



Australian Government
Australian Taxation Office

If you're subject to review or audit | 04



Taxpayers' Charter

Our commitment to you

We are committed to providing you with advice and information you can rely on.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at November 2018.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at ato.gov.au or contact us.

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We have a responsibility to government and the community to ensure everyone complies with the laws we administer. We do this by selecting tax and superannuation returns, activity statements and other documents to check the accuracy of information they contain.

If we check your affairs, it does not mean we consider you have been untruthful. If we find a discrepancy, we accept mistakes can be made. We consider this if the law allows us to, when we determine if any penalties should apply.

We presume you are trying to meet your obligations unless your actions give us reason to believe otherwise. We provide help through our advice, publications and visits.

This publication describes what you can expect if you are selected for a review or audit. It does not cover:

- help and education visits, such as advisory visits you request
- unannounced visits to check simple details you would normally have available, such as your Australian business number or goods and services tax registration
- enquiries, reviews and investigations under the promoter penalty laws
- criminal tax investigations (these are investigations into allegations of tax fraud that can lead to prosecution under the criminal code).

What is involved

A review or audit usually involves looking at your affairs to ensure the information you have given us is accurate and you have complied with your obligations. This may require a range of interactions with you, including meetings either by phone or in person.

We may contact other parties such as banks, employers, customers and suppliers to get information.

Under the law, reviews and audits are considered to be tax or superannuation audits, but there are differences between the two.

Review

Reviews assess if there is a risk that you are not complying with your obligations. We check for errors so we can help you correct these.

We also use reviews to collect information about particular industries and activities.

If you tell us about any errors and provide details during a review to help us correct those errors, it may lessen any penalty that is applicable.

If we find evidence during a review that you have not met your obligations, we may decide to conduct an audit or correct the errors. We will tell you if we intend to do this. Otherwise we will complete the review.

Audit

If we believe there may be errors or significant issues requiring further exploration, we will conduct an audit. We may adjust any discrepancies we find, which may mean you owe us money or we owe it to you.

If you tell us about any errors and provide details to help us correct those errors during an audit, we may reduce any penalty. If you tell us about any errors or omissions that help us correct your information before we notify you that we intend to conduct an audit, we may significantly reduce any penalty.

For more information about:

- audits, visit ato.gov.au, and search for 'Risk review'
- voluntary disclosure, visit ato.gov.au/VoluntaryDisclosure

Our approach

We prefer to work with you and obtain information cooperatively.

We collect and analyse the information we receive. We help you understand the issues and explain the purpose of the examination.

We aim to have clear and ongoing engagement and open communication with you during our review or audit. We encourage you to participate and put forward your view of the facts and issues. We aim to reach a shared understanding of each party's viewpoint.

We will:

- conduct reviews and audits in an impartial, fair, reasonable and professional manner
- treat you in accordance with the law and the Charter
- only record our phone calls with you where the law allows us to do so, and tell you when recording will occur
- listen to you and take your relevant circumstances into account when we make decisions
- try to minimise cost and inconvenience to you
- complete reviews and audits as quickly as we can
- try to maintain open dialogue and keep you informed of progress
- tell you the outcome of the review or audit
- explain our decisions if we increase or decrease an assessment or impose a penalty
- conduct quality assurance checks on our reviews and audits.

What is expected of you

You should:

- be truthful, honest and respectful in your dealings with us
- communicate openly with us
- tell us as soon as possible about anything that may delay the review or audit
- provide complete, accurate and timely responses to requests for information
- if we visit you as part of a face to face interview, where necessary
 - allow us to make copies of, or take extracts from, records and documents
 - provide us with reasonable facilities and assistance if we are at your premises – for example, we may need a desk and chair in a work area with adequate lighting and access to office equipment, such as a photocopier.

You should also provide our officers with full and free access to buildings, premises, records and documents. However, this may not include records and documents that are in confidence between you and your barrister, solicitor or professional accounting adviser. These records or documents may be in-confidence because of legal professional privilege, or the administrative concession applying to professional accounting advisers' papers.

