



Speech to IPA National Congress 2024

Speech delivered by Deputy Commissioner Will Day to the Institute of Public Accountants (IPA) National Congress 2024.

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*Will Day, Deputy Commissioner, Small Business
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Good morning. I am honoured to be here representing the ATO and sharing some important developments with you.

My thanks to Andrew Conway and the IPA team for holding this conference and inviting me to talk with you. This event is always an important event in the ATO's calendar and for connecting with the accounting profession.

The ATO enjoys a strong and trusted relationship with the IPA. In particular, I would like to acknowledge and thank Tony Greco and Irwin Bushnell for their valuable contribution and willingness to nurture the tax system alongside us.

We have a proud and ongoing partnership with the tax profession. As fellow stewards of the tax system, you work with your clients to help them understand and meet their obligations.

The theme of the next 2 days of this congress has a future focus. Like you, the ATO is working actively to better support small businesses today, tomorrow and into the future. We continue to support small businesses meet their obligations now, whilst we are also focused on creating a significantly easier and more seamless future tax experience

that will benefit current and future generations of small businesses. The importance of our partnership will endure as we work together to support taxpayers, in particular small businesses, into this very different future.

Our core role

As our new Commissioner Rob Heferen has emphasised, as we look to the future it is imperative we keep the ATO's role as the nation's main revenue collection agency, at the forefront.

As a revenue collection agency our objective is to optimise the collection of tax in accordance with the law to secure revenue that supports the economic and social wellbeing of all Australians. Ultimately, it is through the collection of revenue that essential community services for all Australians are funded, and in this sense collecting revenue is not just our job but what the community expects us to do.

However, our new Commissioner has also implored us not to do so in a single-minded way. When it comes to our focus on small businesses, there are changes we are making to make it even more transparent about what risks we are focused on, changes we are making to better protect small businesses from unfair competition from those who deliberately operate in the shadow economy, changes we are making to provide even greater help and support to small businesses, especially those new to business, and changes we are making to unlock small business productivity when it comes to meeting their tax obligations. We think the community expects this of us also.

Small businesses and their tax performance

Before outlining some of these changes, it is important to set the scene as to how we view small businesses.

As we all know, small businesses are an important pillar of the Australian economy. They are incredibly diverse and provide us all with valuable services, at the same time as driving innovation, creating jobs and fostering community spirit.

The ATO defines a small business as a sole trader, company, trust or partnership that operates a business which has an annual turnover of

less than \$10 million of business income.

By our count, as at 30 June 2024, there were more than 4.7 million active small businesses. Around 710,000 employ almost 7.3 million employees. In addition, there are 2.5 million individuals linked to small businesses, including directors, partners, trust beneficiaries, shareholders and individuals with personal services income – a total of 7.2 million entities associated with operating a small business.

This alone emphasises the importance of the sector. Combined, the small business population also contributes more than \$900 billion in total business income, over \$91 billion in income tax, and \$21 billion in GST which is collected on behalf of the community, every year.

Our latest preliminary estimate, released last month, is that **small business tax performance** is about 87%. This means we estimate around 87% of the total theoretical tax we expected from small business taxpayers was paid voluntarily and after our compliance activity. If we look at it from another lens, there was a net tax gap or shortfall of 12.6% or approximately \$17.7 billion by small business entities in 2021–22.

While tax performance of 87% is encouraging, we need to reduce the revenue gap. In doing so we need to address the drivers that contribute to some small businesses not paying the right amount of tax so the system is fairer for all.

Findings from our small business random enquiry program, which we use to estimate tax performance show that the 3 main drivers of the gap are complexity caused mistakes, opportunistic behaviour and deliberately avoiding obligations.

Deliberate shadow economy behaviours contribute nearly 60% of the gross small business income tax gap – or around \$11.2 billion. Approximately \$8.9 billion of this is associated with under reporting of income and over-claiming of deductions. The remainder is hidden wages and people operating completely outside the tax system.

Only a small percentage of small businesses engage in this deliberately dishonest behaviour – about 5% are making clear and deliberate attempts to avoid paying the right tax – but the impact for honest businesses, overall tax collections and the broader community is significant.

