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How we use total revenue effects to measure the impact of our engagement activities on taxpayer compliance.

QC 28369

# **Current issues with trusts and the tax system**

Read our report on the operation of the tax system with discretionary trusts linked to high wealth individuals.

**Last updated** 25 January 2019

## **Focusing on trusts used to deliberately avoid tax**

While the majority of trusts are used for genuine business and family dealings, there are some trusts which engage in behaviour that attract our attention.

The Tax Avoidance Taskforce – Trusts is focused on those trusts engaged in high risk tax avoidance and evasion arrangements.

The taskforce has focused its compliance activities on trust risks including:

- income tax 'shuffles'
- complex distributions
- non-lodgment

- structures designed to prevent transparency.

Over the past six years, the Tax Avoidance Taskforce – Trusts, and the previous Trusts Taskforce, have:

- completed more than 95 audits
- completed more than 950 reviews
- raised \$1.2 billion in liabilities
- collected more than \$467 million.

There have also been two successful convictions for serious tax fraud, with a further four matters referred to law enforcement agencies for criminal investigation.

The Tax Avoidance Taskforce – Trusts uses a range of sources when developing strategies to address non-compliance.

As part of our ongoing program of work, we commissioned the Royal Melbourne Institute of Technology (RMIT) to conduct independent research and provide another perspective on tax issues involving trusts.

The research paper *Current Issues with Trusts and the Tax System* is one of many sources we have used to assist our compliance activities and develop mitigation strategies to address trust mischief.

The ATO is grateful to the RMIT for their research and insights provided into trusts and the tax system. However, the ATO does not agree with all aspects of the findings or the methodologies adopted.

The ATO has issued a range of public advice and guidance to address trust risks including:

- Trust Vesting (TR 2018/6)
- the meaning of Income of the Trust Estate (TR 2012/D1)
- section 100A Reimbursement Agreements.

If you're aware of potential tax avoidance or evasion arrangements involving trusts proposed to you by other taxpayers or advisers, email [TrustRisk@ato.gov.au](mailto:TrustRisk@ato.gov.au).

The executive summary from the research paper is below.

# Executive Summary

By 2022, it is expected that over 1 million trusts will exist in Australia. Trusts are used as a vehicle for business, investment and estate planning by various segments of Australian society. There are many types of trusts, the most common type being *discretionary* trusts. In total, trust income in 2013–14 exceeded \$340 billion, making this vehicle a defining feature of the Australian economy with trusts in the financial services sector alone accounting for over \$24 billion<sup>1</sup>.

Another central feature of Australia's economic landscape is its tax system and in particular the way in which it regulates the behaviour and activities of trust users. The purpose of this investigation was to examine the efficacy of the current system of taxation of trusts. Key highlights of our study include:

- The interactions between the trust and tax laws are being manipulated which could contribute to the sheltering of significant amounts of tax. At conservative levels this amount is estimated to be between \$672 million and \$1.2 billion per annum.
- Chains of trusts and interlinking trusts are common which may reflect a deliberate intent to create a degree of opacity with relation to trust income.
- Trust tax lodgment patterns differ according to trust type, however these are difficult to ascertain given the current level of information available.
- The current system of trusts presents significant challenges in implementing international transparency obligations and recommendations.
- Australian trust taxation law is remarkably different from other common law jurisdictions.

These highlights are based on an in-depth investigation which:

1. Analysed Australian Tax Office (ATO) de-identified data, relating to various discreet groups of taxpayers<sup>2</sup> (Wealthy Australians, Potential High Net Wealth Individuals, High Net Wealth Individuals and other private groups), in order to assess:
  - current effectiveness of the tax system in relation to the tax use of trusts, including taxpayers' responses to administrative or legislative changes;

- trends or indicators as to future tax use of trusts and their impact on the performance of the tax system, including suggestions of how to improve taxpayers' voluntary compliance; and
  - administration issues arising from the current interaction of tax and trust law.
2. Examined how other common law jurisdictions (a) tax trusts (with a particular focus on jurisdictions with similar legal systems to Australia), (b) deal with similar tax use of trusts (c) address similar issues that arise from the interaction of tax and trusts law and (d) regulate trusts. Instructive comparisons are made with the Australian trusts' taxation system.
  3. Assessed other known commercial or legal matters that are relevant to the use of trusts and may have an impact on the ATO's tax administration.

In particular, the investigation focused on the following areas:

1. The income tax shuffle: How inconsistencies between trust and tax income definitions can be used to shelter income from higher rates of tax. This opportunity is brought about by creating and subsequently utilising the mismatch between income for tax law purposes (net income) and income under trust law purposes (distributable income)
2. Complex distributions: How distributions between trusts can be effectively used to disrupt ATO oversight of income streams.
3. Non-lodgment and trust lodgment patterns of trust tax returns: How effective the current system is in identifying the number of trusts and monitoring their activity.
4. Transparency: How the current system for the taxation of trusts in Australia is positioned to meet the requirements and expectations of Australia's international treaty partners.

