Print whole section

Findings from the Next 5,000 tax performance program

Our observations and insights from the Next 5,000 tax performance program for privately owned and wealthy groups.

About this report

What our findings report for the Next 5,000 tax performance program covers.

Observations

A summary of our observations for income tax and GST up to 30 June 2024.

Next 5,000 key priority areas

Key priority areas based on our insights and understanding of emerging trends within the Next 5,000 sub-population.

Findings

The Next 5,000 program's latest findings from our finalised streamline assurance reviews and comprehensive risk reviews.

Resolving issues with Next 5,000 groups

Elements of good tax governance to help the Next 5,000 sub-population comply with their tax obligations.

Next 5,000 groups and how we engage

Characteristics of Next 5,000 privately owned and wealthy groups and our engagement with them.

QC 103434

About this report

What our findings report for the Next 5,000 tax performance program covers.

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This report on the Next 5,000 program provides our observations and insights to date. The findings and data are current as at 30 June 2024. We'll share further updates as they become available.

If you operate or represent a Next 5,000 private group, you can use these findings to:

- review your tax affairs and tax governance
- increase awareness of common tax issues
- understand how we are working with clients to resolve issues
- prepare for a review under the Next 5,000 program.

The Next 5,000 program began on 1 July 2019. To date it has focused on engaging with clients on a one-to-one basis. This has been through streamlined assurance reviews that use our justified trust methodology.

During quarter 3 of the 2022–23 financial year, we commenced comprehensive risk reviews (CRR). The findings outlined in this report are based on the outcomes of our streamlined assurance reviews and comprehensive risk reviews.

The **Next 5,000 tax performance program** (Next 5,000 program) aims to give the community confidence that these privately owned and wealthy groups are paying the right amount of tax.

The **Tax Avoidance Taskforce** funds this program to ensure that Australia's wealthiest private groups are meeting their tax and super obligations.

QC 103435

Observations

A summary of our observations for income tax and GST up to 30 June 2024.

Published 4 December 2024

On this page

[Summary of our observations](#)

[Privately owned and wealthy groups](#)

Summary of our observations

Since the Next 5,000 program began, we have observed that most Next 5,000 groups and their advisers engage collaboratively and proactively with us. This is evidenced by the engagement throughout our reviews and the requests we receive for **tailored technical assistance** across a range of areas, including our key priority areas.

Our key observations of Next 5,000 groups reviewed to date are that:

- a high proportion have governance processes and procedures, but most are not documented
- clearly documented roles and responsibilities lead to good tax governance

- documentation of the tax return preparation, review process and identification of material transactions helps groups to recognise tax risks and issues to avoid errors
- private groups that seek tax advice for material risks and issues are more likely to make correct disclosures and adopt correct tax treatments.

Previously we've seen from our streamline assurance reviews that many Next 5,000 groups have a lack of documented governance processes and procedures. This includes a lack of clearly defined roles and responsibilities between the Next 5,000 group and their adviser. Where Next 5,000 groups don't have documented processes and procedures, we've observed that this has resulted in incorrect reporting of significant events, transactions, and activities.

While we only review tax governance in our streamline assurance reviews, our key observations can be applied more broadly. For example, we strongly recommend that all Next 5,000 groups and their advisers consider our findings and whether our recommendations may help them improve their governance to provide them with greater confidence in correctly reporting and complying with their tax obligations in the future.

In addition, through our Next Actions Strategy, Next 5,000 groups are generally willing to resolve incorrect reporting (including GST) during the streamline assurance review by making voluntary disclosures. This has resulted in fewer escalations to secondary reviews and to audits.

While we observe that the common tax issues have generally remained consistent to our findings as at 31 August 2023, this report provides more detailed insights.

Privately owned and wealthy groups

Privately owned and wealthy groups operate some of Australia's largest and most successful businesses and have complex financial and legal arrangements. We view privately owned and wealthy groups in the Next 5,000 sub-population as Australian resident individuals who, together with their business associates, control net wealth over $50 million. See also **Tax performance programs for privately owned and wealthy groups**.

Given the size and complexity of some of these groups, even one error can lead to a significant tax consequence.

