figure 3 provide a high-level summary and the number of disclosures for each question.

**Table 2: 2022–23 Category C, PCG related disclosures**

Question number	PCG topic
7	Mobile offshore drilling units
9	Offshore hubs
14 and 23	Related party financing arrangements
22	Hybrid arrangements

24	Inbound supply chains
27 and 37	Arm's length debt test
39	Imported hybrid mismatch rule

Figure 3: disclosures by PCG related questions for 2019–20 to 2022–23.

 Bar chart showing number and percentage of disclosures per question, by year, as detailed in table 3 linked below.

You can also view data for the disclosures by PCG related questions in table format.

### Disclosures by taxpayer alert related questions


The following RTP questions relate to Taxpayer alerts. Table 3 and Figure 4 provide a high-level summary and the number of disclosures for each question.

**Table 3: 2022–23 Category C, Disclosures on arrangements subject to taxpayer alerts**

Question number	Taxpayer alert topic
2	Funding special dividends or buybacks
3	Bifurcated procurement hubs
11, 17 and 33	Related party finance
10	Thin capitalisation
12	Business fragmentation
13	Research and development
25	Payments connected with intangibles
26	Multiple entry consolidated groups

32	DEMPE of intangible assets
34	Interest withholdings tax
35	Multiple entry consolidated groups
36	Derivatives
41	Treaty shopping arrangements (new question)

Figure 4: disclosures by taxpayer alert related questions for 2019–20 to 2022–23.

 Bar chart showing number and percentage of disclosures per question, by year, as detailed in table 4 linked below.

**Note:** No responses were received for questions 2, 33 and 36.

You can also view data for disclosures by taxpayer alert related questions in table format.


### Disclosures on other questions

The following RTP questions relate to other areas of concern. Table 4 and Figure 5 provide a high-level summary and the number of disclosures for each question.

**Table 4: 2022–23 Category C, Other questions**

Question number	Topic
16	Consolidation churning rules
19	Settlements
21	Unamended mistakes or omissions
42	Global intangible low-taxed income (new question)

Figure 5: disclosures on other questions for 2019–20 to 2022–23.

 Bar chart showing number and percentage of disclosures per question, by year, as detailed in table 5 linked below.

You can also view data for the number and percentage of disclosures on other questions in table format.

## Self-assessing risks related to arrangements

PCGs provide a framework for corporate taxpayers and their boards to self-assess the risk associated with their arrangements and understand our likely compliance response. Self-assessment is voluntary, but we consider it best practice for corporate taxpayers to include self-assessment under PCGs as part of their standard tax governance processes.

If a taxpayer hasn't undertaken the self-assessment, they must disclose a high-risk rating in the schedule or tell us they haven't applied the PCG. This alerts us to examine the arrangement more closely to obtain confidence about the tax outcome.

Taxpayers must disclose their self-assessed risk rating in the corresponding Category C question. In some cases, they may be required to disclose multiple arrangements, therefore the greatest number of disclosures are against PCG linked questions.

## PCG related disclosures

### Non-resident owned MODUs: question 7

#### Overview of question 7

Practical Compliance Guideline PCG 2020/1 sets out the transfer pricing risks for projects involving the use in Australian waters of non-resident owned mobile offshore drilling units (MODUs). These MODUs include drill-ships, drilling rigs, pipe-laying vessels, and heavy-lift vessels. The risk framework in PCG 2020/1 enables taxpayers to self-assess the transfer pricing risks for these arrangements.

#### Findings from question 7

### Table 5: Disclosures for question 7, 2019–20 to 2022–23

Disclosure	No MODUs	Medium risk	High risk	Not disclosed	% of total disclosures
2019–20	3	0	1	1	5
2020–21	1	2	1	0	4
2021–22	1	1	3	0	15
2022–23	1	0	3	0	33

In 2022–23, 3 taxpayers disclosed 3 high-risk arrangements. It has been indicated that this is due to market conditions which have led to a fall in their operating margins. These arrangements will be reviewed as part of our engagement and assurance programs.

Question 7 was removed from the 2023–24 RTP Instructions as the information is collected from other means. This will therefore be the last year of reporting on this question.


## Offshore hubs: question 9 disclosures

### Overview of question 9

Practical Compliance Guideline PCG 2017/1 provides guidance on transfer pricing issues related to centralised operating models involving procurement, marketing, sales, and distribution functions.

We are concerned with the mispricing of services and functions relating to the sales and marketing of goods and commodities provided by international related parties, and the risk of inappropriate structuring of marketing hubs. We monitor offshore procurement hubs that supply 'indirect' or 'non-core' goods or services (non-core product) to an Australian entity.

Figure 6: disclosures on question 9 in 2022–23.

 Bar chart showing number and percentage of disclosures at question 9 by year, as detailed in table 6 linked below.


You can also view data for the disclosures on question 9 in 2022–23 in table format.

**Note:**

- PCG 2017/1 asks taxpayers to make a disclosure for each hub arrangement they have in place.
- In 2020–21, arrangements that did not apply the risk methodology or calculate the tax impact were separated from the high-risk category. Disclosures categorised as PCG not applied remain a high-risk focus.

**Disclosures on marketing hubs**

Figure 7: comparison of risk zone disclosures on marketing hubs in question 9 for 2019–20 to 2022–23.

 Bar chart comparing risk zone disclosures by marketing hub, by year, as detailed in table 7 linked below.

You can also view data for the comparison of risk zone disclosures on marketing hubs in question 9 in table format.

