



# Tax and Corporate Australia

Review information on the income tax compliance of large corporate groups for the 2022–23 year.

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# **About Tax and Corporate Australia**

How we obtain confidence that large corporate groups are paying the right amount of tax.

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An effective tax system supports the social benefits we all enjoy. The key to an effective tax system is a high level of willing participation. This is built on the community having confidence:

- that all taxpayers are paying the right amount of tax
- in us as administrators.

We share our tax system insights with you to improve awareness and encourage voluntary compliance.

The community is especially concerned with the income tax compliance of large corporate groups. This population is made up of 2,081 groups. Each has a turnover of more than \$250 million and makes a significant contribution to our tax system and the Australian economy.

Based on our detailed knowledge of the system, most large corporate groups pay the right amount of tax. There will always be some who deliberately avoid their tax obligations. Our message to businesses operating in Australia is clear: you must pay the right amount of tax on the profits you earn here.

We take our responsibility to the Australian community seriously. Here you can find out how we are:

- improving the system for those who want to comply
- taking firm action against those who choose not to.

We hope it provides you with an increased understanding of how Australia's tax system is operating for the largest corporations.

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## **We have confidence in the tax compliance of large corporate groups**

Large corporate groups make a significant contribution to our economy and play a critical role in the tax system.

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# The significance of large corporate groups

There are 2,081 large corporate groups in Australia, each with a turnover of more than \$250 million. Their tax contribution and compliance help support community confidence in our tax system.

## Tax performance

The tax performance of large corporate groups matches their economic performance.

The tax payments of Australian publicly listed businesses generally track closely with their reported pre-tax profits. The trend in the tax-to-income ratio of majority foreign-owned large corporate groups is also similar to comparable Australian public companies in recent years.

Recent fluctuations in corporate tax collections have been driven by a range of economic factors. This includes movements in commodity prices, in particular the iron ore, oil and gas price. These have led to changes in the profitability of Australia's largest miners and their income tax payable.

For more information, see [Macro-level analysis is giving us confidence](#).

## Tax gap

The large corporate groups income tax gap is similar to comparable jurisdictions and a relatively small proportion of the total corporate income tax base.

The difference between the tax payable according to law and tax actually collected from taxpayers is the tax gap. Most of tax due is paid voluntarily and we collect some of the remainder through compliance activity. What is left uncollected is known as the net tax gap.

In 2021–22, approximately \$83.8 billion was voluntarily reported by large corporate groups. We estimate the net tax gap at \$3.6 billion, or 4.1% for this fiscal year. We estimate the gross tax gap at \$6.3 billion, or 6.8%.

For more information, see [Estimating the tax gap](#).

## **Initiatives to reduce the tax gap**

Initiatives under the Tax Avoidance Taskforce and capability and performance improvements are helping us to sustainably reduce the tax gap.

The large corporate groups income tax gap estimate of 4.1% reflects our strong administration and compares well globally.

Under the umbrella of the taskforce, we design our initiatives to sustainably reduce the tax gap even further. We do this primarily by improving the amount voluntarily paid – that is, by reducing the gross tax gap.

For more information, see [Initiatives to sustainably reduce the tax gap](#).

## **The four pillars of compliance**

Full compliance with 3 of the 4 pillars of compliance has us focused on the correct reporting pillar.

Under the Organisation for Economic Co-operation and Development (OECD) framework, there are four pillars of tax compliance:

- registration
- lodgment
- correct reporting
- payment.

Large corporate groups have full compliance with 3 of the 4 pillars:

- registration – all large corporate groups are registered for tax purposes
- lodgment – all active large companies lodge, albeit some late and requiring reminders
- payment – large corporate groups generally make their tax payments on time. Any outstanding tax debt relates almost exclusively to disputed assessments.

Our key focus area with large corporate groups is the correct reporting of their taxable income. Disputes are usually in grey areas such as transfer pricing and borderline between acceptable tax planning and tax avoidance.

For more information, see [The OECD four pillars of compliance](#).

## Compliance results

Our compliance results are a small portion of the income tax paid by large corporate groups.

Over the past 5 years, we have collected additional income tax from large corporate groups through our compliance activity. This has been less than 4% of the aggregate tax they paid voluntarily.

In some cases, we do apply penalties where we considered there was a lack of reasonable care taken in applying the tax law. Generally, our reviews do not identify the need to apply penalties due to recklessness or intentional disregard of the tax law.

For more information, see [Results from our compliance activities](#).

### Demographics of large corporate groups



How the demographics of large corporate groups in Australia significantly impact revenue.

### Macro-level analysis is giving us confidence



Macro-level analysis of large corporate groups is giving us confidence in their tax compliance.

### The OECD four pillars of compliance



Out of the four OECD pillars of compliance, our focus for large corporate groups is correct reporting obligations.

# Demographics of large corporate groups

How the demographics of large corporate groups in Australia significantly impact revenue.

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## About large corporate groups

Large corporate groups make a significant contribution to the Australian economy and play a critical role in the tax system. They're important in creating community confidence in our tax system. Confidence is gained directly by their tax contribution, and indirectly because their compliance underpins willing participation in other taxpayer segments.

## Definition of a large corporate group

We define a large corporate group as one with a group turnover greater than \$250 million. There are approximately 2,081 large corporate groups with more than 8,500 income tax reporting entities in Australia. This represents around 37,000 active companies. These groups include Australian public, Australian private and majority foreign-owned businesses.


### Large corporate groups – ownership, 2022–23

 The large corporate groups ownership for 2022–23. Of the 2,081 corporate groups: 29% (610) are Australian, owned by private companies; 26% (528) are Australian, owned by public companies; and 45% (943) are majority foreign owned.


### **Large corporate groups – income tax lodgments, 2022–23**

 The income tax returns by large corporate groups for 2022–23. Of the 8,625 income tax returns: 23% (1,951) are lodged by Australian owned private companies; 35% (3,007) are lodged by Australian owned public companies; and 42% (3,667) are lodged by majority foreign-owned companies.

### **Large corporate groups – total business income, 2022–23**

 The total business income for large corporate groups for 2022–23. Of the \$2.9 trillion total business income: - majority foreign-owned businesses account for 43% (\$1,264.6 billion) - Australian-owned private companies account for 6% (\$180.3 billion) - Australian businesses owned by public companies account for 51% (\$1,476.0 billion).

### **Large corporate groups – total profits, 2022–23**

 The total profits for large corporate groups in 2022–23. Of the \$489 billion total profits: the share for majority foreign-owned businesses was 43% (\$211.8 billion); the share for Australian-owned private companies was 3% (\$15.9 billion); and the share for businesses owned by Australian public companies was 54% (\$261.3 billion).


## **How much tax large corporate groups pay**

The amount of tax payable by large corporate groups has increased sharply since the 2020 financial year and generally reflects changes in:

- economic conditions
- commodity prices including iron ore, coal, oil and gas
- fluctuations in the Australian dollar (AUD).

In recent years, the increase in tax reflects significant compliance payments from the oil and gas industry. This is due to ATO intervention aimed at ensuring multinationals pay the right amount of tax.


### **Large corporate groups – contribution to tax revenue, 2017–18 to 2022–23**

 The contribution to tax revenue from 2017–18 to 2022–23 for large corporate groups, divided among the following sectors: - Large Diversified Miners - Oil and Gas - Other Mining, Energy and Water - Other Financial Services - Major Banks - Wholesale, Retail and Services - Manufacturing, Construction and Agriculture.

You can also view data for **Large corporate groups – contribution to tax revenue, 2017–18 to 2022–23** in table format.


The number of large corporate groups in the Australian tax system is comparatively small, yet the impact they have on revenue is significant. The groups contribute a significant proportion to overall corporate income tax collections.

### **Large corporate groups – contribution to tax revenue, and concentration of tax contribution 2022–23**

 There are 4 infographics: - The first infographic shows that in 2022–23 there were 2,081 large corporate groups, each with a turnover above \$250 million, that collectively generated \$2.9 trillion in total business income and \$95.6 billion of the \$137.6 billion in corporate income tax reported. - The second infographic shows the tax contribution from these 2,081 large corporate groups is equivalent to around 69% of all corporate income tax reported and 18% of total ATO tax collections. - The third infographic shows the largest 10 corporate groups reported \$40.9 billion or 30% of all corporate income tax reported. - The fourth infographic shows the largest 100 corporate groups reported \$75.0 billion or 55% of all corporate income tax reported.

While Australian public businesses only make up 26% of these 2,081 large corporate groups, they pay 57% of the corporate income tax, against 51% of the gross income, for this group. This is driven by the significant profits earned by a relatively small number of very large Australian-owned groups. Once these companies are excluded, the overall performance of other Australian public companies, private companies and majority foreign-owned companies are relatively similar.


### **Large corporate groups – ownership and tax contribution, 2022–23**

 The ownership and tax contribution of large corporate groups in 2022–23. Of the \$95.6 billion tax reported: majority foreign-owned businesses account for 40% (\$38.0 billion); Australian-owned private companies account for 3% (\$2.6 billion); and businesses owned by Australian public companies account for 57% (\$55.0 billion).

Large corporate groups are involved in a diverse range of sectors across the economy. Those in banking, finance and investment, mining, energy and water industries:

- are less than one-quarter (23%) of all large corporate groups
- earn more than one-third (39%) of business income
- contribute more than two-thirds (74%) of large corporate income tax.


### **Large corporate groups – industry demographics (income tax lodgments), 2022–23**

 The industry demographics for large corporate groups in 2022–23, by industry sector based on income tax lodgments. Of the 8,625 income tax returns lodged by large corporate groups: 54% are Wholesale, Retail and Services 5% are Insurance 6% are Mining, Energy and Water 17% are Banking, Finance and Investment 18% are Manufacturing, Construction and Agriculture.

### **Large corporate groups – industry demographics (business income), 2022–23**

 The total business income reported by large corporate groups for 2022–23, by industry sector. Of the \$2.9 trillion total business income: 42% came from Wholesale, Retail and Services 14% from Manufacturing, Construction and Agriculture 5% from Insurance 14% from Banking, Finance and Investment 25% from Mining, Energy and Water.

### **Large corporate groups – industry demographics (tax reported), 2022–23**

 The tax reported of large corporate groups for 2022–23, by industry sector. Of the \$95.6 billion tax reported: 19% came from Wholesale, Retail and Services 5% from Manufacturing, Construction and Agriculture 2% from Insurance 16% from Banking, Finance and Investment 58% from Mining, Energy and Water.

# Macro-level analysis is giving us confidence

Macro-level analysis of large corporate groups is giving us confidence in their tax compliance.

**Last updated** 20 February 2025

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## Corporate tax collections are tracking with corporate profits


Publicly listed businesses have greater reporting requirements, giving us data to undertake additional analysis on these corporate groups. They are also significant contributors to the tax system, accounting for almost half of total corporate income tax.

We found an observable long-term correlation between:

- the pre-tax profits of publicly listed businesses, sourced from their financial reports
- their tax payable, sourced from their tax returns.

This correlation gives us confidence the growth in tax payable is appropriate given the net profitability reported by these publicly listed large corporate groups.


**Indexed income tax payable and pre-tax profits of ASX-listed companies**

 The indexed income tax payable and pre-tax profits of ASX-listed companies from 2018 to 2023.

