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

Findings from the Top 1,000 income tax performance, combined assurance review and GST assurance review programs.

Last updated 18 September 2024

Findings from the Top 1,000 income tax performance and

Top 1,000 GST assurance

Findings from the Top 1,000 GST assurance review program and combined assurance reviews.

Ratings tables – Top 1,000 income tax and GST assurance programs

Tables detailing the data supporting the overall assurance ratings for the Top 1,000 income tax and GST assurance programs.

QC 67407

About this report

This report provides our observations and insights through the Top 1,000 program.

Published 18 September 2024

We outline our observations from the reviews undertaken in the year to 30 June 2024, how these compare to reviews undertaken in other years, and what we have seen across the Top 1,000 population in our assurance programs.

The Top 1,000 combined assurance program is part of the Tax Avoidance Taskforce, seeking to increase our assurance that large public and multinational groups and APRA regulated superannuation funds are reporting the right amount of income tax and goods and services tax (GST).

The program provides large businesses with an opportunity to gain greater certainty about their tax outcomes and the effectiveness of their tax governance frameworks. It also provides an objective mechanism for large businesses to understand how their tax profile compares to others in the market and their peers.

The program replaces the Top 1,000 income tax performance program that ended in 2020 and the Top 1,000 GST assurance program that ended in 2023. Where taxpayers were assured under either of these programs, the combined assurance program builds on those previous assurance engagements, enabling us to 'top up' our understanding and review improvements and steps taken to address our concerns.

This is the sixth year we are publishing our findings report for the Top 1,000 assurance program for income tax. It is the fourth year we are including insights from the Top 1,000 GST assurance program.

Unless otherwise stated, figures quoted in this report are based on total reviews completed to 30 June 2024.

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Findings report summary

A summary of our observations around assurance ratings for income tax and GST during 2024 and what this report covers.

Last updated 18 September 2024

Latest findings

We have completed 1,525 assurance reviews on 1,183 taxpayers for income tax across the Top 1,000 income tax performance program and the Top 1,000 combined assurance program. Within the combined assurance program, we have completed second reviews for 343 taxpayers.

As a result of this income tax related work:

- **High levels of assurance that the right amount of tax has been paid:** We have seen high levels of assurance be maintained or improved, with 24% of taxpayers reaching high assurance in their last review, and 86% of taxpayers achieving high or medium assurance in their most recent review.
- **Continual improvements in compliance and tax governance:** We continue to see positive improvements in the outcomes of our reviews. In the reviews conducted in 2024, 90% achieved overall

high or medium assurance, just 9% achieved overall low assurance. 59% reached stage 2 or 3 for tax risk management and governance.

- **We detect and escalate issues of concern for further investigation:** We continue to escalate cases for further review or audit due to specific concerns with identified positions. In the reviews conducted in 2024, 9% were escalated for further action by the ATO. This is a slight reduction in the number escalated since the start of the combined assurance review program, whereby 12% have progressed for further review or audit.
- **High levels of tax assured:** We have assured around $79.1 billion in income tax paid by Top 1,000 taxpayers since we started assurance reviews in 2016.

Additionally, we have now completed 735 reviews for GST across our various programs, with 395 receiving an assurance rating, 59 of which for a second time.

Based on the outcomes of these GST reviews:

- **High levels of assurance that that right amount of GST has been paid:** We have obtained high assurance that, at their last review, 37% of taxpayers have paid the right amount of GST for the tax years reviewed, with 96% of taxpayers having achieved high or medium assurance that they have paid the correct amount of GST.
- **Significant improvements in GST governance:** In 2024 we have seen a significant improvement in the tax risk management and governance framework outcomes for GST, with 50% of the taxpayers reviewed in 2024 achieving a stage 2 or 3 rating. This shift correlates to an improvement in overall assurance ratings for GST for these taxpayers, with 45% of taxpayers reviewed in 2024 achieving an overall high assurance rating.
- **Taxpayers should be continually reviewing their GST compliance:** We continue to see 40% of taxpayers making a voluntary disclosure once notified of a review, and before receiving our recommendations. This indicates that taxpayers are undertaking self-reviews when notified of the combined assurance review, rather than as part of a regular governance process.
- **We detect and escalate issues of concern for further investigation:** In the reviews conducted in 2024, we identified 2% with GST issues that required further ATO action.

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Top 1,000 engagement

How we engage with the Top 1,000 population to improve compliance and give assurance to the community.

Last updated 18 September 2024

The Top 1,000 population

The Top 1,000 population is made up of:

- Australia's large public and multinational corporate groups and APRA regulated superannuation funds with a group turnover greater than $250 million
- taxpayers that are not covered by the Top 100 Program.

These taxpayers are diverse in terms of their ownership, business models, industries, and size and have substantial economic activity related to Australia. They are key participants in the tax system across corporate income tax, excise, petroleum resource rent tax and GST.

Based on 2022 tax returns:

- Top 1,000 taxpayers paid about $27.2 billion or 21% of all corporate income tax.
- The 10 largest groups in the Top 1,000 population paid $4.9 billion or 18% of the Top 1,000 corporate income tax.

- The 100 largest groups in the Top 1,000 population paid $15.4 billion or 57% of the Top 1,000 corporate income tax.
- Top 1,000 taxpayers reported $28.5 billion of net GST or 37% of total net GST collections.

As an increasing number of economic groups have exceeded the $250 million threshold, which was set when the Top 1,000 assurance program started in 2016, we have recalibrated the metrics used to determine whether a taxpayer is in scope of the Top 1,000 assurance program. This ensures we focus on the largest 1,000 taxpayers from the largest economic groups, as was the original intention of the assurance program.

From March 2024 onwards, we have identified the largest 1,000 entities from the largest publicly listed and multinational groups. Currently these largest 1,000 are from approximately 850 economic groups and have turnover greater than approximately $350 million. We will now focus on these taxpayers for the Top 1,000 combined assurance review program.

We will regularly review these entities to ensure we continue to focus on the largest 1,000 taxpayers outside of the Top 100 entities. We expect the largest 1,000 taxpayers to be reasonably stable, however economic conditions and events may affect which entities are covered by the assurance program.

Entities that had previously met the criteria for the population and are now outside the largest 1,000 entities will continue to be considered by our risk treatment approaches and may be selected for a specific review of identified tax issues and risks.

For GST, we generally review the largest GST reporter connected with the income tax taxpayer that is the subject of the assurance review.

Justified trust and transparency

Tax compliance is becoming an important part of the increasing focus among boards, investors, customers or consumers, suppliers, community groups and other stakeholders of how organisations contribute to the communities in which they operate, with many seeing this as an important component of Environmental, Social and Governance (ESG) performance indicators.

Societal attitudes and expectations in Australia and globally, are increasingly encouraging organisations to make more transparent and sustainable business decisions that can lead to long-term growth benefiting all stakeholders. There continues to be calls for organisations to be more transparent about their operations and tax contributions, and to demonstrate that they are participating fairly in the economy.

We have observed that our justified trust ratings are increasingly leveraged by organisations to support their community and ESG credentials as part of their broader social licence to operate. We expect this trend to continue. The objective principles used in the justified trust initiative also serve to enhance the community's understanding about large market compliance, and their ability to differentiate good corporate tax citizens from others. Although there remains a level of non-compliance by some in this population, which we continue to robustly address, the overall level of compliance is very high, and probably much higher than the current broader community understanding. Sharing these ratings can help address this gap for those organisations which have achieved high assurance.

We have seen a small number of Top 1,000 taxpayers sign up to the voluntary tax transparency code. We encourage the continued adoption of tax transparency practices (including the disclosure of assurance ratings), which builds and maintains community confidence that Australia's largest taxpayers are paying the right amount of tax.

Our approach

Justified trust is a concept from the Organisation for Economic Cooperation and Development (OECD).

We introduced the justified trust concept in 2016 and commenced the Top 1,000 income tax performance program as part of the Tax Avoidance Taskforce.

We apply the justified trust methodology and seek to obtain assurance of 4 focus areas:

1. That appropriate tax risk management and governance frameworks exist and are applied in practice. This includes the design of business systems to create, capture and report transactions correctly for GST purposes.

2. That none of the specific income tax or GST risks we have flagged to the market are present.
3. That tax outcomes of atypical, new, or significant transactions are appropriate.
4. That we understand why the accounting and tax results vary. We analyse the various streams of economic activity and how they are treated for taxation purposes. We also analyse the sales, acquisitions, and other data, and compare this to net GST paid.

We commenced the combined assurance program in 2020, with income tax assurance provided alongside a GST risk review. Where there were GST concerns identified, a standalone GST assurance review was undertaken to further explore the GST profile of the taxpayer. From April 2022, we expanded the combined assurance review product such that both income tax and GST are now assured at the same time.

In March 2024 we introduced a differentiated approach to assuring taxpayers, based on factors such as their size and the levels of assurance already attained.

Around 300 of the taxpayers identified as the largest 1,000 have turnover exceeding $1 billion and are known as 'significant taxpayers'. We will continue to assure the income tax reported and paid for all 4 years of the review period for these taxpayers. Where a significant taxpayer has achieved an overall high or medium assurance rating and has a stage 2 or 3 tax risk management and governance rating, we will tailor our assurance approach. We will primarily seek objective evidence from the last year of the review period, as well as objective evidence in respect of any significant transactions, events or risks flagged to market in the other years of the review period.

The remaining taxpayers, known as 'general taxpayers', will have a differentiated approach going forward. When reviewing these taxpayers for income tax, we will look to assure the economic activity in the last year of the review period, as well as any significant transactions, events or risks flagged to market in the other years of the review period. We will also consider any recommendations that were made in previous reviews.

For those general taxpayers that have achieved a stage 2 or 3 tax risk management and governance rating, and the overall assurance rating was medium or high, we'll adopt a lighter touch to refresh our assurance, continuing to provide an assurance rating covering the last year of the review period, plus any new or significant transactions, events or risks flagged to market in the intervening years.

We will apply a differentiated approach to assuring GST for taxpayers where we already have some assurance as to their reporting for GST through an earlier review. For taxpayers that have attained a stage 2 or 3 GST governance rating, and have a medium or high overall assurance rating, our subsequent reviews will initially focus on:

- any GST governance improvements made by the taxpayer since our earlier review
- understanding variances between accounting and GST reporting through the use of the GST Analytical Tool (GAT) or similar process (other than for taxpayers making predominantly input taxed supplies, where we will continue to use our e-audit approach), and
- what the taxpayer has done to address the concerns that were raised in the earlier review.

From there we will consider any areas that require further analysis and the objective evidence required to be assured in the combined assurance review.

We will continue to provide recommendations to taxpayers on how to improve and what actions the taxpayers should take at the end of the review. Matters may also be escalated for further ATO investigation as part of our next actions program where the identified concern is assessed as requiring ATO intervention to resolve (through review or audit).