At the same time, small businesses tax debts continue to be too high. At 31 August 2024, overall collectable debt was more than \$54 billion

with small business contributing \$35.6 billion, or over 65%.

Collecting the outstanding debt is important, but helping small business prevent the accumulation of tax debts into the future is even more important.

The tax gap and debt book are both symptoms of a less than optimal system. As joint stewards, we need to ensure the system is healthier and sustainable so there is a level playing field that supports the profitability and success of small businesses, and the right amount of revenue is collected for the Australian community.

Increasing transparency of our focus areas

Starting this month, to better support small businesses, we will be sharing our areas of focus – areas where we are concerned small businesses are getting it wrong, being opportunistic or deliberate on an ongoing basis.

We are being transparent and sharing with you early what these concerns are to give you a runway to address any issues and help your clients get their affairs in order.

Getting it right is an ongoing quarterly campaign which aims to support small businesses to do just that – get it right from the start.

Our quarterly focus will enable you to have informed conversations at the right time. We will update our key focus areas webpage once a quarter highlighting the areas attracting our attention.

Our community insights and our stakeholders tell us you want visibility, and you want there to be consequences for those who don't want to do the right thing.

So, we are sharing what is concerning us and the consequences if your clients engage in these behaviours. We want to help small businesses get it right and set up good habits.

Our current areas of focus for small businesses are:

- 'Business income is not personal income' – with a particular focus on Division 7A
- 'Don't game your deductions and concessions' – focusing on non-commercial losses and capital gains tax concession risks

- ‘Operating outside the system’ – with the microscope on GST registrations and payment of tax in ride-sourcing.

Division 7A

If your clients are using business money or assets for private benefit, for example paying their child’s school fees or paying their home mortgage, you need to be aware of Division 7A.

Division 7A contains a series of integrity rules that may apply when a private company attempts to provide money, or other benefits, to its shareholders or their associates in an income tax free manner.

The most common mistakes we see are caused by shareholders or their associates not understanding that a company is a separate legal entity and that the company’s money and assets are not the owners’.

This includes using company assets for private purposes, or using a single bank account, or credit card, for both private and company expenses making it difficult to distinguish between private and business expenditure. We know many Division 7A dividends arise due to failing to keep private expenses separate from company expenses and failing to keep proper records of these private transactions.

Non-commercial losses and capital gains tax concession risks

In 2022–23 around 232,000 taxpayers claimed non-commercial losses in their tax return totalling \$4.5 billion in losses.

We are seeing some taxpayers incorrectly claiming and offsetting losses from non-commercial business activities against their other income when those losses must be deferred. This can be due to a mistake or misunderstanding the rules.

Some taxpayers are also deliberately claiming contrived or losses from hobbies to reduce their taxable income or to obtain a larger refund, or manipulating the loss labels when they are not eligible. This has also attracted our attention.

We also want to ensure small businesses accessing CGT concessions are eligible and reporting correctly.

Around 35,000 taxpayers applied small business CGT concessions worth around \$10 billion in the 2022–23 financial year. The most

applied concession is the small business 50% active asset reduction, followed by the 15-year exemption.

While most do the right thing, we commonly see a misunderstanding or misuse of eligibility requirements, the incorrect reporting or application of correct concession codes, and miscalculations from using the wrong dates when buying or selling an asset or incorrectly applying a discount.

For example, we looked closer where a residential property owned in a company name was claimed to be an active asset when in fact the sole use of the property was as a home for the company director.

We have also seen instances of selling an active asset and applying the small business roll-over concession but not acquiring a replacement asset by the end of the replacement asset period.

GST registrations and payment of tax in ride-sourcing

We do not tolerate those who operate outside the tax system, and with this in mind, our immediate focus is on ensuring drivers in the ride-sourcing sector are aware of and meeting their obligations.

If someone is providing taxi, limousine or ride-sourcing services, they must **register for GST**, regardless of turnover.