**Chart notes:**

1. Indexing allows for a comparison in the growth of 2 variables. The base year is set to 100 and each subsequent year's variable is divided by the base year's variable and multiplied by 100.
2. Population: ASX-listed public groups excluding loss makers, on a matched basis.
3. Pre-tax profits sourced via Morningstar, matched to company income tax returns.

*Company financial report data sourced via Morningstar*

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You can also view data for **Indexed income tax payable and pre-tax profits of ASX-listed companies** in table format.

We've seen how significant the very largest taxpayers are to tax contributions by the large corporate groups population. This is further evidenced by comparing the tax-to-income ratios of various subsets of the population.


Similar data is not available for majority foreign-owned companies. This is because their group accounts include their total global income so it's not possible to isolate the Australian part of their businesses.

However, we can use the macro data above to gain confidence that Australian public groups are paying about the right amount of tax. Then we can extrapolate, based on another measure, the tax-to-income ratio. If this ratio is comparable between Australian public companies and majority foreign-owned companies, it suggests the majority foreign-owned companies have a similar level of compliance.

We compare tax-to-income ratios for Australian public companies and majority foreign-owned companies. It's clear Australian public companies, as a group, pay more tax, and a higher proportion of tax, out of income than their majority foreign-owned counterparts. However, this result largely reflects the very significant contribution to overall tax paid by the top 10 Australian companies. These companies collectively contribute nearly a third of all corporate income tax.

After removing the 10 largest companies from the population, what we see is the tax payable to total income ratio for Australian public, private and majority foreign-owned companies becomes much closer. The trend in the ratio for all Australian public companies and majority foreign-owned companies is also similar. The following chart demonstrates this.

### **Tax-to-income ratios of Australian public and majority foreign-owned large corporate groups**

 The tax-to-income ratios of Australian public, Australian private and majority foreign-owned large corporate groups from 2017 to 2023.

You can also view data for Tax-to-income ratios of Australian public and majority foreign-owned large corporate groups in table format.

## **Estimating the tax gap**

The tax gap is the difference between the amount of tax payable according to law, and the amount of tax actually paid. It's sometimes split into 2 components:

- gross gap is the difference before our compliance activities
- net gap is the difference after our compliance activities.

Our key goal is to sustainably reduce the net tax gap to a minimum achievable level, noting that a zero tax gap is not practically achievable.

Tax gaps are estimates only, and they are informative, not definitive. We use the best available information and methodologies for our tax gap estimates but recognise all estimates are subject to limitations and have a margin of error. We estimated the large corporate groups income tax gap using a bottom-up illustrative methodology. This relies on expert views to inform assumptions and the results of our compliance activities.

Due to features of tax disputes involving large corporate groups, which often take several years to resolve, our estimates are based on the effectiveness of historic activities rather than current activities. Implications of this are that improvements in practices will take several years to appear in gap estimates and our estimates can be subject to revision over time.

Our best estimate of the net income tax gap for large corporate groups is approximately 4.1% or \$3.6 billion in 2021–22. This compares to approximately \$83.8 billion in tax reported in the same year. In other words, in the 2021–22 year, we estimate large companies paid approximately 96% of the total theoretical tax payable.

The large corporate groups income tax gap estimates use our compliance and tax assured data. Tax assured data allows us to more accurately calculate the expected amendments and determine a non-detection rate. Both are used in our methodology to estimate the net gap.

We intend, supported by new laws, funding and approaches, to sustainably reduce the large corporate groups gross and net income tax gaps. We recognise this work is likely to take several years to flow through to our formal estimates.

Importantly, we're not attempting to audit our way to success. To reduce the gap, we aim to head off non-compliance before it occurs. We also focus on the most important compliance issues.

## **Initiatives to sustainably reduce the tax gap**

We have a number of initiatives underway to improve voluntary tax payments that will sustainably reduce the large corporate groups income tax gap even further.

Some of the key initiatives are:

- increasing internal capability and accessing specialist talent from outside the ATO
- appropriately applying legislative measures like the multinational anti-avoidance law (MAAL) and diverted profits tax and encouraging potentially affected taxpayers to engage early on all of their tax issues
- making full use of additional information available under measures like Country-by-Country reporting and automatic exchange of rulings
- increasing our emphasis on large corporate groups having robust, lived corporate governance on tax issues, so they don't inadvertently take risky tax positions
- publishing practical compliance guidelines clearly providing our view on critical issues, enabling large corporate groups to consciously choose to take low or no risk tax positions
- quickly issuing a taxpayer alert, when we see an arrangement we have concerns with, so other large corporate groups don't unwittingly enter the arrangement
- requiring large corporate groups to lodge a reportable tax position schedule disclosing their approaches on key tax issues and any arrangements covered by a taxpayer alert they have entered into
- performing detailed one-to-one reviews of the large corporate groups population. For the top 100 these reviews occur annually, for the remainder they occur on a 4-year cycle. We aim to have coverage that allows us to confidently and positively assert there's either full tax compliance or we're taking action on any non-compliance detected
- when providing certainty to taxpayers on a specific area of their business via, for example a ruling or advance pricing arrangement, reviewing their tax outcomes holistically by understanding their entire global supply chain rather than looking at issues individually
- focusing on addressing important, systemic issues, or issues with the potential to proliferate, including, where appropriate, through litigation
- offering taxpayers the opportunity to engage with us before a transaction in order to obtain certainty in real time, through a range

of private advice and guidance products

- generally only settling prior-year disputes where there's also agreement to lock in the appropriate treatment for future years. For example, we'll only settle a dispute over the appropriate rate of interest on a related party loan in prior years if there's also agreement on any appropriate interest rate in future years. This not only locks in forward compliance, but it also frees up capability and resources
- addressing inappropriate conduct by advisers to discourage the promotion and implementation of tax avoidance schemes; and uncooperative, misleading and obstructive behaviour during our investigations.

It will take several years for these strategies to be fully reflected in the published tax gap estimated, given the nature of the population and the approach we use to estimate the **large corporate groups income tax gap**. But we're confident these strategies are already having a significant impact on sustainably reducing the large corporate groups income tax gap from its already low level.

For more information, see [Australian tax gaps – overview](#).

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## The OECD four pillars of compliance

Out of the four OECD pillars of compliance, our focus for large corporate groups is correct reporting obligations.

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Large corporate group registration

Large corporate group lodgment

Correct reporting

## Large corporate group registration

As significant contributors to the Australian tax system, we're confident large corporate groups who should be registered in the system are registered. With sophisticated business operations of \$250 million or more in revenue annually, these groups are well aware of their tax obligations.


## Large corporate group lodgment

Large corporate groups predominantly lodge on time. These businesses have significant internal capacity and capability to lodge. Failure to lodge is likely to be symptomatic of broader issues within the business.

Of those that don't lodge on time, many are late by less than one month and most are late by less than 3 months. We have specific engagement strategies for these entities. There are also higher penalties for significant global entities that fail to lodge on time.

Occasionally we may find individual entities within a large corporate group not meeting their lodgment obligations. Often this is due to the entities being dormant or non-trading, which is not a revenue risk under ordinary circumstances.

### Figure 1: Large corporate groups lodgment performance, 2022–23

 The lodgment performance of large corporate groups in 2022–23. 88.7% were on time; 3.8% were not yet lodged; and 7.5% were late.

## Correct reporting

### Measuring assurance and confidence in tax consequences

Tax assured helps us demonstrate our confidence in the tax system. We consider amounts of tax to be assured where we have evidence they have been reported correctly. We collect evidence from a range of sources including directly from taxpayers.

Where we can't gather evidence to assure tax, we rely on our broader risk management approaches to provide us with confidence in tax reporting.

Tax assured complements other measures, including tax gaps and total revenue effects. Together they provide insight into how well the tax and super systems are performing. We use this insight to assist Treasury with shaping the future design of the systems and our strategies for addressing potential non-compliance.

We have assured \$36.9 billion of income tax reported by large corporate groups for 2021–22 and \$39.2 billion for 2020–21.

You can also find out about **How we gain confidence the right amount of tax is being paid.**

## **Preventative action**

We undertake a range of activities aimed at preventing non-compliance. We do this:

- across the large corporate groups population generally
- through direct action with the largest taxpayers in this population.

You can find out more in **Population wide approaches to preventing non-compliance** and how we engage with specific taxpayers in **Active prevention: one-to-one.**

## **Corrective action**

Corrective action targets those cases where taxpayers seek to push the boundary of acceptable tax planning. We identify these cases based on:

- intelligence
- data analysis
- risk assessments.

Where we suspect a particular arrangement is being used by multiple large corporate groups we address the potential non-compliance in a targeted and coordinated way. This includes investigating both taxpayers and advisers we suspect are involved. We also provide early warning to the market of our concerns, often in the form of a taxpayer alert.

## Results from our compliance activities

Our compliance activities and the results we obtain act as a visible deterrent against large corporate groups choosing not to comply with their Australian tax obligations.

The significant fluctuation in the outcomes of our corrective action each year reflects the characteristics of the large corporate groups population:

- There are low levels of systemic tax avoidance, so we don't have a regular program of audits on the same fact pattern leading to similar audit results across years.
- The size of the taxpayers and their transactions is such that a single audit case may amount to significant sums in additional tax payable.
- Complex transactions may be subject to multi-year investigations and subsequent litigation before the taxpayer pays additional taxes and penalties.

**Table 1: Corrective action targeting large corporate groups tax, 2018–19 to 2023–24**

<b>Corrective action targeting large corporate groups income tax</b>	<b>2018–19 \$m</b>	<b>2019–20 \$m</b>	<b>2020–21 \$m</b>	<b>2021–22 \$m</b>	<b>2022–23 \$m</b>
<b>Total debits (liabilities) (see <a href="#">Note 1</a>)</b>	1,876	2,053	2,818	2,666	1,974
<b>Audit yield (cash) (see <a href="#">Note 2</a>)</b>	1,136	1,373	1,051	1,428	1,276

**Note 1:** Liabilities raised in a given year may relate to multiple years of assessments and include additional tax, penalties and interest.

**Note 2:** Audit yield is actual cash collected (or estimated to have been collected) against liabilities raised (in the year and prior) and includes collections on tax, penalties and interest.

The complexity inherent in the law and the business affairs of large corporate groups can lead to significant differences in interpretation of how the law applies in a given circumstance. Taxpayers can and do dispute amended assessments made by us, sometimes all the way to the courts. The result is not always in our favour.

Sometimes we settle disputes for a lesser amount than originally assessed. This means the additional cash we collect from an audit doesn't always equal the amount of additional tax liabilities we raised under the amended assessment.

## **Observed behaviours**


Some large corporate groups may engage in tax minimisation or avoidance. But typically, they are not reckless and do not evade tax.

Where we see an incorrect application of the law and reasonable care hasn't been taken, we can apply a range of administrative penalties. These vary, depending on the behaviour involved.

Our analysis of culpability penalty rates imposed confirms a strong compliance culture among large corporate groups. We have not raised a penalty in cases where the taxpayer made a voluntary disclosure or, in our view, had a reasonably arguable position and it is otherwise appropriate to not impose a penalty.

Even where we have applied penalties, in most cases we considered there was, at most, a lack of reasonable care and not recklessness or intentional disregard. We may reduce a penalty where appropriate based on the facts and circumstances of the case.

### **Figure 2: Culpability penalty rates applied to large corporate groups, 2018–19 to 2023–24**

 The culpability penalty rates applied to large corporate groups from 2018–19 to 2023–24.