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Top 1,000 income tax assurance

Findings from the Top 1,000 income tax performance and combined assurance reviews.

Last updated 18 September 2024

Income tax assurance

The Top 1,000 income tax assurance program ratings and observations.

- Tax risk management and governance
- Significant or new transactions, specific tax risks, and tax risks flagged to market
- Alignment of accounting and income tax outcomes
- Income tax next actions program

We have now completed 1,525 assurance reviews on 1,183 taxpayers since we started assurance reviews in 2016. The total of 1,525 reviews includes 622 combined assurance reviews, of which 343 are subsequent reviews, building on our earlier assurance (noting that a taxpayer reviewed under a streamlined assurance review was subsequently reviewed under 2 combined assurance reviews due to the business structure).

As the population for Top 1,000 has not been static, movements within the population mean there is variation in the entities that have met our selection criteria for a combined assurance review. As such, in 2024 we have reviewed some taxpayers for the first time, with 40% of taxpayers reviewed not previously subject to a streamlined assurance review under the Top 1,000 income tax performance program.

With the focus of the Top 1,000 program being brought back to the largest 1,000 taxpayers, over the coming years we expect the population to become more stable and there to be a reduction in the number of taxpayers reviewed for the first time.

Ratings

The overall level of assurance is based on an assessment, having regard to objective evidence, as to whether the taxpayer is considered to have paid the right amount of tax.

We apply consistent rating categories when considering the overall level of assurance.

Ratings categories for overall levels of assurance on income tax

Colour indicator	Rating	Category description
Green circle – Top 100 and 1000 graphs 34×34px	High	We obtained assurance that the taxpayer paid the right amount of Australian income tax for the income years reviewed.
Yellow dot denotes medium assurance rating	Medium	We obtained assurance in relation to some but not all areas reviewed. For those areas not yet assured, further evidence or analysis will be required before we obtain assurance that the taxpayer paid the right amount of Australian income tax.
Orange circle – Top 100 and 1000 graphs 34×34px	Low	We have specific concerns around the taxpayer's compliance with the Australian income tax laws and the amount of Australian income tax paid for the income year(s) reviewed.

Obtaining overall high assurance rating

In the Top 1,000 program, we apply a principled approach to reaching overall high assurance (justified trust). This is based on 2 elements:

1. A quantitative threshold of more than 90% tax assured and economic activity correctly reported
2. An objective assessment of 7 qualifying factors.

The 7 qualifying factors

1. Tax risk management and governance

When rated, tax risk management and governance is at least at stage 2.

2. Tax risks flagged to market and significant transactions

Any material or significant tax risks flagged to market (Practical compliance guidelines (PCGs), tax alerts, public rulings, including those set out in the Reportable Tax Position (RTP) Category C disclosures) have received at least a medium level of assurance and are not identified as requiring further action based on the information provided.

3. International related party dealings and controlled foreign companies (CFCs)

Any material or significant international related party dealings, profit attribution to permanent establishments and CFCs have received at least a medium level of assurance and are not identified as requiring further action based on the information provided.

4. Losses

Losses, if applicable, have received at least a medium level of assurance. This includes that the commerciality of losses has been appropriately verified.

5. Effective Tax Borne (ETB) / Book to Tax

The ETB calculation and any underlying assumptions or proxies have been verified with the taxpayer. Completion of an ETB calculation will be viewed favourably by the ATO. Where the ETB calculation has not been prepared by the taxpayer, a high assurance rating for alignment between accounting and tax results will be required.

6. RTP schedule

There are no inconsistencies in RTP schedule disclosures that are identified between lodgment of the tax return and finalisation of the review.

7. Cooperative and collaborative behaviour

It has been a cooperative and collaborative process and in working with a taxpayer we have not observed any non-cooperative behaviour.

Provisional High assurance rating

An overall provisional high assurance rating may be possible in limited circumstances. Such circumstances may include where the taxpayer has provided an undertaking and is actively working on addressing a specific design gap in their tax governance framework or there is ongoing compliance activity. Where there is ongoing compliance activity, provided the quantitative threshold is met (inclusive of that unassured issue), the availability of a provisional rating will depend on the nature and stage of the compliance activity.

Overall levels of assurance

Of the 1,183 taxpayers reviewed to date, 24% of taxpayers have achieved overall high assurance in their most recent review. This means we have assurance that these taxpayers have paid the right amount of Australian income tax for the income years reviewed. The majority of taxpayers (62%) have achieved overall medium assurance, which is a satisfactory outcome and provides a level of confidence about tax paid.

The most recent review includes both taxpayers that have had only one review as well as all taxpayers where we have carried out subsequent reviews to build on the assurance already attained. The assurance rating from a taxpayer's latest review has been included in the graph below.

Graph 1: Overall assurance ratings for all taxpayers in their most recent review as of 30 June 2024

Pie chart showing overall assurance rating, high 24%, medium 24%, low 14%, not rated 0%.

Due to the large number of taxpayers reviewed, any changes to the overall outcomes are gradual. It's also important to note that the Top 1,000 population is not static and due to movements in the population since the start of the Top 1,000 program, this graph includes ratings from taxpayers that were reviewed in the early years of the program and may no longer be included in the Top 1,000 population and have not had a second review.

As such, it is important to consider the outcomes for reviews completed in 2024. We continue to see high levels of assurance being maintained, as well as improvements in the level of assurance obtained. We have also seen a reduction in low assurance ratings. For the reviews undertaken in 2024, 27% of taxpayers obtained an overall high assurance rating, with 63% obtaining a medium assurance rating, and 9% obtaining a low assurance rating (with 1% not rated).

As shown in the following graphs, we continue to see positive shifts in levels of assurance attained for taxpayers that have had subsequent reviews.

Comparison of first and second review overall ratings

Comparing the outcomes from our first-time reviews to our second-time reviews gives us an indication of the impact that the program has in supporting tax compliance in the population. In the following information we consider this comparison in a number of ways and outline the insights that these give us.

We have reviewed 343 taxpayers for a second time, equating to approximately 38% of taxpayers reviewed under our tax performance program. Graph 2 shows the ratings for all taxpayers after their first review, compared to the ratings for the taxpayers that have been reviewed a second time.

This shows that, at a total population level, there is improvement in assurance outcomes for second-time reviews as compared to first. That is, there is a 10% increase in high assurance and 9% decrease in low assurance. Medium assurance continues to hold steady.

Graph 2: Overall assurance ratings for first review of all taxpayers and overall ratings for taxpayers after their second review as of 30 June 2024

"Bar graph shows outcomes from 1st review 1183 taxpayers: high assurance 24%, medium assurance 61%, low assurance 15%. Outcomes for 2nd reviews 343 taxpayers: high assurance 34%, medium assurance 60%, low assurance 6%."

This comparison can also be made in respect of the 343 taxpayers that have been reviewed a second time, comparing the outcomes of their first review to the outcomes of their second review. As we have seen at a population level, this comparison shows that these taxpayers have improved their ratings from the first review to the second, with the number of taxpayers achieving high assurance increasing, and the number attaining low assurance ratings decreasing.

Graph 3: Comparison of overall assurance ratings for taxpayers for their initial and second review as of 30 June 2024

Bar graph shows outcome from 1st review: high assurance 30%, medium assurance 59%, low assurance 11%. Outcome from 2nd review: high assurance 34%, medium assurance 60%, low assurance 6%.

For second time reviews finalised in 2024 (of which there were 96) we observed a substantial increase in high assurance, and a substantial decrease in low assurance (see graph 3a) for those specific taxpayers. Graph 3a shows that, in 2024 the taxpayers reviewed for a second time included more clients that had previously attained low assurance than was the case in prior year reviews.

The significant reduction in overall low assurance indicates that these taxpayers will likely have addressed the specific issues that were identified in their earlier review, which combined with improvements in governance ratings has also increased the number of taxpayers now achieving overall high assurance. Similarly, this has also reduced the number of taxpayers achieving an overall low assurance rating.

Graph 3a: Comparison of overall assurance ratings for taxpayers that had a second review conducted in 2024, as of 30 June 2024

Bar graph shows outcome from 1st review: high assurance 20%, medium assurance 58%, low assurance 22%. Outcome from 2nd review: high assurance 36%, medium assurance 59% , low assurance 5%.

Overall assurance rating for reviews completed by industry

Graph 4 shows overall assurance ratings for first time reviews of the entire population by industry type, as well as the results for second time reviews. High assurance ratings for first time reviews are broadly consistent amongst industries, whilst manufacturing, construction and agriculture, and wholesale, retail and services, continue to have the highest levels of low assurance for first time reviews.

Outcomes for second reviews are more positive across all industry populations.

Graph 4: overall assurance rating for reviews completed by industry as of 30 June 2024 by all first review outcomes and second review outcomes

Bar graph shows ratings for FS, MCA, MIN, WRS.

You can also view the **overall assurance ratings for reviews completed by industry in table format**.

Note that these groupings:

- align with the industry segments used by the ATO as part of the Corporate Tax Transparency Reporting except where we have amalgamated the Banking, Finance and Investment (BFI), Insurance (ISR) and Superannuation (SUP) segments into a Financial Services (FS) segment
- are
  - banking, finance and investment, superfunds and insurance (FS)
  - manufacturing, construction and agriculture (MCA)
  - mining, energy and water (MIN)
  - wholesale, retail and services (WRS).

Tax risk management and governance

Tax risk management and governance continues to be a key focus area under the justified trust methodology for large public and multinational businesses.

Documented tax control frameworks that are designed effectively provide a key foundation for our ability to assure that the right amount of tax has been paid. A stage 2 rating for income tax risk management and governance gives us confidence that the tax control framework is designed effectively and is required to obtain overall high assurance.

We look to see whether a fit-for-purpose tax risk management and governance framework is in place, is applied in practice, and tested regularly to ensure it is operating as intended.

We use the following guidance material to consider the existence, design and operation of a tax control framework for income tax, focusing on the 7 key justified trust controls:

- Tax Risk Management and Governance Review guide
- Income tax risk management and governance guidance for top 1,000 taxpayers (the Supplementary Guide).

The 7 key justified trust controls for income tax are:

1. **Board-level control 1** - Formalised tax control framework
2. **Board-level control 3**- Board is appropriately informed
3. **Board-level control 4**- Periodic internal control testing
4. **Managerial-level control 1**- Roles and responsibilities are clearly understood
5. **Managerial-level control 3**- Significant transactions are identified
6. **Managerial-level control 6**- Documented control frameworks
7. **Managerial-level control 7**- Procedures to explain significant differences.

Ratings

We apply a consistent rating system when reviewing and assessing tax risk management and governance. For more information about how we review tax risk management and governance, refer to Reviewing tax governance for large public and multinational businesses.