We know too many ride-sourcing drivers are not GST-registered and therefore not paying GST – essentially, they are operating totally outside the tax system. We also know this extends to drivers not reporting and paying the right amount of income tax. Income from all business activities, including rides provided on the weekend or on a casual basis, is assessable income and must be reported. This includes fares, tips or bonuses.

Drivers in this industry that don't have an Australian business number and GST registration, need to register now – it is a legal obligation.

From February next year, where our records indicate a ride-sourcing driver may not be complying with their tax obligations, we will contact them, or their tax professional, to provide support and request they check their tax affairs are correct.

We continue to work with ride sourcing platforms to reinforce these messages, but we need you to support these taxpayers to take

corrective action and get their affairs in order. We will then look to take stronger action against those who don't respond.

This action may include reviews and audits, penalties of up to 75%, interest on any unpaid tax, debt collection activities, or seeking application of civil or criminal sanctions in more serious cases.

Other focus areas

We will also be having a refreshed focus on businesses with turnover close to the \$10 million mark, or the upper end of the small business market, to ensure they are meeting their obligations and paying what they rightfully should. As a business edges closer to the emerging private wealth market, their affairs become more complex. Our initial focus will be on conducting audits and reviews of businesses where we see signs of tax concession misuse, in particular potentially incorrect **research and development claims**.

Taxpayers who blatantly ignore the rules but openly exhibit ostentatious lifestyle behaviours will also be firmly in our sights.

We are supported in our efforts to seek out these taxpayers through **community tip-offs**, which are often shared where someone's lifestyle doesn't appear to match their income, as well as other behaviours such as demanding cash sales, paying workers in cash to avoid paying super and tax, and not reporting sales.

We have received 250,000 tip-offs from the community about tax avoidance and other dishonest behaviours since July 2019. Each week we receive around 1,000 community tip-offs, most of which are about potential **shadow economy activity** and where we need to, we take action, often firm and serious action.

Addressing shadow economy behaviours and attitudes is front and centre of our work to support small business through levelling the playing field. Our work in leading the Shadow Economy Program, which has been extended to 30 June 2028, enables us to address this activity.

The community tells us they have little tolerance of those deliberately undermining other businesses and the tax system. Shifting these deliberate behaviours requires community effort as much as support from the regulatory system.


We know where we make information available for pre-fill that taxpayers generally do the right thing and declare their income. We are

actively exploring expanding some third-party data reporting in existing software as well as the frequency of when this is provided. This would produce better quality data, reduce compliance burden and optimise pre-fill and strengthen debt prevention.

Improving our help and support

Small business is serious business, and we want to help business owners get their tax and superannuation obligations right.

Providing education and support to small businesses and their trusted advisors is an ongoing priority and focus. We have learning and support products for small businesses to help them improve their tax and super knowledge and establish good business habits to give them the best chance of success and help them save time, which we know is at a premium.

In January this year, as part of our ongoing commitment to supporting small businesses, we launched the [Essentials to strengthen your small business](#)  website. This free training resource has over 30 short courses to help small businesses develop the skills and knowledge they need to get their obligations right from the start. The courses cover a range of everyday scenarios and provide practical actions to prevent many of the mistakes we often see made. Over 125,000 small business owners have accessed the courses and there have been more than 500,000 views of our learning material.

Proudly, we recently won an Institute of Public Administration Australia Spirit of Service award for the learning platform and are constantly looking to develop additional short courses. We are working to develop new courses covering preventing and managing debt, small business resilience, and engaging with the ATO, among others, in the coming months.

We encourage you to guide your small business clients to take these courses. Designed to help small businesses grow and thrive by upskilling, they can choose a learning pathway relevant to their business's needs, industry, and stage of life. A business owner can log-in at any time of the day, giving them the flexibility they need.

We are also looking to actively engage with industries to provide masterclasses where we can showcase our online courses and help small businesses embark on a learning journey. We also collaborate

with trusted industry representatives in designing new and improved public advice and guidance.

We have heard from the tax profession that we need to continue to support businesses, including those new to business, to understand their obligations, reduce the risk of errors and to limit the accrual of debt.