You can also view data for Culpability penalty rates applied to large corporate groups, 2018–19 to 2023–24 in table format.

## On-time payments


Most large corporate groups generally pay their tax obligations on time and almost all tax is paid within 365 days or within agreed upon timetables.

As with lodgment obligations, our work managing debts of large corporate groups focuses on cooperative relationships. We also emphasise:

- transparency
- prevention before correction
- early assurance
- certainty for all parties.

This is our starting position for working with all businesses. Most businesses work this way with us.

### **Figure 3: Large corporate groups payment times, 2022–23**

 The time taken to make payments by large corporate groups in 2022–23 with 96.1% paid on time; 2.0% paid in 90 days; and 0.4% paid in 365 days.

Large corporate groups income tax debt is relatively small compared to the total corporate income tax reported. Similarly, the income tax value of debt owed by these groups represents only a small percentage of their total tax paid on time, and the majority of this debt is disputed.


Disputed debt covers tax outstanding that is subject to:

- an objection with us
- a review via the Administrative Review Tribunal
- appeal to the Federal Court.

We expect that in such a large and complex system we will have disputes. Our intention is to resolve disputes as early as possible, in a way that is fair and respectful.

A very small amount of debt is owed by former large corporate groups that are now under some form of insolvency administration.

## Figure 4: Large corporate groups debt as a proportion of corporate income tax, 2022–23

 The debt as a proportion of corporate income tax for large corporate groups in 2022–23 with \$95.6 billion of corporate income tax reported; 6.0% was disputed; and 0.1% was collectable.

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## Public information

The reforms that give additional sources of publicly available information about tax compliance.

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[Additional data sources](#)

## How we treat public and private information

The public often look to the tax affairs of specific large corporate groups to determine how well the tax system is working. The privacy provisions under which we operate mean we generally can't provide information to the public about specific taxpayers.

This has meant the public have had to rely on other materials such as statutory accounts issued by a company as the main source of information about its tax affairs. In rare instances, further information has become available when a company has disputed their tax affairs in court.

## Additional data sources

Additional data sources help the community understand the tax compliance of large corporate groups. Reforms have provided additional sources to the public. These include:

- **Report of entity tax information** – the annual corporate tax transparency publication of
  - name
  - ABN
  - total income
  - taxable income
  - tax payable of all corporate tax entities earning over \$100 million
  - For income years up to 2021–22, the threshold for Australian-owned resident private entities to be included in the report was \$200 million.
  - entities that have petroleum resource rent tax (PRRT) payable
- **Research and development (R&D) tax incentive transparency report** publication of
  - name
  - ABN
  - total R&D expenditure
- the requirement for significant global entities to provide general purpose financial statements to us and for those statements to be published by the Australian Securities and Investments Commission (ASIC), where they haven't already been lodged with ASIC
- enhancements to the accounting framework applying to uncertain tax positions.

Many large corporate groups have already started providing much more detailed information about their taxation affairs to help inform public debate.

Over 215 corporate groups have signed up to the Board of Taxation's **Voluntary Tax Transparency Code**. Over 175 of these companies are large corporate groups who are partly responsible for approximately two-thirds of corporate tax payable and represent a large proportion of corporate activity in Australia.

Audited accounts may contain information on material book to tax adjustments in preparing the provision for tax. Accounting standards on disclosure of uncertain tax positions have also been strengthened. This means companies must estimate their exposure on all matters it is probable we will dispute.

For more information, see [Publicly available data to help understand tax compliance](#).

## **Publicly available data to help understand tax compliance**



Data sources are available to help the community understand more about the tax compliance of large corporate groups.

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# **Publicly available data to help understand tax compliance**

Data sources are available to help the community understand more about the tax compliance of large corporate groups.

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## Understand tax compliance in Australia

An important feature of the Australian tax system is that the details of income earned and taxes paid by taxpayers are kept confidential. This applies for both people and entities. We believe this confidentiality supports full and honest disclosure to us.

However, an interested person can use a range of tools to better understand a company's tax position. New data sources are available to help the community understand more about the tax compliance of large corporate groups.

We encourage community enquiries. These support an informed debate about tax compliance in Australia. Informed debate can balance speculation about low or no tax paid by some corporate groups. It can also address concern about non-compliance by the large corporate groups population in general.

## Sources of information

Relevant sources of information about a company's tax position include:

- reports prepared by the corporate group itself, especially reports written under the voluntary tax transparency code
- financial reports prepared by the corporate group and lodged, directly or indirectly, with the corporate regulator, ASIC
- our annual publication of key financial and tax data relevant to large corporate groups under the corporate tax transparency measure
- informed analysis and media commentary of particular corporate groups or industries including
  - analysis of annual reports prepared by a corporate group in Australia
  - reports filed by the overseas headquarters of a multinational with operations in Australia.

## How large corporate groups are taxed

In looking at the tax paid by a particular large corporate group, it is important to remember:

- income tax isn't paid on gross income, it's paid on taxable income, meaning they may pay less or no tax in subsequent years
- even very large corporate groups sometimes make losses that may mean they don't pay tax in that year and, subject to integrity provisions in the law, they can carry forward and claim these as a tax deduction in future years
- Australia generally doesn't tax the offshore profits of corporate groups where they are comparably taxed overseas
- the profits of businesses run through trusts are usually taxed at the investor level, not the trust level.

## **Voluntary tax transparency code**


We encourage large corporate groups to adopt the **voluntary tax transparency code** (the Code). This includes entities treated as companies for Australian tax purposes and foreign multinationals with operations in Australia.

The Code was developed by the Board of Taxation and endorsed by the Australian Government in the 2015–16 federal Budget. It's designed to encourage greater transparency within the corporate sector, particularly by multinationals. It will improve the community's understanding of the corporate sector's compliance with Australia's tax laws.

We're encouraged by the number of corporates volunteering to produce tax performance reports: By 30 September 2023:

- over 106 corporates published reports for 2021–22
- over 16 published to date for 2022–23.

We believe this will support more informed community debate about the tax system.

The first [Voluntary Tax Transparency Code report](#)  for 2015–16 was published on data.gov.au in September 2016. It is updated as we receive more reports from businesses and currently includes 7 years of data. Over 210 corporates have become signatories to the Code.

## Requirement to lodge general purpose financial statements

Most large corporates file detailed accounts with ASIC. These **general purpose financial statements (GPFS)** provide some tax payment details, including:

- the amount they expect to pay as tax liabilities
- a tax note explaining material tax adjustments, for example, profits and dividends or both from a foreign subsidiary may be exempt for income tax purposes, but treated as income in the accounts
- any amended assessment received, subject to principles of materiality
- information on substantial tax disputes, where the reporting entity has to disclose contingent liabilities under the *Corporations Act 2001*.

Some large global entities with Australian operations may not have been required to provide full GPFS to ASIC. Sometimes they've been able to lodge special purpose financial statements. Separately, grandfathering provisions provided exemptions from filing GPFS with ASIC for some Australian large private companies.

However, recent changes made to legislation means these companies will no longer be exempt from lodging financial statements with ASIC. The exemption now only applies to financial years ending on or before 9 August 2022 when the Act received royal assent.

For income years beginning on or after 1 July 2016, legislation now requires significant global entities to lodge GPFS with us if they don't already provide them to ASIC. We pass these to [ASIC](#) and they make them public in their document register.

This measure increases the transparency of large multinational companies operating in Australia. Since its introduction, we've sent over 14,000 GPFS to ASIC.

## Corporate transparency report

We publish limited tax details of certain large corporate taxpayers in accordance with tax returns as lodged. This is part of a global push to improve transparency and inform public debate about tax policy.

The law requires us to publish this information each year. We also provide supporting commentary to give context to the data and help users understand the tax adjustments that may be relevant in arriving at the taxable income. Importantly, this data doesn't get updated for subsequent ATO-initiated amendments to the returns lodged.


The information published is drawn from tax return labels and covers:

- total income
- taxable income
- tax payable
- petroleum resource rent tax (PRRT) payable.

Many companies prepare additional information available to the public that provides context to the data we publish.

We released the *2021–22 Report of entity tax information* in November 2023, published on data.gov.au.

For more information, see:

- [Corporate Tax Transparency](#)  on data.gov.au, and
- Report of entity tax information

## Public Country-by-Country reporting

Public Country-by-Country (CBC) reporting requires certain large multinationals to report specific tax information on a CBC basis.

Public CBC reports provide transparency to the public. This enables investors and the public to compare entity tax disclosures, to better assess whether a Public CBC reporting parent's economic presence in a jurisdiction aligns with the amount of tax they pay in that jurisdiction.

For Australia and specified jurisdictions determined by the Minister, particular information must be published on a CBC basis.

For all other jurisdictions the CBC reporting group operates in, the Public CBC reporting parent has a choice to publish that same information on either a CBC basis or an aggregated basis.

The Minister's determination of jurisdictions for the purpose of Public CBC reporting is provided by legislative instrument. A list of specified

jurisdictions will be made available once a Ministerial determination is made.

The ATO will facilitate publication of the report provided by the Public CBC reporting parent, on the Australian government website [data.gov.au](https://data.gov.au).

Public CBC reporting includes disclosures on:

- the revenues, profits and taxes of the global group
- the activities of the global group
- an entity's international related party dealings.

The Public CBC reporting regime applies for reporting periods commencing from 1 July 2024. The Public CBC report is due within 12 months after the end of the relevant reporting period. We expect the first reports to be published in late 2026.

## **Other sources of information**

Some media and professional analysts study corporations and/or industries. These reports sometimes draw on detailed financial updates filed by multinational enterprises in their home jurisdiction. They can indicate taxes paid globally and sometimes taxes paid here in Australia.

Other analyses of a corporate group's financial and tax position might arise upon a significant or material event. This may include a merger, acquisition or takeover proposal, or a major change in their financial position following receipt of an amended tax assessment.

QC 53279

## **We are an active and capable administrator**

How we help large corporate groups and assure the community they are complying with tax obligations.

**Last updated** 20 February 2025

## On this page

Our workforce

Our proactive approach

One-to-one engagement

Data sources

Dispute prevention and resolution

## Our workforce

Our workforce focused on large corporate groups is larger and more skilled than it has ever been.

We continue to build on a highly capable workforce of over 1,400 staff dedicated to providing guidance (such as rulings), assistance and assurance to **tax compliance of large corporate groups**.

Our workforce has been bolstered by additional recruitment under the Tax Avoidance Taskforce (taskforce).

## Our proactive approach

Our approach is to proactively inform the market of areas of concern as we become aware of them.

The tax affairs of large corporate groups tend to be more complex due to their international dealings and the size of their businesses.

Under the taskforce, we actively address multinational tax avoidance. Preventing other taxpayers entering into tax avoidance schemes is a key element of our strategies.

This has contributed to use of taxpayer alerts that:

- provide an early warning to taxpayers and their advisers about our concerns
- cover new or emerging transactions, structures or arrangements we consider may represent a compliance risk.

We use practical compliance guidelines (PCGs) to support compliance. PCGs generally set out our view of what concerns us and what

doesn't, from a compliance perspective. They're often used in grey areas like transfer pricing.

We continue to issue public rulings to provide our interpretation of legal provisions. Law companion rulings provide this advice to clients at the time the legislation is drafted. They become public rulings when the legislation is passed.