The Next 5,000 sub-population:

- own over $1.6 trillion in net assets
- earn $367 billion in total income
- pay over $18.9 billion in income tax
- pay over $5.8 billion in net GST
- employ 1,455,120 people, paying $10.6 billion in PAYG withholding.

Generally, we've observed that the affairs of private groups are opaque because there are limited public disclosure obligations for such groups and less publicly available information. The structures of private groups are often complex, and the closely held nature of private groups enables quick, fluid, and easy group structural changes.

We are seeing an ageing demographic for controlling individuals of privately owned and wealthy groups, which is leading to an increased focus on succession planning and wealth transfer arrangements for these groups. The tax consequences that arise as a result are a focus for us. By engaging early with each other, we can build transparency and prevent mistakes.

For more information see **What attracts our attention**. We have also recently updated our **Areas of focus 2024–25**.

QC 103436

Next 5,000 key priority areas

Key priority areas based on our insights and understanding of emerging trends within the Next 5,000 sub-population.

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On this page

[Identifying key priority areas]

[Experiencing rapid growth]

[Cross-border transactions]

[Domestic wealth transfer]

[Succession planning]

[Wealth extraction by use of private equity funds]

Identifying key priority areas

The Next 5,000 tax performance program considers a wide range of environmental and economic factors to understand the commercial and business pressures which may impact the behaviour of Next 5000 groups in respect of their obligations.

We have identified key priority areas for the Next 5,000 sub-population. These key priority areas are based on our insights to date and upon a broader understanding of emerging trends in this sub-population within the **privately owned and wealthy groups**.

Over the last year we have continued our focus on these areas and have selected reviews based on indicators of our key priority areas being present.

We will continue to focus on these key priority areas in 2024–25.

Experiencing rapid growth

This key priority area focuses on groups that are experiencing rapid growth which may lead to incorrect reporting if the tax governance framework is not fit for purpose for a growing business. Our findings continue to reinforce our concerns that tax governance has not been updated in accordance with the growth or evolution of the business. The lack of appropriate governance can have material tax consequences because errors and incorrect reporting can arise as a result. This has been evidenced in recent material dollar value voluntary disclosures which could have been avoided through effective tax governance.

Cross-border transactions

This key priority area focuses on groups that are expanding offshore or entering into cross-border transactions with related parties. Our reviews selected on this basis are currently in progress and included in the most common tax risks flagged to market as part of streamlined assurance reviews.

For more information, see:

- Practical Compliance Guideline **PCG 2017/4** *ATO compliance approach to taxation issues associated with cross-border related party financing arrangements and related transactions*
- Practical Compliance Guideline **PCG 2017/2** *Simplified transfer pricing record-keeping options*.

We received 6 requests for tailored technical assistance relating to cross-border transactions between September 2022 and June 2024. This shows that only a small number of Next 5,000 groups have proactively engaged with us to obtain certainty on how these transactions should be treated for tax purposes.

Domestic wealth transfer

This key priority area focuses on groups entering arrangements involving intra-group domestic transactions which may result in the transfer of wealth. Our insights from streamlined assurance reviews are that related party transactions and trust distributions are not being recorded correctly or recorded at all. We are finding:

- mismatches between the reported income and expenses between related parties
- lack of independent valuations to support the pricing of transactions between related parties particularly transactions involving real property
- omission of related party income such as rent
- distributions outside of a family group where a family trust election has been made
- loans or other payments from private companies to shareholders or associates without regard for the requirements in Division 7A of the *Income Tax Assessment Act 1936*.

While the proportion of reviews which escalate to secondary reviews or audits is low, we're still observing that domestic wealth extraction tax issues are being escalated. For example, we are still escalating matters where section 100A of the *Income Tax Assessment Act 1936* may apply. That is, we are reviewing matters where there may be a reimbursement agreement arrangement where a beneficiary of a trust is made presently entitled to the income of a trust but another person or entity enjoys the economic benefit of that income.

We're also escalating to secondary reviews or audits matters involving transactions between an SMSF and a related party potentially giving rise to non-arm's length income (NALI). Additionally, we're seeing expenditure being claimed as a deduction in respect of private use assets.