Timely and complete responses to our requests for information will help minimise cost and inconvenience to you. If we don't have all the information, there is a risk we may adjust your assessment incorrectly and you may need to lodge an objection.

Notification

In most circumstances, we will tell you about a review or audit before we visit you. However, sometimes there will be reasons why we will not tell you first (see 'Access without notice' on page 11).

We usually send a letter to you at the start of a review or audit, normally to the address where you have asked us to send your mail. When practical, we may contact you by phone first. We will tell you if this phone call, and any follow up phone calls, are being recorded.

Our letter will:

- identify the tax officer you will be dealing with and provide their contact details
- explain what we intend to cover and how long we expect it to take
- let you know the information and records the tax officer will need to see at this stage
- if needed, tell you that you may have a representative present at any stage
- tell you about your rights and obligations.

If you need to discuss with your representative, we will give you reasonable time and opportunity to do so.

We try to complete reviews and audits in the shortest possible time. However, the time it takes will depend on how good your records are, the availability of information, the complexity of the issues and your level of cooperation.

How to prepare

When you receive our notification letter, you should review relevant records, tax and superannuation returns and activity statements.

If you find any errors, and bring them to our attention immediately, a reduction in penalty may apply.

Initial interview

If an initial interview is required, the tax officer will:

- provide you with their identification and contact phone number when they first meet you (unless they have already done this), as will any other tax officers present
- provide details of their manager and their phone number (except in very limited circumstances)
- outline the process they will follow
- clarify anything in our letter you are unsure about
- give you the opportunity to volunteer information about any possible errors you have found – if you do this, any penalty may be reduced
- tell you how you can escalate any matters of concern.

Process

During the review or audit we will:

- guide you through the process if you need us to
- try to arrange any interviews or meetings at times and places that are mutually convenient, usually during normal business hours
- explain the purpose of any interview or meeting
- only record our phone calls with you where the law allows us to do so, and tell you when recording will occur
- ask clear questions and provide you with all reasonable assistance and explanations to clarify their meaning
- allow you to choose someone to act on your behalf or to be present at interactions with you. In very limited circumstances, you will not be allowed to have your choice of representative or adviser present – for example, if your representative or adviser was involved in the transaction under review. In this situation, we will give you reasonable time to find another representative
- arrange with you for an interpreter to attend any interactions if you do not speak English well. You can also ask that phone interviews are carried out through the Translating and Interpreting Service. Interpreters can only translate what you say. They cannot provide answers on your behalf unless you have authorised them to act for you
- tell you in advance when the tax officer will have a legal adviser present during an interaction
- explain why we are requesting information and help you understand the nature of our concerns
- provide you with an opportunity to discuss the scope, appropriateness and relevance of our information requests and suggest alternative information sources
- give you reasonable time to provide records, documents and other information, unless we have reason to believe that they may be destroyed or altered. Contact us if you will have difficulty providing any of the documents we ask for. In some circumstances, we may be able to accept alternative documents
- provide you with an opportunity to discuss your understanding of the facts and to discuss any information you provide to us
- answer any reasonable and relevant questions
- audio record in person formal interviews if you ask us beforehand, or where we consider it reasonable and you agree to it (we will provide you with a free copy of the audio recording within a reasonable time)
- allow you to audio record or take notes of any interactions (you will need to provide us with a copy of any audio recording you make)
- provide you with a signed copy of the written record of the interaction if you ask for one (if we ask you to sign this record, we will explain the implications of doing this)
- provide a written receipt for any records we collect in person at an interview and return the records as soon as possible or as mutually agreed

- use discretion if and when we make any enquiries of third parties and do so without making any statements about the nature of the enquiries
- allow you to give your views on any relevant issue, including any proposed adjustments. We explain to you how those views will be taken into consideration in reaching any decision
- keep you informed on our progress
- openly and informally share relevant information with you where possible
- clearly communicate to you our understanding of the facts as soon as practicable
- clearly acknowledge your view of the facts (if we disagree with you we will explain why). We will work towards resolving disputes about the facts, or how the law applies to the facts, before finalising the audit
- respect your rights and give you adequate opportunity to claim legal professional privilege in relation to certain communications between you and your barrister or solicitor
- in certain circumstances, allow for some advice to remain in confidence between you and your professional accounting adviser because of the administrative concession applying to professional accounting advisers' papers.