Most large corporate groups don't consciously take on tax risk. Knowing we have concerns with an arrangement allows them to make more informed compliance choices. They can do this by:

- engaging with us
- seeking independent advice
- deciding not to proceed with an arrangement.

The underlying intent of our public advice and guidance is to help inform businesses of their obligations and interpretation of the law. This is so large corporate groups don't inadvertently find themselves in a tax dispute because they didn't know our position.

We take robust compliance action to test our understanding of the law if a large corporate group takes a position we have flagged as of concern. Our litigation strategy also includes identifying strategic cases for litigation to clarify the law.

For more information, see **Population-wide approaches to preventing non-compliance**.

## **One-to-one engagement**

One-to-one engagement with large corporate groups gives us assurance over approximately two-thirds of all corporate income tax.

Economic activity and corporate income tax obligations are highly concentrated in approximately 2,081 large corporate groups each earning over \$250 million in income. They pay approximately two-thirds of all corporate income tax. The largest 100 pay about 55%.

This concentration of economic activity and tax payments means it is possible to obtain assurance over a large percentage of the corporate income tax base. We do this through detailed one-on-one reviews of a small number of companies.

We already perform detailed one-on-one reviews of the largest 100 corporate groups. Extra government funding under the taskforce enables us to extend these reviews to the rest of the population and obtain a greater level of assurance over their tax compliance.

We use a range of approaches, including applying risk rules to quantitative data, to review the remaining large corporate groups. When we identify risk, we take specific action.

We have a high level of engagement with the large corporate groups population. The knowledge we have gained from this makes us confident we are identifying and addressing the risk that taxable income is not being reported correctly.

Through taskforce-enabled initiatives we will have detailed coverage of the income tax paid by these groups. This work underpins our aim of having confidence in the tax compliance of large corporate groups.

For more information, see **One-to-one engagement with large corporate groups**.

For more information about our tax performance programs, see:

- Findings report – Top 100 income tax and GST assurance programs
- Findings report – Top 1,000 income tax and GST assurance programs

## **Data sources**

We use a range of data to inform our risk analysis and assurance over the tax compliance of large corporate groups.

We have access to detailed information on specific large corporate groups through their tax returns and information they provide as part of our ongoing engagement.

We can also obtain further information, when we need it, through our statutory powers.

We have access to significantly more information than ever through:

- automatic exchange of rulings between different revenue authorities
- Country-by-Country (CBC) reporting – where multinational groups have to report their global structures and tax affairs by country.

We also obtain information on:

- cross-border transactions and arrangements through the international dealings schedule
- transactions and arrangements we consider high risk or of concern through the Reportable tax position (RTP) schedule.

Information from the International dealings and RTP schedules helps us understand tax risks at the taxpayer and population level. We publish limited information about the disclosures made on the RTP schedule. We released the **Reportable Tax Position Findings** report for the 2022–23 income year on 18 September 2024.

We have statutory powers to deal with multinational groups that seek to obscure their global operations. Under the diverted profits tax, we can issue an assessment at a 40% tax rate (payable upfront) where profits are being shifted to low tax jurisdictions without the necessary economic substance. This increases the pressure on multinational groups to be upfront about their global structures and provide information to us voluntarily.

For more information, see [Publicly available data to help understand tax compliance](#).

## **Dispute prevention and resolution**

We aim to prevent disputes but when they arise we work to resolve them as early as possible.

Corporate taxation is complex, especially when applied to large corporate groups. This can lead to differences in opinion between us and taxpayers on how the law applies.

Sometimes a large corporate group will prefer to proceed to dispute rather than accept what they might see as an adverse audit outcome. When such disputes arise, we may apply alternate dispute resolution processes. This can include:

- mediation
- conciliation
- early neutral evaluation methods
- agreeing to a settlement.

Settlements are an important part of the administration of the tax system. They allow us to exercise discretion and good sense in balancing competing priorities. This helps us meet our obligation to administer the tax system efficiently and effectively.

We recognise the community are interested in knowing settlements are appropriate. This is why we provide information about our settlement processes and have an independent assurance process in place.

We also recognise a settlement isn't always appropriate. Sometimes litigation is essential to ensure the health of the tax system.

For more information, see [Managing disputes with large corporate groups](#).

### **We assist and assure the tax compliance of large corporate groups**



We're improving the system to give large corporate groups more certainty and reduce administrative costs.

### **Key compliance risks for large corporate groups**



The risks of non-compliance with large corporate groups and how we combat tax avoidance.

### **Managing disputes with large corporate groups**



How we resolve disputes with large corporate groups.

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## **We assist and assure the tax compliance of large corporate**

# groups

We're improving the system to give large corporate groups more certainty and reduce administrative costs.

**Last updated** 20 February 2025

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[One-to-one engagement with large corporate groups](#)

## How we engage with large corporate groups

One of our strategic aims is to sustainably reduce the tax gap. We know old approaches centred on active compliance programs of reviews and audits will not achieve that aim. Instead, our first focus is on active prevention.

We believe the majority of taxpayers prefer to avoid tax risk where possible. To do so, they need to know where our concerns lie and our compliance stance on various aspects of the law or areas of the economy. Our goal is to only have taxpayers entering into disputes with us where they know what our position is and have made a conscious decision to operate contrary to it.

To achieve this goal, we're more explicit about where we have concerns. We communicate our thinking across all aspects of our compliance activities. We're more creative and flexible in the type and form of guidance we produce. This means we now have tailored guidance products for specific purposes as well as our traditional public rulings.

Public guidance also supports community confidence in the system by letting the public know we are identifying and dealing with matters of concern.

Through early engagement and private advice, we also work directly with large corporate groups. This helps to identify higher risk transactions and reduce disputes. It allows us to work with the taxpayer to agree on the appropriate tax treatment before they lodge their tax return.

Sometimes we can't avoid disputes, and we'll pursue matters through audit and to litigation where necessary. The community expects us to take strong action against deliberate non-compliance where we find it. A credible compliance presence also deters others from pushing the bounds of acceptable behaviour.

## **Population-wide approaches to preventing non-compliance**

Large corporate groups have multiple tax obligations. The complexity in fulfilling these obligations can be costly. We're improving the system to give more certainty and reduce corporate administrative costs. This includes continuing our focus on public guidance.

We'll continue to monitor the environment to understand what's happening in the economy, tax system and business. This will ensure we provide relevant and timely guidance.

We'll also consult with stakeholders on their needs, so our advice is practical and contemporary. This consultation has already resulted in us developing new guidance products.

## **Law companion rulings**

Law companion rulings (LCRs) provide practical certainty, in the form of a public ruling, on how we will apply significant new law. LCRs cover income tax, super and GST measures.

Recent LCRs include:

- LCR 2021/1 *OECD hybrid mismatch rules – targeted integrity rule*
- LCR 2021/3 *Temporary full expensing.*

## **Practical compliance guidelines**

Practical compliance guidelines (PCGs) are designed to provide a practical compliance solution where there is uncertainty, impracticality or discord between the law and current commercial practices. They

may also provide our view of what constitutes a low or high-risk activity or arrangement in relation to a specific area of the law. PCGs issued cover income tax, excise and GST matters.

Recent PCGs include:

- *PCG 2021/1 Application of market value substitution rules when there is a buy-back or redemption of hybrid securities – methodologies for determining market value for investors holding their securities on capital account*
- *PCG 2021/5 Imported hybrid mismatch rule – ATO's compliance approach*
- *PCG 2024/1 Intangibles migration arrangements.*

## **Taxpayer alerts**

We use taxpayer alerts to flag arrangements of concern with the community, taxpayers and advisers.

Each taxpayer alert describes an arrangement and our concerns about it. Taxpayer alerts don't provide our interpretation of the law but outline where we currently have concerns and what we're doing to address them. They also invite taxpayers to seek advice from independent advisers or us. We encourage this if they have or are considering entering into a similar arrangement as described in an alert.

Taxpayer alerts help taxpayers and their advisers make more informed decisions. They stop the proliferation of tax schemes. They also support community confidence in the tax system.

Recent taxpayer alerts include:


- *TA 2020/1 Non-arm's length arrangements and schemes connected with the development, enhancement, maintenance, protection and exploitation of intangible assets*
- *TA 2020/2 Mischaracterised arrangements and schemes connected with foreign investment into Australian entities*
- *TA 2020/3 Arrangements involving interposed offshore entities to avoid interest withholding tax*
- *TA 2020/4 Multiple entry consolidated groups avoiding capital gains tax through the transfer of assets to an eligible tier-1 company prior to divestment*

- *TA 2020/5 Structured arrangements that provide imputation benefits on shares acquired where economic exposure is offset through use of derivative instruments*
- *TA 2022/2 Treaty shopping arrangements to obtain reduced withholding tax rates.*





## Working with the tax profession

Advisers play an important role helping taxpayers meet their tax and super obligations. Because the laws are complex, we encourage taxpayers to seek high quality tax advice.

Most tax professionals provide support for the integrity of the tax system. We work with the tax profession and explain our concerns to them at the earliest opportunity. In this way, we support them to provide appropriate advice to their clients. We also use our strong relationships with tax professionals and their representative bodies to develop our approaches.

The Large Market Tax Advisor Principles (published August 2022) are a voluntary framework developed by the 4 largest tax advisory firms with input from the ATO and [Tax Practitioners Board](#)  (TPB). All firms offering tax advisory services may choose to adopt the principles.

The 4 firms have each published the principles and explanatory information on their websites, see:

- [Deloitte Australia Large Market Tax Adviser Principles](#) 
- [EY Australia Tax Services](#) 
- [KPMG's adoption of Large Market Tax Adviser Principles](#) 
- [PwC Australia Tax Services](#)  (scroll to the bottom of the main body to find the principles).

Firms that adopt and follow the principles provide added confidence to their clients, the community and the ATO about the quality of their tax advice. Adopting the framework provides confidence the firm has processes in place aimed at preventing it from being involved in proscribed engagements and particular governance arrangements for when it is advising on higher risk engagements.

We do not regulate the framework, but we will work closely with the firms to understand how the principles are operating in practice.

The design and publication of the framework is a positive innovation for the Australian tax profession. Increasing transparency of the role of advisers further strengthens the integrity of the tax system.

We also seek to positively influence ethical and professional standards in a range of areas relevant to tax advisers.

We'll act quickly with advisers who undermine the integrity of the tax system or facilitate non-compliance. In addition to the regulatory work of the TPB, we collaborate with professional associations to uphold the reputation of the tax profession. In serious cases, promoter penalty laws may apply to promoters of tax avoidance schemes.

The types of behaviour that cause us concern include:

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

On 6 August 2023, the Government announced a range of reform measures to strengthen the regulatory framework to combat advisor misconduct, focused on deterring the promotion of tax exploitation schemes to large market taxpayers. We will act quickly and decisively to ensure the tax system is protected from abuse.

## **Using our formal information gathering powers**

We issue formal notices to advisers and their firms known to be associated with arrangements covered by our taxpayer alerts. The notices ask for information and documents for taxpayers to whom they provided advice.

We issue the notices to identify:

- information about the involvement of certain known taxpayers in the schemes
- any other taxpayers who may have been involved in the schemes
- who designed the schemes, why they were designed and the processes involved in their design
- what promotion of these schemes has taken place.

