

Tax Practitioner Stewardship Group - Key Messages

The Tax Practitioner Stewardship Group meeting was held on Friday 1 March 2019.

The topics discussed are outlined below to assist professional associations to communicate key messages to association members and tax practitioners.

Tax agent assurance

The ATO and the Tax Practitioners Board (TPB) are working to address the adverse impact that some agents are having on the tax and super systems and the community as a whole. The integrity of the tax profession is critical to the work we do and we are taking a purposeful approach to prevent these agents from undermining the tax and super systems.

The ATO and the TPB continue to target those involved in illegal activity, fraud, evasion and crime and will take firm action to remove these agents and minimise their impact on the community. The ATO and the TPB will continue to work with the profession to support high integrity agents who encourage, enable and ensure their clients do the right thing.

The ATO is also identifying agents who might just be struggling in one or more areas. These agents might be having large numbers of returns amended or making a large number of calls to the ATO's call centres, lodging paper returns rather than electronic lodgment or there might be changes in the risk of their client base (e.g. changes in deductions claimed or risk around omitted income). The ATO engages with these agents through the Early Intervention Program which was funded as part of the Black Economy Measures and aims to provide proactive support and guidance to reduce the number of agents who are at risk of becoming a concern in the future.

Initial results show that some agents are not fully using the support on offer from either the ATO or their professional bodies. Some agents are still not using pre-fill and some agents are not doing enough to check whether clients were entitled to claim deductions for expenses incurred. The ATO has visited over 100 agents so far under the Early Intervention Program with many more expected this year and next.

Agents are required to comply with taxation laws in the conduct of their personal affairs as per the Code of Conduct in the Tax Agent Services Act 2009. The ATO and the TPB have been working together to assure that Tax Agents, BAS Agents and Tax (Financial) Advisors are meeting this requirement. This work has so far been focussed on the lodgment and debt requirements of tax practitioners. Results from initial mail outs have been reassuring with many practitioners taking the opportunity to get their tax affairs up to date. Practitioners who ignore the letters will be contacted and agents who continue to choose not to engage and not to comply will receive a firmer response which may include legal action.

Australian Business Register and e-invoicing

Strengthening the integrity of the Australian Business Number system

The ATO has undertaken extensive consultation with a broad range of stakeholders on proposed reforms to strengthen and modernise the Australian Business Number (ABN) system. The findings from the consultation process are informing the government's consideration of reform options.

There appears to be confusion in the community around when ABN and GST registrations are required, as well as the difference between these two registrations. The ATO is working to ensure that communications with the community use broad ATO channels and are educational, encourage digital interaction, and highlight the obligations associated with having an ABN.

Tax practitioners can support their clients by providing their Registered Agent Number when applying for an ABN or applying via ATO Online. This will assist in providing assurance to the ATO that the tax professional has assessed ABN entitlement prior to applying.

The ATO is working on enhancements to the online ABN application process, due to be delivered in March 2019. These include:

- new messages for underage applicants
- inclusion of penalty disclaimer on the declaration page
- more rigorous assessment of high-risk applicants.

e-invoicing

e-invoicing involves the digital transmission of purchasing and payment information between suppliers and customers in a format readable by machines. e-invoices will be automatically entered into enabled accounting software, reducing time and potential errors for both parties. Testing of the e-invoicing framework is progressing, ready for a March 2019 deployment.

The Australian and New Zealand Prime Ministers have committed to strengthen trans-Tasman cooperation on e-invoicing, including the establishment of the Australia New Zealand Electronic Invoicing Board. The two countries intend to adopt the Pan-European Public Procurement Online (PEPPOL) interoperability framework for e-invoicing to increase opportunities for our businesses to integrate with the global trading environment. This transition is expected to occur by the end of 2019.

As trusted business advisers, tax practitioners can play an important role in raising awareness of the new e-invoicing capability and the ATO is working in conjunction with key influencers from the tax professional community to engage in communication opportunities and to gain intelligence on any irritants, concerns or noise they are hearing about these topics.

Tax practitioners can best position the benefits of e-invoicing for their clients and their own practice and encourage their clients towards a digital future.

Modernising Business Registers and Director Identification Numbers

The ATO has worked with partner government agencies to develop options for streamlining business registry functions and upgrading technology systems.

The Modernising Business Registers (MBR) options are currently being considered by the Government. As the MBR work progresses, the Government is committed to working closely with business, community and other government representatives, including end users of registry services.

To date, consultation held on Director Identification Numbers (DINs) with directors and a broad range of third parties (including tax practitioners) has highlighted that:

- individuals (especially from small businesses) are generally not aware of their director responsibilities, and have a high reliance on their agent for advice
- there is strong support, particularly from directors, to be able to apply for a DIN without needing an agent to do it on their behalf
- agents would be a useful source of information and advice for directors, especially on how and when to obtain a DIN.

The ATO is planning further discussions with stakeholders, covering identity verification, access to and use of DIN data, notifications, authorisations and linking/de-linking DIN data to company information.

Small Business Black Economy

The Government announced a range of initiatives aimed at addressing the black economy in the 2018-19 Federal Budget. Significant funding was provided to the ATO to support a forward 4-year program to implement a number of initiatives to reduce the incidence and impact of black economy activities on the Australian community.

The ATO is taking a much broader approach than in the past to address and change the perception that the risk of being caught operating in the black economy is low. The ATO is implementing

differentiated strategies and improving detection techniques to deliver tailored correction, preventative and educational activities. These include:

- a range of enhanced enforcement activities have been deployed to address black economy behaviours including the creation of the Tax Integrity Centre for the community to notify us of black economy activity, Black Economy Standing Taskforce and Mobile Strike teams
- enhancement of ATO data and analytical capabilities to better target the black economy and enhance data visibility and interactions between tax practitioners, their clients and the ATO
- an increase in education activities
- the expansion of the Taxable Payments Reporting System, and
- removing the deductibility of non-compliant payments.

