



Australian Government



TAX
PRACTITIONERS
BOARD

Personal tax obligations

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Welcome

'In the spirit of reconciliation, I respectfully acknowledge the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, waters and community. I would like to pay my respect to them and their cultures, and Elders past and present.'

Access the presentation slides: tpb.gov.au/webinar-hub

What we will cover today

- ✓ Our personal tax obligations compliance program
- ✓ What are personal tax affairs
- ✓ Complying with Code item 2
- ✓ How Code item 2 relates to fit and proper requirements
- ✓ Consequences for failing to comply
- ✓ Compliance case study
- ✓ The ATO's approach to debt management
- ✓ Tax practitioner community engagement
- ✓ ATO personal tax obligations compliance
- ✓ Q&A

Personal tax obligations compliance program

Personal tax non-compliance

As of 23 September 2024

Obligation type	Number of tax practitioners
Outstanding tax debts, exceeding \$10,000 without an ATO payment plan.	2,000
One or more outstanding ATO lodgement (including income tax returns and activity statements).	5,000
One or more outstanding ATO lodgement (including income tax returns and activity statements) and outstanding tax debts exceeding \$10,000, without an ATO payment plan.	700

Code item 2



Personal tax affairs

- Your personal tax affairs include the accurate and timely lodgement of personal income tax returns, activity statement, instalment payments and employer obligations.
- It also includes the affairs of all your associated entities and any entity that you have direct or indirect control over.



The importance of complying

- Tax practitioners play a crucial intermediary role between taxpayers and the ATO.
- You are critical in facilitating a more efficient administration of the tax system.
- It's important to lead by example by ensuring that you comply with your personal tax obligations.



What you need to do to comply



- You must ensure you take care of any debt owed to the ATO, which may include having payment arrangements in place.
- We ask you to declare if you have any outstanding personal tax obligations in your registration renewal and annual declaration forms.
- While it's important to ensure your personal tax obligations (including those of related entities) are up to date, it is equally important that you disclose any outstanding obligations to us in these forms.
- In the case of company or partnership registrations, the company or partnership must ensure it meets its taxation obligations.

Code item 2 and your fit and proper person obligations

Who must be 'fit and proper'?



- All individuals must satisfy our fit and proper person requirement to be registered and remain registered as tax and BAS agents.
- In the case of a company, the fit and proper person requirement applies to each director of the company.
- For a partnership, the fit and proper person requirement applies to:
 - each individual partner
 - each director of company partners.

Personal and professional conduct



- ‘Professional conduct’ means the way in which you act in your professional capacity.
- It includes attributes such as competence, good fame, integrity and character.
- Your conduct should be such that the TPB, ATO and the public can have the confidence that you perform your role competently and with integrity.
- Matters affecting fitness and propriety may also lead to a breach of the Code of Professional Conduct or civil penalty provisions in the TASA.

Fit and proper - Overview



To be satisfied that an individual is a fit and proper person, the TPB must consider if the individual:

- is of good fame, integrity and character
- any event described in s20-45 of the TASA has occurred in the previous 5 years
- the individual had the status of an undischarged bankrupt during the previous 5 years
- the individual served a term of imprisonment, in whole or in part, during the previous 5 years.

Consequences for failing to comply with the Code

Penalties and sanctions



- If we find that a tax practitioner has failed to comply with the Code, we may impose one or more administrative sanctions:
 - a written caution
 - an order
 - suspension of registration for a certain period
 - termination of registration.
- The severity of a sanction depends on the circumstances of each case.

Case study



Compliance case



- A registered tax agent breached Code items 1 and 2 when she misled us by stating she did not have any outstanding tax debts, when she owed the ATO over \$145,000 and had no payment plan in place.
- She also misled us and the ATO by lodging multiple SMSFs returns without obtaining the required audits.
- Ms Clifford appealed our findings, and her appeal was brought before the Administrative Appeal Tribunal (AAT).
- The AAT decided to terminate her registration with a non-application period of 18 months.



Australian Government
Australian Taxation Office

ATO's approach to debt management

Tax Practitioners Board Webinar

23 October 2024

Adam O'Grady
Assistant Commissioner
Lodgment, Payment and Data Strategy
Frontline Risk and Strategy

Differentiated approach debt management

- 1 We are improving the **identification and prioritisation of debts** that are collectable.
- 2 The **consequences** for taxpayers not paying on time and not engaging with the ATO will be **firmer & faster**, including issuing director penalty notices and garnishee notices.
- 3 Agents will see differentiation in who the ATO contacts, we will **prioritise our actions** for those that are highest risk.

Tailored engagement debt management

- 1 We will **tailor our engagement** approach based on the debt, how it was incurred and past compliance behaviour.
- 2 Taxpayers who demonstrate **fraud or egregious behaviour** will be subject to **tailored and deliberate consequence** strategies.
- 3 Taxpayers who may be struggling and **actively engage** with the ATO will be given the opportunity to **self-correct and pay**.

Tax practitioner community engagement

- 1 We are **engaging with the tax practitioner community** to reinforce that taxpayers must pay or engage with us, otherwise **we will act.**
- 2 We expect tax agents support their clients to fulfill their payment obligations, otherwise their clients will be **subject to a deliberate and firmer action.**
- 3 Agents not willing to support their clients meet payment / debt obligations can expect the ATO to **escalate this matter directly to the client.**

Personal tax obligations compliance

- 1 Tax agents are an **integral part of the taxation system** and we require tax agents to model compliant behaviour.
- 2 There is a **community expectation** that tax agents' personal tax obligations are up to date.
- 3 Tax agents whose personal tax obligations are not up to date including Lodgment and Payment obligations will be **referred to the Tax Practitioners Board**.



Questions

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