We pursue a range of cases to obtain documents, including testing claims for legal professional privilege, and for the consequences of

breaching information notices, which include criminal sanctions.

## **Legal professional privilege**

Legal professional privilege (LPP) protects confidential communications between a lawyer and their client for the dominant purpose of providing or seeking legal advice. LPP also protects confidential communications prepared for the dominant purpose of actual or reasonably anticipated legal proceedings.

LPP is an important common law right, as it:

- protects a client's privacy
- encourages full disclosure between the client and their lawyer when obtaining and providing legal advice or services.

We want taxpayers to get high quality advice, as this underpins the self-assessment system. Most advisers, whether at accounting or law firms, provide this and support the tax system.

We had been concerned that in some instances, taxpayers and their advisers were incorrectly claiming LPP in an attempt to withhold material facts and evidence from us.

In some cases, it appeared that non-legal services or services provided by non-lawyers had been artificially packaged under a purported legal services engagement to support a subsequent LPP claim. In other cases, we saw:

- blanket claims of privilege being made over thousands or tens of thousands of documents
- the over-claiming of privilege
- a lack of transparency in claims.

This risked constraining the application of the law for the provision of information to us and hindering our audit function.

These issues largely arose in large business privilege claims where we had issued a notice requiring them to produce information as part of an audit. In most of our engagements with large businesses, they provide us with information we need and we do not experience difficulties with managing LPP claims.

In recognition of the need for greater coverage in education and better practices to improve its use and understanding, we developed the

**Compliance with formal notices – *claiming legal professional privilege in response to formal notices – Legal professional privilege protocol (LPP Protocol).***

This protocol:

- helps taxpayers and advisers making LPP claims in response to requests for information and documents we make under our formal information gathering powers
- contains our recommended approach for identifying communications covered by LPP and making LPP claims to us
- will result in a more efficient resolution of LPP claims for taxpayers and the ATO if steps are followed and properly embedded in a firm's engagement and legal services practices.

Businesses that choose not to follow the protocol and do not provide sufficient information to support their LPP claims can expect further enquiries from us.

## **One-to-one engagement with large corporate groups**

We engage one-to-one with large corporate groups. This gives us assurance over approximately two-thirds of all corporate income tax.

### **Differentiated engagement**

We assess the risk of each corporate group in the entire population based on our professional judgment of the:

- transparency of their engagement with us
- choices and behaviours evidenced in their tax affairs
- level of risk they exhibit.

We use the outcomes of our assessment to tailor our engagement with each large corporate group.

Given Australia's highly concentrated corporate tax base and the significant impact the Top 100 public and multination businesses can have on the health of our tax system, we engage with them on an ongoing basis to manage their compliance and assure their tax performance.

We seek to clarify issues and risks as they arise. Being transparent about issues that concern us provides a catalyst to resolve them early.

For more information about our differentiated engagement, see:

- Top 100 justified trust program
- Top 100 GST assurance program
- Top 1,000 combined assurance program
- Top 500 private groups tax performance program

## **How we gain confidence the right amount of tax is being paid**

We're focusing on whole-of-taxpayer profiling and risk assessment using our **justified trust** methodology. This helps us understand the taxpayer's business model and any tax planning motivation and opportunities they may have.

The profile and risks involved tell us what we need to do to gain confidence each taxpayer is paying the right amount of tax.

We're taking a structured approach to gain this confidence by considering:

- the taxpayer's tax risk management and governance framework
- whether the taxpayer is involved in any arrangements we've indicated we're concerned about or consider high risk
- understanding the tax impacts of current business activities, particularly any significant and new transactions the taxpayer has entered into
- if the taxpayer's accounting and tax or GST results vary, understanding why this is the case.

Our effective tax borne (ETB) methodology provides an approach to analyse the income tax and economic performance of corporate groups. It identifies an economic group's worldwide profit from Australian-linked business activities and the Australian and offshore tax paid on that profit.

Essentially, the ETB determines the weighted average of the cash tax paid ratios (cash tax paid over Australian-linked profits) for each

jurisdiction. Analysing and understanding a taxpayer's ETB provides evidence of the absence of risk and assists in identifying risk.

For more information see [Appendix 3](#)  – *Senate Economics References Committee report on corporate tax avoidance*.

## **Helping corporates strengthen their tax governance**

We developed the *Tax risk management and governance review guide* primarily for large public businesses. It articulates better practices that boards and management can adopt to enhance governance and manage tax risk.

The guide is designed to help businesses self-evaluate their governance framework and manage their strategic and operational tax risks. It sets out what we believe to be better tax corporate governance practices. We also provide guidance for privately owned groups to help them develop or improve the effectiveness of their tax governance framework.

Both guides are what we recommend, rather than mandate.

Where we are satisfied that companies have strong and lived governance, we can have increased confidence in their financial and tax reporting.

For more information, see *Tax governance for privately owned groups*.

## **Active prevention: one-to-one**

We recognise that willing participation supports a healthy and strong tax system. Approaches that prevent tax risks support willing participation better than corrective approaches. Our one-to-one active prevention approach seeks to influence taxpayer behaviour. We get involved before the taxpayer reports the tax outcomes of their business transactions to us.

We apply active prevention approaches to the largest corporate taxpayers. This is important because their compliance influences not only the revenue base but also the willing participation of other taxpayers. Our one-to-one prevention includes our:

- pre-lodgment compliance reviews
- private rulings
- advance pricing arrangements.

It may also include informal guidance and interactions.

The key is that taxpayers have openly and transparently discussed their plans and their view of the tax implications. Active prevention succeeds when clients modify their behaviour based on the concerns we raise.

We estimate the wider revenue effects of these strategies wherever possible. Most techniques are evidence-based. We use information supplied by clients to estimate the difference in tax paid due to engaging early. This allows us to understand their proposed tax position and the impact of shifting that position, where necessary.

## **Private rulings**

Early engagement discussions are a key tool we use to assist large corporate groups seeking advice on complex transactions they are considering or have already implemented. These discussions allow for timely identification and management of tax risks. It enables businesses to enter into transactions with confidence.

Taxpayers also have the option to provide a draft ruling for review and endorsement by us. We'll still review the arrangement proposed and ensure the appropriate application of the law before any ruling is issued. This will deliver a more streamlined process and improve the client experience.

We recognise taxpayers are not obliged to follow our advice under our self-assessment system. Where our risk identification processes have identified a concern, we may engage in compliance activities to test if the transaction is implemented in materially the same manner as described in the **private ruling** request.

As part of our assurance reviews of the largest taxpayers, we seek confirmation of facts where we provided advice to ensure it has been followed.

## **Pre-lodgment compliance reviews**

Pre-lodgment compliance reviews (PCRs) are a key approach to ensuring prevention before correction. Through early engagement and a transparent relationship, we are able to work with large corporate groups to identify and resolve potential compliance concerns as they arise and before tax returns are lodged.

## **Advance pricing arrangements**

**Advance pricing arrangements (APAs)** lock in compliant outcomes by agreeing on the criteria for transfer prices in advance of transactions occurring. They can eliminate the need for costly post-lodgment reviews and audits. They also give the community more confidence in the compliance of multinational enterprises.

Before we agree to an APA, we need to understand the entire value chain and allocation of profits globally. We apply the same structured approach we use to gain confidence in the tax paid by large corporate groups to our analysis to determine the basis for any APA we enter into. We don't simply look at the immediate transaction between the Australian entity and the related party.

Under an APA, taxpayers provide us with an annual compliance report. This demonstrates how they have complied with the terms of their APA.

The APA and our review of the annual compliance reports assure us the taxpayer is reporting the appropriate revenue on these related party transactions in their tax returns.

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## **Key compliance risks for large corporate groups**

The risks of non-compliance with large corporate groups and how we combat tax avoidance.

**Last updated** 20 February 2025

### **On this page**

Non-compliance risks within large corporate groups

International risks

Domestic risks

Combating corporate tax avoidance

## **Non-compliance risks within large corporate groups**

Because the large corporate groups have complex business structures, there will always be a non-compliance risk in this population.

In most cases this will be the result of:

- a difference in the interpretation of the law
- an error in applying it to a taxpayer's particular circumstances.

However, a small number of large corporate groups will choose to deliberately avoid their tax obligations.

We focus on helping the majority who want to comply and providing assurance their tax payments are correct. We do this through our one-to-one prevention activities and population-wide approaches.

Where we do see deliberate attempts to avoid tax obligations, we act decisively to address these arrangements.

The **Reportable tax position schedule findings report** provides insights on the prevalence of key corporate tax risks in the large market.

## **International risks**

### **Profit shifting**

Increased globalisation has brought many benefits for countries, including increased economic growth. But it has also brought new challenges from the increasing share of global gross domestic product and trade attributable to multinational enterprises.

Companies no longer need to locate their operations close to customers or have fully integrated operations in a single location. Instead, there is increasing centralisation of functions regionally or globally with supply chains dispersed across countries.

The rise of the information and service economies, as well as advances in technology, have allowed multinational enterprises to place staff and operations in locations geographically distant from their customers. Some nations may also seek to attract investment by multinational enterprises by offering attractive tax rates and other incentives.

These factors have also allowed for tax planning that takes advantage of arbitrage opportunities to minimise global tax payments. For some multinational enterprises, this tax planning goes beyond acceptable bounds. That's why we have an increasingly strong focus on global profit shifting.

## **Related party debt**

A key corporate tax avoidance tactic is the excessive allocation or pricing of debt into Australian companies. The transfer pricing, thin capitalisation and general anti-avoidance rules may apply to these schemes.

We currently focus on the more prevalent forms of related party debt risks. We have:

- warned taxpayers and their advisers of high-risk arrangements through our taxpayer alerts
- provided guidance to assist taxpayers self-assess the tax risk of their related party financing arrangement and our likely compliance approach given that risk profile
- undertaken litigation in the most serious cases.

For related practical compliance guidance, tax rulings and determinations, see:

- *PCG 2017/4 ATO compliance approach to taxation issues associated with cross-border related party financing arrangements and related transactions*
- *TD 2019/12 Income tax: what type of costs are debt deductions within scope of subparagraph 820-40(1)(a)(iii) of the Income Tax Assessment Act 1997?*
- *TD 2020/2 Income tax: thin capitalisation - valuation of debt capital for the purposes of Division 820.*

## **Offshore service hubs**

Some multinational enterprises use centralised operating models, often referred to as hubs, to undertake various activities. These arrangements are usually based on commercial considerations but sometimes the tax treatment may not be appropriate.

We issued a practical compliance guideline to assist taxpayers to manage the risks and costs associated with hubs. Two schedules in the PCG cover marketing and procurement hubs.

See our Practical Compliance Guideline *PCG 2017/1 ATO compliance approach to transfer pricing issues related to centralised operating models involving procurement, marketing, sales and distribution functions*.

## **Inbound supply chains**

### **Appropriate profit being recognised in Australia**

Many multinational businesses operate their Australian operations through subsidiaries. They may use these subsidiaries to buy goods or services manufactured or originated offshore from their offshore parent or related companies and on-sell to Australians.

The key tax question is whether the price paid for those goods or services is an appropriate price under the law. Determining this can be particularly difficult when the goods or services have unique features. This can be difficult even for taxpayers trying to do the right thing.

Looking at the entire supply chain through a variety of lenses helps to determine if the pricing is giving sensible or distorted results. It can help clarify if the appropriate profit is being recognised in Australia.