For more information, visit ato.gov.au/infogathering

When we finish

When we finish our review or audit we want to give you certainty of the outcome, so we will tell you:

- if we will or will not be making any adjustments for the issues reviewed or audited
- if we think you have not complied with your obligations, and why, and the nature of any adjustments to be made
- of the financial impacts of the outcome – for example, that you have paid too much or too little tax or superannuation guarantee and how much.

If we make adjustments we will:

- clearly explain the basis for them
- clearly explain the reasons for any penalty imposed and why we have not remitted or reduced the penalty or interest
- give you written notification of the outcome, generally within seven days of making our decision
- tell you how you can get our decisions reviewed
- explain any issues that will help you to understand and meet your obligations in the future.

Some or all of these issues may be discussed during the review or audit, as well as at the end.

You can find out about your review rights by visiting ato.gov.au/DisputeResolution

If you have concerns

You may disagree with the way we are proposing to apply the law to your circumstances during a review or audit. There may also be occasions where tensions arise and you think we are not respecting your rights in the Charter.

If you feel this way at any time during a review or audit, tell the tax officer you are dealing with.

If you are unable to resolve the issue with the officer, tell that officer's manager. The manager will review the issue and work with you and the tax officer to address your concerns.

If your concerns relate to our interpretation or application of the law to your situation, we may refer the issue to our alternative dispute resolution process. This will be managed by an independent officer. The tax officer and their manager will determine if this is suitable.

If you are not satisfied with the way your concerns have been addressed, you can have them independently reviewed by phoning our complaints line on **1800 199 010**.

See:

- Taxpayers' Charter – Treating you fairly and reasonably (QC 16681)
- Taxpayers' Charter – Treating you as being honest (QC 16682).

For more information about complaints, compliments and suggestions, visit ato.gov.au/complaints

Our formal powers

Under the law, we can require a person to provide information, to attend and give evidence, or to produce any books, documents or other papers in their custody or under their control.

If you are required under the law to attend a formal interview, you are the person who must answer any questions asked in the interview. The tax officer conducting the interview will explain this to you.

Generally, you may still choose to have your representative or adviser present. In this situation, you will be given a reasonable opportunity to discuss this with your representative or adviser. They can only advise you about the meaning of a question, not what answer you should give.

In very limited circumstances, you will not be allowed to have your choice of representative or adviser present – for example, if your representative or adviser was involved in the transaction under review. In this situation, you will be given reasonable time to find another representative.

If you bring an interpreter to a formal interview because you do not speak English, you are allowed to answer through the interpreter.

Access without notice

Sometimes we need access to documents, information or goods urgently – for example, if we have reason to believe that they may be destroyed or altered. In these cases, we do not tell you before we visit.

A senior tax officer has to approve access without prior notice. In these cases we will give you reasonable time and opportunity to talk to your representative after the access.

Penalties, interest charges and offences

When we check your records, we may find that you have understated your tax liability, superannuation obligations, or overstated your entitlements and you owe us money as a result.

If we do, we will ask you to pay the money and you may be charged interest.

You may also have to pay a penalty. Usually, there are different rates of penalty based on the reasons for the discrepancy.

If the facts indicate you and your representatives took reasonable care when making a statement, you will not have to pay a penalty.

If your registered agent makes an error preparing a return or statement and you have provided the agent with all the relevant and accurate information needed to lodge it correctly, you can request 'safe harbour' and may not be liable for a penalty. You should tell us if you believe this situation applies to you.

For more information, visit ato.gov.au and search for 'QC 33410', then select 'Safe harbour'.

Prosecution

We can prosecute taxpayers for a range of tax-related offences, including:

- making a false or misleading statement in a tax return or activity statement
- keeping incorrect or false records with an intention to deceive or mislead a tax officer.

These are serious offences.

See Taxpayers' Charter – Treating you as being honest (QC 16682).

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