**Marketing hubs findings**

In 2022–23, 118 taxpayers disclosed 174 marketing hub arrangements. The number of marketing hub disclosures has increased just over 20% over the 4 years to 2022–23.

The top 3 commodities sold via offshore marketing hubs are iron ore, coal and liquified natural gas (LNG). Only a very small portion of all exports sold via offshore marketing hubs are for commodities not produced by the energy and resources sector.

There were 4 high-risk arrangements in 2022–23, all of which are currently under review or audit under our compliance and assurance programs. The proportion of high-risk disclosures was 2% in 2022–23, decreasing by 4% over the 4 years from 2019–20 to 2022–23.

In addition, 86% of disclosures were rated as low or white zone in 2022–23. The proportion of these disclosures has remained steady over the 4-year period to 2022–23.

The decreasing high-risk disclosures and high proportion of low and white zone disclosures indicates a positive behavioural shift for taxpayers undertaking these types of arrangements.

We continue to undertake a range of engagement activities in relation to the risk, including engagement with industry bodies and other




jurisdictions and work through our compliance and assurance programs.

Information from other schedules such as the International Dealings Schedule (IDS) and CBC reporting are also used to understand and identify the risk.

## **Disclosures on non-core procurement hubs**

Figure 8: Comparison of risk zone disclosures on non-core procurement hubs in question 9 for 2019–20 to 2022–23.

 Bar chart comparing risk zone disclosures by non-core procurement hub, by year, as detailed in table 8 linked below.

You can also view data for the comparison of risk zone disclosures on non-core procurement hubs in question 9 in table format.

## **Procurement hubs findings**

Question 9 was extended to include non-core procurement hub arrangements in the 2018–19 schedule, resulting in a 75% increase in disclosures and a doubling of taxpayers making disclosures.

In 2022–23, 76 taxpayers disclosed 132 non-core procurement hub arrangements, a decrease from 145 disclosures in the previous year. This 9% decrease is largely attributable to one large taxpayer reporting less arrangements than in the previous reporting period, followed by 2 smaller taxpayers who also reported a reduction in such arrangements. Overall, there is no marked change in the year-on-year reporting trend for these arrangements other than the overall decrease in disclosures being made. There are however 2 noted shifts. Firstly, the number of low-risk disclosures increased by 14 (20%) over the last 4 years. Secondly, in line with the past 2 years, there continues to be no high-risk disclosures, indicating a continuation of the positive behavioural shift for taxpayers with these arrangements.

The large number of high-risk disclosures in 2019–20 was due to one taxpayer that is part of a Top 100 corporate group disclosing approximately 50 arrangements. In 2020–21, the previously high-risk disclosures were made under the new category 'High-risk - PCG not applied' – where a taxpayer does not apply risk methodology or calculate tax impact.

## **Related party finance: questions 14 and 23 disclosures**

## Overview of question 14 and 23

Practical Compliance Guideline PCG 2017/4 allows taxpayers to self-assess the tax risk of their cross-border related party financing arrangements.

Schedule 1 sets out the risk assessment framework to determine the risk rating of cross-border related party debt. We expect the pricing of related party debt to align with the commercial incentive of achieving the lowest possible 'all in' cost to the borrower.


Schedule 2 is used to determine the risk rating of related party derivative arrangements.

Schedule 3 was introduced in 2020–21 and is related to outbound interest-free loans between related parties. It outlines the factors under which the risk score assigned to outbound interest-free loans made between related parties may be modified for the purposes of Schedule 1.

Given the prevalence and significant tax outcomes involved, we actively investigate these arrangements. We continue to undertake assurance activities on arrangements disclosed in the red and amber zones by Top 100 and 1,000 taxpayers. We have strategies in place to address high-risk arrangements where the loan amounts are less significant, including where the disclosures come from taxpayers in the medium and emerging population segment.

The review of related party financing arrangements is an inherent element of the assurance work we undertake. This involves reviewing the application of PCG 2017/4 against the taxpayer's relevant loan agreements and transfer pricing documentation.

Figure 9: disclosures on questions 14 and 23 for 2022–23.

 Bar chart showing number and percentage of disclosures by question, by year, as detailed in table 9 linked below.

You can also view data from disclosures on questions 14 and 23 in table format.

### Note:

- Not disclosed refers to disclosures by taxpayers who included the question number but didn't include the subcategory number on their schedule.


- Schedule 3 was introduced in 2020–21 with its own separate risk zone sub-categories to distinguish outbound interest free loans as outlined under Schedule 3 of PCG 2017/4.

In 2020–21, an additional category for question 14 was added where Schedule 1 and 3 of PCG 2017/4 were not applied; these are included under the PCG not applied category. Where a taxpayer does not apply the PCG we treat this as high-risk as it requires us to review the arrangements to establish the existence or otherwise of risk.

## Findings from question 14

### Disclosures on related party financing

Figure 10: comparison of risk zone disclosures on related party financing arm's length conditions in question 14 for 2019–20 to 2022–23.

 Bar chart showing percentage of risk zone disclosures in question 14, by year, as detailed in table 10 below.

You can also view data on the numbers and percentages of risk zone disclosures on related party financing arm's length conditions in question 14 in table format.

#### Note:

- Not disclosed refers to disclosures by taxpayers who included the question number but didn't include the subcategory number on their schedule.
- Schedule 1 risk zone sub-categories have been combined with Schedule 3 to provide a complete picture of disclosures made and historical comparison.
- From 2020–21 reporting requirements changed and taxpayers were required to report their self-assessed risk zone for their 3 most material arrangements and their highest risk arrangement if that was not already disclosed. This changed the number of disclosures made from one disclosure per taxpayer to up to 4 per taxpayer. This resulted in a 30% increase in the number of disclosures made.