In March 2019, we published Practical Compliance Guideline *PCG 2019/1 Transfer pricing issues related to inbound distribution arrangements*, outlining our compliance approach. The PCG includes industry-specific schedules to provide more detailed guidance.

#### **Example: Australia inbound supply chains – determining if appropriate profits are recognised**

USA headquartered BrownGoodsCo is a worldwide electronic goods company. It undertakes significant research and development activities in its home jurisdiction. This is to develop new electronic goods and market its products. The worldwide profits of BrownGoodsCo are \$12 billion on global sales of \$60 billion. This gives an implied profit to sales ratio of 20%.

BrownGoodsCo establishes a wholly owned subsidiary company, BGAus Ltd, in Australia. BGAus undertakes sales and distribution activities in Australia. It purchases the goods from offshore

related parties located in low tax jurisdictions, and on-sells them. It also provides significant after-sales support in relation to its products.

Sales of BrownGoodsCo products in Australia are \$2 billion. After paying \$1.8 billion for the products, BGAus has \$105 million in other costs, mostly salary, leasing and similar. BGAus makes an accounting profit of \$95 million on its business operations in Australia. BGAus reports these profits in its Australian income tax return.

BGAus reports a taxable income of \$100 million and pays income tax of \$30 million. The difference to the accounting profit relates to employee-related expenses (such as annual leave and long service leave), which are only deductible when paid out.

For accounting purposes, BGAus reports a tax expense of \$28.5 million, an effective tax rate of 30%. It recognises a deferred tax benefit of \$1.5 million for the deduction it will receive when it actually pays the leave costs.

Overall, their tax expense is \$30 million (or \$28.5 million for accounts) against \$2 billion in sales. This looks low at 1.5% of sales.

The key tax issue is whether the \$1.8 billion paid by BGAus to BrownGoodsCo for the goods is an appropriate arm's length price. In judging the risk of 'transfer mispricing', we will look at factors such as the:

- margin on local costs – the profit of \$95 million on local costs of \$105 million implies a relatively high return for the functions being performed in Australia
- profitability of the local operations compared with the entire supply chain. That is, BGAus is booking \$95 million of profit compared with an estimated whole of supply chain profit of \$400 million (assuming Australian supply chain profit ratios align with global profitability). Given significant R&D and manufacturing offshore, booking 24% of profit for sales and distribution and after sales support appears reasonable
- implied commission on the goods – there is an implied commission of 10%, which appears reasonable for this industry

- motivation to transfer misprice – there is a higher motivation to misprice, as significant profits are being booked in a low tax jurisdiction.

Overall, the transfer price of the goods appears lower risk and the tax payable in Australia appropriate. However, given the booking of significant profits in a low tax jurisdiction, we're likely to review the transfer pricing of BGAus.

**Note:** The local effective tax rate of BGAus doesn't provide any guidance as to whether there is 'transfer mispricing', as any mispricing will affect its profit as well as the tax. On the other hand, simply focusing on cash tax versus gross sales won't reflect the degree of support provided by the Australian operations versus the rest of the global supply chain.


See our Practical Compliance Guideline **PCG 2019/1** *Transfer pricing issues related to inbound distribution arrangements*

## Intangible assets and non-arm's length arrangements

Intangible assets, including but not limited to intellectual property, are highly mobile assets.

Australian tax advantages may be inappropriately obtained in connection with arrangements involving the location of intangible assets, or the rights to use intangible assets. The risk includes tax advantages obtained in connection with non-arm's length or contrived arrangements that:

- migrate or artificially allocate Australian generated intangible assets (or the right to use Australian generated intangible assets) to offshore related parties
- involve intangible assets with significant value derived from, or maintained by, the activities of Australian entities (or in Australia)
- subsequently grant rights in these intangible assets back to Australian entities in exchange for deductible payments or shift income relating to the intangible assets from Australia
- mischaracterise payments in connection with the use of intangible assets to reduce or avoid Australian royalty withholding tax.

Intangible assets, particularly 'hard to value' intangibles, may have special or unique characteristics. These complicate the search for comparable transactions and make market prices difficult to determine at the time of the transaction. Consider OECD public guidance – in particular, [BEPS Action 8: Implementation guidance on hard-to-value intangibles](#) .

We have issued the below advice and guidance to taxpayers and their advisors of our concerns with intangibles arrangements:

- *TA 2018/2 Mischaracterisation of activities or payments in connection with intangible assets*
- *TA 2020/1 Non-arm's length arrangements and schemes connected with the development, enhancement, maintenance, protection and exploitation of intangible assets*
- *PCG 2024/1 Intangibles migration arrangement.*

### **Example: Migration of intellectual property**

A foreign-owned Australian company (AusCo) holds internally generated patents that have not yet been commercialised. AusCo assigns the patents to a foreign subsidiary of its foreign parent (ForCo) for an amount less than the cost of development. ForCo then licenses the use of the patents back to AusCo.

AusCo continues to carry out R&D activities in connection with the patents and enters into a contract with ForCo. Under the contract:

- AusCo's R&D activities are treated as services provided by AusCo to ForCo
- ForCo owns any patents or other intellectual property resulting from AusCo's R&D activities.

For Australian tax purposes, AusCo:

- claims a capital loss from the assignment of the patents to ForCo
- claims deductions for the licence fees payable by AusCo to ForCo under the licence back of the patents to AusCo

- does not withhold royalty withholding tax on these licence fees
- only returns the compensation for its activities payable by ForCo under the contract.

We're concerned that:

- the assignment of the patents by AusCo and their licence back were not arm's length dealings or were undertaken for the purpose of obtaining an Australian tax benefit
- AusCo may not be returning adequate compensation from ForCo for
  - the R&D activities it conducts under the contract for ForCo's benefit
  - other activities which preserve or develop the patents or other intellectual property
- AusCo has incorrectly not withheld tax on its royalty payments
- the amount of Australian tax paid by AusCo since the arrangement with ForCo was put in place is not commensurate with the economic activity undertaken by AusCo in Australia
- the general anti-avoidance provisions may potentially apply.

## **Foreign resident disposal of Australian property**

We're concerned about foreign residents who obtain a tax benefit or avoid Australian tax obligations when they dispose of Australian property. We want to ensure asset characterisation, classifications and valuations are consistent with legal requirements. For example, gains made from the sale of taxable Australian property (and related assets) should be taxed in Australia. Some schemes seek to shift or attribute value to non-taxable Australian real property assets to escape taxation.

## **Domestic risks**

## Re-characterisation of income from trading enterprises

We're concerned with arrangements that seek to divert and re-characterise business trading income into concessional-tax passive income flows.

This may involve a single business being divided into separate enterprises. We've issued Taxpayer Alert TA 2017/1 *Re-characterisation of income from trading businesses* about our concerns.

Legislative amendments have addressed some of these concerns by:

- applying a 30% withholding tax on trading income converted to passive income via a stapled structure or distributed by a trading trust, and income from agricultural land and residential housing
- amending the thin capitalisation rules to prevent foreign investors using double gearing structures to convert active business income to more favourably taxed interest income
- limiting existing tax exemptions for foreign pension funds and sovereign wealth funds to passive income and portfolio investments only.

The legislative amendments don't cover all the arrangements we have outlined in our taxpayer alert. We continue to look closely at these other types of arrangements and will take compliance action where we consider an arrangement poses a compliance risk.

We're also reviewing transitional election forms to ensure taxpayers electing to obtain transitional relief are entitled to that relief and complying with the legislation.

Recent LRCs include LCR 2020/2 *Non-concessional MIT income*.

Find out more about **stapled structures**.

## Research and development

The research and development (R&D) tax incentive program is administered jointly between AusIndustry and the ATO.

As part of the co-administration, we developed a joint risk strategy to cover particular activities of concern. These include claims attributing

business-as-usual nature expenses to eligible R&D activities and claiming R&D incentives for software development.

We focus on incorrect claims in the building and construction, agriculture and mining industries. The strategy also highlights some R&D consultants as potential contributors to the risk.

We issued the following taxpayer alerts, jointly with AusIndustry, outlining our concerns with specific arrangements:

- *TA 2017/2 Claiming the Research and Development Tax Incentive for construction activities*
- *TA 2017/3 Claiming the Research and Development Tax Incentive for ordinary business activities*
- *TA 2017/4 Claiming the Research and Development Tax Incentive for agricultural activities*
- *TA 2017/5 Claiming the Research and Development Tax Incentive for software development activities*
- *TA 2023/4 Research and development activities delivered by associated entities*
- *TA 2023/5 Research and development activities conducted overseas for foreign related entities*

## **Property and construction activities of large private groups**

Property and construction is a significant industry in the Australian economy. There has been strong growth in some property markets.

Despite this, there is low tax performance and higher tax debts and insolvency rates than other industry segments. This has led us to take an industry-wide approach to risks in the segment for large private groups.

## **Group structuring and business events**

Significant business events attract our attention. These may be mergers and acquisitions, divestments of major assets and demergers, capital raisings and returns of capital. The structure of groups and changes that occur in those structures can present significant tax issues.

We issued **Taxpayer Alert 2020/4** on the use of multiple entry consolidated groups to avoid Australian tax through the transfer of assets to an Eligible Tier-1 company prior to disposal.

For more information, see **corporate restructures involving acquisitions or disposals**.

## **Combating corporate tax avoidance**

### **Tax Avoidance Taskforce**

We resolutely tackle tax avoidance by multinational enterprises, large public and private groups, and highly wealthy individuals and their advisers. The government funding of the **Tax Avoidance Taskforce** provides more investment in this work to improve and expand our outcomes.

### **Recent cases**

Several court cases reinforce our commitment to addressing tax avoidance and arrangements that seek to stretch the bounds of acceptable tax planning through the courts, where necessary. This includes taking appropriate action against advisers who seek to promote tax avoidance schemes.

In *Collies and Commissioner of Taxation* [2024] AATA 440 and *Grant and Commissioner of Taxation* [2024] AATA 427 the issues were whether trust income was assessable income of the taxpayer and whether the arrangement for appointment of the trust income to a company with losses gave rise to a tax benefit under the general anti-avoidance rule. The Administrative Appeals Tribunal found that the general anti-avoidance rule applied but allowed the taxpayer's appeal in part, finding a tax benefit in an amount less than that assessed by the Commissioner.

In *Ausnet Services Limited v Commissioner of Taxation* [2024] FCA 90 the issue was whether a valid rollover election was made with respect to a restructure involving a stapled group. The taxpayer made an appeal to the Full Federal Court.

In *GQHC and Commissioner of Taxation* [2024] AATA 409 the issue raised was whether the taxpayer's activities were 'R&D' activities and if the Commissioner can challenge the eligibility of registered activities in

the absence of a 'finding' by Innovation and Science Australia. The Administrative Appeals Tribunal dismissed the taxpayer's appeal.

In *Merchant v Commissioner of Taxation* [2024] FCA 498, the issue was whether the general anti-avoidance rule applies to deny a tax benefit where company profits were reduced through debt forgiveness to another company. The Federal Court dismissed the taxpayer's appeal.

In *Singapore Telecom Australia Investments Pty Ltd v Commissioner of Taxation* [2024] FCAFC 29 the issue was whether the lending arrangements between the taxpayer and an offshore related entity gave rise to a transfer pricing benefit. The court handed down a decision favourable to the Commissioner. Taxpayer has applied for special leave to appeal to the High Court of Australia.