Some Next 5,000 groups are proactively engaging with us to obtain certainty on domestic related party transactions. We received 63 requests for tailored technical assistance requests between September 2022 and June 2024. Of these, 19 requests related to Division 7A of the *Income Tax Assessment Act 1936*.

Succession planning

This key priority area focuses on tax risks arising from group restructures or other arrangements designed to transfer wealth to the next generation. While most of our reviews that were selected on this basis are still in progress, we note that out of the 63 requests for tailored technical assistance in relation to wholly domestic group restructures received between September 2022 and June 2024, 30 related to succession planning. The requests included issues such as:

- whether there has been a trust resettlement giving rise to a CGT event
- whether one or more CGT rollover applied in respect of the group restructure
- where a CGT event happened in respect of an assets transferring to the next generation.

We also received requests for technical assistance from recipients of a wealth transfer.

Wealth extraction by use of private equity funds

This key priority area focuses on wealth extraction by participants in the Private Equity (PE) industry, such as investors in PE funds and owners of domestic PE firms. We are also focussing on tax risks arising from transactions and activities of other entities involved in PE, such as PE firms, funds, target entities and entities undertaking PE like activity. We'll continue to monitor this focus area and provide insights in future reports.

QC 103437

Findings

The Next 5,000 program's latest findings from our finalised streamline assurance reviews and comprehensive risk reviews.

Last updated 4 December 2024

On this page

Reviews

Correctly reported activities

Common tax issues

Tax risks flagged to market

Voluntary disclosures

Issues addressed by audit

Tailored technical assistance

Governance

Reviews

As at 30 June 2024, through our finalised streamline assurance reviews, we have reviewed around 8,850 transactions, activities and events of Next 5,000 groups. We have achieved this result through finalising around 1,404 streamlined assurance reviews.

In addition, we have commenced new engagements with a significant number of Next 5,000 groups under the program. These engagements are a combination of:

- streamline assurance reviews
- risk based reviews.

During the 2024 financial year we completed over 320 streamlined assurance reviews and 55 comprehensive risk reviews.

Our transition to undertaking more comprehensive risk reviews has been more time consuming than planned largely because the matters have tended to be very complex. As at 30 June 2024, there were 701 streamlined assurance reviews, risk reviews and audits in-progress that are expected to be finalised in FY 25 which will provide additional insights for future reporting.

Correctly reported activities

Through our finalised streamlined assurance reviews, we have confirmed that private groups have correctly reported amounts relating to significant activities, events and transactions totalling over $36 billion. This amount comprises:

- $19.92 billion in verified income
- $8.35 billion in verified deductions
- $7.76 billion in other verified items.

The breakdown of the $7.76 billion other verified items, includes:

- $3.56 billion in loans to shareholders and their associates
- $1.37 billion in additional balance sheet items, franking account balances, franked dividends paid and net foreign income
- $1.52 billion in tax reconciliation items
- $585 million in tax deductions and tax losses, both deducted and carried forward

- $330 million in capital losses, both applied and carried forward
- $76 million in tax offsets, rebates and credits
- $318 million in GST and other taxes.

Common tax issues

Our key findings in relation to the common tax issues are that some Next 5,000 groups are making errors in their tax returns that could be otherwise prevented. We have observed a level of complexity in transactions, resulting in errors that are being compounded by a lack of documented governance processes, procedures and poor record keeping.

Common tax issues we have observed where we were not able to obtain assurance include:

- Correct reporting matters
- Business as usual – expenditure
- Intra-group transactions – loans or payments to shareholders and their associates
- Sale of significant assets
- Trust distributions
- Related party transactions
- Goods and services tax (GST)

Correct reporting matters

We continue to identify instances of incorrect reporting. In this regard we have observed a correlation between incorrect reporting and:

- no documented tax governance processes and procedures
- disclosure errors
- significant late lodgment
- no lodgment of accompanying schedules to the tax return.

In circumstances where we find potential errors we request more information so that we can obtain assurance that the right amount of tax has been paid.