Stages

Colour indicator	Stage	Category description
Green circle – Top 100 and 1000 graphs 34×34px		The taxpayer provided evidence to demonstrate that a tax control framework exists, has been designed effectively and is operating effectively in practice.

Yellow circle – Top 100 and 1000 graphs 34×34px		The taxpayer provided evidence to demonstrate that a tax control framework exists and has been designed effectively.
Orange circle – Top 100 and 1000 graphs 34×34px	Stage 1	The taxpayer provided evidence to demonstrate a tax control framework exists.
Red circle – Top 100 and 1000 graphs 34×34px	Not evidenced or concerns	The taxpayer has not provided sufficient evidence to demonstrate a tax control framework exists or we have significant concerns with the taxpayer's tax risk management and governance.

Ratings for income tax risk management and governance

Graph 5 shows the income tax risk management and governance rating for each taxpayer as at their most recent review, with 54% of taxpayers at a stage 1 rating and 40% being at a stage 2 or 3 rating.

As with the overall assurance ratings, this graph includes the rating for income tax risk management and governance for all taxpayers as at their last review, including those that were reviewed in the early stages of the Top 1,000 assurance program.

Since the release of the **Supplementary Guide**, which provided additional guidance for Top 1,000 taxpayers on income tax risk management and governance, we have seen a significant increase in taxpayers achieving a stage 2 or 3 rating. We can see these positive shifts when considering the ratings for reviews conducted in 2024, with 34% of taxpayers reaching a stage 1 rating, and 53% achieving a stage 2 rating and 6% a stage 3 rating.

The number of taxpayers rated as red flag for governance has significantly reduced, with only 1% of those reviewed in 2024 receiving this rating. Governance was not rated in 6% of reviews, which can occur for various reasons, such as an entity joining another Tax Consolidated Group (TCG) or Multiple Entry Consolidated (MEC) group. In this case, we review the tax control framework of the group that acquired the taxpayer when we undertake a review of the acquirer, reflecting our point in time assessment of tax governance.

Graph 5: Overall income tax risk management and governance ratings for taxpayers in their most recent review, as of 30 June 2024

Pie chart shows percentage ratings, stage 3 - 3%, stage 2 -37%, stage 1- 54%, red flag - 3%, not rated - 3%.

This positive shift can also be seen when comparing the outcomes for first time reviews and second time reviews (see graph 6), as well as that comparison of outcomes for the taxpayers that have been reviewed a second time (see graph 7). Many of these taxpayers had the benefit of the Supplementary Guide when preparing for their second review, as well as the benefit of our comments from their first review, which we can see many have actioned.

The increases in ratings for tax risk management and governance for taxpayers reviewed a second time is demonstrated in graph 6, which shows the increase in both stage 2 and stage 3 ratings, with 6% of taxpayers reviewed achieving a stage 3 governance rating, and 50% achieving a stage 2 rating, at their second review.

We have also observed a reduction in the number of taxpayers that are prevented from achieving an overall high assurance rating as a result of not achieving a stage 2 governance rating. In 2024, 13% of taxpayers that achieved an overall medium assurance rating would have been able to achieve overall high assurance had they had an effectively designed governance framework, a reduction from 24% in reviews undertaken in 2023.

Graph 6: Overall income tax risk management and governance ratings for first review taxpayers, and overall ratings for second review taxpayers, as of 30 June 2024

Bar graphs shows outcomes from 1st review 1183 taxpayers, stage 2 - 29%, stage 1 - 64%. Outcomes for 2nd reviews 343 taxpayers: stage 2 - 50%, stage 1 - 36%.

Graph 7 provides this comparison in respect of the 343 taxpayers that have been reviewed a second time. Of these taxpayers, 24% obtained a stage 2 rating in their first review, and 50% obtained a stage 2 rating in their second review.

For both of these comparisons, we are seeing the shifts in both stage 2 and stage 3 ratings. The increase in stage 2 ratings is primarily due to an increase in Board endorsed commitments to conduct periodic internal controls testing, which is reflected in the tax control framework or the testing plan.

We are also observing taxpayers now undertaking testing, resulting in the increase in stage 3 ratings. We anticipate that the number of taxpayers achieving stage 3 ratings will increase as taxpayers meet their commitment to undertake period internal control testing.

Graph 7: Comparison of income tax risk management and governance ratings for second review taxpayers, as of 30 June 2024

Bar graph shows 1st review, stage 2 - 24%, stage 1 - 68%. 2nd review: stage 2 - 50%, stage 1 - 36%.

Industry comparison

Graph 8 shows the ratings for income tax risk management and governance, for first time and second time reviews, on an industry basis. This shows an improvement in governance ratings across all industries.

Graph 8: overall income tax risk management and governance ratings for all assurance reviews completed by industry, as of 30 June 2024, split by first- and second-time reviews

Bar graph shows ratings for FS, MCA, MIN, WRS.

You can also view the overall income tax risk management and governance ratings for all assurance reviews completed by industry in table format.

Areas of focus

The following are the issues for taxpayers to focus on and improve to address their income tax risk management and governance frameworks. These are specific observations from our recent reviews, and taxpayers should consider these in conjunction with our Supplementary Guide, and ensure the controls are 'fit for purpose'.

BLC 3: The Board is appropriately informed

Reporting templates must appropriately outline the minimum matters to be considered by the Board, sub-committee or delegate, including the effectiveness of the tax control framework, effective tax rate, potential and actual significant tax risks arising from significant transactions or events, and transactions that require approval of the Board or its delegate.

BLC 4: Periodic internal control testing

A taxpayer must evidence a commitment to undertake periodic internal control testing. This may be evidenced through a statement as part of the Board endorsed tax control framework, a Board endorsed testing plan, or written confirmation from the Board, a Board sub-committee, executive leadership team or other senior representative or delegate of the Board.

In terms of testing:

- Test scope should be set out in a document put together by an appropriately qualified independent reviewer which has been signed off by the control owners (tax function).
- Once the periodic internal control testing has been carried out by an appropriately qualified independent reviewer, we need to be provided with documents that allow us to understand:
  - the testing that has taken place, which outline the testing methodology, sample size selected, and types of source documents relied upon by the tester
  - the final results of the testing
  - the steps taken to address any of the concerns identified in the testing
  - Board acknowledgment of the testing results and the actions taken to address those concerns.
- For a stage 3 rating, a taxpayer must have completed the testing, and have established that the internal controls are operating effectively. Where the findings outline any concerns, we will seek to understand what was been done to address those before a stage 3 rating is given.
- The internal control testing must be carried out by an independent reviewer. This can be a third-party reviewer, or may be an internal audit function, provided the reviewer is independent of the tax control owner (there are separate reporting lines between the tax control owner and the internal reviewer). This reference to tax control owner extends to those to whom the tax related work is outsourced for example, a third party involved in preparation and

review of the income tax return is not considered to be independent for the purposes of testing.

MLC 6: Documented control frameworks

We have observed tax control manuals that don't provide sufficient detail to support the preparation or review of the tax return. This includes:

- where the tax return is prepared by an external advisor
- where the manual doesn't appropriately outline the internal steps taken to prepare the information submitted to the external advisor
- the steps taken when the external advisor provides the return for review and sign off.

MLC 7: Procedures to explain significant differences

Taxpayers need to ensure that there are appropriately documented procedures with sufficient detail on the process for reconciling the tax calculation prepared for financial statements and the completed tax return. Whilst this may be known to those involved, who are able to describe this process, we require this to be documented.

Governance over third-party data

Governance over third-party data continues to be a key focus area for investment industry entities. Documented third-party data tax control frameworks that are designed effectively provide a key foundation for our ability to assure that;

- the right amount of tax has been paid; and
- the right amount of tax attributes have been reported to members / beneficiaries of managed funds.

We published **best practice principles** for third party data governance in 2022 and adopted a transitional period. For reviews commenced after 1 July 2024, we expect relevant investment entities to have effectively designed controls in place. A stage 2 rating is the industry standard.

We recognise that some entities within the investment industry perform investment and reporting functions ‘in-house’ and do not have a traditional outsourced service provider relationship. However, our expectations for third-party data tax controls apply equally to these entities.

Areas of focus

Outlined below are the issues we have identified during the transitional phase and particular issues that will be a focus for all reviews commencing from 1 July 2024.

BLC 3: The Board is appropriately informed

We expect regular reporting to the Board on the performance of outsourced service providers, including whether there have been any breaches of the service level agreements. We have observed that some reporting templates include limited or no information about the breaches. The Board should be briefed on how the breach was rectified and what controls have been put in place to prevent such a breach from occurring again.

BLC 4: Periodic internal control testing

We have observed some entities including third-party data tax controls in the scope of internal tax controls testing plans. Most of these entities have sought assurance from their outsourced service providers in relation to the accuracy of the data received and processed by obtaining a copy of the GS007/ASAE 3402 report. However, many of the reports do not contain sufficient tax control objectives in the scope of the independent assurance. A report that does not include tax control objectives in its scope will not meet design effectiveness criteria.

MLC 1: Roles and responsibilities are clearly understood

We have observed a lack of oversight of changes to the IT systems or process improvement activities of outsourced service providers by some entities. We expect the entity's tax function or its external tax adviser to consider the impact of any changes to the systems or process improvements that provide data for tax reporting or tax calculations.

MLC 3: Significant transactions are identified

We have observed that most entities have definitions of 'significant' or 'complex' investments, including both qualitative or quantitative factors. However, criteria as to how the complexity of each investment will be assessed, as well as the escalation and sign off processes, may not be as clearly defined.

While most entities have a robust on-boarding tax due diligence process for new investments, exit or dissolution of complex or significant investments may often be overlooked. We recommend a post closure review is conducted to ensure the appropriate tax treatment.

In relation to significant transactions or events, data migration may occur due to a change in outsourced service provider, outsourcing of in-house functions, migration of investment platform by outsourced service provider or successor fund transfer. In this regard, we expect documented controls and processes for the planning, testing and migration of data from one administrator or custodian to another that consider these issues. Entities need to understand the differences in outsourced service providers' tax policies and the impact to tax data and document any changes to the tax return procedures.

MLC 6: Documented control frameworks

Entities need greater processes and controls to ensure the tax policy of the administrator is prepared in accordance with the tax law and reflected in the tax reporting relied upon by the entity, particularly for more complex entities.

We have noted an increase in international investments and as a result, some entities have implemented additional tax controls for complex foreign investments. However, where a custodian provides tax reporting on these foreign investments, the entity needs to understand the custodian's tax controls to review the information provided by offshore investment managers. Some entities simply rely on the tax reporting provided by the custodian even when the tax controls by the custodian may not be adequate for a particular type of investment.