In addition, this report also includes a review of the taxation of trusts in Canada, New Zealand, the United Kingdom and the United States and how they compare with the Australian context. A critical review of the roles of accountants and legal professionals in providing advice in relation to the use of trusts is also presented. Finally, industry practitioner perspectives were gathered via in-depth interviews to

provide insight on motivations and behaviours in relation to the use of trusts.

The following is a summary of key findings presented in the order in which they appear in this report.

## **Income tax shuffle**

Income tax shuffles exploit the differences in the definitions of income under trusts law and tax law. Beneficiaries are made liable for tax on the amounts which they do not receive resulting in a separation of economic and tax outcomes.

This separation, following the decision in *FCT v Bamford* (2010) 240 CLR 481, takes the form of trustees and/or the terms of trusts reducing distributable trusts law income to below the level of tax law income. The amount calculated for trusts law purposes (distributable income) is then distributed to presently entitled beneficiaries. However, the tax liability of these beneficiaries is calculated from their share of the trusts tax law (net income) income. Presently entitled beneficiaries to whom reduced distributions are made may be concessionally taxed or insolvent. Amounts withheld by the trust (being the difference between the net income and distributable income) are distributed tax-free to other beneficiaries in subsequent years. Findings from this investigation suggest:

- The major indicator that an income tax shuffle has occurred is that a trust has a smaller amount of distributable income than net (taxable) income, however it should be noted that there may be other explanations for this indicator. Nevertheless, an income mismatch is present in every case of an income tax shuffle – a review of five cases (some spanning more than one year) featured 18 arrangements involving income sheltering estimated to be in excess of \$700 million with potential tax leakages of \$195 million.
- Most subordinate indicators in relation to income tax shuffle are beneficiary-specific – such as the use of ‘bucket’ companies, loss-making entities/companies. The use of companies and trusts in combination provide several avenues through which an income tax shuffle could be fully exploited.
- Anti-avoidance provisions may not be sufficient to deal with common cases of income tax shuffles, and such arrangements can be easily enacted by taxpayers.

Recent case investigations by the ATO reveal the ease with which wealthy taxpayers can utilise trusts in private groups and reduce their tax liabilities. The analysis of five investigations included in this report demonstrates the range of taxpayer behaviours in relation to the full exploitation of income tax shuffles. In just these five cases alone, the tax leakage is estimated to be approximately \$195 million. The data analysis carried out as part of this report clearly shows that the potential for widespread use of income tax shuffles exists given the current regime of the taxation of trusts.

Specifically, analysis of de-identified trusts' tax return information provided by the ATO revealed:

- Strong evidence of income mismatches.
- Distributions to company beneficiaries accompanied by franking credits to permanently limit the tax liability and cap the tax rate at 30%.
- On average, 'loss-making' company beneficiaries received 22% of trust total distributions while 'non-loss-making' company beneficiaries received only 14%.
- A conservative estimate indicates that \$672 million to \$1.2 billion of tax revenue could be sheltered annually.
- Less conservative estimates suggest the amount of tax sheltered could be several billion dollars which will be further inflated as the corporate tax rate decreases.

These findings demonstrate that orchestrating income tax shuffles can be particularly advantageous for high wealth individuals. Further, some of these schemes appear to be (deliberately) complex.

## Complex distributions

Complex distributions were the second area of focus for this investigation. It was observed that taxpayers can derive income from trusts in convoluted ways in order to defer, reduce or extinguish tax liabilities.

Based on analysis of ATO supplied case studies, four key traits emerged:

1. **Multiple trust structures:** Chains of trusts make it difficult for the ATO to identify the ultimate beneficiaries to assess. "Circular

entitlements” are an extreme example whereby at least two trusts make each other presently entitled.

2. **Questionable present entitlements:** Low-taxed and tax-preferred entities – charities, tax exempts, loss companies and ‘bucket companies’ - agree with existing trust beneficiaries that they will become trust beneficiaries and transfer the (low-taxed) distributions they receive in that capacity, less a service fee.
3. **Association with income tax shuffles:** Income tax shuffles seem to be a common feature of complex distributions, in particular added complexity aids individuals in having arrangements whereby a trust’s trusts law income happens to be less than its tax law income, or a distribution that is made to an unlikely tax exempt or corporate beneficiary.
4. **Income Re-characterisation:** Provisions of the Tax Act may be manipulated through the use of trusts in complicated transactions. For example, substitution of income character to achieve a lower rate of withholding tax for non-resident beneficiaries.

Analysis of ATO data revealed:

- Approximately 80% of inter-trust complex distributions are only one level deep (i.e., trust A distributes to trust B), while 13% engage in a further third tier distribution (i.e., trust A distributes to trust B and trust B distributes to trust C).
- Five tier deep trust chains were not uncommon.
- Distributions from trust A to trust B more than doubled over a three year period: \$21 billion (2012) to \$50 billion (2015).
- Circular distributions were observed.
- Distribution amounts decrease (in aggregate) at each successive level.
- A “spread thin then thick” approach was apparent, where the intention, and the outcome, is to create a degree of opacity around trust income and the ultimate beneficiaries to which the funds flow.

