


# ***JTR/IMM-TOP100 -***

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Australian Government  
Australian Taxation Office

# Monitoring and Maintenance Approach

Top 100 Justified Trust Program  
Income Tax

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# Top 100 Justified Trust program

## ‘Monitoring and Maintenance Approach’

### Background

When a Top 100 taxpayer attains an overall high assurance rating under our Justified Trust assurance program, this means that we have confidence that they have complied with Australian income tax laws.

In recognition of the level of trust we have in the reported tax outcomes of these taxpayers, we tailor our engagement approach to focus on maintaining our high level of confidence.

The nature of our engagement for the two income years following an overall high assurance rating is known as the ‘Monitoring and Maintenance’ approach.

The ‘Monitoring and Maintenance’ approach will only be applicable to taxpayers who are subject to an annual pre-lodgment compliance review (PCR) engagement.

For taxpayers subject to an Annual Compliance Arrangement (ACA), see [Annual Compliance Arrangement Taxpayers](#).

### ‘Monitoring and Maintenance’ approach

Under the ‘Monitoring and Maintenance’ approach, we will monitor the taxpayer’s disclosures and tax outcomes over the two income years following an overall high assurance rating to maintain the level of Justified Trust obtained.

During this period, we will seek to leverage the high assurance already obtained in relation to ongoing business activities. We will verify the tax outcomes from significant new transactions, or where there are significant changes to the taxpayer’s business activities (including the tax treatment of those activities).

At the end of the review, the taxpayer will receive a ‘Monitoring and Maintenance’ Assurance Report.

The ‘Monitoring and Maintenance’ reviews during this period will be followed by a more comprehensive Justified Trust review to refresh our confidence in the taxpayer’s tax outcomes every third year.

At the end of a refresh year, the taxpayer will receive a full Tax Assurance Report (TAR).

## ‘Monitoring and Maintenance’ review

Under a ‘Monitoring and Maintenance’ review, we will conduct an annual review of the tax outcomes for the relevant year to maintain our level of confidence that the taxpayer continues to pay the right amount of tax.

The review will consider:

- the last TAR issued;
- financial statements;
- tax return disclosures and accompanying schedules, such as the international dealings schedule (IDS) and reportable tax position (RTP) schedule;
- country-by-country (CBC) reporting statements; and
- any other relevant information for the income year under review.

We will continue to request documentation such as financial statements (if not publicly available), the statement of taxable income (SOTI), supporting working papers, and evidence supporting the tax treatment of significant or new transactions and material changes.

We will continue to meet with taxpayers on a regular basis throughout the year to maintain a contemporary understanding of business performance, key transactions and areas of focus. We may request supporting evidence to be provided throughout the year to assist our enquiries.

Taxpayers will be expected to proactively engage with us and make disclosures of significant or new transactions, or where there are material changes, before these occur. We expect the following to be disclosed on a real time basis or as part of the annual review (as relevant):

- significant or new transactions;
- material business changes;
- change of tax treatments or positions that have previously been assured as part of the current or prior review;
- change of reporting of uncertain tax positions as reflected in current and deferred tax balances in the financial statements;
- details of any new tax risks flagged to market (note these should align with disclosures in the RTP schedule);
- disclosure issues or errors relating to information reported in the income tax return or accompanying schedules that should be corrected;
- material changes to the design of the tax governance framework; and
- outcomes of independent operational effectiveness testing of the tax governance framework completed.

Where the taxpayer makes a disclosure or notifies us of any of the above circumstances, or where our review detects a significant change or potential tax risk, we will request further evidence from the taxpayer to determine if verification is required.

Where an item requires verification, our assurance activities in relation to these transactions or events will generally be targeted to areas not previously assured.

## Understanding a taxpayer's tax governance framework

A pre-requisite to achieving overall high assurance is that the taxpayer's tax governance framework must be rated as stage 2 or stage 3.

During the 'Monitoring and Maintenance' review, we will seek written confirmation as to whether there has been any change to the design of the taxpayer's tax governance framework since our last review.

Where this confirmation is provided, we will rely on our prior conclusions in relation to the design effectiveness, with additional work focussed on reviewing:

- where errors are identified that stem from deficiencies in the operating effectiveness of governance controls;
- the implementation of any ATO recommendations, including, enhancements and the taxpayer's process on actioning outstanding items from the prior assurance review;
- any changes to the design of the tax governance framework for the Justified Trust areas of focus; and
- where a taxpayer has undertaken operational effectiveness as part of transitioning from a stage 2 rating for governance, the outcomes from the independent operational effectiveness testing to assess whether a stage 3 rating is achievable.