Significant or new transactions, specific tax risks, and tax risks flagged to market

We seek to understand and review the income tax treatment of a taxpayer’s business activities, particularly atypical, new or significant transactions. We also review specific tax risks and determine whether concerns we have communicated to the market are present.

Ratings

We apply a consistent rating system when reviewing and assessing the income tax treatment of business activities including significant or new transactions and tax risks flagged to the market.

Ratings categories for tax risk management and governance on income tax

Colour indicator	Rating	Category description
Green circle – Top 100 and 1000 graphs 34×34px	High	We obtained a high level of assurance that the right Australian income tax outcomes were reported in the taxpayer's tax returns.
Yellow circle – Top 100 and 1000 graphs 34×34px	Medium	More evidence or analysis is required to establish a reasonable basis to obtain a high level of assurance.
Orange circle – Top 100 and 1000 graphs 34×34px	Low	More evidence or analysis is required to determine whether a tax risk is present.
Red circle – Top 100 and 1000 graphs 34×34px	Red flag	Likely non-compliance with the income tax law.
–	Out of scope	We have not evaluated this item or have not expressed a rating.

Observations

Outcomes from the review of significant or new transactions and specific tax risks tend to have a significant impact on overall assurance ratings of Top 1,000 taxpayers and are the areas that need the most time and effort in our reviews. The number of areas assured will vary between taxpayers, and the quality of objective evidence provided can have a significant impact on the overall assurance rating.

Obtaining a low assurance rating for a particular risk does not mean that the taxpayer will automatically achieve over low assurance. The overall rating will be influenced by a number of factors, including all ratings, nature of the issue and materiality. However, as outlined in our criteria for obtaining high assurance, a low assurance rating for some assurance areas will prevent a taxpayer from being able to achieve an overall high assurance rating. That is, taxpayers with low assurance ratings for these assurance areas will only be able to achieve an overall medium or low assurance rating, depending on the impact of that issue on the tax paid by the taxpayer.

As part of our review, we consider whether there are any public rulings or guidance, including practical compliance guidelines or taxpayer alerts, relevant to the significant or new transaction or specific tax risk. We consider the transaction or risk in light of the rulings or guidance, and this may impact the intensity of our review.

Our reports outline our view on the tax treatment adopted for each significant or new transaction and specific tax risk and outline any recommendations we have on steps the taxpayers should take to address concerns identified. In some cases, we have escalated our concerns for further investigation by way of an ATO next action.

The latest **Findings report Reportable tax position schedule Category C disclosures** provides the aggregated disclosures made by companies for the 2024 income year. The report provides insights into the types of arrangements large companies are entering into, including arrangements in addition to the following information. We will verify a taxpayers disclosures made in the Reportable Tax Position (RTP) Schedule when assuring the relevant tax risks in our review.

The following sections outline common areas of concern and items that attract our attention. The statistics provided are based on combined assurance review data but are broadly consistent with the outcomes from the Top 1,000 tax performance program.

Transfer mispricing

Transfer pricing is a natural feature of the international tax system, requiring entities to deal with related parties on arm’s length terms. Our concern is transfer mispricing, which is where arrangements don't reflect arm's length conditions, resulting in the tax base being shifted from Australia.

Common issues which continue to arise in relation to transfer pricing matters include:

- the inadequacy of information available to support transfer pricing positions, noting

  - we continue to observe taxpayers that are unable to produce contemporaneous or adequate transfer pricing documentation to support the arm's length nature of these transactions and their resulting profit outcomes
  - adequate transfer pricing documentation should outline the source and evidence relied on to identify the actual circumstances of the related party dealings, including functions performed, assets used and risks borne by the entities
- changes in transfer pricing policy or methodologies without an underlying change to the functional profile of a taxpayer, and inappropriate methodologies being selected given the taxpayer functional profile.

Transfer mispricing (other than financing)

In the combined assurance reviews, about 66% of taxpayers had non-financing related transfer pricing arrangements reviewed. This is the most common assurance area.

This area relates to a large number of dealings, ranging in varying complexity, and covers areas such as:

- inbound and outbound sale and purchase of tangible goods (largest category reviewed)
- management and administration services
- intellectual property and royalties
- licence fees
- sales marketing procurement and shipping arrangements
- provision and receipt of technical services
- research and development services.

For the combined assurance reviews, the following ratings were issued for transfer pricing (other than financing):

Transfer mispricing (other than financing)

Assurance ratings	CAR program outcomes

High	20%
Medium	57%
Low and red flag	23% (2 red flag rating)

We observe that taxpayers typically achieve higher assurance ratings in their second review as compared to those we review for the first time, with taxpayers having addressed some or all of our concerns following their first review.

We continue to see that about 40% of the ATO next action audits, escalated either directly from a Top 1,000 review or from a next actions review, include transfer mispricing issues (other than financing).

Licence fees and royalties continues to be the area that raises the most concern in our reviews, with the outcomes for this sub-category having the highest proportion of low assurance as compared to other sub-categories. When reviewing this sub-category, we consider whether genuine economic benefits are received by Australian entities in relation to licensed assets for which payment is made to international related parties.

We will also consider the functions performed, assets used, and risks assumed by the relevant entities in connection with the activities that develop, enhance, maintain, protect, and exploit the licenced assets. We will request any analysis undertaken by the taxpayers in their transfer pricing documentation with respect to the Australian operations to determine the level of assurance over these arrangements.

We also continue to identify concerns with arrangements regarding the inbound and outbound supply of goods and services. We will consider these arrangements with regard to Practical Compliance Guideline PCG 2019/1 *Transfer pricing issues related to inbound distribution arrangements*, considering a taxpayers self-assessment of the transfer pricing risk of their arrangements.

Financing (including related party financing)

In the combined assurance reviews, 51% of taxpayers had a financing area of assurance with the majority involving related party arrangements.

For the combined assurance reviews, the following ratings were issued for financing (including related party financing):

Financing (including related party financing)

Assurance ratings	CAR program outcomes
High	18%
Medium	54%
Low and red flag	28% (1 red flag rating)

The most common financing arrangements that attracted low or red flag ratings related to interest bearing loans, Redeemable Preference Shares, cash pooling and convertible notes.

We continue to observe higher risk arrangements where pricing and conditions aren't consistent with third -party transactions. We continue to see arrangements that are structured to avoid interest withholding tax or entities that don't meet the eligibility criteria for claimed exemptions from withholding tax. Financing arrangements constitute one of the key areas resulting in ATO Next Actions.

Other than transfer pricing on license fees and royalties, financing continues to be an area of the highest proportion of low and red flag assurance ratings as compared to other assurance areas.

For taxpayers that have been reviewed twice, we have observed that there is an improvement in their financing assurance ratings, as compared to outcomes for taxpayers being reviewed for the first time. Some of the reasons for improvement include implementing recommendations from the previous review, including providing their self-assessment against Practical Compliance Guideline PCG 2017/4 *ATO compliance approach to taxation issues associated with cross-border related party financing arrangements and related transactions* and supporting documentation. In some cases, taxpayers have refinanced out of or terminated higher risk arrangements.

We continue to apply the risk assessment framework published in PCG 2017/4 and consider the analysis prepared in transfer pricing documentations to review the arm’s length nature of financing arrangements. We expect taxpayers to provide contemporaneous evidence to support the commercial nature of their arrangements.

Hybrid mismatch

The full scope of the hybrid mismatch rules are now applicable for most income years being assured.

For the combined assurance reviews, the following ratings were issued for hybrid mismatch rules.

Hybrid mismatch

Assurance ratings	CAR program outcomes
High	41%
Medium	34%
Low and red flag	25% (2 red flag ratings)

A common reason contributing to medium or low assurance ratings for hybrid mismatch rules continues to be a lack of evidence of any substantial effort being made to comply with obligations in respect of the hybrid mismatch rules, in particular the imported hybrid mismatch rules.

As part of our assurance reviews, we refer to **PCG 2021/5** *Imported hybrid mismatch rule – ATO's compliance approach* and request evidence to support the processes and procedures taxpayers are taking to ensure compliance with the imported hybrid mismatch rule in Subdivision 832-H. It's important that this evidence is retained and provided when assuring this area.

Structured arrangements designed to reduce Australian tax

We continue to see arrangements that are structured to reduce or avoid Australian tax in our assurance reviews. In those cases, the low assurance ratings and red flags are sometimes associated with related party transactions or other structured transactions (including third party back-to-back transactions) promoted or designed to achieve Australian tax savings, including the following:

- contrived related party financing arrangements, including the use of financing transactions with special terms designed to either

- artificially defer or avoid interest withholding tax while having obtained annual Australian income tax deductions
- avoid or reduce dividend withholding tax upon repayment or redemption of contrived related party financing arrangements
- otherwise obtain deductions or avoid assessable income using arrangements designed to circumvent specific thin capitalisation debt and equity classification and hybrid mismatch rules

- intangibles arrangements designed to reduce or avoid Australian taxable income and/or reduce or avoid royalty withholding tax, including:
  - arrangements of the kind described in Taxpayer Alert TA 2018/2 *Mischaracterisation of activities or payments in connection with intangible assets* or within the scope of Draft Tax Ruling **TR 2024/D1** *Income tax: royalties - character of payments in respect of software and intellectual property rights*
  - intangible migration arrangements falling within the higher risk zones of **PCG 2024/1** *Intangibles Migration Arrangements*
- arrangements or variation of arrangements of the kind described in Taxpayer Alert **TA 2020/4** *Multiple entry consolidated groups avoiding CGT* – these arrangements broadly involve the transfer of assets to an eligible tier-1 (ET-1) and an ET-1 company exiting, or anticipating exit from, the multiple entry consolidated (MEC) group
- arrangements designed to avoid income being attributable to an Australian permanent establishment
- 'Inversion' or the interposition of partnerships or other entities, designed to
  - shift recognition of income and/or change or mischaracterise the nature of income
  - facilitate related party transactions to obtain Australian tax deductions
  - reduce or eliminate withholding tax
  - avoid the application of targeted or general anti-avoidance measures

- arrangements of the kind described in Taxpayer Alert TA 2020/5 – *Structured arrangements that provide imputation benefits on shares acquired where economic exposure is offset through use of derivative instruments*.
- arrangements of the kind described in draft Tax Determination TD 2024/4 - *Income tax: hybrid mismatch rules – application of certain aspects of the 'liable entity' and 'hybrid payer' definitions*.

Where we have identified such arrangements, the matters have generally attracted low assurance or red flag ratings and have been escalated for further ATO intervention through appropriate compliance activity.

Tax consolidation including MEC group changes

Our review of tax consolidation including MEC group structuring, acquisitions and disposals resulted in the following assurance ratings during the combined assurance reviews.