These observations suggest there is a significant administrative challenge for the ATO, particularly in levying the correct tax burden on the appropriate ultimate beneficiary or entity. In addition, administrative costs are likely to be inflated due to the deliberate

attempt to confound oversight. This also increases the amount of tax sheltered and hinders equitable and transparent tax outcomes.

## Non-lodgment and lodgment trust patterns

A complicating administrative challenge is non-lodgment of trust tax returns. The Commissioner has limited sources of information on trusts and these are insufficient given the increasing complexity surrounding the use (and misuse) of trusts. Current information sources include:

- Taxpayers' voluntary disclosure in their tax returns.
- Internal data-matching and information corroboration from government and public sources.
- Audit specific information and tax-related record-keeping obligations imposed on taxpayers. It is notable that ITAA36 s262A does not require taxpayers to produce or maintain a trusts' constitutive documents or other trust-related information.

Lack of information is a major problem given the importance of trusts to the nation's economic activities. Some trusts law jurisdictions have trusts registries which assist in the management of this sector.

## Transparency

Analysis of ATO data suggests that different types of trusts have different lodgment patterns. However, there was no way to corroborate this given the lack of information available. The limited information is not just a domestic concern but has broader implications as Australia is party to a number of global initiatives including:

- The OECD's *Standard for Automatic Exchange of Financial Account Information in Tax Matters* (**CRS Standard**) which Australia committed to from the 1 July 2017.
- The Financial Action Task Force (**FATF**) which is an inter-governmental body established in 1989 by the finance ministers of 35 member jurisdictions (including Australia). Standard-setting is FATF's primary task to further legal, regulatory and operational responses to money-laundering, terrorist financing and other threats to the international finance system.

The implementation of OECD *Financial Action Task Force* recommendations in Australia will be difficult without some means of identifying the beneficial ownership of trusts. Other jurisdictions, including the United Kingdom, New Zealand, South Africa and India, are better equipped to address these recommendations as they have a central registry of trusts and trust assets.

## **Other common law jurisdictions**

In the United States and Canada, tax on trust income (including capital gains) is attributed to trustees at a high marginal rate subject to the trustees being entitled to a deduction for income distributed or distributable to beneficiaries. New Zealand trustees are taxed on trust income at a 33% rate amounting to a tax credit for beneficiaries to whom the income is distributed. The Australian ITAA36 s97 present entitlement formula is not applicable in these countries.

Canadian capital gains tax charges occur when property is transferred to a trust, when trust property is disposed of and, as an anti-deferral measure, every 21 years all the property of a trust is deemed to be disposed of unless it has “vested indefeasibly”. In Australian terms, this means that the subsisting assets of discretionary trusts (before appointment) will be taxed once every 21 years — limiting some of the remarkable immunities of the Australian discretionary trust.

## **Unauthorised legal practice**

Non-lawyer tax agents (and accountants) are known to regularly advise their clients about trusts and supply trust deeds. It is questionable whether they are able to perform this work without appropriate legal expertise. Analysis of the *Tax Agents Services Act 2009* and state-law *Legal Profession Acts* indicates that tax agents may not be authorised by federal law to engage in legal practice as unqualified persons, contrary to state-law prohibitions.

## **Practitioner perspectives**


Finally, in-depth interviews complemented the investigation. Interviews were conducted with ten industry practitioners (tax/accounting and legal experts) and explored the behaviours and attitudes surrounding the use of trusts with a particular focus on any taxpayer/industry practices which may facilitate tax avoidance

strategies. The data provided the following insights with regard to the use of trusts, the complexity of the current system and potential reform:

- Trusts provide flexibility in terms of structuring businesses and tax affairs when compared to establishing companies or partnerships.
- Trusts are viewed as useful vehicles for asset protection and estate planning since legal ownership and beneficial ownership are separated.
- Most if not all high net worth and wealthy groups utilise multiple trusts and companies within their structures. In many cases it was suggested that one of the aims is to reduce the effective tax rate to the corporate rate of 30%.
- The participants identified several legal complexities (but they did not advocate for substantial reform), with the major one pertaining to the separation of distributable income (income according to trusts law principles) and net income of the trust (income according to taxation laws).
- Most participants claimed that extreme cases of tax avoidance were rare.
- Participants generally held the view that the ATO currently has sufficient powers under Part IVA of the ITAA 1936 to prosecute 'egregious cases' of tax avoidance through the use of trusts.
- Participants suggested that any reform could include a withholding tax regime similar to that in place for salary and wage earners or taxing the trust/trustee as an entity and maintaining the current flow through features of trusts.

In conclusion, the findings presented in this report highlight a number of issues associated with the current system pertaining to the taxation of trusts. However, suggestions as to how these areas could be addressed is beyond the scope of the report.

## More information

You can obtain a copy of the full report on the [Freedom of Information disclosure log](#) 

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This is an independent report commissioned by the Australian Tax Office. Interpretations and opinions expressed should be ascribed to the authors only.

