

Are you one of the Next 5000 Private Groups?

ATO Compliance Program for High Wealth Private Groups

October 2020



Following the recent 'Top 500' compliance program for Private Groups, the Australian Taxation Office (ATO) has commenced a new compliance program focusing on the 'Next 5000' private groups in Australia. Under this program, the ATO will be undertaking a 'Streamlined Assurance Review' of approximately 5,000 private groups controlled by high wealth individuals, referred to as the **High Wealth Private Groups**.

The ATO's intention for this program is to provide high wealth private groups, the ATO and the wider community with confidence that groups in this program are paying the right amount of tax in respect of the group's significant activities, events and transactions, through a process that it refers to as 'justified trust'.



Who is a High Wealth Private Group?

For the purpose of this program, the ATO defines 'high wealth private groups' as Australian resident individuals who, together with their associates, control **wealth of more than \$50 million**. This program does not include private groups that are already part of the Top 500 compliance program.



What is justified trust?

Justified trust is a concept from the Organisation for Economic Cooperation and Development (OECD). Justified trust builds and maintains community confidence that taxpayers are paying the right amount of tax, and allows the ATO to focus its resources in the right areas. To establish justified trust across a private group, four pillars need to be met:

1. Effective tax governance demonstrated
2. Risks flagged to market are not present or appropriately mitigated
3. Tax outcomes from new and significant transactions are explained
4. Differences in accounting and tax results are explained



When are these reviews happening?

Commencing immediately, the ATO plans to notify affected taxpayers that it intends to engage with them over the remainder of this year. The program is expected to continue for approximately four years.



What can you do now?

We recommend that high wealth private groups that have not yet been contacted by the ATO prepare early and take steps to ensure that they are well placed to respond to these reviews in a manner that provides comfort, and enhances their relationship with the ATO. Our experience from similar reviews for large private, public and international groups suggests that taxpayers that prepare early for these reviews achieve better outcomes.

Adverse outcomes from these reviews can lead to ATO audits as well as additional scrutiny going forward, both of which can be stressful and time consuming.



What is the ATO focusing on?

- Effectiveness of tax governance policies & correct application of the law
- Loans and/or payments to shareholders and/or associates
- Trust distributions, including the tax treatment for UPEs
- Small business Capital Gains Tax (CGT) concessions
- Fringe Benefits Tax (FBT), especially in relation to motor vehicles and employee contributions
- Property disposals purported to be on capital account
- Consolidation, demergers, sale/acquisition of businesses and unusual transactions
- Goods and Services Tax (GST) treatment
- The use of lifestyle assets by company owners
- Franking credits and tax losses
- International related party dealings
- Tax compliance history, tax performance and dealings with the ATO

Next 5000 'Readiness Report'

Preparing for the Streamlined Assurance Review



How ready are you for review?

Preparing for the Streamlined Assurance Review

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How can the 'Readiness Report' assist with this phase?

Our Next 5000 Readiness Report provides you with a preliminary, high-level assessment of your tax governance framework, any key tax risks we identify, new or significant transactions identified to us and your general tax compliance history. In our experience, these areas may form part of any future ATO review activity under the Next 5000 program.

The Readiness Report can be prepared efficiently, cost effectively, and with minimum disruption to you.

Sample Output - Readiness Report

	Management oversight	Recognise tax risks	Seeking tax advice	Integrity in reporting	Lodgements & payments
1 Effective tax governance	●	●	●	●	●
	Div 7A & UPE	Small Business CGT	Transfer Pricing	GST	FBT
2 Key risks flagged by ATO to the market are not present or are appropriately mitigated	●	●	●	●	●
	Sale of property	Tax consolidation	Business restructure		
3 Tax outcomes from new and significant transactions are explained	●	●	●		
	Income tax returns	Business activity statements	FBT returns		
4 Differences in accounting and tax results are explained	●	●	●		

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