



Australian Government



TAX  
PRACTITIONERS  
BOARD

# High-risk tax practitioners


**Presented by:** Peter de Cure, TPB Chair

# Welcome

*'In the spirit of reconciliation, we respectfully acknowledge the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their cultures, and Elders past, present and emerging.'*

Access the presentation slides: [tpb.gov.au/webinar-hub](https://tpb.gov.au/webinar-hub)

## What we will cover today

- ✓ What is a high-risk tax practitioner?
  - ✓ How we identify a high-risk tax practitioner
  - ✓ Our key focus areas for high-risk behaviours
  - ✓ Penalties and sanctions
  - ✓ Case studies
  - ✓ How to report misconduct
  - ✓ Q&A
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- A decorative graphic in the bottom right corner consisting of numerous thin, curved lines in shades of blue and green, creating a sense of motion or a stylized wave.

## Setting the scene



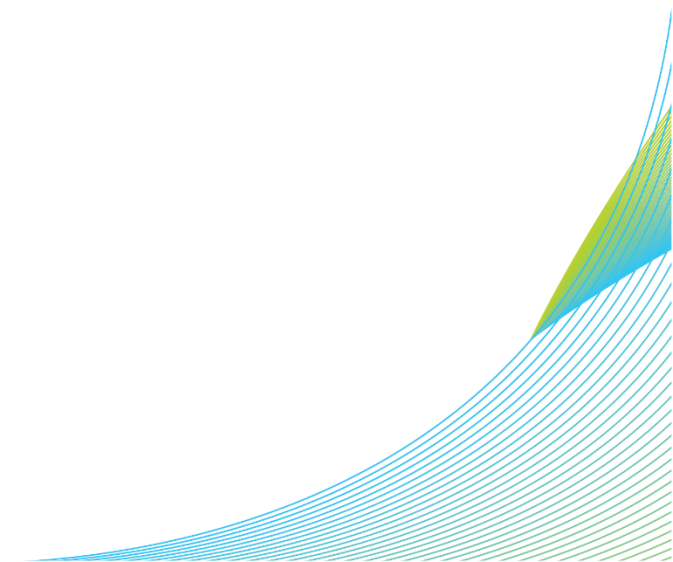
- Most tax practitioners comply – they follow the Code and legislative requirements.
- 9.5M individual and 2.9M business returns are lodged through a tax practitioner.
- A small group of tax practitioners pose a high-risk due to non-compliance.
- Our response is to take firm action to protect the community and support compliant tax practitioners.

**What is a high-risk  
tax practitioner?**



## What is a high-risk tax practitioner?

High-risk tax practitioners are those who:

- lodge false or incorrect returns
  - have poor compliance with their own tax affairs
  - face allegations of fraud or criminal activity
  - promote aggressive tax schemes.
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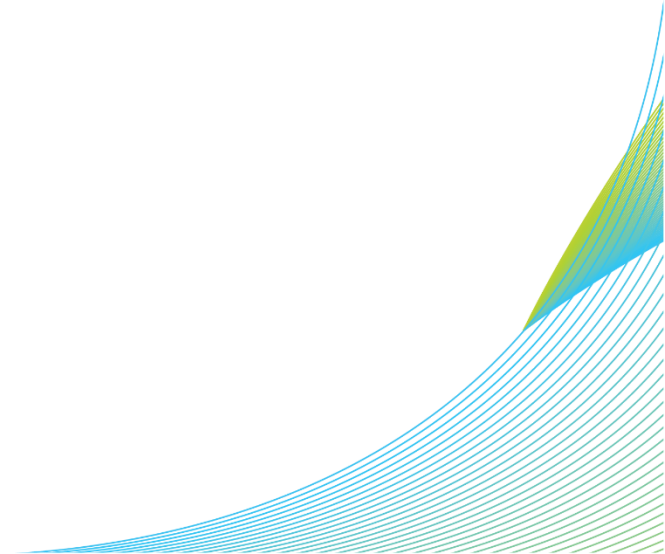
# Identifying a high-risk tax practitioner

## Identification of a high-risk tax practitioners



We identify high-risk tax practitioners through:

- complaints
- disciplinary or criminal proceedings information
- civil disputes in tribunals or courts
- data and analytics profiling
- risk assessments
- referrals from agencies.