The number of disclosures doubled over the last 4 years from 2019–20 to 2022–23, largely due to the change in reporting requirements for question 14. Question 14 receives the highest number of disclosures, with over 2,140 disclosures made in 2022–23.


Since the change in the reporting requirements in 2021, the spread of risk ratings has remained relatively stable with a slight increase in low-risk ratings.

The information from question 14 is analysed with other information such as CBC and IDS to better understand the risk. Through our compliance programs we have coverage of over 80% of all inbound interest-bearing related party debt.

## Findings from question 23

### Disclosures on related party financing derivatives

Figure 11: comparison of risk zone disclosures on related party financing derivatives in question 23 for 2019–20 to 2022–23.

 Bar chart showing percentage of risk zone disclosures in question 23, by year, as detailed in table 11 below.

You can also view data on numbers and percentages of risk zone disclosures on related party financing derivatives in question 23 in table format.

#### Note:

- Not disclosed refers to disclosures by taxpayers who included the question number but didn't include the subcategory number on their schedule.
- In 2020–21, reporting requirements for question 23 changed and taxpayers were required to report their self-assessed risk zone for their 3 most material arrangements, and their highest-risk arrangement if that was not one of their 3 most material arrangements.

There were 93 disclosures made for question 23 in 2022–23, a decrease of 8 on the previous year. There were 5 high-risk disclosures made in 2022–23, a 38% decrease from the previous year. All the high-risk disclosures either have been reviewed or are under review as part of our compliance and assurance program. More than 68% of disclosures made under question 23 have had or are currently undergoing compliance activity.

The proportion of high-risk arrangements has declined over the 4 years from 15% in 2019–20 to 5% in 2022–23. The proportion of low-risk arrangements has increased over the 4 years from 60% in 2019–20

to 81% in 2022–23, indicating a positive behavioural shift for taxpayers entering into related party derivative arrangements.

## Hybrid arrangements: question 22, question 27 and question 39

- [Question 22](#)
- [Question 27](#)
- [Question 39](#)

### Question 22

The hybrid mismatch rules are intended to deter the use of hybrid mismatch arrangements that result in double non-taxation outcomes by exploiting differences in the tax treatment of an entity or financial instrument under the income tax laws of 2 or more countries.


Question 22 relates to Practical Compliance Guideline PCG 2018/7, which has been designed to assist taxpayers to restructure into compliant replacement arrangements. These arrangements eliminate double non-taxation outcomes, consistent with the underlying objective of the hybrid mismatch rules.

We use data available from schedule disclosures and other information sources, such as question 49 on the IDS, to identify and monitor hybrid restructures undertaken and arrangements maintained by taxpayers. Our focus is on ensuring compliance with the hybrid mismatch rules through ongoing engagement.

**Table 6: Disclosures on question 22, 2019–20 to 2022–23**

Disclosure	Low risk	Not low risk	Not disclosed	Total
2019–20	74	4	0	78
2020–21	16	0	0	16
2021–22	9	1	4	14
2022–23	6	0	2	8

Figure 12: comparison of risk zone disclosures on hybrid arrangements in question 22, 2019–20 to 2022–23.

 Bar chart showing percentage of risk zone disclosures in question 22, by year, as detailed in table 12 below.

You can also view data on **numbers and percentages of risk zone disclosures on hybrid arrangements in question 22** in table format.

## **Findings from question 22**

The number of disclosures for question 22 continued to decrease, with 8 disclosures made in 2022–23, which is a 43% decrease from 2021–22. This is in line with our expectations that most of the restructuring would have occurred closer to the implementation of the hybrid mismatch rules on 1 January 2019.

There were 2 disclosures made without a subcategory provided. We use data from other information sources, including question 49 on the IDS to gain a better understanding of the restructure being disclosed. If required, these disclosures will be queried as part of our compliance and assurance program.

There were 6 disclosures that self-assessed as low risk, we have or will verify these self-assessments when we engage with these taxpayers through our compliance and assurance programs.

## **Question 27**

This is the third year of reporting under question 27, which was introduced in 2020–21. This question relates to payments made under structured arrangements which gave rise to imported hybrid mismatches.

The objective of the imported hybrid mismatch rule is to maintain the integrity of the other hybrid mismatch rules by removing any incentive for multinational groups to enter into hybrid mismatch arrangements.

Law Companion Ruling **LCR 2019/3** provides the Commissioner's view of the law in relation to the phrase 'structured arrangement', and Practical Compliance Guideline **PCG 2019/6** helps taxpayers assess whether a payment giving rise to a hybrid mismatch is made under a 'structured arrangement'.

Question 27 has been removed from the 2024 RTP Instruction in the annual update as the information is collected through other means.

## Findings from question 27

Question 27 had 6 disclosures in 2022–23. One disclosure has been reviewed as part of our compliance and assurance program and received a high level of assurance in relation to the imported hybrid mismatch rule.


The remaining 5 disclosures had discrepancies between information disclosed on the RTP schedule and the IDS. These may be reviewed under our compliance and assurance programs.

## Question 39

This is the second year of reporting under question 39, which was new to the RTP instructions in 2021–22. It requires taxpayers to disclose self-assessed risk ratings using Practical Compliance Guideline PCG 2021/5.