Tax consolidation

Assurance ratings	CAR program outcomes
High	63%
Medium	28%
Low	9%

Anti-avoidance issues (including MEC restructuring) escalated either directly from a Top 1,000 review or from a next actions review are present in approximately 27% of ATO next action audits, which remains consistent with our observation in recent years.

Some of the issues that we have seen in relation to tax consolidation include changes in membership of Australian tax groups through internal transactions or decisions designed to:

- increase or accelerate deductible losses or depreciation
- generate Australian tax deductions for anticipated asset write offs
- avoid tax on anticipated terminations or disposals

- generate foreign tax credits.

Key issues for acquisitions in relation to the entry allocable cost amount (ACA) calculations and the tax cost setting amount, include:

- inadequate documentation to support the ACA calculations
- acquisition costs incorrectly excluded from the Step 1 amount and treated as blackhole expenditure
- asset characterisation for the purposes of allocating the entry ACA, including other intangible assets that would more appropriately be classified as goodwill but being classified as separate assets for tax consolidation purposes.

Losses

Revenue and capital losses continue to be an area that we commonly review. We seek to understand the origin of the losses and focus on utilisation of losses (continuity of ownership and business continuity tests), transfer of losses and available fraction calculations.

For the combined assurance reviews, the following ratings were issued for losses.

Losses

Assurance ratings	CAR program outcomes
High	66%
Medium	23%
Low	11%

Low assurance ratings continue to arise as a result of insufficient evidence to support the utilisation of the losses (in particular, satisfaction of the business continuity test) and available fraction calculations (including market valuations of entities that joined the TCG or MEC group).

Uniform capital allowances (UCA)

When assuring capital allowance claims, we consider the systems and governance processes adopted, as well as the supporting evidence provided.

For the combined assurance reviews, the following ratings were issued for UCA.

UCA

Assurance ratings	CAR program outcomes
High	49%
Medium	39%
Low	12% (2 red flag rating)

Positively, UCA achieved high or medium in 91% of combined assurance reviews where taxpayers were reviewed for a second time, as compared to 85% for taxpayers reviewed as new entrants.

Most of the UCA reviews that obtained low or red flag assurance included recommendations for client next actions. The common issues identified include:

- inadequate documentation to support self-assessed effective lives of Division 40 assets and disclosure errors in tax returns
- incorrect asset classification and deductions claimed in relation to Division 40 and Division 43
- capital improvements versus repairs and maintenance
- incorrect low-value pool deductions.

Thin capitalisation

Thin capitalisation remains an ongoing focus area, noting that 53% of taxpayers reviewed had a thin capitalisation risk.

For the combined assurance reviews, the following ratings were issued for thin capitalisation.

Thin capitalisation

Assurance ratings	CAR program outcomes

High	75%
Medium	14%
Low	11% (1 red flag rating)

This area had a higher proportion of high assurance than other review areas. The majority of taxpayers relied on the safe harbour debt test.

In relation to the 11% of reviews with low or red flag ratings for thin capitalisation, the outcome continues to be attributable to some of the following reasons:

- unable to provide evidence for the safe harbour calculations or incorrectly calculated the safe harbour
- concerns with the application of the arm's length debt test, including contrary interpretative positions, inadequate documentation and evidence
- concerns with the application of the worldwide gearing method.

We expect taxpayers to implement adequate processes, self-assess against Practical Compliance Guideline **PCG 2020/7** *ATO compliance approach to the arm's length debt test* and make appropriate disclosures in the RTP Schedule.

The *Treasury Law Amendment (Making Multinationals Pay Their Fair Share - Integrity and Transparency) Act 2024* applies to income years commencing on or after 1 July 2023 (with the exception of the new debt deduction creation rules which apply to income years commencing on or after 1 July 2024). As the new thin capitalisation and debt deduction creation rules are likely to have a significant impact on Top 1,000 taxpayers, this will be a key focus area in upcoming combined assurance reviews.

Capital gains tax (CGT)

CGT events were assured in 41% of combined assurance reviews.

For the combined assurance reviews, the following ratings were issued for CGT.

CGT

Assurance ratings	CAR program outcomes
High	68%
Medium	22%
Low	10%

Of those that achieved a low assurance, the key issues included:

- concerns of the rollover exemptions or reductions
- active foreign business asset exemption – Subdivision 768-G
- market valuations supporting the cost base of assets (such as goodwill and intangible assets)
- the calculation (or evidence) of proceeds and insufficient evidence to support the CGT calculation.

Collective Investment Vehicle (CIV) specific issues

A fit-for-purpose tax risk management and governance framework is one area where we have identified frequent specific issues for managed investment trusts (MITs) and attribution managed investment trusts (AMITs) that have an impact on specific tax issues. These include MIT and AMIT annual eligibility testing as part of the annual tax return preparation, lodgment and self-assessment process and documented controls for the management of Under's and Over's for AMITs.

Documented processes, procedures and controls within an entity's tax control framework are needed to ensure these critical CIV specific risks are managed and mitigated consistently year on year.

Superannuation fund specific issues

Structured arrangements that provide imputation benefits

We have observed large superannuation funds using arrangements that rely on derivative instruments to rebalance their economic exposure to Australian shares. These arrangements involve longer term holding of physical Australian equities in excess of required economic exposure and shorting out through the use of derivatives such as futures contracts and total Return Swaps.

The dividend performance and capital performance of these shares are passed onto the counterparty of the derivative instrument, while the fund continues to claim franking credits in relation to actual dividends received. These rebalancing activities may also involve long position derivative instruments in other asset classes (international equities or fixed interest).

Taxpayer Alert TA 2020/5 *Structured arrangements that provide imputation benefits on shares acquired where economic exposure is offset through use of derivative instruments* outlines the Commissioner's concerns with arrangements providing inappropriate imputation benefits where, as a result of derivative instruments entered into as part of the arrangement, the taxpayer returns no, or nominal, economic exposure to the dividend and capital performance associated with that parcel of shares. The Commissioner's current concerns are not limited to the examples in TA 2020/5, but also extended to instances where a short position derivative instrument relating to Australian shares may be used some time after the acquisition of the relevant shares.

Entering into these arrangements may result in the taxpayer no longer being a qualified person under Division 1A of the former Part IIIAA of the Income Tax Assessment Act 1936 and is therefore not entitled to claim franking credits on those related shares.

The use of some short position derivative instruments relating to Australian shares was prevalent in 25% of funds reviewed in 2024, with 60% achieving a low assurance rating where sustained net short positions against Australian shares were observed in consecutive quarters. Taxpayers that obtained low assurance will have Client Next Actions or further ATO intervention to further consider these arrangements.

Project costs

We have observed many superannuation funds have either no, or insufficient, documented tax policies to correctly identify and characterise costs relating to projects that provide enduring benefits. This results in outgoings being treated as deductible under section 8-1 of the Income Tax Assessment Act 1997 rather than forming part of a cost base or claimed under black hole expenditure provisions.

We have also observed that where some funds do have documented tax policies, these policies don't reflect the Commissioner's view on labour costs related to creating capital assets as expressed in Taxation

Ruling **TR 2023/2** *Income tax: application of paragraph 8-1(2)(a) of the Income Tax Assessment Act 1997 to labour costs related to the construction or creation of capital assets*.

Over 50% of funds reviewed in 2024 included project costs as an area of assurance, with 46% achieving a low assurance rating. Where we have low assurance over the claiming of outgoings relating to project costs, we have recommended clients implement or amend tax policies on project costs.

Corporate limited partnership distributions

We have observed an over reliance on third-party data to treat the components of corporate limited partnerships according to distribution statements, often where the characterisation of the distribution may not match the underlying economic activities. The distribution statements appear to display a potential over representation of return of capital characteristics.

Following the release of the **Third Party Data Supplementary Guide**, we have observed some improvements from larger superannuation funds engaging with general partners to ensure amounts reported as capital and income better match the underlying economic activities.

Over 66% of funds reviewed in 2024 included corporate limited partnerships as an area of assurance, with 77% achieving a medium assurance rating, and 23% at low assurance.

The release of the Guide, and our future assurance rating on third-party data is intended to mitigate the risk by demonstrating better practices for obtaining relevant information to appropriately characterise distributions. We will continue to assess the accuracy of distributions and consider further ATO intervention where appropriate.

Alignment of accounting and income tax outcomes

We analyse the differences between the accounting and income tax results and seek to understand and explain any variances.

Ratings

We apply a consistent rating system when reviewing and assessing the alignment of accounting and income tax outcomes.

Ratings categories for alignment with income tax

Colour indicator	Rating	Category description
Green circle – Top 100 and 1000 graphs 34×34px	High	We understand and can explain the various streams of economic activity and why the accounting and income tax results vary.
Yellow circle – Top 100 and 1000 graphs 34×34px	Medium	Further analysis and explanation are required to understand the various streams of economic activity and/or why the accounting and tax results vary.
Orange circle – Top 100 and 1000 graphs 34×34px	Low	We identified concerns from our analysis of the various streams of economic activity and/or why accounting and tax results vary.
Red circle – Top 100 and 1000 graphs 34×34px	Red flag	We do not understand and cannot explain the various streams of economic activity and/or why accounting and tax results vary.

The assurance reviews completed to the end of June 2024 resulted in the following ratings for alignment between accounting and income tax for first time and second time reviews.

Graph 9: Alignment of accounting and income tax ratings for first reviews of all taxpayers and alignment of accounting and income tax ratings for taxpayers after their second review, as of 30 June 2024

"Bar graph shows outcomes from 1st review 1183 taxpayers, high assurance 86%, medium assurance 12%. Outcomes from 2nd review 343 taxpayers, high assurance 93%, medium assurance 7%.

Graph 10: Comparison of alignment of accounting and income tax ratings for taxpayers that have had second reviews, as of 30 June 2024

Bar graph shows 1st review high assurance 93%, medium assurance 11%. 2nd review shows high assurance 93%, medium assurance7%.

Observations

Most Top 1,000 taxpayers achieved a high assurance rating (86%) for the alignment between accounting and income tax in their first review.

As shown in graph 10, we continue to see improvements in outcomes for taxpayers that have been subject to a second review, with increased high assurance ratings from 88% (first reviews) to 93% (second reviews) as well as a decrease in low assurance ratings in second reviews.

We generally obtain high assurance over reported income and expenses as most taxpayers have audited financial statements and we can reconcile the financial statements with the starting profit and loss before tax disclosed in the relevant income tax return. The provision of detailed statements of taxable income has enabled us to obtain assurance over the adjustments from accounting results to calculate the taxable income and tax payable figures.

This is more challenging for multiple entry consolidated (MEC) groups, foreign bank branches and stapled groups but we find that taxpayers have been able to provide sufficient evidence for us to understand the variances between the accounting and tax results.