Amounts sourced are total business income values from Table 5 of ATO taxation trust statistics data.

## 1

At time of data analysis, the following acronyms were in use - HWI: High Net Wealth Individuals; PHWI: Potential High Wealth Individuals. However, the ATO has recently changed its classification system and now combines these two categories into one. For the purposes of this report the former method of classification is retained.

## 2

QC 57645

# Influencers in property development report 2023

Research and findings of the 2023 influencers in property development report.

**Last updated** 17 July 2023

## Background

We commissioned the Royal Melbourne Institute of Technology (RMIT) to research the persons or entities that influence tax related decisions made by property developers.

The report identifies:

- What is the lifecycle of a property development?

- Who are the key influencers of property decisions at each stage of the lifecycle?
- What tax advice are they providing at each stage of the lifecycle?

## About the research

The RMIT research included:

- **secondary research** – internet searches, focusing on influencers within academic and grey literature
- **qualitative research** – interviewing expert industry practitioners and stakeholders.

## Key research insights

Influencers were categorised into property and non-property advisers:

- **Non-property related advisers** are those who influence the tax decisions of property developers, such as
  - tax advisors
  - accountants.
- **Property related advisers** are those who generally don't influence tax decisions, such as
  - architects
  - town planners
  - real estate agents
  - conveyancers.

RMIT did not find that real estate agents and conveyancers have much of a role to play when it comes to tax matters.

The research considered the property related and non-property related influencers at each of the following stages of development:

- project initiation and feasibility
- construction


- sale and operation such as rental.

## How the research will be used

RMIT's observations and incidental findings will be considered by our risk and strategy officers. They may tailor treatments to address identified activities.

If the research had identified additional tax decision advisers, such as real estate agents or conveyancers, we would also engage with these key influencers. This would enable new and more effective approaches to encourage willing participation in the tax and super systems.

## Download the full report

For more information, download the full report [Influencers in property development \(PDF, 1.19MB\)](#) .

The opinions expressed in this report are the author's own and don't necessarily represent the views of the ATO.

QC 73040

## Overview of behavioural penalties

Overview of behavioural penalties imposed for statements, schemes and positions for 2023–24 and 2024–25 financial years.

**Last updated** 3 November 2025

## Penalty insights

This analysis covers behavioural penalties imposed in the 2023–24 and 2024–25 financial years, including those remitted and reduced, and a summary of the latest available data.

This analysis doesn't cover penalties imposed for failure to lodge.

## When we impose penalties

Tax and super laws authorise us to impose penalties for a range of conduct where you didn't:

- take reasonable care
- have a reasonably arguable position.

Issuing penalties encourages taxpayers to comply with their tax obligations.


The law specifies the conditions under which we apply a penalty and the amount of the penalty. However, we have discretion to waive (remit) the penalty depending on individual circumstances. The penalty may also be reduced through a review.

## What penalties we impose

The following figure and table show the:

- number of times we applied a penalty for a period
- value of the penalties
- value remitted at the time the penalty was imposed
- value remitted after the time the penalty was imposed
- value reduced by review after the time of imposition
- net penalty in year of imposition
- net penalty in year after imposition
- average net penalty.

### **Figure 1: Penalties imposed, remitted and reduced in 2023–24 and 2024–25**

The value of penalties imposed, remitted, reduced in the 2023–24 financial year and the net changes to these penalties in the 2024–25 financial year. It also shows the value of penalties imposed, remitted, and reduced in the 2024–25 financial year. This data is displayed in Table 1.

### **Table 1a: Overview of penalties 2024–25**

Measure	2024–25 financial year	Client experience: Privately owned and wealthy groups and Public and multinational business	All other client experiences (see <a href="#">note 1</a> )
Number of penalties imposed in year of imposition	13,047	2,714	10,333
Penalties imposed (\$m) in year of imposition	3,658.0	3,161.4	496.6
Penalties remitted at the time the penalty was imposed (\$m) in year of imposition	207.2	157.2	50.0
Penalties remitted after the time the penalty was imposed (\$m) (see <a href="#">note 2</a> ) in year of imposition	13.2	12.2	1.0

<b>Subsequent net reduction in penalty type (\$m) (see <a href="#">note 2</a>) in year of imposition</b>	0.0	0.0	0.0
<b>Net penalty outcome (\$m) in year of imposition</b>	3,437.6	2,992.0	445.6
<b>Average net penalty outcome (\$) in year of imposition</b>	263,475.86	1,102,422.70	43,123.43

**Table 1b: Changes to 2023-24 Penalties**

<b>Measure</b>	<b>2023-24 financial year</b>	<b>Client experience: Privately owned and wealthy groups and Public and multinational business</b>	<b>All other client experiences (see <a href="#">note 1</a>)</b>
<b>Net additions (detractions) in net penalty outcome (\$m) in year</b>	15.1	17.3	(2.2)

after imposition			
<b>Net penalty outcome (\$m) in year after imposition</b>	1,283.2	716.8	566.4
<b>Average net penalty outcome (\$) in year after imposition</b>	125,681.24	342,465.33	69,782.62

Due to rounding to the nearest \$0.1 million, some totals may not correspond with the sum of the separate figures. A reported value of 0.0 indicates rounding and that a small amount was recorded.

