



McDonald's conviction for failure to comply

McDonald's Australia convicted and fined for failing to provide documents to the ATO.

Last updated 14 January 2022

McDonald's Australia has today been convicted and fined for failing to provide documents to the Australian Taxation Office (ATO).

Deputy Commissioner Will Day said the outcome serves as a reminder to all taxpayers to be open and transparent in their dealings with the ATO.

"The vast majority of taxpayers willingly engage with us and voluntarily provide the information we need to undertake reviews and audits."

"We only issue formal notices to taxpayers to obtain information as a last resort; where a cooperative approach is no longer productive or where a taxpayers' circumstances, history or behaviour warrant the use of our formal powers."

"As such, we expect the taxpayer to treat them seriously and respond in a timely way."

On 26 July 2019, the ATO issued a formal notice requiring McDonald's Australia to produce documents with a compliance date of 30 August 2019. However, despite continued engagement with McDonald's Australia to obtain the information and resolve the matter, the documents were not provided by the compliance date.

The matter was subsequently referred for prosecution by the Commonwealth Director of Public Prosecutions, which saw McDonald's Australia plead guilty at the Downing Centre Local Court in Sydney to one count of failing to comply with an information gathering notice.

Mr Day explained that the ATO has intense one on one engagement with the top 1,000 companies operating in Australia, which provides access to vast amounts of information.

“We issue about 70 formal notices to large business each year as part of our compliance activities to obtain information that is not forthcoming through this ongoing engagement.”

“The community rightly expects that big business is held to the highest standards and our compliance checks ensure large corporate groups are held to account,” Mr Day said.

This matter highlights the importance of complying with ATO information gathering notices. Adequate information is necessary for the ATO to be assured an entity is meeting its obligations.

“Instances where taxpayers have failed to comply with requests for information rarely result in criminal convictions as most will work with us to meet their obligations. However, where taxpayers hold back necessary information or documents, the ATO will initiate prosecution action,” Mr Day said.

Mr Day said most businesses do the right thing and the ATO is committed to supporting taxpayers to meet their obligations.

“We have a duty to hold to account those who have disengaged from us and take action to secure an outcome for the benefit of all taxpayers,” Mr Day said.

You can anonymously **report** tax evasion and crime activities by completing a tip-off form on our website or by calling **1800 060 062**.

This matter was prosecuted by the Commonwealth Director of Public Prosecutions.

Background


The information we need to administer the Australian tax and superannuation systems generally resides with taxpayers, their advisers or other parties involved in their business and tax affairs. Where the information we need is not given to us cooperatively, we have formal information-gathering powers available to us, including our notice powers.

To protect the integrity of the tax system, there are consequences if you fail to comply with a notice.

The circumstances in which we issue a notice are varied and range from simple verification procedures to situations where there is evidence of serious tax avoidance.

Details of the number and types of notices we issued are available in our Annual report.

The ATO is committed to ensuring a level playing field for all business including those within the franchising sector.

The ATO notes that the [High Court has refused the special leave application](#)  in relation to the Full Federal court decision handed down in the favour of the Commissioner as related to this sector (Benjamin Mussalli & ORS v Commissioner of Taxation - NSD555/2020).

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