## Identifying tax risks flagged to the market

We expect taxpayers to disclose to us in real time whether tax treatments or positions have changed, or if there has been a transaction or business change that could fall within the scope of a tax risk flagged to market.

In addition, we will continue to conduct our own internal review of available information to determine such changes, including publicly available information, the income tax return and accompanying schedules such as the IDS and RTP schedule, and CBC reporting statements.

Where there has not been any changes in the tax treatments or positions and business activities, and the ATO has not communicated new risks or concerns to the market that have potential application to the taxpayer's business, there would be no further review under this pillar for the relevant income year.

Where a tax risk flagged to market is identified as requiring verification, the scope of the review will depend on the facts and circumstances. Where the relevant tax risk flagged to market has been previously reviewed, we will leverage from the assurance already obtained where possible. Otherwise, the transaction will be comprehensively assured consistent with Justified Trust principles.

## Understanding significant and new transactions

We expect taxpayers to disclose to us in real time if they have entered into significant or new transactions, undergone business changes, or changed the tax treatments or positions adopted for items we have previously assured.

If we determine that no significant new transactions have been entered into and no changes in business activities have occurred, and there has not been any changes in the tax treatments or positions, there would be no further review under this pillar for the relevant income year.

Where a relevant transaction is identified as requiring verification, the scope of the review will depend on the facts and circumstances. Where possible, we will seek to leverage from the assurance already obtained. Otherwise, the transaction will be comprehensively assured consistent with Justified Trust principles.

## Understanding why the accounting and tax results vary

During the 'Monitoring and Maintenance' review, we will continue to conduct Book to Book (B2B), Book to Tax (B2T) and an Effective Tax Borne (ETB) analysis similar to a standard Justified Trust review. However, given the level of business understanding acquired during the Justified Trust reviews, we expect these to be streamlined and less intensive.

The B2B and B2T reviews will typically be based on ATO internal data sources, external data sources, the SOTI, relevant balance sheet tax accounts and any other information provided by the taxpayer to identify significant changes.

Additional information will generally only be sought in relation to B2B and B2T adjustments which are identified as being new or having changed significantly (in terms of treatment or amount) from those assured previously.

In relation to the ETB calculation and analysis, during the 'Monitoring and Maintenance' review, we will generally calculate the ETB using the same proxies and assumptions as those used in the most recent TAR provided these remain appropriate and reasonable.

Additional review and enquiry in relation to the ETB during the 'Monitoring and Maintenance' phase will generally be limited to transactions which are new or have significantly changed (in terms of nature or amount) since the last ETB analysis was conducted.

## Refresh year

To reaffirm our confidence that the taxpayer continues to pay the right amount of tax, we will refresh our understanding and evidence base every third income year. This will be done by conducting a refreshed Justified Trust review.

We may also conduct a refreshed Justified Trust review where:

- there has been a fundamental business change (a takeover, for example) such that there is a new business operation we need to obtain assurance over; or
- we have reason to consider that our trust should no longer be maintained.<sup>1</sup>

The assurance activities for the refresh year will resume a whole-of-business approach, covering the tax outcomes of the entirety of the taxpayer's economic activities and applying the four pillars of Justified Trust.

It is anticipated we will seek to 'top up' our assurance where appropriate. In ordinary circumstances, it is expected that this will require less resource investment by taxpayers and the ATO as existing information, evidence and knowledge are able to be leveraged.

The refresh year review will focus on the current income year, and will generally not involve enquiries into the years covered by the 'Monitoring and Maintenance' reviews unless key or material issues remain unassured for those years, or we have reason to reopen these years.

We will work with taxpayers on the scope and timing of the workplan for the refresh year.

## Annual Compliance Arrangement Taxpayers

For Top 100 ACA taxpayers who have obtained an overall high level of assurance, we will revert to an annual ACA review in accordance with the ACA terms of arrangement, with the only addition being an ETB analysis.

Typically, an ACA will require greater review activity than proposed under a 'Monitoring and Maintenance' review. This is because ACAs include an ATO sign-off in relation to each income year under review.

Consistent with other taxpayers, we will conduct a refreshed Justified Trust review every third year.

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<sup>1</sup> For example, if we consider that a taxpayer has deliberately omitted disclosure of a material change in tax position.