For those taxpayers that don't achieve high assurance for this pillar of Justified Trust, the concerns continue to be due to the inability to provide detailed workpapers to support the permanent and timing differences. Taxpayers will also achieve a low or medium assurance rating where there is an inability to reconcile the starting profit and loss before tax per the financial statements to the tax return.

In almost all of these cases, income tax risk management and governance was assigned a stage 1 or a red flag rating (including decreased ratings for taxpayer reviewed a second time) which emphasises the importance of robust tax governance in reducing the risk of inadvertent errors and supporting the tax positions adopted.

We are also identifying CIV specific issues around alignment between accounting and tax results and the reconciliation of total net income/determined trust components to the accounting profit or loss. Accounting profit or loss is reported in the tax return before temporary and permanent adjustments for tax purposes are made to determine the total net income/determined trust components. These are undertaken for both ToFA and other arrangements for tax purposes.

Working papers are required to identify and provide details as to the purpose and reason (including the legal basis) for each adjustment made for tax purposes to enable an evidenced reconciliation.

These should include for ToFA adjustments, the applicable default or ToFA election utilised with reference to the financial accounts, and for other items the reason for the adjustment and the matching of the adjustments from the financial accounts. For example, black hole expenditure claims require evidence to support the value and incurrence of the expenditure and legal reasoning for the treatment under Division 40-880 of the ITAA 1997 for tax purposes, distinct from the identifiable deduction for accounting purposes from the financial statements and the reversal.

Where the financial accounts are consolidated, the working papers are required to provide a methodology to demonstrate the deconstruction including a breakdown of amounts applicable to each entity included within the financial statements, identifying the accounting profit or loss attributable to the entity under review and every other entity consolidated for financial accounting purposes.

Income tax next actions program

Where we identify concerns, we will notify taxpayers of our recommendations or any steps the taxpayer needs to undertake.

Client next actions

For ‘Client next actions’, we require the taxpayer to confirm the steps taken to address our concerns and recommendations. We may follow up the steps a taxpayer has taken at the next assurance review, or we may follow up a specific issue earlier. We will outline an expected timeframe for the follow up enquiry and expect taxpayers to provide further information in a timely manner.

ATO next actions

If we identify concerns that require further intervention through an ‘ATO next action’, we will indicate the matters that will be escalated for further review. We will notify taxpayers at the end of the combined assurance review if we are going to conduct further investigations through the ATO next actions program. We provide guidance to taxpayers as to how to prepare for the follow up engagement and what to expect. Preparation will assist with the earlier resolution of the matter.

ATO next actions are not assurance reviews. Next actions are a more intensive ATO investigation and can include specific or comprehensive income tax risk reviews and audits.

When the ATO engages with a taxpayer for ATO next actions, we focus on the issues that are of the greatest concern to us, such as issues that received a red flag or low assurance rating in the taxpayer's assurance report.

ATO next action outcomes

For combined assurance reviews completed in 2024, approximately 9% of cases had at least one issue escalated for ATO next actions. This is slightly lower than the number escalated since the commencement of the combined assurance review, with around 12% of reviews having been escalated. The number of taxpayers referred under the combined assurance review is significantly less than the number escalated in the earlier Top 1,000 tax performance program, whereby approximately 24% of taxpayers reviewed in a streamlined assurance review were escalated for further ATO action.

Since the beginning of the assurance programs, we have completed ATO next actions engagements with over 260 taxpayers from approximately 220 economic groups, and over 70 engagements on hand as of 30 June 2024.

For these engagements in progress, approximately half are risk reviews and half are audits. This increase in audit activity is largely due to the maturity of the program, as issues remain unresolved following a review have progressed to audit. As our case selection for ATO next actions continues to refine, we are also seeing more cases move directly to audit from an assurance review. This is particularly likely where entrenched differences of views have been identified during the assurance review.

How to prepare for an ATO next actions engagement

We encourage taxpayers to prepare for their ATO next actions engagement. This includes preparing evidence to demonstrate they have addressed the actions noted in their assurance report and documented the steps that they have taken.

Taxpayers that choose not to adopt the recommendations in their assurance reports are encouraged to provide evidence supporting their position.

The better prepared and more open and transparent a taxpayer is, with contemporaneous evidence to support positions, the more likely the ATO next actions engagement can be resolved within a shorter timeframe. Taxpayers can also reduce their penalty exposure and it is less likely the matter will progress to an audit.

Most taxpayers do work with us to resolve identified concerns. The following are factors that are more likely to expedite resolution:

- provision of additional evidence requested in the Top 1,000 combined assurance review report
- amending the tax outcomes associated with the arrangement to reflect the ATO view, for example, moving to low-risk zones on areas covered by our practical compliance guides (as long as no deeper structural issues exist).

The following are some factors which we are seeing that are more likely to entrench dispute or delay resolution:

- general statements of commercial purpose particularly where debt is introduced, or business operations are fundamentally changed
- vague or contestable evidence supporting classification of payment streams
- offers to reprice arrangements in exchange for not considering anti-avoidance rules
  - anti-avoidance rules are not used as a negotiation point
  - where anti-avoidance concerns are raised, full and detailed analysis will be needed (supported by provision of evidence).

QC 67407

Top 1,000 GST assurance

Findings from the Top 1,000 GST assurance review program and combined assurance reviews.

Last updated 18 September 2024

On this page

GST assurance

The Top 1,000 population is the largest contributor to GST and makes up about 38% of the total net GST collections. We have completed 735 reviews for GST through two Top 1,000 programs. This is made up of:

- 193 assurance reviews through the GST streamlined assurance program (program ended 30 June 2023)
- 340 combined assurance reviews where we conducted a risk review approach and didn't provide an assurance rating
- 202 combined assurance reviews where we provided an assurance rating, including 59 where the taxpayer was reviewed for a second

time.

As with income tax, a stage 2 rating for GST governance and control framework is required to achieve an overall high assurance rating. This reinforces the strong correlation between poor governance and inadvertent or system errors that result in GST reporting mistakes and GST lodgment revisions.

Whilst the majority of taxpayers have been rated as being a stage 1 rating for GST governance as at their last review, we have observed an increase in the number of taxpayers achieving stage 2 and stage 3 ratings. This has led to increases in overall high assurance for GST in recently completed reviews, which we expect to continue to see as we further review the population.

Ratings

The overall level of assurance is based on an assessment, having regard to objective evidence, as to whether the taxpayer is considered to have paid the right amount of GST.

We apply consistent rating categories when considering our overall level of assurance.

Ratings categories for overall levels of assurance on GST

Colour indicator	Rating	Category description
Green dot	High	We obtained assurance that the taxpayer paid the right amount of GST for the scope and period of this review.
Yellow dot	Medium	We obtained assurance in relation to some but not all areas within the scope reviewed. For those areas not yet assured, further evidence and/or analysis will be required before we obtain assurance that the taxpayer paid the right amount of GST.
Orange dot	Low	We have specific concerns around the taxpayer's compliance with the GST laws and the amount of GST

		paid relevant to the period and scope of this review.

Obtaining overall high assurance rating

In the Top 1,000 program, we apply a principled approach to reaching overall high assurance (justified trust). This is based on 2 elements:

1. A quantitative threshold of more than 90% tax assured and economic activity correctly reported, and

2. An objective assessment of 5 qualifying factors.

The 5 qualifying factors

1. Tax risk management and governance

Tax risk management and governance is rated at least a stage 2.

2. Tax risks flagged to market

Any material or significant tax risks flagged to market (Practical compliance guidelines (PCGs), taxpayer alerts) reviewed in the combined assurance review must each receive at least a medium level of assurance and not require any further ATO next actions based on the information provided.

3. New, significant transactions and specific tax risks

Any material new or significant transaction reviewed in the combined assurance review must each received at least a medium level of assurance and not require any further ATO next actions based on the information provided.

4a. Alignment between accounting and tax results - GST Analytical Tool (GAT)

The GAT calculation and any underlying assumptions or proxies have been verified with objective evidence provided by the taxpayer. The GAT calculation has not highlighted any new areas of concern and is rated as high assurance.

4b. Correct Reporting (predominantly input taxed suppliers only)

The results of the e-audit / third party data testing and transaction testing have been verified with objective evidence provided by the taxpayer. The data and transaction testing has not highlighted any new areas of concern and is rated as high assurance.

5. Cooperative and collaborative behaviour

The taxpayer has been engaged and collaborative throughout the process and in working with the taxpayer we have not observed any non-cooperative behaviour.

Overall levels of assurance

This year we have seen an increase in the number of taxpayers where we have assurance that they have paid the right amount of GST, with 37% of taxpayers assured now at overall high assurance at their last review. The majority of taxpayers (59%) have a medium overall assurance rating, and 4% have a low assurance rating (see graph 11).

This increase is a result of 44% of reviews in 2024 achieving an overall high assurance rating. The number of taxpayers achieving a low assurance rating in this year was consistent with the overall population (5%), and 51% of taxpayers reviewed in the year obtained a medium assurance rating.

We have now reviewed 59 taxpayers for GST for a second time. Due to this small number, we haven't included comparison graphs in this report, but note that we observed an increase in overall high assurance ratings, with 53% of these taxpayers achieving an overall high assurance rating compared to 22% achieving an overall high assurance rating on their first review. We anticipate that we will be able to publish a comparison in the 2024/2025 findings report.

5% of all taxpayers reviewed in 2024 obtained an overall low assurance rating, which remains relatively constant from previous years. For these taxpayers that were rated as overall low assurance in 2024 reviews, all had a governance framework not designed effectively, and as a result the rating was a stage 1 or a red flag. In most of these cases, the GAT was also a low assurance or red flag.

Graph 11: Overall assurance ratings for all GST assurance reviews in their most recent review, as of 30 June 2024

Pie graph shows percentage ratings, high assurance 37%, medium assurance 59%, low assurance 4%.

Overall assurance rating for reviews completed by industry

Graph 12 shows overall assurance ratings for the entire population. We continue to see lower levels of high assurance in the wholesale, retail and services industry.

Graph 12: Overall GST assurance ratings by industry split for all GST assurance reviews as at their most recent review, as of 30 June 2024

Bar graph shows assurance ratings for FS (27) high 41%, medium 55%, MCA (81) high 47%, medium 49%, MIN (44) high 41%, medium 57%, WRS (189) high 31%, medium 64%.

Note that the graph shows the overall assurance ratings by the number of taxpayers for the following key industry groupings:

- manufacturing, construction and agriculture (MCA)
- financial services (FS) (banking, finance and investment, superfunds, and insurance)
- wholesale, retail and services (WRS)
- mining, energy and water (MIN).

Tax risk management and governance

Tax risk management and governance is a key focus area. As a transactional tax that is data driven, it is important that there is a strong, board-endorsed tax governance framework and that it is 'lived' in practice.