**Note 1:** All other client experiences includes small businesses, individuals, self-managed super funds, not-for-profits: charities, and APRA-regulated super funds. We update the client experience of the taxpayer based on the information we hold. Clients can move between client experiences.

**Note 2:** The value of remissions and reductions of penalties levied will progressively increase as cases proceed through the objection and dispute resolution processes. We will update this content to reflect these reductions.

We often make remission decisions when penalties are imposed before we issue notices of your tax debt.

Table 1 shows that in the 2024–25 financial year, we imposed 13,047 penalties, totalling \$3,658.0 million. However, we used our discretion to remit \$207.2 million, or 5.7%, when they were imposed.

We remitted \$13.2 million, or 0.4%, with no change in penalty type. We also made reductions of approximately \$38,000, due to a change in penalty type after the penalty notice was issued.

In the 2024–25 year, we made a further increase to penalties imposed in 2023–24 for an additional \$15.1 million.

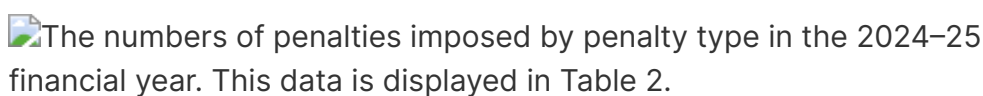
## Penalty types

The most common types of penalties we imposed in the 2024–25 financial year were for:

- recklessness
- intentional disregard of a taxation law
- failure to take reasonable care.

These behaviours produced a shortfall. The penalties for these behaviours made up 98% of the total penalties imposed.

### Figure 2: Number of penalties imposed by penalty type in 2024–25

The numbers of penalties imposed by penalty type in the 2024–25 financial year. This data is displayed in Table 2.

### Figure 3: Net value of penalties (after remissions, reductions and cancellations) by penalty type in 2024–25

The net value of penalties after remissions, reductions, and cancellations by penalty type in the 2024–25 financial year. This data is displayed in Table 2.

**Table 2: Number and net value of penalties imposed by penalty type in 2024–25**

Penalty type	Number of penalties imposed	Penalties imposed (\$m)	Net penalties (\$m)
Recklessness (shortfall)	5,607	418	389
Intentional disregard of a taxation law (shortfall)	5,466	652	641
Failure to take reasonable care (shortfall)	1,806	322	190


<b>False or misleading statement</b>	109	12	9
<b>Scheme</b>	32	2,044	2,029
<b>Taking a position that is not reasonably arguable</b>	27	210	179

## Tax and program types

We applied penalties to statements and positions for:

- income tax
- GST
- luxury car tax (LCT)
- PAYG withholding
- stimulus
- fuel tax credits (FTC)
- fringe benefits tax (FBT)
- multiple: activity statement
- superannuation.

### Figure 4: Value of penalties imposed, remitted and reduced by tax and program type in 2024-25

 The value of penalties imposed, remitted and reduced by tax and program type in the 2024-25 financial year. This data is displayed in Table 3.

**Table 3: Overview of penalties by tax and program type in**

Penalty and program type	Number	Penalties imposed (\$m)	Penalties remitted at the time of	P re a ti
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			imposition (\$m)	in (\$ m)
<b>Income tax</b>	5,125	3,248.8	194.6	
<b>GST</b>	7,654	404.2	12.3	
<b>PAYG withholding</b>	86	1.9	0.2	
<b>Fuel tax credits</b>	92	1.6	nil	
<b>Fringe benefits tax</b>	65	1.0	0.1	
<b>Luxury car tax</b>	5	0.1	nil	
<b>Multiple: activity statement</b>	3	0.0	nil	
<b>Stimulus</b>	6	0.0	nil	
<b>Superannuation</b>	11	0.1	nil	

Due to rounding to the nearest \$0.1 million, some totals may not correspond with the sum of the separate figures. A reported value of 0.0 indicates rounding and that a small amount was recorded.

**Note 3:** The value of remissions and reductions of penalties levied in the 2024–25 financial year will progressively increase in future financial years as cases proceed through the objection and dispute resolution processes.


Consistent with 2023–24, penalties for income tax and GST account for the vast majority of the total number of penalties. The average value of income tax penalties is much higher than GST penalties due to a small number of large scheme penalties.

Penalties are applied on a per period basis. Activity statements are typically for monthly or quarterly periods, whereas income tax applies to a financial year.

## Client experience

The following graph and table show the breakdown of penalties imposed, remitted and reductions by client experience (ordered by net penalty amount).

**Figure 5: Value of penalties imposed, remitted and reduced by client experience in 2024–25**

 The value of penalties imposed, remitted and reduced by client experience in the 2024-25 financial year. This data is displayed in Table 4.