PCG 2021/5 contains practical guidance as to the ATO's assessment of the relative levels of tax compliance risk associated with imported hybrid mismatches addressed by Subdivision 832-H of the *Income Tax Assessment Act 1997*. It sets out the Commissioner's approach to reviewing whether a taxpayer has undertaken reasonable enquiries in relation to the imported hybrid mismatch rule for non-structured arrangements.

Figure 13: comparison of risk zone disclosures on hybrid arrangements in question 39 for 2021–22 and 2022–23.

 Bar chart showing number and percentage of risk zone disclosures in question 39, by year, as detailed in table 13 below.

You can also view data on numbers and percentages of risk zone disclosures on hybrid arrangements in question 39 in table format.

## Findings from question 39

There were 1,129 disclosures made in 2022–23, a 10% increase from 2021–22. PCG 2021/5 is relevant to any Australian taxpayer that seeks a deduction for a cross-border payment made to a member of its Division 832 control group and therefore we expect a large number of disclosures for this question.

The number of high-risk – PCG not applied disclosures has significantly reduced in 2022–23. This was expected as PCG 2021/5 was released on 16 December 2021, part way through the 2021–22 income year. As a result, approximately 20% of taxpayers disclosed

that they had insufficient time to self-assess against PCG 2021/5 in 2021–22. The increase in the number of taxpayers applying PCG 2021/5 in 2022–23 resulted in an increase in the number of disclosures across the remaining risk zones.

In 2022–23 more than 80% of disclosures were rated as low-risk and a further 15% of disclosures were rated as low-moderate risk or white zone. This indicates that more than 95% of taxpayers have applied PCG 2021/5 and followed the ATO recommended approaches to demonstrate compliance with Subdivision 832-H.

There were 11 disclosures rated as very high-risk, which account for 1% of disclosures made in 2022–23. Of these, 6 have been reviewed as part of our compliance and assurance program with recommendations to improve the process implemented to demonstrate compliance with the imported hybrid mismatch rule. The remaining very high-risk disclosures may be reviewed under our compliance and assurance programs.

In 2022–23, 11 disclosures were rated as PCG not applied and 10 disclosures did not provide a self-assessed risk rating. We consider these disclosures to be high-risk and they may be reviewed under our compliance and assurance programs.

The disclosures made under question 39 are used with other information sources such as the IDS to better assess risk with the imported hybrid mismatch rule.

## **Inbound distribution arrangements: question 24 disclosures**

### **Overview of question 24**


Practical Compliance Guideline PCG 2019/1 provides a framework for taxpayers to assess the transfer pricing risk of their inbound distribution arrangements. Our focus for PCG 2019/1 is on transfer pricing outcomes associated with the activities of inbound distributors including the distribution of goods purchased from related foreign entities for resale, and the distribution of digital products or services where the intellectual property in those products or services is owned by related foreign entities.

We review the reasonableness of these disclosures as part of our Justified Trust program. Under this program we review the top 1,100 public groups and multinationals in Australia including many inbound



distributors. We use our data and analytics capabilities to assess the reasonableness of disclosures of distributors outside this population who are required to complete the RTP schedule. We employ a range of approaches to detect and address any incorrect disclosure or non-disclosure.

Figure 14: comparison of risk zone disclosures on inbound distribution arrangements in question 24, 2020–21 to 2022–23.

 Bar chart showing percentage of risk zone disclosures in question 24, by year, as detailed in table 14 below.

You can also view data on **numbers and percentages of risk zone disclosures on inbound distribution arrangements in question 24** in table format.

**Note:**

- Not disclosed refers to disclosures by taxpayers who included the question number but didn't include a valid sub-category on their schedule.
- PCG not applied refers to taxpayers who choose not to follow the PCG or taxpayers who fall within any of the following
  - entities that have adopted the distributor simplified transfer pricing record keeping option in **PCG 2017/2**
  - paragraph 49 of **PCG 2019/1**
  - where an entity has an inbound distribution arrangement but an EBIT margin is unable to be determined and the taxpayer has not applied **PCG 2019/1**.
- **PCG 2019/1** doesn't provide for an equivalent white zone similar to other PCGs covered in this report.

## Findings from question 24

There has been an increasing trend in the number of question 24 disclosures made each year, with a 12% increase over the last 4 years since 2019–20. In addition, there was:

- a 2% increase in 2022–23 from the prior year
- level of high-risk disclosures decreased by nearly 27% over the 4-year period and by 6% from the prior year

- the number of low-risk disclosures increased by 22% over the 4-year period and by 13% from the prior year.

These findings indicate a positive shift in behaviour for disclosures regarding these arrangements. However, we do have some concerns that taxpayers may be mischaracterising themselves as low-risk distributors when in fact they are not. We will look to improve the guidance in this area, which may impact the risk profile of the population.

Most taxpayers who disclosed an inbound distribution arrangement fall within our Top 100 or 1,000 populations and are subject to review under our compliance and assurance programs or through the advance pricing arrangement (APA) program.

## **Arm's length debt test: question 37 disclosures**


### **Overview of question 37**

The arm's length debt test is one of the tests available to establish an entity's maximum allowable debt for thin capitalisation purposes. The test focuses on identifying an amount of debt a notional stand-alone Australian business would reasonably be expected to borrow, and what independent commercial lenders would reasonably be expected to lend on arm's length terms and conditions.

Practical Compliance Guideline **PCG 2020/7** sets out our compliance approach in respect to the arm's length debt test. It also provides a differentiated risk assessment framework for taxpayers to self-assess their perceived level of risk.

Disclosures made under question 37 provide meaningful insights into the population of taxpayers relying on arm's length debt test. The subcategories provide further understanding of the risk profile of taxpayers.