We consider the existence, design and operation of a tax control framework for GST focusing on the 8 controls set out in the GST Governance, Data Testing and Transaction Testing Guide (GST Guide)

The GST Guide provides guidance to help taxpayers conduct a self-review of their tax control frameworks for GST purposes. Our reviews focus on the following controls aligned with the justified trust objectives:

1. **Board-level control 1 (BLC 1)**-Formalised tax control framework
2. **Board-level control 3 (BLC 3)**- The board is appropriately informed

3. **Board-level control 4 (BLC 4)**- Periodic internal control testing
4. **Managerial-level control 1 (MLC 1)**- Roles and responsibilities are clearly understood
5. **Managerial-level control 3 (MLC 3)**-Significant transactions are identified
6. **Managerial-level control 4 (MLC 4)**- Controls in place for data
7. **Managerial-level control 6 (MLC 6)**- Documented control frameworks
8. **Managerial-level control 7 (MLC 7)**- Procedures to explain significant differences.

For GST, our key focus is on BLC 4, MLC 4, MLC 6 and MLC 7 as they directly impact the correct reporting of GST.

Ratings

We apply a consistent rating system when reviewing and assessing tax governance. We consider the existence, design and operation of a tax control framework for GST. During the review, we refer to the initial areas of focus set out in the GST Guide before their review starts.

Ratings

Colour indicator	Stage	Category description
Green dot	Stage 3	The taxpayer provided evidence to demonstrate that a tax control framework exists, has been designed effectively and is operating effectively in practice.
Yellow dot	Stage 2	The taxpayer provided evidence to demonstrate that a tax control framework exists and has been designed effectively.
Orange dot	Stage 1	The taxpayer provided evidence to demonstrate a tax

		control framework exists.
Red dot	Not evidenced or concerns	The taxpayer did not provide sufficient evidence to demonstrate a tax control framework exists or we have significant concerns with the taxpayer's tax risk management and governance.

The tax governance ratings for the GST assurance reviews for taxpayers reviewed up to the end of June 2024, as at their most recent review, are in graph 13.

Graph 13: GST governance assurance ratings for all GST assurance reviews based on the most recent review, as of 30 June 2024

Pie chart shows percentage ratings, stage 3 - 3%, stage 2 - 39%, stage 1 - 57%, not rated - 1% red flag - 0%.

In graph 13 most taxpayers (57%) achieved a stage 1 for GST tax governance, as at their last review.

In the last 12 months we have seen an increase in the number of taxpayers with effectively designed GST governance, with 45% of those reviewed in 2024 achieving a stage 2 rating. Further, 5% of taxpayers reviewed achieved a stage 3 rating for governance, having been able to provide evidence that their controls are operating effectively. This is a significant shift from prior years, and one we anticipate will continue.

We have observed a positive increase in taxpayer willingness to develop board approved GST testing plans and, in the absence of a plan, a board endorsed commitment to undertake controls testing within a 3–5 year rolling audit period. This increase in providing such commitments for BLC4 is the main driver contributing to the increase in stage 2 ratings for governance in GST.

A stage 1 rating for governance is the most significant reason preventing taxpayers from achieving overall high assurance for GST. Across all GST assurance reviews, 40% of taxpayers achieving an overall medium assurance rating would have achieved high had their governance been designed effectively. For reviews completed in 2024, 30% of taxpayers that achieve an overall medium assurance rating would have reached an overall high assurance rating had they achieved a stage 2 for governance, reinforcing that we are seeing improvements in GST governance.

Areas of focus

The way in which a taxpayer's systems create, capture, collate and report GST is fundamental to the correct reporting of their GST obligations. The ATO considers the GST governance and tax control framework supporting this is one of the most significant focus areas for a GST assurance review because incorrectly reported transactions can often lead to significant GST effects over time. For example, an error in the way a supply is coded for GST purposes can extrapolate to significant GST shortfalls when replicated through large volumes of sales.

The following information are the issues for taxpayers to focus on and improve to address their GST risk management and governance frameworks. These are specific observations from our recent reviews, and taxpayers should consider these in conjunction with the GST Governance, Data Testing and Transaction Testing Guide

In addition to these comments, we note that as more taxpayers are reaching a stage 2 rating for their income tax risk management and governance framework, and commence carrying out periodic internal control testing, we expect taxpayers will also commence testing their GST controls.

When assessing whether a taxpayer has GST controls that are operating effectively, we will first confirm that the controls are designed effectively, either by considering any changes to the controls since our earlier review, or where we haven't previously rated those controls at stage 2, by examining the objective evidence to support a stage 2 rating.

Taxpayers should ensure they have assessed their GST controls as meeting the requirements for design effectiveness by reference to the GST Governance, Data Testing and Transaction Testing Guide prior to commencing periodic internal control testing.

Common controls

Five controls are referred to as the 'common controls' (BLC1, BLC3, MLC1, MLC3 and MLC7) because the design elements are equally as critical for both income tax and GST, and there are common features in the way these controls are evidenced. In situations where these common controls are not at a stage 2 for GST, it is typically due to a control being designed for income tax, but that design doesn't extend to GST.

With MLC 7, taxpayers are generally able to describe their procedures for the monthly reconciliation of the BAS outcomes with the general ledger. We observed that most taxpayers regularly carry out a monthly reconciliation of the BAS outcomes with the general ledger, however there is generally no reconciliation between the BAS outcomes and the audited financial statements. A small number of taxpayers are now including this as a feature of their MLC7 control.

BLC 4: Periodic internal control testing

A taxpayer must evidence a commitment to undertake periodic internal control testing. This may be evidenced through a statement as part of the Board endorsed tax control framework, a Board endorsed testing plan, or a written confirmation from the Board, a Board sub-committee, executive leadership team or other senior representative or delegate of the Board.

Once the periodic internal control testing has been undertaken by an appropriately qualified independent tester, we need to be provided with documents that allow us to understand:

- the testing that has taken place, which outline the testing methodology, sample size selected, and types of source documents relied upon by the tester
- the final results of the testing
- the steps taken to address any of the concerns identified in the testing
- Board acknowledgment of the testing results and the actions taken to address those concerns.

We have observed a willingness for taxpayers to develop board approached GST testing plans, and in the absence of a board approved plan, to provide a board endorsed commitment to undertake controls testing within a 3 to 5 year rolling audit period. This increase in providing such commitments is the main driver contributing to the stage 2 ratings for governance in GST.

MLC 4: Controls in place for data

We have increasingly seen taxpayers with robust controls in place for data for supplies and acquisitions made in the normal course of business. Taxpayers need to focus on ensuring that there are appropriate fully documented procedures in place for processing accounts payable and accounts receivable and specifically addressing manual adjustments that are outside the usual ledgers, including unusual or 'one-off' transactions, manual adjustments to correct errors and routine end of month or year adjustments.

MLC 6: Documented control frameworks

Taxpayers are generally able to describe their BAS preparation process, including the data and trend analysis that is undertaken, and any exception reporting processes. However, to achieve a stage 2 rating, taxpayers need to focus on ensuring that the fundamental aspects are fully documented, including segregation of duties, ledger to lodged BAS reconciliation, and trend and exception reporting.

Significant and new transactions, specific tax risks and tax risks flagged to market

We review the GST treatment of the taxpayer’s business activities, particularly significant and new transactions. We also review risks or concerns communicated to the market to determine if they are present.

Ratings

We apply a consistent rating system when assessing the GST treatment of taxpayer’s business activities.

Ratings

Colour indicator	Rating	Category description
Green dot	High	We obtained a high level of assurance that the right GST outcomes were reported in the taxpayer's BAS for the scope and period of this review.

Yellow dot	Medium	More evidence or analysis is required to establish a reasonable basis to obtain a high level of assurance.
Orange dot	Low	More evidence and analysis is required to determine whether a tax risk is present.
Red dot	Red flag	We have concerns there is non-compliance with the GST law.
–	Out of scope	We have not evaluated this item and not expressed a rating.

Observations

The following areas are key GST risk areas that result in corrections to returns reporting and lower assurance ratings. These may not apply to all taxpayers.

Supplies and acquisitions

A common GST risk is incorrect reporting of supplies and acquisitions from inadvertent errors. Often such errors are identified from a taxpayers' self-review of its systems and reporting of GST and result in the taxpayer voluntary disclosing a GST shortfall for tax periods both within and outside the tax periods being reviewed. We observe these types of preventable errors when taxpayers make voluntary disclosures upon being notified of a review starting and throughout the progress of the combined assurance review, with this occurring in 40% of combined assurance reviews carried out in 2024.

Whilst the disclosures for these errors may not be material in dollar terms, it is important for business to have good governance and control frameworks in place that detect and remediate errors on a regular basis. The transactional nature of GST means that undetected errors can compound to material amounts unless identified and addressed. We have also received voluntary disclosures where errors have occurred in relation to one-off transactions that are not core business activities.

Specifically in relation to supplies we have observed the following:

- misclassification of supplies as GST-free (for example, exports, health and food products)
- incorrectly treating adjustment events associated with supplies made in previous periods (for example, the provision of volume rebates)
- accounting and BAS reporting errors
- errors in reporting GST on post tax employee contributions
- related party transactions including tripartite / multiparty transactions.

Although some errors were identified, importantly approximately 89% of taxpayers reviewed achieved high assurance for supplies, in reviews where GST was assured.

Specifically in relation to acquisitions we have observed the following:

- incorrectly treating an acquisition as creditable, such as non-deductible entertainment expenses
- incorrectly claiming input tax credits where suppliers have either no GST registration, no ABN, an invalid ABN, or a cancelled ABN
- tax coding and system setup errors
- incorrectly claiming input tax credits on amounts provided to employees as an allowance
- related party transactions including tripartite and multiparty transactions
- application of Division 78 on claiming a decreasing adjustment on settlement payments in the insurance section.

Although some errors were identified, importantly approximately 90% of taxpayers reviewed achieved high assurance for acquisitions.

Financial supplies

Financial supplies and acquisitions arise not only in the financial services sector but also when a taxpayer in any industry engages in mergers, demergers, company acquisitions, initial public offerings or other similar activities involving share transactions. Whilst we observe that taxpayers understand that these supplies are input taxed, some taxpayers are not carrying out Financial Acquisition Threshold (FAT) analysis to determine whether input tax credits can be recovered on associated costs including certain preparatory costs.