**Table 4: Overview of penalties by client experience in 2024–25**

Client experience	Number	Penalties imposed (\$m)	Penalties remitted at the time of imposition (\$m)	Penalties reduced at the time of imposition (\$m)
Public and multinational businesses	449	2,499.6	143.8	
Privately owned and wealthy groups	2,265	661.7	13.4	
Small business	8,029	255.7	15.2	
Not-for-profits: charities	60	205.6	30.7	

<b>Individuals</b>	2,214	27.2	3.9	
<b>Self-managed superannuation funds</b>	27	7.6	0.1	
<b>APRA-regulated superannuation funds</b>	3	0.5	0.1	

Due to rounding to the nearest \$0.1 million, some totals may not correspond with the sum of the separate figures. A reported value of 0.0 indicates rounding and that a small amount was recorded.

In 2024–25, Public and multinational businesses and Privately owned wealthy groups account for the majority of the dollar value of penalties imposed. The value of penalties imposed in these client experience can vary year-to-year due to the possibility of a very small number of large value penalties.

**Note 4:** The value of remissions and reductions of penalties levied in the 2024–25 financial year will progressively increase in future financial years as cases proceed through the objection and dispute resolution processes.

## Measuring penalties

We use primary sources of information to measure penalties, like our total revenue effects measure.

Summary data for figures and tables is available on [data.gov.au](https://data.gov.au) .

### Primary sources of information

We calculate the value of penalties imposed and remitted based on each taxpayer's transactional record. We use broader indicators of each taxpayer's overall tax and super affairs to assign a primary client experience.

Find out more about circumstances in which we may apply penalties.

Information about the application and collection of penalties from our compliance work more broadly is provided in the annual report.

QC 66872

## Property development and GST report 2021

Findings of research we commissioned RMIT University to conduct into the impacts of real property transactions on the taxation system, specifically GST.

**Last updated** 13 October 2021

### Background

We commissioned the Royal Melbourne Institute of Technology (RMIT) University to research the real property sector and its impacts on the tax system.

The report identifies:

- emerging trends in the Australian real property market
- practices in the property industry that are concerning for overseas regulators
- the impact of unforeseen market forces.

### About the research

The RMIT University research included:

- **secondary research** – reviewing academic literature, including
  - domestic and international publications in leading academic journals
  - industry reports

- international revenue office publications about relevant property and taxation literature
- **qualitative research** – interviewing expert industry practitioners and stakeholders.

## **Key research insights**

### **Build to rent**

The term build to rent (BTR) is not defined by legislation. There's inconsistency on how the term is understood across the industry and government regulators. The research supported our approach of working with other government entities and industry to ensure a consistent definition.

### **Aged care**

There are new options taking over from traditional nursing homes. This is due to rising costs of aged care and increased demand from Australia's ageing population.

Options include:

- home care
- life-right purchase
- land lease models.

These models may see some current operators withdraw from this market, leading to only a few larger aged care accommodation entities in Australia.

### **Student accommodation**

Student accommodation was the fastest growing area of the real property market before COVID-19. There are now fewer international students and an increase in online learning. Reduced demand for accommodation means that student accommodation may be sold or rented out to the general public.

### **Commercial office spaces**

Decreased demand for office spaces may see commercial landlords converting their offices to accommodate other uses like function and entertainment venues or residential accommodation. If that occurs, we may see more landlords needing to report changings in the use of the properties and triggering adjustments in their GST obligations.

## Industrial market

The rise in online shopping is causing increased demand for investment in warehousing and distribution centres. This is expected to lead to further investment in associated technologies, which may see new builds heavily focused on automation.

## How the research will be used

We'll use the research to:

- inform risk assessment processes
- support engagement strategies
- shape future approaches to the real property risk in Australia.

## More information

Download the full report [Property Development and GST Report for the Australian Tax Office \(PDF, 2MB\)](#) .

The opinions expressed in this report are the author's own, and don't necessarily represent the views of the ATO.

QC 66794

## Tax assured: gaining confidence the right amount of tax is reported

How we use the tax assured as an indicator to measure the performance of our tax and super systems.

**Last updated** 3 November 2025

## About tax assured

Tax assured is an indicator of our confidence in the tax and super systems. It is an estimate of the proportion of tax reported that we are confident is correct.

On 30 June 2025 we estimated 44.6% of total tax reported for the 2022–23 tax year can be assured as being correct. During 2024–25 we also assured an additional 3.0% for the 2021–22 tax year, bringing the total tax assured estimate for 2021–22 to 45.9% from 42.9%.

Tax assured is based on the **concept of justified trust**. We achieve justified trust and consider tax to be assured when we have evidence that reporting of indirect taxes, petroleum resource rent tax (PRRT) and income tax labels including taxable income, deductions and offsets are complete and accurate.

We collect data to assure tax from a range of direct and indirect sources. Where possible we collect data from third parties to match against information provided by taxpayers. We also engage directly with taxpayers to verify the information they report to us.

In practice, we can't gather third-party data or other information to compare against the tax returns of all taxpayers. As such, our tax assured estimates will always be lower than the total amount of tax that is reported.

Where we can't gather information to assure tax, we rely on our broader risk management approaches to provide us with confidence over other tax reported.