In relation to lodgment where a tax agent is engaged see Prepare and lodge.

Where a tax agent is not engaged see Preparing, lodging and paying.

Business as usual – expenditure

We were unable to assure tax deductions were correctly claimed in some cases because there were inadequate governance processes, procedures and poor recording keeping. The expenditure could not be substantiated or the nexus between the expense and assessable income could not be evidenced. A high proportion of these expenses were related party transactions where the reported income derived by one party was less than the deduction claimed by the other party to the transaction. We also observed deductions claimed relating to private use assets, which were denied.

Intra-group transactions – loans or payments to shareholders and their associates

We found a correlation between poor record keeping and a lack of documented governance processes and procedures on the one hand with not taking the necessary steps to satisfy Division 7A of the *Income Tax Assessment Act* 1936 on the other. The correlation was evident in many of the reviews where there were loans made through interposed entities. In these reviews, we identified no written loan agreements or minimum yearly repayments and a lack of appropriate record keeping.

Sale of significant assets

We were unable to obtain assurance over a range of property disposals leading to escalations to a secondary risk review or audit, for the following reasons:

- omission of capital gains tax event
- incorrect application of and unable to substantiate carried forward capital losses
- capital gains tax event not adjusted in tax reconciliation statement
- incorrect application of the gross up provisions for discounted net capital gains distributed by trusts to beneficiaries

- insufficient evidence supporting the valuation of capital proceeds and elements of the cost base
- miscalculation of cost base, including amounts omitted or inclusion of amounts that do not form part of the cost base such as development costs
- timing of disclosure of capital gains tax events resulting in the capital gain being reported in the wrong year
- mischaracterisations of the sale of property as revenue or capital
- disposal of property was to a related party and there was no written contract for sale and no independent valuation
- incomplete documentation provided to the tax agent resulting in miscalculation of the capital gains tax event.

Trust distributions

We were unable to obtain assurance over trust distributions leading to escalation to a secondary review or audit, such as where distributions are paid to the wrong beneficiary and where section 100A may potentially apply. In relation to family trusts we were unable to obtain assurance in the following circumstances:

- distributions made outside of the family group
- inconsistency of documentation regarding individuals set out in the family trust deed and the interposed entity election forms.

In some reviews we concluded that a lack of governance processes and procedures resulted in omitted trust distributions for some beneficiaries within the group.

Related party transactions

We couldn't obtain assurance in some cases over the recognition of income from related party transactions. In these circumstances we observed a lack of governance processes and procedures potentially resulting in poor record keeping.

Some examples include:

- no documented management service agreement

- omitted or understated income where incomplete records were provided
- aggregate of related party deductions claimed by one related party exceeded income returned by the other related party
- no written sale or lease agreement between related parties.

In addition, we couldn't obtain assurance over some cross border related party transactions such as service arrangements where there was no supporting documentation, and disposal of property overseas to related parties where gains were omitted in Australia.

Goods and services tax (GST)

We also undertake integrated streamline assurance reviews and risk-based reviews for GST. Our key observation is that Next 5,000 groups in most instances correctly report GST on significant income tax transactions, events and activities.

We have found that there are Next 5,000 groups that lack a basic understanding of GST, how GST applies to related party transactions and correct reporting resulting in voluntary disclosures. This includes requirements for registration and tax invoices and correctly classifying supplies and acquisitions. We have also observed significant late lodgment in relation to BAS.

From the GST integrated reviews undertaken to date, we have received voluntary disclosures in relation to significant omissions or errors at business activity statement (BAS) disclosure labels, the errors and omissions typically relate to:

- input taxed supplies
- related party recharges
- GST-free items more broadly
- export sales.

There is a strong correlation between the BAS errors that we see, with the late lodgment of BAS and a lack of or insufficient governance processes and procedures.

We've received voluntary disclosures in relation to some discrepancies in the tax return to BAS reconciliations. We found sales reported in BAS being materially higher than sales reported in income tax returns and insufficient explanations provided for the variance. While we don't review GST governance as part of these reviews, this finding does identify governance issues resulting in incorrectly reported disclosures in the BAS and errors in the GST reported.

