

# ATO Next 5000 Review Findings

## High Wealth Private Groups

November 2023



## What you need to know to prepare for a review

Since July 2019, the Australian Taxation Office (ATO) has been undertaking streamlined assurance reviews – known as the Next 5000 Program – of High Wealth Private Groups who together with their associates (including family members) control wealth of more than \$50 million.

After completing over 250 Next 5000 program reviews, the ATO released its first [Findings Report](#) in late 2021 with key observations, an outline of common tax issues and what High Wealth Private Groups should do to be review ready.

The report has been updated several times since then, with the latest report as at 31 August 2023 released 03 November 2023. A summary of the updated report is provided for your convenience here.



### Key observations

- The number of private groups without documented tax governance process and procedures remains high, but there are “positive shifts in behaviour” observed.
- Clearly documented roles and responsibilities lead to [good tax governance](#), as well as seeking advice where required.
- Documentation of the tax return preparation, review process and identification of material transactions helps groups recognise tax risk and avoid errors.
- Private groups seeking tax advice for material risks and issues, are more likely to make correct disclosures and adopt correct tax treatments.
- The ATO has observed a correlation between no documented governance process and the most common tax errors.



### Findings to date – the numbers

- About 1,078 reviews completed to date.
- Around 7,198 significant transactions, activities and events analysed.
- Of those, \$29 billion were correctly reported and consisted of:
  - \$16.5 billion in verified income
  - \$6.7 billion in verified deductions
  - \$5.8 billion in other verified items, including:
    - \$2.2 billion in loans to shareholders and their associates
    - \$502 million in tax deductions and losses, both deducted and carried forward
    - \$242 million in capital losses, both applied and carried forward
    - \$66 million in tax offsets, rebates and credits, and
    - \$228 million in GST and other taxes.
- 290 voluntary disclosures totalling over \$86 million in tax, penalties and interest.



### Common tax issues

- Loans or payments to shareholders and their associates not complying with the requirements of ‘Division 7A’.
- Using tax losses and capital losses incorrectly, leading to reviews escalating to audit.
- Sale of significant assets: valuation of capital proceeds and elements of the cost base, miscalculation of cost base including treatment of development costs, CGT events reported in the wrong year, revenue or capital classification, and incomplete documentation.
- Trust distributions: escalation of reviews due to concerns over beneficiary entitlement to trust distributions, distributions paid to the incorrect beneficiary and section 100A.
- Related party transactions: poor record keeping, for example no documented management service agreement, omitted or understated income, deductions claimed by one related party exceeded income returned by the other related party, no formal lease agreement between related parties.
- Significant variances, discrepancies and errors in reporting of income and expenses between tax returns and business activity statements.
- Incorrect calculation of reduced input tax credit entitlements from acquisitions related to restructures, investments, and merger and acquisition activity.

## What to do now?

Adverse outcomes from reviews can lead to ATO audits, significant tax payable (including interest and penalties) and additional scrutiny going forward. In our experience, High Wealth Private Groups who prepare early achieve better outcomes than those that don't.

## How we can help

Our experienced team can assist you to prepare and ensure you are review ready so you can confidently respond and establish trust with the ATO. PwC is in a unique position, having engaged Tim Dyce (as our special advisor) to provide key insights and expertise.

### Received a notification?

If you have received a notification from the ATO about a review, please contact us ASAP. We can help you prepare your response and address any key risk areas.

### Not yet notified?

If you have not been notified, and you (alone or together with your associates) control wealth of at least \$50m, it is likely you will be soon. We can help you prepare early and support you throughout the process.



## Our process



### Understand

Ensure you are fully informed, including why the program exists, what you will experience and what you should do in advance.

### Prepare

Review your exposure to the ATO areas of focus. Gather relevant documentation to assist in ensuring an efficient and often quicker process.

### Manage

Proactively manage the ATO review process, leveraging our extensive experience and deep specialist technical ability.

## Who can help

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