In *Commissioner of Taxation v Bogiatto (No 2)* [2021] FCA 98, the Federal Court found the respondent and several associated companies contravened the promoter penalty legislation by promoting R&D incentive schemes to his clients. The Court imposed a penalty of \$22.68 million on the respondent.

The Full Federal Court considered the validity of a notice issued under the Commissioner's formal information gathering powers requiring the taxpayer to provide particulars of documents over which the taxpayer claimed legal professional privilege in *CUB Australia Holding Pty Ltd v Commissioner of Taxation* [2021] FCA 43. The Court held the Commissioner's purpose in issuing the notice was to determine whether to challenge the claim for legal professional privilege and that the notice was validly issued.

QC 53317

## Managing disputes with large corporate groups

How we resolve disputes with large corporate groups.

**Last updated** 20 February 2025

## On this page

Overview

Alternative dispute resolution

Independent review

Settlements

Litigation

## Overview

We aim to prevent disputes where appropriate. However, where disputes do arise, we work to resolve them as early as possible. Company taxation is complex, especially when applied to the affairs of large corporations. This can and does lead to differences in opinion between us and taxpayers on how the law applies to particular arrangements.

## Alternative dispute resolution

Alternative dispute resolution (ADR) involves an impartial person assisting parties in a dispute to resolve or narrow the issues between them. As part of ADR processes, we leverage cooperative relationships. For example, to help resolve valuation and pricing issues, and improve transparency, we:

- jointly engage experts and conduct discussions between experts
- examine the information and assumptions underpinning the methodology and valuation to resolve issues
- only seek another valuation when issues can't be resolved.

## Independent review

In certain circumstances, large corporate taxpayers can seek a review of the technical merits of an audit position, before the position is finalised. The review is conducted by a senior officer from a separate area of the ATO, who has no previous involvement with the audit.

Similarly, after issue of an amended assessment, a taxpayer may object against the amendment. Objections are also conducted by officers from a separate area of the ATO previously uninvolved in the casework.

## Settlements

In certain circumstances, we may agree to a settlement with the taxpayer, consistent with the **code of settlement**. We only settle disputes when it's appropriate to do so. Factors we consider in deciding whether to settle are the:

- relative strength of the parties' positions
- cost versus the benefits of continuing the dispute
- impact on future compliance for the taxpayer and broader community.

Settlement negotiations or offers can be initiated by any party to the dispute. They can occur at any stage, including before assessments are raised.

If multiple taxpayers are involved in the same or similar arrangement, we seek consistency of treatment for taxpayers in comparable circumstances. This may include developing a widely-based settlement position.

Of all client groups, settlements with public and multinational businesses have one of the lowest variance between the original ATO position and the settled amount.

Independent assurance of our largest and most significant settlements by retired Federal Court of Australia judges gives the community confidence these settlements are fair, reasonable and conducted appropriately under the law.

During 2023–24, 13 settlements with public and multinational businesses were reviewed by our Independent Assurance of Settlements Program. The reviews found those 13 settlements provided a fair and reasonable outcome for the Australian community.

For information on settlement statistics, see:

- **Settlements findings report for public and multinational businesses 2023–24**

- Commissioner of Taxation annual report 2023–24

## **Litigation**

In some cases, ADR and settlements are not appropriate. In these cases, we proceed to litigation.

We litigate in cases where either:

- a contentious or uncertain point of law requires clarification – it's in the public interest to seek law clarification through litigation
- the behaviour requires us to send a strong message to an individual or the wider community that it isn't tolerated
- the dispute is intractable and an acceptable outcome wasn't achieved via alternative means of resolving the dispute.

## **Test case litigation program**

The test case litigation program funds cases with implications that:

- are broader than the individual dispute
- will clarify the tax and super laws we administer.

The program seeks to ensure the community is provided with clear principles about how to apply the law. The financial assistance it gives to taxpayers helps them to meet some or all of their reasonable litigation costs and, in limited circumstances, pre-litigation costs.

For taxpayers to receive funding, their dispute must meet the program's funding criterion and expectations. The decision to fund a case is made by the Test Case Litigation Panel.

- The panel has 5 members, 3 are external to the ATO.
- The panel gives independent views on the merits of cases seeking funding and on the significance of issues to the community.

QC 53310

## **A strong domestic tax regime**

How Australia's tax laws and rules strengthen our domestic tax regime for large corporate groups.

**Last updated** 20 February 2025

### **On this page**

Recent enhancements to the tax regime

General anti-avoidance rule (GAAR)

Multinational anti-avoidance law (MAAL)

Diverted profits tax

Base erosion and profit shifting (BEPS) action plan

## **Recent enhancements to the tax regime**

Australia's tax regime has been significantly bolstered over the past few years across a range of areas. This includes through:

- enhancements to the general anti-avoidance rule (GAAR) by introducing
  - the multinational anti-avoidance law (MAAL)
  - the diverted profits tax
  - other amendments
- enhancements to the transfer pricing provisions to align with OECD best practice
- adoption of a range of transparency measures, including country-by-country (CBC) reporting.

## **General anti-avoidance rule (GAAR)**

Australia is fortunate to be among the few countries to have general anti-avoidance measures. In addition to many specific rules addressing tax avoidance, we have a robust income tax GAAR.

The GAAR is a last resort measure used to protect the integrity of our tax system. It ensures the failure of blatant, artificial or contrived

arrangements to obtain tax benefits. It's assessed on the objective facts and circumstances of each case. It applies where a taxpayer enters into a scheme for the sole or dominant purpose of obtaining a tax benefit.

To determine the tax benefit, we look at the taxpayer's tax position under the scheme. We compare this to the tax position that would arise, or may reasonably be expected to, if they had not entered into the scheme.

In past years, some Full Federal Court of Australia cases revealed a weakness in the capacity of the GAAR to determine a tax advantage gained from an arrangement. In a series of cases, the courts found a taxpayer would have abandoned its commercial project altogether if it could not avoid the tax on it – so there was no tax benefit.

These cases showed a gap in the capacity of the GAAR to address arrangements that, objectively viewed, had been carried out with a relevant tax avoidance purpose. To strengthen the law, the government amended the GAAR in 2013.

We can now determine the tax benefit in one of 2 ways:

- The annihilation approach simply ignores the steps that comprise the scheme.
- The reconstruction approach provides the ability to reconstruct a transaction rather than erase it. It compares the tax consequences of the scheme with those of an alternative reasonably capable of achieving the same non-tax results and consequences as those achieved by the scheme.

Our advisory body is called the GAAR Panel. It's made up of senior ATO officers and external members. The panel advises us on applying the GAAR to particular arrangements. It brings consistency and independence to the consideration of the GAAR.

## **Multinational anti-avoidance law (MAAL)**

The MAAL is an extension of Australia's general anti-avoidance rules. This law ensures multinational enterprises pay their fair share of tax on the profits earned in Australia.

The MAAL counters the erosion of the Australian tax base by multinationals using artificial and contrived arrangements to avoid the

attribution of profits to a permanent establishment in Australia.

The law applies to certain benefits derived on or after 1 January 2016. It only applies to significant global entities.

When we administered the MAAL, we:

- issued guidance including tools to help clients self-assess their risk
- conducted tailored reviews of large multinationals.

By doing this, we encouraged voluntary compliance and self-correction. We also responded very strongly to any contrived attempts to avoid applying the MAAL.

We engaged with each identified taxpayer within the scope of the MAAL to assess their risks and provide assurance. As appropriate, we helped them transition into certain and compliant arrangements. Through these engagements, we are confident that large corporate groups have compliant arrangements in place.

## **Diverted profits tax**

The Diverted profits tax (DPT) ensures the tax paid by multinational enterprises properly reflects the economic substance of their activities in Australia. It aims to prevent the diversion of profits offshore through contrived arrangements.

The DPT applies to income tax years starting on or after 1 July 2017. It imposes a 40% penalty rate of tax to be paid upfront. Like the MAAL, this applies to significant global entities.

The DPT applies where one of the principal purposes for entering into a scheme is to obtain an Australian tax benefit or both an Australian and foreign tax benefit. It is not a provision of last resort, but it complements the application of the existing anti-avoidance rules in Part IVA of the *Income Tax Assessment Act 1936*.

By applying a penalty tax rate, the DPT encourages large multinational enterprises to:

- increase compliance with their Australian tax obligations
- provide sufficient information to us so disputes can be resolved more efficiently.


# Base erosion and profit shifting (BEPS) action plan

BEPS refers to tax planning strategies that exploit gaps and mismatches in global tax rules.

BEPS schemes are associated with:

- inflating expenses (tax deductions claimed) in higher tax jurisdictions
- artificially shifting profits to low or no tax jurisdictions.


BEPS schemes can result in relatively low or zero tax rates for some large corporate groups. Australia supported the OECD BEPS program during our presidency of the G20 in 2014.

The [OECD's Action Plan on Base Erosion and Profit Shifting \(PDF, 1.4MB\)](#)  was delivered on 5 October 2015. It contains 15 action items and sets out a clear framework for dealing with BEPS issues. The plan supports all jurisdictions to get the right amount of tax and will develop a stronger international tax system.

The integrity of Australia's tax system will increasingly rely on the implementation and enforcement of BEPS recommendations and actions. It's no longer feasible to deal with these issues in isolation. We're playing a key role in developing bilateral and multilateral cooperation among global tax administrations.

Australia has implemented several recommendations from the action plan. Key reforms include:

- better transparency from the [CBC reporting](#) and [exchange of rulings](#) initiatives
- treaty reforms implemented via a [Multilateral Instrument](#)
- [hybrid mismatch rules](#)

In May 2023, as part of the [2023–24 Budget](#) , the government announced it will implement key aspects of Pillar Two of the OECD/G20 Two-Pillar Solution to address the tax challenges arising from the digitalisation of the economy. Implementation of a **global minimum tax** and a **domestic minimum tax** is currently underway.

We continue to work with other jurisdictions to implement recommendations through our treaty framework. All of these will assist

in mitigating challenges around applying the framework.

## **Country-by-country reporting (CBC)**

Significant global entities (SGEs) may also be CBC reporting entities. Under the CBC regime, if an entity was a CBC reporting entity for the whole or part of an income year, it will be required to lodge a CBC report for the following income year unless granted an exemption or administrative relief.

CBC reporting requires multinational enterprises to disclose in their CBC report:

- their key financials, organised by jurisdiction – including their international related-party revenues, profits and taxes paid
- the details of each constituent entity or member of the group – including their main business activities.

Australia exchanges and receives CBC reports with tax authorities from participating jurisdictions under multilateral and bilateral exchange arrangement.

To further enhance our risk assessment processes, CBC reporting also requires the Australian members of these large multinational enterprises to lodge a master file and local file:

- The master file discloses information about their global value chain.
- The local file provides detailed information about their international related-party transactions.

Information collected under the CBC reporting regime assists us in:

- forming a global picture of how multinationals operate
- carrying out assessments of transfer pricing and other base erosion and profit shifting risks.

CBC reporting helps us to ensure the transparency and tax compliance of the largest multinational enterprises with operations in Australia, and ultimately supports the trust and confidence that the wider community can have in the tax system.

We publish **key statistics** on international related party dealings (IRPDs) from processed international dealings schedule and local file – part A lodgments for income years commencing from 2016–17.