In several reviews of retail business activities in private groups we found:

- increasing adjustments not made on face-value vouchers where these were unredeemed or expired
- inventory sold to related parties where GST was not remitted
- incorrect classification of GST on food items
- incorrect reporting of GST on related party transactions and charges such as management fees and other supplies
- incorrect calculation of reduced input tax credit entitlements that arose from
  - acquisitions from group restructures
  - the recovery of GST incurred on expenditure from the acquisition or disposal of investments and merger and acquisition activity.

In several reviews of property business activities in private groups we found:

- incorrect application of GST adjustments provisions for property transactions relating to a change in creditable purpose
- incorrect application of the margin scheme provisions, including cost base errors.

Refer to our information on **Property** for guidance in relation to application of GST provisions to property transactions.

Tax risks flagged to market

The most common tax risks flagged to market arising for review as part of streamlined assurance reviews are those described in:

- Practical Compliance Guideline **PCG 2017/4** *ATO compliance approach to taxation issues associated with cross-border related party financing arrangements and related transactions*.

- Taxation Determination TD 2022/11 *Income tax: Division 7A: when will an unpaid present entitlement or amount held on sub-trust become the provision of 'financial accommodation'?*
- Practical Compliance Guideline PCG 2017/2 *Simplified transfer pricing record-keeping options*.
- Taxation Determination TD 2007/2 *Income tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under income tax law?*
- Taxation Ruling TR 2018/3 *Income tax: tax treatment of long term construction contracts*.
- Taxpayer Alert TA 2023/2 *Diverting profits of a property development project to a self-managed superannuation fund, through use of a special purpose vehicle, involving non-arm's length arrangements*.

Voluntary disclosures

We have observed a correlation between no documented governance processes and procedures and the most common tax issues resulting in a voluntary disclosure. In these cases, we have made recommendations as to how the group can improve its tax procedures to prevent such errors. There are some common issues for which we received voluntary disclosures.

Loans or payments to shareholders and their associates

We received disclosures where there were no loan agreements, no minimum yearly repayments or no interest charged at the benchmark rate. In these cases, we recommended record keeping procedures be implemented to track the loans and implementing an annual end of year Division 7A check list.

Income and expenses relating to real property

We received voluntary disclosures in relation to overclaiming of real property expenses, such as:

- depreciation

- renovation expenses.

We also received voluntary disclosures in relation to capital expenses incorrectly claimed on revenue account such as acquisition costs and development costs.

We received voluntary disclosures in relation to reporting of real property income, such as:

- omission of rental income from a related party
- the wrong entity claiming rental income from a related party.

Sale of significant assets

We received voluntary disclosures relating to the following capital gains tax issues:

- typographical and arithmetic errors in the capital gains tax calculation
- undeclared net capital gains tax for the sale of related entities
- capital gains misreported on revenue account.

In these circumstances we recommended:

- a robust review process once the tax return has been prepared
- separation of duty between the preparer and the reviewer of the tax return
- process to ensure significant transactions are identified and your tax agent is notified of these significant transactions.

Trust distributions

We received voluntary disclosures relating to:

- distributions made that were not in accordance with the trust deed
- family trusts with valid elections making distributions outside of the family group
- beneficiaries omitting trust distributions including failure to gross-up discounted net capital gains.

Personal services income (PSI)

We received voluntary disclosures relating to the application of personal services income (PSI) where the application of the PSI laws was overlooked during the tax return preparation process.

Goods and services tax (GST)

The most common issues in received voluntary disclosures relating to GST include:

- incorrect calculation of reduced input tax credit entitlements arising from investment activity
- incorrect reporting of GST on related party transactions such as supplies, management fees, division of costs between economic group members
- Division 129 adjustments for change of use relating to property development
- errors in calculation of cost base under the margin scheme provisions.

Issues addressed by audit

Our findings show the issues being escalated to audit generally relate to:

- non-lodgment of income tax return where significant activities, events and transactions have occurred
- evidentiary issues heavily dependent on the facts
- interpretational issues that cannot be resolved in a review.

Following are the main issues escalated to audit.