Figure 15: comparison of risk zone disclosures for question 37, 2020–21 to 2022–23.

 Bar chart showing number and percentage of risk zone disclosures in question 37, by year, as detailed in table 15 below.

You can also view data on the **numbers and percentages of risk disclosures** for question 37 in table format.

### **Findings from question 37**

This is the third year of reporting for question 37. There were 81 disclosures received in 2022–23, an increase of 8 disclosures and 8% from the previous year.

Of these, 33% of disclosures in 2022–23 are rated as low or white zone, with a further 58% rated as medium-risk. Low-risk has increased more than 70% over the 3 years, while medium-risk has increased by almost 40%. Although we have observed an increase in disclosures over the 3 years, we note that respondents are increasingly adopting low-risk and medium-risk (and therefore following 'best practice' in a manner consistent with PCG 2020/7) approaches to applying the arm's length debt test, which have risen 380% and 62% respectively during this period.

For 2022–23 there were 5 disclosures rated as high, 4 of which are subject to compliance activity and the remaining disclosure is under consideration. There are 2 disclosures that have not applied the PCG, these have been reviewed and may be referred to our compliance and assurance program.

Disclosures made under question 37 are compared to other data sources to understand the risk and the population. A discrepancy between sources will be reviewed under our compliance and assurance programs.

## **Disclosures on arrangements subject to taxpayer alerts**

### **Taxpayer alerts**

We issue taxpayer alerts to warn taxpayers of our concerns about new or emerging arrangements that we consider might pose a high-risk, such as tax avoidance arrangements. Our aim is to share our concerns early to help taxpayers make informed decisions about their tax affairs. This also limits the proliferation of the arrangements in the market.

Our experience shows most large corporate taxpayers don't wilfully take on tax risk. Taxpayers will often engage with us to gain certainty on arrangements we've indicated we have concerns with. They may apply for a ruling or APAs or simply not enter into these arrangements, preventing proliferation.

You can find out more about **Taxpayer alerts**.

## Related party finance: questions 11, 17, 33

**Table 7: Disclosures on questions related to financing arrangements 2020–21 to 2022–23**

Question	Topic	Taxpayer alert	2020–21	2022–23
11	Financing – round robin arrangements	TA 2016/10	5	5
17	Financing – WHT	TA 2018/4	11	10
33	Mischaracterisation arrangements connected with foreign investment	TA 2020/2	0	0

Risks associated with related party financing arrangements continue to be a key focus for us. We use the disclosures under questions 11, 17 and 33 together with data from the IDS and CBC reports to identify and assess these risks.

### Question 11

This question addresses Taxpayer alert TA 2016/10 *Cross-border round robin financing arrangements*.

The concern with these arrangements is that they involve funding of an overseas entity or operations by an Australian entity, where the funds are subsequently provided back to the Australian entity, or its Australian associate, in a manner which purportedly generates Australian tax deductions while not generating corresponding Australian assessable income.

### Findings from question 11

There were 3 disclosures at question 11 in 2022–23, a decrease from 5 in 2021–22. All of which have been reported in prior years. These have been or will be reviewed as part of our compliance and assurance programs.

### Question 17

Question 17 relates to Taxpayer alert TA 2018/4 *Cross-border arrangements* where income tax deductions are claimed in Australia on an accrual basis but withholding tax is not paid when deductions are claimed. We are concerned with tax-driven structuring, claiming a deduction where a payment is not expected to take place and tax issues that arise from how the transaction is affected.

### **Findings from question 17**

There were 9 disclosures made at question 17 in 2022–23, a decrease from 10 in 2021–22. All disclosures have been reviewed. Further engagement will occur as part of our compliance and assurance programs.

### **Question 33**

Question 33 was added to the schedule in 2020–21 and relates to mischaracterised arrangements and schemes connected with foreign investment into Australian entities as outlined in TA 2020/2. TA 2020/2 is concerned with cross-border arrangements that mischaracterise the structure used by foreign investors to invest directly into Australian businesses.

### **Findings from question 33**

There were no disclosures made for question 33, as expected for this risk. The risk remains part of our compliance and assurance program.

## **Business fragmentation: question 12**

Question 12 relates to arrangements involving the fragmentation of integrated trading businesses in order to re-characterise trading income to passive income to achieve a more favourable tax outcome as described in Taxpayer alert TA 2017/1. Our concerns arise where an arrangement fragments integrated trading businesses to re-characterise trading income into more favourable passive income.

We combine the information obtained from disclosures at question 12 with data from transitional election forms to risk assess stapled groups. Those eligible taxpayers that have lodged a valid transitional election form may be entitled to claim transitional relief and continue to apply the lower 15% withholding rate during the transition period.

### **Findings from question 12**

**Table 8: Disclosures on questions related to business fragmentation, 2020–21 to 2022–23**

Question	2020–21	2021–22	2022–23
Question 12	6	4	4

There were 4 disclosures at question 12 in 2022–23. Of the 4 disclosures, 2 have been subject to a recent review and have been considered as part of our compliance and assurance program.

We understand that of the taxpayers that have lodged valid transitional election forms, many have not accurately reflected managed investment trust cross staple arrangements income. We are engaging with taxpayers that have interests in staple structures to ensure the application of integrity measures and appropriate pricing of financial arrangements.

### **R&D: question 13**

Taxpayer alerts for the Research and development (R&D) tax incentive relate to claims for ineligible activities and expenditure, including R&D tax incentive claims for ordinary business activities. Specific concerns are also identified within the following industry sectors:

- Taxpayer alert TA 2017/2 (construction activities)
- Taxpayer alert TA 2017/3 (any business activities)
- Taxpayer alert TA 2017/4 (agricultural activities)
- Taxpayer alert TA 2017/5 (software development activities).