Additionally, the following issues continue to attract our attention, or have come to our attention in recent reviews:

- taxpayers seeking to recover Reduced Input Tax Credits (RITCs) on costs without fully considering whether those costs are eligible for a RITC, including mixed supplies under IT outsourcing contracts
- taxpayers not applying the reverse charge provisions to services provided to it by overseas based branches or associated entities, for example, information technology and administration related support services
- taxpayers applying a revenue-based apportionment methodology in cases where there are large amounts of GST-free income from large one-off overseas loans, resulting in an input tax credit recovery rate that is not reflective of the way in which acquisitions are applied in the operation of the business
- taxpayers seeking to rely on apportionment approaches agreed in historical ATO interactions which no longer reflect current interpretation
- general insurers not having adequate controls in place to verify and sense check the input tax credit entitlement of the insured used in calculating decreasing adjustments.

We encourage taxpayers to consider practical ATO guidance published in relation to:

- **Application of the reverse charge provisions – findings of reviews**
- Goods and Services Tax Ruling **GSTR 2004/1**: *Goods and services tax: reduced credit acquisitions*
- **ATO expectations on how you support your reduced input tax credit claims on complex information technology outsourcing agreements**

GST classification

We continue to see classification of products by suppliers/wholesalers and retailers that are not consistent with the ATO view. Whilst in some situations a taxpayer takes a different technical position to the ATO view, the majority of these situations are due to a lack of governance controls as part of MLC4.

In addition to controls regarding the way in which the tax treatment of supplies is determined, taxpayers should also be doing regular reviews of their product master data to determine whether any inadvertent errors have been made. The frequency of these reviews will depend on the nature of the taxpayer's business.

Recent public advice and guidance have been published to assist taxpayers with their GST classification decisions including:

- **GSTD 2024/1 Goods and services tax: supplies of combination food.** The Determination provides guidance on when a supply of food is a combination of one or more foods, at least one of which is a taxable food a combination food) for the purposes of paragraph 38-3(1)(c) of the GST Act.
- Draft **GSTD 2024/D1 Goods and services tax: supplies of food of a kind marketed as a prepared meal.** This draft Determination outlines the Commissioner's view on the meaning of 'food of a kind marketed as a prepared meal' by reference to key concepts referred to in the Federal Court decision in **Simplot**.
- Draft **GSTD 2024/D2 Goods and services tax: supplies of sunscreen**. This draft Determination explains the Commissioner's preliminary view on when a supply of a sunscreen product is GST-free.
- Updates to the **Detailed Food List** which included:
  - adding and updating entries that were identified as a priority through industry feedback
  - adding new entries to reflect ATO views in recent advice and compliance activities
  - updating 304 food and beverage product entries to better explain why they are GST-free.
- A **new self-review guide** (for medium to large businesses) for GST classification of products has been published to provide taxpayers with practical step-by-step guidance to:
  - carry out regular self-review of the GST classification of their supplies

- assess the robustness of business system processes and controls that directly impact the decisions on GST classification of supplies.

Property

We have a continued focus on assuring the correct treatment of property transactions and supplies of accommodation including assuring that the margin scheme is applied correctly and that supplies are correctly classified in arrangements for provision of short-term accommodation by accommodation providers.

We observed the complexity in determining whether supplies were taxable as commercial residential premises or input taxed as residential premises. It is important for taxpayers to maintain all object evidence to support their positions.

Key focus areas are the characterisation of supplies, correct application of the adjustment provisions and apportionment of related costs for relevant taxpayers where there is a mix of GST treatment of supplies being made.

Recipient created tax invoices (RCTI)

In the assurance reviews we have seen some of the following issues when reviewing RCTI:

- valid RCTI agreements are not in place (separate or embedded in the RCTI)
- suppliers are not registered for GST or no longer registered and have been issued with RCTIs.

Legislative Instrument LI 2023/20, *A New Tax System (Goods and Services Tax): Recipient Created Tax Invoice Determination 2023*, was issued on 15 June 2023, which outlines the latest requirements for issuing RCTIs. This Determination replaces previously issued RCTI Determinations including those relating to large business entities.

We have identified situations where parties have entered into an agreement for RCTIs in respect of supplies being made on an ongoing basis, and the supplier subsequently deregisters for GST. During our reviews, we look to confirm that suppliers are registered for GST, and that there are governance controls that are in place for the taxpayer to confirm this on a regular basis.

Alignment of tax and accounting outcomes

We analyse the differences between the BAS outcomes and accounting outcomes and seek to understand and explain the various streams of economic activity and how they are treated for GST by applying the GST Analytical Tool (GAT). This provides an objective basis to obtain greater assurance.

The GAT was introduced as a compulsory element of the combined assurance review from April 2022, when we started assuring GST in the same review as income tax. We use the GAT, combined with transaction testing, to provide assurance, identify key risk areas and assess whether GST is correctly reported, other than for taxpayers predominantly making input taxed supplies. For these taxpayers, such as those in the financial services sector, we continue to undertake data and transaction testing to provide assurance for GST instead of the GAT.

Ratings

We apply a consistent rating system when reviewing and assessing the alignment of tax and accounting outcomes, which is outlined below.

Ratings

Colour indicator	Rating	Category description
Green dot	High	We understand and can explain why the various streams of economic activity and the accounting and income tax results, and accounting and GST results, vary.
Yellow dot	Medium	Further analysis and explanation is required to understand the various streams of economic activity and/or why the accounting and income tax, and accounting and GST results vary.
Orange dot	Low	We identified concerns from our analysis of the various streams of economic activity and/or why

		accounting and income tax, and accounting and GST results vary.
Red dot	Red Flag	We do not understand and cannot explain the various streams of economic activity and/or why accounting and income tax, and accounting and GST results vary.

The ratings for the alignment between tax and accounting area arising in the GST assurance reviews completed are shown in graph 14.

Graph 14: GST alignment between accounting and tax assurance ratings for the most recent assurance review completed, as of 30 June 2024

Pie chart shows percentage ratings, stage 3 - 3%, stage 2 - 39%, stage 1 - 57%, not rated - 1% red flag - 0%.

We continue to observe the majority of taxpayers achieving a high assurance rating for the GAT, with 74% of taxpayers able to reconcile the accounting and GST results and able to explain any differences with reference to objective evidence.

Most taxpayers are able to complete the revenue side of the GAT and generally only seek assistance from the assurance team to complete the acquisition side.

Assistance may be required where more complex issues arise, such as differences between the GST group reporter and consolidated group, and intergroup transactions occur.

A low assurance or red flag for the GAT typically occurs where a taxpayer has made minimal or no attempt to complete the GAT. Where this occurs, a taxpayer is not able to achieve an overall high assurance rating.

We have published guidance to support taxpayers when considering the application of the GAT:

- GST Analytical Tool (GAT) FAQ
- Top 1,000 GAT example .

Data and transaction testing

We will undertake data and transaction testing for taxpayers that predominantly make input taxed supplies, such as financial services (including life insurance) industry taxpayers, in combined assurance reviews. For these entities, we don't use the GST Analytical Tool (GAT) in our combined assurance reviews but use data and transaction testing to assess correct reporting.

Data testing involves running numerous pre-determined tests against a defined data set to identify reporting errors and exceptions for further investigation or correction. Transaction testing involves tracing an identified transaction from its source documentation through to the financial reports to confirm the accuracy of the GST treatment, calculation and reporting of the transaction. Where errors and exceptions are identified, further investigation or correction will be necessary.

For financial services entities and insurers, we have published bespoke tests that can be used to get greater confidence in correct reporting, at **GST data tests for the financial services and insurance industry**.

GST next actions

At the conclusion of a combined assurance review, if we have identified areas of concern, we will either provide recommendations for the taxpayer to undertake or we may consider intervention through a formalised ATO next actions product.

Where a specific error or risk has been identified, we will typically make recommendations for the taxpayer to action (referred to as a client next action), and in some instances outline an expected timeline by which we will require the taxpayer to advise us of what they have done to address those recommendations.

In respect of GST, this is our most frequently used approach to addressing concerns identified. In considering what a taxpayer has done to address our concerns, we will also consider what the taxpayer has done to ensure the error doesn't continue into future tax periods, such as how governance controls have been strengthened. Where we see errors continue into future years, this would impact on our decision on administrative penalties and interest applied.

Where we identify a concern that we consider requires further ATO review, we will escalate this issue for a GST risk review or audit. Approximately 2% of taxpayers in 2024 were escalated for further ATO action in respect of GST. This was due to concerns identified with the attribution of input tax credits, and the GST treatment of related party transactions.

Appendix 1 - Published guidance

To assist taxpayers in preparing for a combined assurance review, we provide the following published guidance:

- **Top 1,000 combined assurance program**
- Tax risk management and governance guides
  - **Tax risk management and governance review guide**
  - **Tax risk management and governance**
  - **GST governance, data testing and transaction testing guide**
  - **Governance over third-party data** (large super funds, managed funds and insurance companies)
- Outline of typical questions and areas of enquiry
  - **Top 1,000 – what attracts our attention**
  - **Typical questions in a Top 1000 combined assurance review**
- GST analytical tool – **Top 1,000 GST assurance program**.

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Ratings tables - Top 1,000 income tax and GST assurance programs

Tables detailing the data supporting the overall assurance ratings for the Top 1,000 income tax and GST assurance programs.

Published 18 September 2024

Tables 1 and 2 detail the data used in Graph 4: overall assurance rating for reviews completed by industry as of 30 June 2024 by all first review outcomes and second review outcomes.

Table 1: overall assurance rating for reviews completed by industry as of 30 June 2024 by all first review outcomes

Industry	FS	MCA	MIN	WRS
Population total	236	244	138	565
Low assurance	9%	19%	14%	16%
Medium assurance	70%	58%	64%	59%
High assurance	21%	23%	22%	25%

Table 2: overall assurance rating for reviews completed by industry as of 30 June 2024 by all second review outcomes

Industry	FS	MCA	MIN	WRS
Population total	42	79	36	186
Low assurance	2%	5%	8%	8%
Medium assurance	55%	54%	64%	62%
High assurance	43%	41%	28%	30%

Tables 3 and 4 detail the data used in Graph 8: overall income tax risk management and governance ratings for all assurance reviews completed by industry, as of 30 June 2024, split by first and second-time reviews.

Table 3: overall income tax risk management and governance ratings for all assurance reviews completed by industry, as of 30 June 2024 for first review

Industry	FS	MCA	MIN	WRS

Population total	236	244	138	565
Not rated	1%	3%	1%	2%
Red flag	1%	6%	5%	4%
Stage 1	42%	68%	75%	68%
Stage 2	53%	23%	19%	24%
Stage 3	3%	0%	0%	2%

Table 4: overall income tax risk management and governance ratings for all assurance reviews completed by industry, as of 30 June 2024 for second review

Industry	FS	MCA	MIN	WRS
Population total	42	79	36	186
Not rated	5%	7%	8%	4%
Red flag	0%	3%	8%	4%
Stage 1	14%	28%	42%	42%
Stage 2	74%	56%	36%	45%
Stage 3	7%	6%	6%	5%

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