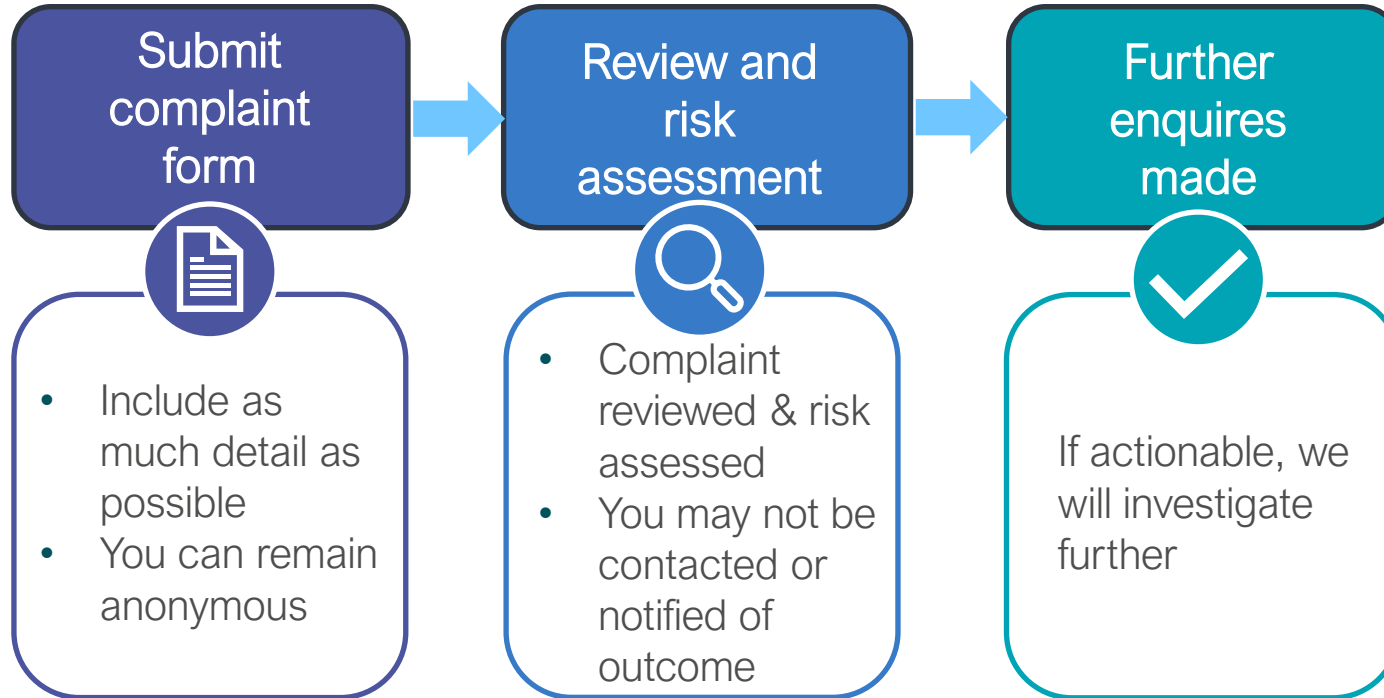


## Risk assessments

- A high-risk tax practitioner assessment includes an evaluation of practice size and specialities, target market and experience of supervisors.
- Certain characteristics can increase risk.
- After building the profile, we evaluate the risk a tax practitioner poses.



# Complaints process



# Investigation process



## STEP 1

Identify potential breach



## STEP 2

Preliminary enquiries



## STEP 3

Please explain letter issued



## STEP 4

Notice of investigation



## STEP 5

The investigation begins



## STEP 6

Outcome of investigation



## STEP 7

Notification of decision



## STEP 8

Review and appeal

## Vulnerability of clients and the community

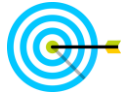


- We consider the potential vulnerability of clients and broader community.
- High-risk behaviour can be:
  - intentional or fraudulent
  - wilfully blind
  - recklessly indifferent
  - incompetent
  - accidental.
- We develop a rating based on the likelihood or prevalence of behaviour.

# **Our focus areas**



## Our focus areas



Our priorities address emerging and ongoing risks, including tax practitioners who:

- help clients avoid paying tax debts or engage in illegal phoenix activities, undermining employee entitlements and creditors' rights
- put clients into schemes designed to avoid tax
- facilitate shadow economy activities
- encourage clients to overclaim work-related expenses
- engage in activities that exploit vulnerable Australians
- fail to meet their own tax obligations.