### **Findings from question 13**

**Table 9: Disclosures on questions related to R&D, 2020–21 to 2022–23**

Question	2020–21	2021–22	2022–23
Question 13 TA 2017/2	0	0	0

Question 13 TA 2017/3	3	3	3
Question 13 TA 2017/4	1	1	1
Question 13 TA 2017/5	7	5	5
More than 1 taxpayer alert	3	3	5
<b>Total</b>	<b>14</b>	<b>12</b>	<b>14</b>

There were 14 disclosures at question 13 in 2022–23, a slight increase of 2 from the previous year.

The majority of disclosures for question 13 relate to TA 2017/3 (3 disclosures) and TA 2017/5 (5 disclosures). A further 5 disclosures relate to multiple taxpayer alerts and one relates to TA 2017/4. Where appropriate, we refer concerns identified with eligibility of R&D activities to AusIndustry, who are responsible for this aspect of the R&D tax incentive.

## Payments connected with intangibles: question 25

This information is about the characterisation of payments connected with intangibles as part of question 25 disclosures.

### Overview of question 25

Question 25 relates to deductions for expenses incurred under an arrangement with offshore parties using intangible assets held by an offshore party, as described in Taxpayer alert TA 2018/2. Question 25 was added to the RTP schedule in the 2019–20 income year to inform whether intangible assets have been appropriately recognised and Australian royalty obligations have been met.

### Findings from question 25

**Table 10: Disclosures on questions related to intangibles as part of question 25, 2020–21 to 2022–23**

Question	2020–21	2021–22	2022–23
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Question 25	20	18	16
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There were 16 disclosures at question 25 in 2022–23:

- 13 disclosures indicated the taxpayer had considered the arm's length principle in determining the appropriate consideration for the use of the intangible assets, but the arrangement wasn't covered by section 284–255 (*Taxation Administration Act 1953*) compliant transfer pricing documentation.
- one disclosure indicated that the taxpayer hasn't applied the arms' length principle in determining the appropriate consideration for the use of intangible assets,
- one disclosure did not appropriately recognise an amount as consideration for the use of the intangible
- one did not disclose the subcategory.

These will be reviewed through compliance and assurance activities.

We will continue to monitor and take action in relation to arrangements described under TA 2018/2 as part of our compliance and assurance programs.

## All other taxpayer alert questions

The following questions relate to taxpayer alerts that involve either nil disclosure or a small number of disclosures and don't fit within a grouping above. Accordingly, we have provided the information in a single table form.

Other information such as CBC and IDS are also used to understand and support disclosures.

**Table 11: Disclosures on all other taxpayer alert questions, to 2022–23**

Question	Topic	Taxpayer alert	2020–21	2021–22
2	Funding special dividends or buy backs	TA 2015/2	0	0



3	Bifurcated procurement hubs	TA 2015/5	4	6
7	Lease in lease out arrangements	TA 2016/4	4	6
10	Thin capitalisation	TA 2016/9 & TD 2020/2	5	4
26	MEC group and CGT assets	TA 2019/1	1	1
32	DEMPE of intangible assets	TA 2020/1	1	1
34	Interposed entities to avoid withholding tax	TA 2020/3	0	0
35	MEC groups	TA 2020/4	6	6
36	Derivative instruments	TA 2020/5	0	0
41	Treaty shopping	TA 2022/2	-	-

## Disclosures on other questions

### Material changes to settlement positions: question 19

Question 19 relates to breaches or material changes to facts covered by settlement deeds and future compliance arrangements. It is an important feature of our settlements that we achieve behavioural

change and secure future tax outcomes. We continue to monitor compliance with these agreements.

## Findings from question 19

There were 3 disclosures at question 19 in 2022–23, a decrease of 5 on the previous year. We engaged directly with each taxpayer and confirmed all are taking active steps to ensure compliance with the terms of the settlement deeds or future compliance arrangement.

## All other questions

The following provides a summary of all other questions.

- Question 16 was removed from the RTP schedule in 2023–24 and this will therefore be the last year of reporting.
- Question 42 was new in 2022–23 and it focused on Taxation Determination TD 2022/9. This question requires taxpayers to make a disclosure if they have treated global intangible low-taxed income (GILTI) as 'subject to foreign income tax' in the US under section 832-130 of the ITAA 1997.

**Table 12: Disclosures on other questions, 2020–21 to 2022–23**

Question	Topic	2020–21	2021–22	2022–23
16	The application of the consolidation churning rule to arrangements entered into by a multiple entry consolidated group	15	13	10
21	Unamended mistakes or omissions made in the income tax return	29	37	28

42	Treatment of global intangible low-taxed income as subject to foreign income tax in the US for the purpose of the hybrid mismatch rules in Division 832 of the ITAA 1997. Outlined in TD 2022/9.	n/a	n/a	7
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**Ratings tables – Findings report RTP**



Tables detailing the data supporting the Findings report RTP - Public and multinational business.

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**Ratings tables – Findings report RTP**

Tables detailing the data supporting the Findings report RTP - Public and multinational business.