It is recommended that all clients and tax practitioners understand the following key messages:

- ❖ If taxpayers have attempted to do the right thing with their pay as you go withholding and reporting obligations but made a mistake, they will generally not lose their deduction, but may still be subject to the existing penalty regime.
- ❖ If a business has genuinely misclassified a worker, by treating them as a contractor with an ABN they will not lose their deduction.
- ❖ If taxpayers have deliberately not complied with their pay as you go withholding obligations they are at risk of losing their deduction unless they make a voluntary disclosure before they have received notification that an audit or other review has commenced. They are also at risk of penalties for failure to withhold and report.
- ❖ Tax practitioners should review their client's pay as you go withholding obligations to ensure they are up to date.
- ❖ If clients are having problems with lodging or reporting they or their agent should contact the ATO for help.
- ❖ If tax practitioners discover their clients have not been complying with their pay as you go withholding obligations, including not obtaining an ABN from a contractor, they can make a voluntary disclosure in the approved form to correct things moving forward and to protect their deduction.

Activity Statement Financial Processing

The ATO has recommenced plans for major system changes to move all activity statement account management (including penalties and interest) into one system – Integrated Core Processing (ICP). This will be known as the Activity Statement Financial Processing (ASFP) project.

The ASFP release is a required step towards the next interaction in technology for the ATO. The modernisation of infrastructure will provide the foundation for the future contemporary client experience.

For tax practitioners and their clients, the release will provide a consolidated and enhanced view of Activity Statement and Director Penalty accounts and transactions via ATO online services.

The ATO is seeking nominations from the tax professional associations to establish a working group to inform the ASFP project and improved client experience.

Tax Clinics

As part of a government initiative, ten universities across the country will be operating Tax Clinics on a trial basis through 2019 to advise and support lower income and unrepresented individuals and small businesses on a no-fee basis to help them understand and meet their tax obligations, and provide assistance in addressing their tax problems and disputes.

The aim of the National Tax Clinic trial is to fill a gap in the market for unrepresented, low income or vulnerable individuals and small businesses that may not be able to afford professional advice and representation.

The Tax Clinics will not be competing for business from the tax profession. It is anticipated that many small business Tax Clinic clients may become paid customers of tax practitioners once initial tax difficulties are overcome and the business moves onto a more stable footing and profitable stage.

Tax practitioners are encouraged to become involved in supporting their local Tax Clinics as an opportunity to contribute to the development and experience of tax students and supporting the future capabilities of the tax profession.

The ATO has been tasked by government to administer the National Tax Clinic program trial. The role as administrators is limited and does not include being involved in the day to day operation of the Tax Clinics.

More information

- > Prime Minister Morrison's [speech](#) to the Australian Chamber of Commerce and Industry, 28 November 2018
- > Assistant Treasurer Stuart Roberts' [speech](#) and Second Commissioner Andrew Mills' [speech](#) from the Australasian Tax Teachers Association conference, 15-16 January 2019
- > [Curtin University Tax Clinic](#)
- > [ATO Sponsorship Grant program](#)

Superannuation

Updates were provided on the following Superannuation topics:

- The final report of the Royal Commission into misconduct in the banking, superannuation and financial services industry was released on Monday 4 February 2019.
- The final report on the Productivity Commission's review to assess the efficiency and competitiveness of the superannuation system was released on 10 January 2019.
- Government announcements on the *Women's Economic Security Statement 2018* and technical changes relating to the transfer balance cap and other minor amendments.
- The Decision Impact Statement in relation to the Full Federal Court decision for Aussiegolfa, regarding the application of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) to an investment made by an SMSF in a managed investment scheme (MIS).
- Proposed Non-Arm's Length Income (NALI) and Total Superannuation Balance changes Legislation before Parliament.
- The SMSF lodgments focus on tax agents and approved auditors.
- SMSF approved auditor actions and referrals to ASIC.
- The Division 293 tax threshold reduction from \$300,000 to \$250,000 for the 2017-18 and future income tax years.
- Excess Transfer Balance (ETB) Determinations, tax assessments and commutation authorities issued.
- First Home Super Saver Scheme and downsizer contributions.
- Early release of superannuation benefits on compassionate grounds.
- Superannuation Guarantee legislation, integrity measures, amnesty and updated Superannuation Guarantee gap figures.
- Small Business Superannuation Clearing House.

Detailed information on any of the Superannuation topics listed above is available on request from the [TPSG secretariat](#).

More information

- > [Super Guarantee Amnesty](#)
- > [Super Guarantee Gap](#)
- > [Small Business Superannuation Clearing House](#)

Whistleblowing

The Government has amended the *Corporations Act 2001* and the *Tax Administration Act 1953* to strengthen Australia's corporate and tax whistleblower protections. Prior to this there were no protections for tax whistleblowers.

The new tax whistleblower regime introduces arrangements that protect individuals who report breaches or suspected breaches of taxation law or misconduct in relation to an entity's tax affairs. The new protections provide clarity for tax whistleblowers on eligibility and who they can make protected disclosures to.

The legislation passed the Parliament on 19 February 2019. In preparation for this measure coming into effect, the ATO is currently reviewing systems, processes and staff learning products to ensure it meets the requirements of this measure.

The ATO will provide further communication once these processes are developed.

More information

- > Link to the legislation and explanatory memorandum:
<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId:s1120%20Recstruct:billhome>

More information

Tax practitioners can obtain more information on these topics from the [professional association representatives](#). Tax practitioners should contact their representative to contribute items for future discussions.