For more information on our confidence in the tax and super systems, see the latest [annual report](#).

## What tax assured tells us

We are confident that 44.6% of total tax reported for the 2022–23 tax year was reported correctly, as was 45.9% of the total tax reported for 2021–22.

The tax assured measure gives us confidence that the part of the tax system where we can get assurance is working well. It demonstrates strengths of the tax system and helps us monitor the system for potential threats.

Three-quarters of the tax that we assure is achieved through the collection and matching of third-party data against tax reported by individual taxpayers. We call these system controls.

One area where controls operate effectively is the pay as you go (PAYG) withholding system. It ensures taxpayers report the salary and wage income they earn. These controls provide evidence that 91% of all salary and wages were reported correctly, and confidence to assure \$177 billion in income tax reported by individuals in the 2022–23 year as correct.

The remaining quarter of the income tax that we assure is done through direct taxpayer engagement with our larger clients. These include multinational and large corporations which have more complex tax affairs. We engage with our larger clients on a one-to-one basis to verify the amount of tax reported.

Our approach includes engagement with large and multinational businesses under our justified trust program, including the top 100, top 1,000 public and multinational groups and the top 500 private groups. These programs give us assurance that:

- \$72 billion in income tax, indirect taxes and PRRT is correctly reported in the 2022–23 year
- 79% of excise amounts paid through our ongoing relationships with these taxpayers.

## Methods

For income taxes, we seek assurance over the inputs that determine a taxpayer's liability, such as income, deductions and offsets.

For transaction taxes, we examine the reported throughput, including expected collections on sales and credits claimed on purchases.

We use 2 approaches to estimate the tax assured.

## Data matching

To verify what is being reported by taxpayers is correct, we use **data-matching with third-party sources**. It's not necessary for us to engage directly with taxpayers to collect this information. The types of third-party data we use typically include:

- salary and wages information received from employers through the PAYG withholding system
- interest and dividend data from financial institutions and public companies
- pensions and allowances from government departments.

## **Direct engagement**

Direct engagements with taxpayers where we verify primary sources of information such as financial statements, significant transactions, accounting to tax reconciliation, a review of tax governance and other analysis of the taxpayer's business. Most of these engagements are carried out with large and multinational businesses under our justified trust program.

In most cases, we can only assure tax reported by taxpayers once they have lodged and we have completed our data-matching and taxpayer engagements.

## **Limitations**

There are some technical limitations involved in determining whether tax is assured.

Our tax assured estimates rely on interpretation, judgment and the strength of evidence that we can practically collect. While we will be more confident in some judgments than others, all estimates must meet the same essential criteria.

It's important to note that we can't collect information to compare with all tax returns. As such our estimates will always be lower than the real amount of tax that is correctly reported.

We also rely on our broader risk management approaches to provide a level of assurance over other tax reported. These approaches include:

- real-time analytics
- benchmarking
- sophisticated risk detection algorithms.

These are supported by administrative systems and tools including the taxable payments reporting system.

Tax assured is reported as a proportion of the tax base. For practical purposes the tax base is considered to be the total amount of tax reported. The tax base therefore doesn't include tax that is not reported. We estimate the amount of tax not reported through our tax gap program.

QC 57137

## **Total revenue effects measure – impact of our engagement activities**

How we use total revenue effects to measure the impact of our engagement activities on taxpayer compliance.

**Last updated** 10 December 2025

### **Overview of total revenue effects**

Total revenue effects (TRE) is one indicator we use to monitor and understand how our engagement activities impact the performance and operation of the tax and super systems. It's a measure of the impact our activities have on improving taxpayer compliance.

Total revenue effects is a combination of revenue from:

- correct reporting of compliance activities
  - preventative actions
  - incorrect claims stopped
  - audit activities
  - sustained compliance
- lodgment compliance activities
  - lodgment actions
  - sustained lodgment compliance.

## **Preventative actions**

Preventative actions is the estimated additional tax paid voluntarily by clients as a result of the preventative activities we undertake to improve compliance without corrective action. For example, prompts we make to clients to help them understand and meet their reporting obligations before lodgment.

When we measure preventative actions, we ensure there is a clear connection between our activity and the change in taxpayer behaviour. This connection and our assumptions that underpin it must be reasonable and defensible.

## **Audit actions and incorrect claims stopped**

Audit actions is the collection of liabilities, including penalties and interest, directly connected to adjustments we make through our audit actions after the client has lodged to ensure the right amount of tax and super is assessed and paid.

Incorrect claims stopped is the value of overpayments that we stopped or reduced through our audit activities after a client has lodged, and before the return is processed and a refund is issued.

## **Sustained compliance**

Sustained compliance is the estimated additional tax paid voluntarily by clients in the reporting periods following an initial compliance action (that occurs after the client has lodged). This additional tax paid is due to improvements in voluntary compliance.

When measuring sustained compliance, we ensure there is a clear connection between our activity and the change in taxpayer behaviour. This connection and our assumptions that underpin it must be reasonable and defensible.