Loans and payments to shareholders, directors and associates

In audits looking at the application of Division 7A of the *Income Tax Assessment Act* 1936, we have seen instances where there is no loan agreement in place, no interest or minimum yearly payment being made and not all of the loans are properly accounted for. In addition, there are audits where the Commissioner's discretion has been previously exercised but subsequent loans were not complying and no minimum yearly repayment was made.

Unsubstantiated expenses

A common issue addressed by audit has been the deductibility of expenses from a related party transaction.

Incorrect deductions claimed relating to bad debts

We have looked at deductions claimed in respect of bad debts arising from transactions between related parties where there was:

- significant debt
- no evidence of the right to demand repayment of the debt
- the taxpayer is unable to substantiate the debt and accordingly the deduction.

Where there was inconsistencies in the documentation of the transactions or no supporting evidence for the debt, the deduction was denied.

Other unsubstantiated expenses

Other unsubstantiated expenses that have been the subject of an audit include:

- the transfer of trading stock between related parties where the value and write down of trading stock was not able to be substantiated – this is also an issue for GST
- failure to substantiate expenses relating to personal use assets such as real estate, helicopters and boats with no apportionment between business and private use.

Tax losses

Some audits have addressed tax losses that were deducted in the year under review that exceeded the previous years carried forward tax losses and could not be reconciled with relevant labels on the tax return. In other audits adjustments were made to the carried forward tax losses of multiple members of the private group, however the taxpayer has been unable to substantiate the adjustment and we reversed the adjustment.

Finally there were audits where there has been an increase in tax losses due to unusually high business expenses in the income year under review. In those cases we found that the accounting records, including journal entries, contracts and invoices did not adequately substantiate the increase in business expenses for the relevant income year and the deductions were denied.

Trusts

The trust audits we undertook concerned:

- trust distributions made without supporting trustee resolutions that did not comply with the relevant trust deed
- the incorrect calculation of trust income, for example, where assets had been transferred between the trust and a related party
- the application of section 100A of the *Income Tax Assessment Act 1936*, where a beneficiary's trust entitlement arose from a reimbursement agreement.

Capital gains tax

Capital gains tax issues that have been reviewed as part of an audit have included:

- incorrect characterisation of the gain from a sale of property as capital in nature to access the 50% CGT discount where there is evidence that extensive property development and subdivision was carried out by multiple group members for profit
- sale of property to related parties for less than market value
- under reported capital gains, for example where a capital asset has been disposed of by a trust, and the beneficiaries are either under reporting or not reporting the capital gain.

Emerging audit issues

Increasingly we've seen transactions between SMSF and related parties giving rise to non-arm's length income (NALI) as a main issue being escalated to audit. These matters often involve a complex set of transactions for the acquisition of property. The value of the property and where relevant rental income has been reviewed under the audit. See Non-arm’s length income for further information.

We've also seen more audits that have looked at a group restructure or the transfer of assets between group members, that have not appeared to relate to succession planning. In some of these audits we have seen significant outstanding lodgments where the reasons provided is due to the restructure. A number of these audits are in progress and the findings when finalised will be published in future reports.

Tailored technical assistance

In addition to one-to-one engagements, we provide tailored technical assistance as requested by our clients. Between September 2022 and June 2024, Next 5,000 groups made 191 requests for tailored technical assistance, with 139 of those being for private rulings. This shows that Next 5,000 groups and their advisors are proactive, identify where they need a greater level of certainty and take a conservative approach by seeking our view on the tax treatment of a broad range of issues.

More than 50% of the requests related to wholly domestic structuring transactions within a group. The tax issues that arise in these requests included eligibility for rollovers such as replacement assets, scrip for scrip, and small business restructure rollovers. Requests in relation to trusts included application of section 99, definition of trust income and franking deficit tax.

There were 53 requests related to succession planning with 28 requests relating to trust resettlements where advice was requested in relation to the impact of proposed trust deed amendments. This included the addition of 'in the event of death' clauses, appointer and changes to the definition of beneficiaries. Remaining requests relating to structuring in relation to succession planning such as eligibility of CGT rollovers, and pre-CGT status of assets.