## Exchange of rulings

In October 2015, the OECD released the final report on Action Item 5 to counter jurisdictions engaging in harmful tax practices. It introduced improved transparency through the **spontaneous exchange of rulings between participating countries**.

Rulings covering certain topics are subject to exchange when they apply to a specific taxpayer, who is entitled to rely on it. This includes:

- private binding rulings
- advance pricing arrangements
- settlement deeds (for future years)
- rulings on international arrangements.

Exchange began on 1 April 2016 for future rulings and 31 December 2016 for past rulings. Rulings exchanged provide vital intelligence in understanding the global operations of multinationals.

## Legislative changes to update transfer pricing guidelines

Australia's transfer pricing legislation was amended on 9 July 2024 to refer to the OECD's 2022 transfer pricing guidelines as the relevant guidance material. It has retrospective application from 1 July 2022.

This version of the OECD guidance material provides guidance on the application of the 'arm's length principle', which represents the international consensus on the valuation, for income tax purposes, of cross-border transactions between associated enterprises.

The legislative update forms part of Australia's ongoing commitment to strengthen our transfer pricing provisions in line with international standards. It will help ensure multinational enterprises are paying the right amount of tax in Australia.

For more information, see [why tax is not simply 30% of profit](#).

## Multilateral Instrument

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Instrument) allows jurisdictions to address multinational tax avoidance by quickly modifying the operation of their bilateral tax treaties.

Australia signed the **Multilateral Instrument (MLI)** on 7 June 2017 and it took effect on 1 January 2019. The date that the modifications, made by the MLI to Australia's tax treaties, take effect depends on the particular treaty partner's adoption of positions and its ratifying and lodging notification of its positions with the OECD.

The Multilateral Instrument implements several OECD BEPS Action Plan recommendations to Australia's tax treaties, including:

- denying treaty benefits under Australia's bilateral tax treaties where one of the principal purposes of the arrangement or transaction is to obtain those treaty benefits
- preventing the artificial avoidance of permanent establishment status
- improving the effectiveness of dispute resolution mechanisms with mandatory binding arbitration adopted through the Multilateral Instrument.

## **Hybrid mismatch rules**

Hybrid mismatch rules were enacted into Australian law in August 2018. The rules prevent multinational companies from avoiding income tax or obtaining double tax benefits through arrangements that exploit differences in the tax treatment of an entity or instrument in the laws of 2 or more tax jurisdictions.

The **hybrid mismatch rules** apply to certain payments and income years starting on or after 1 January 2019.

The rules apply to payments between:

- related parties
- members of a controlled group
- parties under a structured arrangement.

We developed guidance to assist taxpayers who want to eliminate hybrid outcomes and avoid the application of the new rules.

# Tax is not simply 30% of profit

The economic and policy reasons corporate groups don't always report a tax rate of 30% of accounting profits.

**Last updated** 20 February 2025

## On this page

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[Business losses](#)

[Special tax rules for trusts](#)

[Tax concessions](#)

[Australian companies expanding offshore](#)

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[Investing in Australian companies](#)

## Tax compliance large corporate groups

Determining tax compliance of large corporate groups is never simple. There are inherent risks due to business complexity and uncertainties around the law.

Community interest in the behaviour of large corporate groups, particularly in multinational enterprises, has remained high. These entities have been seen as trying to minimise their tax or avoid paying tax, including through shifting profits away from Australia.

The policy underpinning Australia's tax laws generally means that Australian companies only pay tax on their Australian profits (active and passive) and their foreign passive profits.

Discussions about corporate tax often focus on the tax rate of 30%, linking it to the company's announced accounting profit. However, we can't draw conclusions about tax behaviour solely on a reported tax rate. We talk about this in our **annual report of entity tax information**.

Corporate groups may have lower taxable incomes than economic profits or pay no tax for a range of reasons.

For more information, see [Report of entity tax information](#).

## Business losses

The tax law recognises companies can and do incur business losses. It allows these losses to be:

- carried forward and recouped for tax purposes against subsequent profits
- carried back and recouped against prior year profits in specific circumstances.

The same business, similar business and continuity of ownership tests provide integrity to the loss rules. Taxable income can be reduced by losses incurred in previous years, reducing the company's taxable income below its accounting profit.

The proportion of the company population that incur losses in any given year is significant and expected as part of the normal business cycle. For example, over the past 10 years, 20% to 30% of Australian Securities Exchange (ASX) 500 companies have reported a net operating loss in any given year, according to their financial reports.

## Special tax rules for trusts

Trusts are widely used for investment and business purposes by large corporate groups. Trusts are treated as taxpayer entities for tax purposes. The trustee is responsible for managing the trust's tax affairs, including paying some tax liabilities.

When shares in some companies are sold together with units in an associated trust, they are said to be 'stapled' together. Income from the trust is returned by the unit holder in their return rather than by the company. This results in company taxable income returned being much less than total business profits but this is offset by the tax payable at the unit holder level.

### Example: Property

Property Group is an Australian real estate investment trust (A-REIT) listed on the ASX. It operates through a stapled structure

that consists of units in Property Trust stapled to the shares in Property Company.

Property Trust owns a large portfolio of commercial properties that are leased to unrelated third parties. Property Trust receives rent from those third parties. This is distributed to security holders on a periodic basis. Property Company undertakes activities such as the management and development of Property Trust's commercial properties.

The remuneration paid to Property Company is an arm's length amount that allows it to generate a sufficient return for the work it has performed for Property Trust. The pricing is supported by comprehensive documentation including references to appropriate comparable transactions.

Our review of Property Group confirmed the cross-staple dealings presented a low risk and appeared to be priced in a robust manner. These dealings are incidental to the leasing of commercial properties and rent received by Property Trust.

The profit of Property Company is taxed under normal rules at 30%. The profit of Property Trust is not taxed at the trust level but is taxed in the hands of unit holders.

## Tax concessions

Some features of tax law are designed to stimulate investment and economic growth. These various exemptions and concessions may also explain, in part, why some corporate groups appear to pay tax at a rate less than 30% of their accounting profit (and less than 30% of their taxable income).

Tax concessions include:

- **research and development tax incentive** to promote innovation and the social and economic benefits innovation brings
- **capital allowances** to encourage business investment through shorter effective lives of assets for tax purposes than for accounting purposes, with particular policy concessions for:
  - certain exploration expenditure
  - capped effective lives for certain depreciating assets

- economic stimulus measures to support eligible businesses.

By deferring tax to the later years of an asset's useful life, capital allowances give rise to earlier positive cash flows.

## **Australian companies expanding offshore**

Australian corporate groups may benefit by investing offshore to access larger markets, new technologies and business processes. These benefits can flow through to the Australian economy and society more generally.

Active business profits Australian companies or their subsidiaries earn offshore are generally not taxed in Australia, either when they are earned or later as dividends. This allows Australian corporate groups to compete on a level playing field offshore. It also encourages Australian companies to earn foreign income and bring it back to Australia.

Australia doesn't tax capital gains on sales of offshore active businesses.

## **Offshore companies investing in Australia**

Overlaying our Australian tax rules is a network of tax treaties to assist in:

- reducing tax barriers for international trade and investment
- fostering cooperation with other international tax authorities
- ensuring fair taxation.

If a taxpayer thinks they have been subject to double taxation, our treaties provide a mutual agreement procedure to resolve the dispute between the respective jurisdictions.

For more information, see the [Mutual agreement procedure](#).

## **Investing in Australian companies**

Under the imputation system, a share of corporate tax paid is imputed to shareholders. The shareholder reports both the dividend they

receive and an imputed amount of corporate tax. The imputation or franking credit offsets the shareholder’s tax liabilities.

An Australian company that has a stake in another Australian company will not pay tax on a dividend twice. If the other company pays a fully franked dividend, it will not be taxable again in the hands of the shareholding company. This is even though it may be included in the accounting profits of the shareholding company.

QC 53282

# Tables – Tax compliance of Australian corporations

Tables supporting the tax compliance data of Australian corporations.

Last updated 20 February 2025

## On this page

- Demographics of large corporate groups – data table
- Macro-level analysis is giving us confidence – data tables
- The OECD four pillars of compliance – data table

## Demographics of large corporate groups – data table

The table details the data used in the figure Large corporate groups – contribution to tax revenue from 2017–18 to 2022–23.

Table: the contribution to tax revenue from 2017–18 to 202 corporate groups

Income tax	2017–	2018–	2019–	2020–	2
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payable (\$b)	18	19	20	21	
Large diversified miners	8.0	10.2	11.5	14.9	
Oil and gas	1.2	1.9	1.3	0.6	
Other mining, energy and water	6.9	10.8	12.1	16.6	
Major banks	11.4	10.1	9.2	8.4	
Other financial services	6.5	6.8	6.4	7.4	
Wholesale, retail and services	13.6	12.6	12.5	15.1	
Manufacturing, construction and agriculture	3.9	3.8	3.7	4.0	
Total reported	51.4	56.2	56.6	67.1	

## Macro-level analysis is giving us confidence – data tables

The table below details the data used in the figure Indexed income tax payable and pre-tax profits of ASX-listed companies.

**Table: Indexed income tax payable and pre-tax profits of ASX-listed companies**

Year	Income tax	Pre-tax profit	Indexed income	Indexed pre-tax
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	<b>payable (\$m)</b>	<b>(\$m)</b>	<b>tax payable</b>	<b>profit</b>
<b>2018</b>	28,549	157,674	100.0	100.0
<b>2019</b>	29,938	164,157	104.9	104.1
<b>2020</b>	31,080	146,335	108.9	92.8
<b>2021</b>	37,877	190,778	132.7	121.0
<b>2022</b>	43,353	246,988	151.9	156.6

The table below details the data used in the figure Tax-to-income ratios of Australian public and majority foreign-owned large corporate groups.

**Table: Tax-to-income ratios of Australian public and majority foreign-owned large corporate groups from 2017 to 2023**

<b>Year</b>	<b>Majority foreign- owned</b>	<b>Australian – Public</b>	<b>Australian – Public (excluding largest 10)</b>	<b>Private</b>
<b>2017</b>	1.57%	3.19%	1.80%	1.44%
<b>2018</b>	1.82%	3.25%	1.92%	1.81%
<b>2019</b>	1.90%	3.44%	1.91%	1.44%
<b>2020</b>	1.72%	3.47%	1.72%	1.51%
<b>2021</b>	1.63%	4.13%	1.76%	1.79%

<b>2022</b>	2.32%	4.29%	2.15%	1.72%
<b>2023</b>	3.00%	3.72%	2.37%	1.48%

## The OECD four pillars of compliance – data table

The table details the data used in Figure 2: Culpability penalty rates applied to large corporate groups, 2018–19 to 2023–24.

**Table: Culpability penalty rates applied to large corporate groups from 2018–19 to 2023–24**

<b>Culpability penalty</b>	<b>2018–19</b>	<b>2019–20</b>	<b>2020–21</b>	<b>2021–22</b>	<b>2022–23</b>
<b>0 rate</b>	0.4	0.7	0.3	0.3	0.7
<b>10% rate</b>	0.1	0.1	0.3	0.3	0.0
<b>25% rate</b>	0.3	0.1	0.4	0.3	0.2
<b>50% rate</b>	0.2	0.1	0.1	0.1	0.1
<b>75% rate</b>	0.0	0.0	0.0	0.0	0.0

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