## **Lodgment compliance**

Lodgment compliance is revenue associated with our lodgment activities. We undertake these activities to improve or enforce the lodgment of due returns and statements. Sustained lodgment compliance then measures the impact of future lodgment compliance following these interventions.

## Significant refund

Taxpayers can dispute the decisions of ATO compliance actions. These disputes are managed through the objection or litigation pathways.

A significant refund represents the amount that is repaid to taxpayers from resolved disputes in the reporting period that relates to a previous collection, from a compliance action, reported in a prior year.

**Note:** All revenue categories are reported on a cash rather than accrual basis. This recognises the impact of our activity when the additional revenue is paid by, or in the event of the refund, refunded to the taxpayer.

## Method used to measure TRE

Our current methods are designed to:

- estimate the revenue effects of improvements to compliance over time
- follow our engagement with taxpayers and their registered tax or BAS agents (including corrective and preventative work)
- exclude outlier cases, which include mistakes or deliberate fraud of such high value that our automated risk detection processes stop them – these figures are excluded to avoid distorting the true impact of our discretionary action.

We subtract from the annual overall total revenue effects figure for any significant refunds paid during the year because of the resolution of litigation or objection activity where:

- it's in the client's favour
- it can be linked to a prior year specific compliance outcome
- the revenue effect was counted within total revenue effects in a previous year.

## Results of our engagement activities

In 2024–25, the gross total revenue effects from our engagement activities totalled \$18.6 billion, against our target of \$16.0 billion. We also refunded around \$100 million that was reported as a revenue

effect in a previous year, resulting in a net total revenue effect of \$18.5 billion.

Additional revenue commitments of \$71.9 million for the 2024–25 financial year were announced after the total revenue effects target had been set at \$16.0 billion. With these additional commitments the target would have been \$16.1 billion. Our revenue estimate has exceeded this revised target.

**Table 1: Total revenue effects, 2021–22 to 2024–25 (\$ billion)**

<b>All taxes</b>	<b>2021–22</b>	<b>2022–23</b>	<b>2023–24</b>	<b>2024–25</b>
<b>Total revenue effects (\$ b)</b>	\$14.9	\$20.3	\$18.5	\$18.5
<b>Audit actions and incorrect claims stopped (\$ b)</b>	\$7.9	\$7.7	\$8.6	\$8.3
<b>Preventative actions and sustained compliance (\$ b)</b>	\$1.7	\$6.6	\$3.3	\$3.4
<b>Lodgment compliance (\$ b)</b>	\$4.2	\$4.4	\$4.8	\$4.7
<b>Sustained lodgment compliance (\$ b)</b>	\$1.1	\$2.2	\$1.9	\$2.2
<b>Significant refunds due to objections or litigation (\$ b)</b>	n/a	-\$0.5	-\$0.1	-\$0.1

<b>TRE Portfolio Budget Statement (PBS) target (\$ b)</b>	\$15.0	\$15.0	\$15.0	\$16.0*
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\*PBS published target is \$16.0 billion. Additional revenue commitments of \$71.9 million were announced after the target was published.

## Limitations of TRE

Measuring total revenue effects is complicated. There are technical limitations involved in establishing defensible causal connections between our engagements with taxpayers and any improvements to compliance.

Even when we establish a causal connection, it can be difficult to understand and identify where our activities resulted in a revenue effect outcome or an unrelated external factor.

Some of our estimates rely on the use of statistical methods which have inherent variability, and we work to improve the reliability of our methods over time.

We do not estimate a revenue effect for several compliance strategies and treatments where we are yet to develop reliable methods.

## Changes to our methods

Statistical methods we use to estimate components of the total revenue effects may be subject to revision or improvement because of new or refined methods. We continually review our methods to better understand our impact on improving voluntary compliance.

In 2024–25 the GST, PAYG withholding and Companies models were reviewed as a part of our continual review process.. The outputs of these models all contribute to the prevention and sustained compliance revenue effect category.

A future focus area is to increase our measurement capability to keep pace with new system based integrity measures which are designed to prevent, detect and treat fraud as well as increase data driven upstream activities that support taxpayers to correctly comply at lodgment. We are exploring ways in which we can measure these

upstream and fraud detection and prevention strategies in our revenue estimates, and as this progresses, we expect to see these outcomes increasingly included in the TRE target and estimates from 2025–26.

We are working on a new method for measuring lodgment revenue effects. Internal monitoring of the new method to compare the changes to lodgment revenue has begun. This new approach builds on a randomised control trial to determine the efficacy of lodgment enforcement actions. This trial provided lodgment behaviour insights establishing evidence for the counterfactual that some taxpayers self-remediate by lodging overdue returns even when they have been subject to some sort of lodgment action.

This new approach addresses one of the issues identified by the Organisation for Economic Co-operation and Development (OECD) guidance on measuring tax compliance outcomes which states the lodgment (or filing) outcomes can be measured reliably but outcomes are not necessarily directly attributable to an agency's actions. The OECD guidance suggests developing a counterfactual position to what would have happened without the revenue body's activity or intervention.

QC 53795

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