**Published** 18 September 2024

Table 1 details the data used in Figure 1: RTP lodgments and disclosures from 2019–20 to 2022–23

**Table 1: RTP lodgments and disclosures from 2019–20 to 23**

Year	Multiple Category C disclosures	One Category C disclosure	No Category C disclosures	Nil RTP disclos
2020	473 (27.84%)	582 (34.26%)	27 (1.59%)	617 (36.32%)
2021	623 (37.24%)	429 (25.64%)	27 (1.61%)	594 (35.51%)
2022	959 (50.58%)	436 (23.00%)	11 (0.58%)	490 (25.84%)
2023	1,038 (52.77%)	381 (19.37%)	11 (0.56%)	537 (27.30%)

Table 2 details the data used in Figure 2: Proportion of disclosures by public advice and guidance product for 2019–20 to 2022–23

**Table 2: Proportion of disclosures by public advice and guidance product for 2019–20 to 2022–23**

Year	PCG	Taxpayer Alert	Other
2020	1,776 (91.55%)	104 (5.36%)	60 (3.09%)
2021	2,245 (93.74%)	98 (4.09%)	52 (2.17%)
2022	3,711 (96.11%)	95 (2.46%)	55 (1.42%)
2023	4,093 (97.27%)	67 (1.59%)	48 (1.14%)

Table 3 details the data used in Figure 3: Disclosures by PCG related questions for 2019–20 to 2022–23.

**Table 3: Disclosures by PCG related questions for 2019–20 to 2022–23**

Question	2020	2021	2022	2023

7	5 (0.28%)	4 (0.18%)	5 (0.13%)	4 (0.10%)
9	286 (16.10%)	283 (12.61%)	307 (8.27%)	306 (7.48%)
14	1,027 (57.83%)	1,514 (67.44%)	1,874 (50.50%)	2,144 (52.38%)
22	78 (4.39%)	16 (0.71%)	14 (0.38%)	8 (0.20%)
23	93 (5.24%)	85 (3.79%)	101 (2.72%)	93 (2.27%)
24	287 (16.16%)	292 (13.01%)	317 (8.54%)	322 (7.87%)
27	0 (0%)	1 (0.04%)	5 (0.13%)	6 (0.15%)
37	0 (0%)	50 (2.23%)	73 (1.97%)	81 (1.98%)
39	0 (0%)	0 (0%)	1,015 (27.35%)	1,129 (27.58%)

Table 4 details the data used in Figure 4: Disclosures by taxpayer alert related questions for 2019–20 to 2022–23.

**Table 4: Disclosures by taxpayer alert related questions for 2019–20 to 2022–23.**

Question	2020	2021	2022	2023
3	7 (6.73%)	4 (4.08%)	6 (6.32%)	4 (5.97%)
10	12 (11.54%)	5 (5.10%)	4 (4.21%)	4 (5.97%)
11	6 (5.77%)	5 (5.10%)	5 (5.26%)	3 (4.48%)

12	10 (9.62%)	6 (6.12%)	4 (4.21%)	4 (5.97%)
13	18 (17.31%)	14 (14.29%)	12 (12.63%)	14 (20.90%)
17	12 (19.23%)	11 (11.22%)	10 (10.53%)	9 (13.43%)
18	20 (19.23%)	25 (25.51%)	28 (29.47%)	2 (2.99%)
25	19 (18.27%)	20 (20.41%)	18 (18.95%)	16 (23.88%)
26	0 (0%)	1 (1.02%)	1 (1.05%)	2 (1.49%)
32	0 (0%)	1 (1.02%)	1 (1.05%)	2 (2.99%)
34	0 (0%)	0 (0%)	0 (0%)	1 (1.49%)
35	0 (0%)	6 (6.12%)	6 (6.32%)	6 (8.96%)
41	0 (0%)	0 (0%)	0 (0%)	1 (1.49%)

Table 5 details the data used in Figure 5: Disclosures on other questions for 2019–20 to 2022–23.

**Table 5: Disclosures on other questions for 2019–20 to 2022–23**

Question	2020	2021	2022	2023
16	26 (43.33%)	15 (28.85%)	13 (23.64%)	10 (20.83%)
19	3 (5%)	8 (15.38%)	5 (9.09%)	3 (6.25%)
21	31 (51.67%)	29 (55.77%)	37 (67.27%)	28 (58.33%)

42	0 (0%)	0 (0%)	0 (0%)	7 (14.58%)
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Table 6 details the data used in Figure 6: Disclosures on question 9 in 2022–23.

**Table 6: Disclosures on question 9 in 2022–23**

Hub	High risk	High risk - PCG not applied	Not disclosed	Medium risk
Marketing	4 (2.30%)	5 (2.87%)	2 (1.15%)	13 (7.47%)
Non-core procurement	0 (0%)	0 (0%)	0 (0%)	0 (0%)

Table 7 details the data used in Figure 7: Comparison of risk zone disclosures on marketing hubs in question 9 for 2019–20 to 2022–23.

**Table 7: Comparison of risk zone disclosures on marketing question 9 for 2019–20 to 2022–23**

Year	High risk	High risk - PCG not applied	Not disclosed	Medium risk	Low risk
2020	8 (6%)	0 (0%)	0 (0%)	11 (8%)	98 (72%)
2021	4 (3%)	5 (3%)	2 (1%)	11 (8%)	106 (73%)
2022	5 (3%)	6 (4%)	1 (1%)	10 (6%)	125 (77%)
2023	4	5 (3%)	2 (1%)	13 (7%)	132

(2%)

(76%)

Table 8 details the data used in Figure 8: Comparison of risk zone disclosures on non-core procurement hubs in question 9 for 2019–20 to 2022–23.