In addition, we received 19 requests relating to Division 7A, specifically loan agreements and exercising the Commissioner's discretion.

The remaining requests related to:

- withholding obligations and other international issues such as individual tax residency status
- deductibility of expenses such as legal expenses and cryptocurrency exchange losses
- asset roll-overs
- eligibility to concessions such as innovation, including research and development

- general trust and trust losses issues.

This is a similar trend to what we observed in the prior year. It is also a similar trend to the issues we are observing through our one-to-one engagements with the Next 5,000 sub-population and the broader privately owned and wealthy groups.

We encourage Next 5,000 groups to approach us to obtain **tailored technical assistance** where you are not certain or are seeking a greater level of certainty on how our view of the law applies to your circumstances.

Governance

As part of Next 5,000 streamlined assurance reviews, we reviewed 3 out of the **7 principles of effective governance**.

Clear roles and responsibilities

This principle relates to roles and responsibilities in the client's group and shared with advisors.

Comparatively, roles and responsibilities in the client's group are well documented. However, where responsibility for tax compliance is shared with advisers, we have observed in several cases that an annual engagement letter clearly setting out the scope of work is not in place.

Recognise tax risks and issues

This principle relates to the tax return preparation and review process and identification of material transactions.

We have identified several cases where there:

- is no documentation
- are errors in the tax return, including material transactions being omitted from the return or incorrectly reported
- are failures to meet lodgment and payment obligations.

Some of these cases have led to private groups making a voluntary disclosure to us and payment of failure to lodge penalty and interest charges.

Seek advice

This principle relates to circumstances where the client would seek advice from trusted advisers or us.

Like accountable management and oversight, we have observed in several cases that engagement letters are not in place.

Governance findings

While the number of Next 5,000 private groups without documented tax governance processes and procedures remains high, we are seeing a positive shift with more Next 5000 groups putting in place documented processes and procedures to comply with their tax obligations.

Of the Next 5,000 groups with a documented tax governance framework, a high proportion documented their tax governance procedures either before or after the notification of a streamlined assurance review. As frameworks become operational, we expect to see a decrease in errors for these groups.

QC 103438

Resolving issues with Next 5,000 groups

Elements of good tax governance to help the Next 5,000 sub-population comply with their tax obligations.

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Some key elements of good tax governance which we recommend include the following.

- Documented tax return procedures, including a tax return review process, which could also include a lodgment calendar to ensure income tax returns and accompanying schedules are lodged on time.
- Clear processes and procedures setting out record keeping requirements for related party transactions, including ensuring

contracts for sale of property and services are in place, there are valuations where relevant and invoices.

- Data entry manuals and tax return processes and procedures include the reporting of related party transactions.
- All tax agents to have an annual engagement letter in place clearly articulating the scope of work and accountabilities. (Where this isn't the case, we have observed that there is no clear understanding of the roles and responsibilities which are contributing to errors in the income tax return.) By documenting the scope of work it ensures that out-of-scope items can be noted and are not missed where they are required to be reported in the tax return. A clear scope ensures that all tax returns are lodged as it's clear who is engaged for particular entities within the group.
- Procedures to ensure complete and accurate documentation, and information including material transactions is provided to tax agents where they are engaged to prepare the income tax return and accompanying schedules.
- Where Division 7A is applicable, Next 5,000 groups should
  - review their group’s Division 7A compliance
  - create a Division 7A annual end of year checklist to ensure accurate and consistent reporting of these loans in
    - ledger accounts
    - financial statements
    - tax returns.
- There is a process to check and confirm trust distributions are made in accordance with trust deeds and family trust elections.
- Improve record keeping processes and procedures particularly in relation to loans between related parties and expenditure in relation to private use assets.

Next 5,000 groups and how we engage

Characteristics of Next 5,000 privately owned and wealthy groups and our engagement with them.

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On this page

How we engage with Next 5,000 groups

Demographics

Groups by entity type

Groups by industry

How we engage with Next 5,000 groups

We engage with the Next 5,000 privately owned and wealthy sub-population through the tax performance program. We engage with Next 5,000 groups in a range of ways based on the:

- size of operations
- structural complexity
- consequence of tax issues
- risk of non-compliance.