# Penalties and sanctions

## Consequences for failing to comply



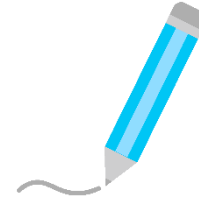
Termination



Suspension



Order



Written  
caution



## Consequences of a terminated registration



When a tax practitioner's registration is terminated several things happen:

- The decision is published in the Australian Government Notices Gazette.
- The decision, findings on breaches, and the reasons for the decision are added to our public register.
- Key bodies are notified where appropriate.
- We work with the ATO on strategies to assess and mitigate risks.

# Case studies



## Case study 1



### Former EY partner banned for tax evasion

- Peter Mark White and his company were terminated with a 5-year ban.
- Mr White's misconduct was serious, deliberate and dishonest, it included:
  - devising tax minimisation schemes
  - personal tax evasion
  - making false statements to the ATO
  - failure to register and pay GST liabilities of \$205,000
  - failure to lodge activity statements and income tax returns
  - failure to pay a tax debt of \$2 million.

## Case study 2



### NDIS scammer removed from the tax profession

- We terminated Kahtan Al Hassan with a 5-year ban for unethical conduct.
- He breached the Code and was no longer fit and proper when he failed to:
  - correctly prepare and lodge business activity statements
  - notify the TPB he was permanently banned by the NDIS
  - lodge several income tax returns and pay debts on time
  - notify the TPB his company was in external administration
  - complete continuing professional education
  - maintain appropriate professional indemnity insurance.

## Case study 3



### Unregistered tax preparer receives 12 months jail

- Jessa Dabalos was sentenced to 12 months' jail for criminality and contempt of court, for acting as an unregistered preparer in breach of a permanent injunction.
- She prepared and lodged tax returns while not registered, providing bad tax advice to hundreds of clients.
- The Court previously found 531 breaches, imposed a \$230,000 penalty and a permanent injunction to prevent further misconduct.
- She continued her misconduct on 365 occasions, acting in contempt.

## Case study 4



### Federal court imposes highest civil penalty of \$1.8M in a TPB matter

- Jayden Van Dyke committed 3,300 separate contraventions of the TASA, when lodging income tax returns, for a fee, while unregistered.
- The Federal Court imposed a \$1.8M penalty and restrained him from providing tax agent services.
- The Federal Court found his conduct was deliberate and was undertaken for financial gain of \$1,600,000.

# Protecting integrity



## Reporting a breach



- Breach reporting obligations apply from 1 July 2024.
- There are 2 types of breach reporting:
  - self-reporting
  - reporting another tax practitioner.



The registered tax practitioner must have reasonable grounds for the belief that they, or another tax practitioner, have breached the Code and that the breach is significant.



## What is a 'significant breach'?



A 'significant breach of the Code of Professional Conduct' is a breach that:

- ✓ constitutes an indictable offence, or an offence involving dishonesty under an Australian law
- ✓ results, or is likely to result, in material loss or damage to another entity (including the Commonwealth)
- ✓ is otherwise significant
- ✓ is of a kind prescribed by the Tax Agent Services Regulations 2022.

## Making an assessment



- Tax practitioners should be aware of the standards of professional and ethical conduct expected of them under the TASA, including the Code.
- You should be well-positioned to make an assessment about whether a breach is 'significant' in relation to your own conduct, and you need to report it.
- We recognise that establishing if a breach is 'significant' in relation to the conduct of another tax practitioner may be more difficult.

## How to notify us

Notifications must be made using the following methods:

Reporting another tax  
practitioner

Use our *online complaints  
form*

Self-reporting

Use the *notify a change in  
circumstances form*

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We will acknowledge receipt of a report. This does not mean we are confirming a tax practitioner has met their obligations, or that we will be commencing a formal investigation.

## How to notify recognised professional associations

- The obligation to notify the recognised professional association (RPA) only applies if you are 'aware' of the other tax practitioner's membership.
- You must take reasonable steps and make reasonable enquiries to establish if another tax practitioner is a member of a RPA.



- You can go to our website to find a list of RPAs and to check our Register (it may include RPA membership).
- Check the RPA's website to see if they provide a list of members or make direct enquires with the RPA.

## Timeframe to notify



‘Significant breaches’ of the Code must be notified to the TPB, and applicable RPA (where relevant), **within 30 days** of the day on which you first have, or ought to have, reasonable grounds to believe:

- you have breached the Code and that breach is significant, or
- another registered tax practitioner has breached the Code, and that breach is significant.



**Questions**

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