**Table 8: Comparison of risk zone disclosures on non-core procurement hubs in question 9 for 2019–20 to 2022–23**

Year	High risk	High risk - PCG not applied	Low risk	White zone
2020	77 (52%)	0 (0%)	71 (48%)	1 (1%)
2021	0 (0%)	58 (42%)	77 (56%)	2 (1%)
2022	0 (0%)	1 (1%)	87 (60%)	57 (39%)
2023	0 (0%)	0 (0%)	85 (64%)	47 (36%)

Table 9 details the data used in Figure 9: Disclosures on questions 14 and 23 for 2022–23.

**Table 9: Disclosures on questions 14 and 23 for 2022–23**

Risk	Schedule 1 - Related party debt funding	Schedule 2 - Related party derivative arrangements	Schedule 3 - Interest-free lands between related parties
High risk	193 (9.67%)	5 (5.37%)	18 (12.24%)
High risk - PCG not applied	39 (1.95%)	0 (0%)	8 (5.44%)



Not disclosed	14 (0.70%)	0 (0%)	0 (0%)
Medium risk	479 (23.99%)	12 (12.90%)	49 (33.33%)
Low risk	1,226 (61.39%)	75 (80.65%)	70 (47.62%)
White zone	46 (2.30%)	1 (1.08%)	2 (1.37%)

Table 10 details the data used in Figure 10: Comparison of risk zone disclosures on related party financing arm's length conditions in question 14 for 2019–20 to 2022–23.

**Table 10: Comparison of risk zone disclosures on related party financing arm's length conditions in question 14 for 2019–20 to 2022–23**

Risk	2020	2021	2022	2023
High risk	205 (20%)	162 (11%)	183 (10%)	211 (10%)
High risk - PCG not applied	0 (0%)	26 (2%)	41 (2%)	47 (2%)
Not disclosed	9 (1%)	12 (1%)	7 (0%)	14 (1%)
Medium risk	289 (28%)	401 (26%)	512 (27%)	528 (25%)
Low risk	493 (48%)	879 (58%)	1,090 (58%)	1,296 (60%)
White zone	31 (3%)	34 (2%)	41 (2%)	48 (2%)

Table 11 details the data used in Figure 11: Comparison of risk zone disclosures on related party financing derivatives in question 23 for 2019–20 to 2022–23.

**Table 11: Comparison of risk zone disclosures on related party financing derivatives in question 23 for 2019–20 to 2022–23**

<b>Risk</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
High risk	14 (15%)	11 (13%)	8 (8%)	5 (5%)
High risk - PCG not applied	0 (0%)	1 (1%)	0 (0%)	0 (0%)
Not disclosed	2 (2%)	1 (1%)	0 (0%)	0 (0%)
Medium risk	19 (20%)	19 (22%)	19 (19%)	12 (13%)
Low risk	56 (60%)	52 (61%)	73 (72%)	75 (81%)
White zone	2 (2%)	1 (1%)	1 (1%)	1 (1%)

Table 12 details the data used in Figure 12: Comparison of risk zone disclosures on hybrid arrangements in question 22, 2019–20 to 2022–23.

**Table 12: Comparison of risk zone disclosures on hybrid arrangements in question 22, 2019–20 to 2022–23**

<b>Risk</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Not disclosed	0 (0%)	0 (0%)	4 (29%)	2 (25%)
Not low risk	4 (5%)	0 (0%)	1 (7%)	0 (0%)
Low risk	74 (95%)	16 (100%)	9 (64%)	6 (75%)

Table 13 details the data used in Figure 13: Comparison of risk zone disclosures on hybrid arrangements in question 39 for 2021–22 and 2022–23.

**Table 13: Comparison of risk zone disclosures on hybrid arrangements in question 39 for 2021–22 and 2022–23**

<b>Risk</b>	<b>2022</b>	<b>2023</b>
Very high risk	3 (0.30%)	11 (0.97%)
High risk	2 (0.20%)	0 (0%)
Not disclosed	6 (0.59%)	10 (0.89%)
High risk - PCG not applied	183 (18.03%)	11 (0.97%)
Low-moderate risk	81 (7.98%)	160 (14.17%)
Low risk	738 (72.71%)	935 (82.82%)
White zone	2 (0.20%)	2 (0.18%)

Table 14 details the data used in Figure 14: Comparison of risk zone disclosures on inbound distribution arrangements in question 24, 2020–21 to 2022–23.

**Table 14: Comparison of risk zone disclosures on inbound distribution arrangements in question 24, 2020–21 to 2022–23**

<b>Risk</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
High risk	84 (29%)	71 (24%)	65 (21%)	61 (19%)
High risk - PCG not applied	9 (3%)	44 (15%)	39 (12%)	0 (0%)
Not disclosed	6 (2%)	0 (0%)	4 (1%)	26 (8%)
Medium risk	91 (32%)	94 (32%)	105 (33%)	105 (33%)

Low risk	97 (34%)	83 (28%)	104 (33%)	118 (37%)
Not rated	0 (0%)	0 (0%)	0 (0%)	12 (4%)

Table 15 details the data used in Figure 15: Comparison of risk zone disclosures for question 37, 2020–21 to 2022–23.

**Table 15: Comparison of risk zone disclosures for question 37, 2020–21 to 2022–23**

<b>Risk</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
High risk	4 (8.00%)	3 (4.11%)	5 (6.17%)
High risk - PCG not applied	5 (10%)	2 (2.74%)	2 (2.47%)
Medium risk	29 (58%)	39 (53.42%)	47 (58.02%)
Low risk	7 (14%)	24 (32.88%)	24 (29.63%)
White zone	5 (10%)	5 (6.85%)	3 (3.70%)

QC 103018

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