We involve groups that are large and have complex structures through a streamlined assurance review. We engaged with other groups through risk reviews.

Within the Next 5,000 sub-population, we have approximately 346 corporate tax transparency (CTT) entities. This represents more than a doubling of the CTT entities in the population, largely due to the change in the CTT reporting threshold for private companies dropping from $200 million total income to $100 million from the 2022–23 income year. 78% of Next 5000 groups in this year's CTT report have had compliance coverage in the last 5 years.

This sub-population is always a focus and will continue to be reviewed in line with broader approach outlined above.

That is for groups that have large and complex structures we review these groups and CTT entity through a streamlined assurance review. For other groups we review through risk reviews. Our findings in relation to these entities are similar to the rest of the Next 5,000 sub-population.

For further information see **Next 5,000 private groups tax performance program**.

Demographics

The Next 5,000 sub-population covers Australian residents who together with their associates, control a net wealth of over $50 million. These groups hold around $1.6 trillion in net assets and contribute more than $18.9 billion in tax revenue each year.

Based on 2022 income tax returns lodged and corresponding third party data, our analysis shows that there are about 10,385 groups in Australia that have net wealth over $50 million. There is typically a lot of churn in the population and we are taking additional steps to understand this.

Considering the economic size of these groups, even one error can have a big tax impact. The high profile of these groups also means that their level of participation can influence community confidence in and perceptions of fairness of the tax system.

Most are well established, multigenerational businesses that have been operating for many years. Many are family businesses or closely controlled groups.

These businesses often choose private structures because they allow for:

- more flexibility
- greater control over operations
- fewer reporting requirements.

As a business grows, structures become more complex. A typical Next 5,000 group includes:

- 12 entities made up of 6 companies, 4 trusts and 2 other entities such as a self-managed super fund or private ancillary fund
- a group head who is 65 years old
- 41 employees
- total income of $6.7 million
- net wealth of $82.6 million
- income tax of $596,900
- net GST of $91,600
- PAYG withholding of $283,200.

Some Next 5,000 groups have philanthropic interests and include an ancillary fund or charity.

Figure 1: Typical Next 5,000 group

Groups by entity type

There are over 162,000 entities within the Next 5,000 sub-population. The group structures used by Next 5,000 groups can be complex with some groups comprising many entities.

They may contain any combination of company, partnership and trust structures operating both inside and outside of consolidated groups. Currently the Next 5,000 sub-population includes:

- 74,571 companies
- 53,581 trusts
- 19,080 individuals
- 8,179 super funds
- 6,621 partnerships.

Figure 2: Next 5,000 groups by entity type

Groups by industry

Within the privately owned and wealthy market the top 3 most prevalent industries include:

- financial and insurance services
- professional scientific and technical services
- construction.

This is reflected in the Next 5,000 sub-population where over half operate in at least one of the following industries:

- 30.5% financial and insurance services
- 8.2% construction
- 5.2% agriculture, forestry and fishing
- 5.9% rental, hiring and real estate services
- 5.1% wholesale trade
- 6.2% professional, scientific and technical services.

The remaining groups operate in:

- 4.5% manufacturing
- 4.8% retail trade
- 2.8% accommodation and food services
- 2.7% health care and social assistance
- 1.5% transport, postal and warehousing
- 1.0% administrative and support services
- 21.6% remaining industries.

Figure 3: Next 5,000 groups by industry

The industries that comprise the approximately 10,385 Next 5,000 groups are:- Financial and Insurance Services 30.5% - Construction 8.2% - Agriculture, Forestry and Fishing 5.2% - Rental, Hiring and Real Estate Services 5.9% - Wholesale Trade 5.1% - Professional, Scientific and Technical Services 6.2%, Manufacturing 4.5%, Retail Trade 4.8%, Accommodation and Food Services 2.8%, Health Care and Social Assistance 2.7%, Transport, Postal and Warehousing 1.5%, Administrative and Support Services 1.0%, Remaining Industries 21.6%

Note: Due to rounding, the total figure adds to 99.9%.

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