
Top 320 Private Groups subject to ATO Program

8 November 2017

In brief

The Australian Taxation Office (ATO) has recently announced a Top 320 Program for private groups. This is part of its ongoing engagement with the sector.

If selected as part of this Program, the private group will be subject to an intensive early engagement review by the ATO.

Private groups should act proactively and conduct their own self-audit before any ATO contact. This includes ensuring:

- there is supporting material to substantiate tax positions,
 - an awareness of the issues that are likely to be reviewed by the ATO (for example, by reviewing the ATO's publication, *What attracts our attention*, or by talking to an adviser at PwC), and
 - there is an effective tax governance policy in place which is working in practice.
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In detail

As part of its ongoing assurance process with taxpayers, the ATO has announced a Top 320 Program for private groups.

This involves intensive engagement by the ATO on a one-on-one basis focusing on prevention of issues, rather than giving rise to tax disputes. A large number of ATO engagements with private groups are already underway.

The ATO will look particularly at:

- The effectiveness of tax governance policies in place – focusing on how they are working in practice to ensure they are robust and effective. The ATO has previously emphasised the importance of [tax governance for private groups](#) and all private groups are expected to have operational tax governance policies in place.
- The compliance history, tax performance and existing dealings with the ATO.
- The nature of the private group's business.
- Particular areas of focus raised in the ATO's publication, *What attracts our attention* – for example, capital gains tax issues, if there has been any restructure (such as a demerger or disposal of assets) or acquisition; franking credits, and any lifestyle related assets used by company owners or controllers that are mischaracterised as company assets.

The ATO is selecting target taxpayer groups largely according to turnover and/or net asset criteria:

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- groups with >\$350 million turnover, regardless of net asset value,
 - groups with >\$500 million net assets, regardless of turnover,
 - groups with >\$100 million turnover AND >\$250 million net assets, and
 - market leaders or groups of specific interest.

The Commissioner of Taxation, Chris Jordan, has indicated that the ATO expects to have contacted all of the identified 320 private groups by the end of the 2017-18 financial year.

The takeaway

If your private group is yet to be contacted by the ATO, but falls within the above criteria, acting proactively is advisable. A thorough internal audit of group processes and the group's tax performance is recommended, and this may involve engaging with external advisers to conduct such a review.

In particular, actions such as the following should be considered:

- Ensure there is supporting material for all material tax positions that have been taken by the entities in the group.
- Ensure advisory material is identified and kept separately from other supporting material (as advisory material does not, generally, need to be disclosed to the ATO).
- Undertake a review of company assets, tax performance, and compliance history and contact with the ATO.
- Ensure there is an effective tax governance policy in place which works in practice, and that company directors are engaged directly as part of that process.
- Consider whether any issues raised in the ATO's publication, *What attracts our attention*, are relevant to the group, and if so, be prepared to answer the ATO's questions.
- Determine how the private group will manage its interaction with the ATO when the ATO does contact the group. The private group's approach with the ATO should be clear and transparent, and the group should identify which personnel should be responsible for direct engagement with the ATO. Note that the ATO will want to engage with all relevant personnel, which may include directors, and the group should be prepared for that process.

At a minimum, the ATO's engagement under this Program will result in a better understanding by the ATO of the private group's business, and a better contact point and relationship with the ATO for the private group going forward. The private group should approach the engagement process with the ATO fully prepared, but with this positive outcome in mind.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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