We also want your insights on topics of interest so we can continue to target our education and support in the right areas.

Building towards a digital future tax experience

The ATO has a significant program of work underway to help small businesses get their affairs right, focusing on building a **digital first tax ecosystem**.

At the core of this mission is to create a significantly easier tax experience for small businesses; one that is seamless and supportive, helps prevent debt, reduces cost and compliance burden, and ensures small businesses have certainty in meeting their tax obligations correctly from the start.

Our **ATO Corporate Plan** commits to blueprinting and consulting on a future digitalised tax experience for small businesses and publishing a multi-year rolling roadmap that outlines how we plan to bring this future tax experience to life.

We are working towards the [OECD's Tax Administration 3.0 vision](#)  which creates an experience where it will be easier and more seamless for small businesses to meet their tax obligations correctly from the start and on time.

Over the years, we have worked to make tax easier and more streamlined – Tax Admin 1.0 was manual and paper-based, supported by TaxPacks in newsagents around the country; and Tax Admin 2.0, where risk models and pre-fill provided significant improvements, but still involved post-event reporting and lodgment.

We are now working towards Tax Admin 3.0 and together we need to be ready to take this leap to create the right experience.

An experience where digital tools and automation reduce the burden of compliance tasks and streamline tax processes.

An experience where reporting and payment are more frequent and contemporary and aligned to information from natural business systems and processes.

An experience where small businesses will have greater certainty they are getting their tax right from the start, allowing them to focus more on running their business and less on tax matters.

An experience where you and small businesses will have greater access to real-time data and information, enabling you to invest your expertise and effort into areas where you provide the most value – offering guidance and advice to ensure your clients operate efficiently and meet their obligations.

The blueprint, which we have committed to publishing by 30 June 2025, will not be a set and forget. It will highlight our ultimate goals for a seamless future tax experience for small business. But the journey will not be made through a single leap, but rather a multi-step approach where there will be incremental advancements and continual adaptation.

Incremental advancements we are making this year include:

- Encouraging and moving more small businesses from quarterly to monthly BAS lodgment. This builds on insights from engagements and pilots run over the past 12 months. These pilots have shown that more frequent reporting and payment provides value to small businesses, that monthly reporting can better align to their natural business decisions and processes, and that smaller but more frequent payments supports better cash flow management.
- Providing small businesses with greater assurance they are getting their obligations right through embedding rules and guidance into the natural systems they use. We have commenced a pilot to embed a pay as you go instalment calculation methodology into accounting software so small businesses don't need to undertake this complex calculation to vary their instalment amounts to reflect profitability for a period. We are also exploring how we could embed information like our small business benchmarks and our risk rules into digital solutions small businesses use to provide them greater assurance they are getting their obligations right before they lodge.
- Assessing how we can best use third-party data to support sole traders prepare and finalise their income tax returns, including using

Taxable Payments Annual Report information to pre-fill their returns.

We need your continued support to progress towards this future experience. Accountants will remain essential in helping small businesses navigate complex tax obligations and optimise business processes, continuing to be crucial partners in the success of small business.

We envisage in this digital future that accountants will have access to greater real time data and information that will allow them to shift their focus to more strategic advisory roles for small business – providing them with the guidance they need to run their business and thrive.

We recognise there will be changes and impacts, but we are committed to regular engagement and collaboration as we enhance the tax experience for small businesses.

Conclusion

We all know and experience first-hand the value and importance of small businesses to the community.

We know small business is serious business and there are many challenges and complexities they need to navigate to survive and thrive.

We recognise the complexity of the tax system is just one of these challenges, but navigating it is essential to be successful.

With all of this in mind, we must continue working together as joint stewards of the system so small businesses can succeed today, tomorrow and into the future.

And we know the future is almost here.

We are increasing our transparency to support small businesses, we are continually improving our help and support, and we are building towards a future digitalised tax experience.

The mission is to create a significantly easier tax experience for small businesses. An experience that benefits small businesses now and for many years to come.

Images

A headshot of Deputy Commissioner Will Day is also available for download from our media centre.

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