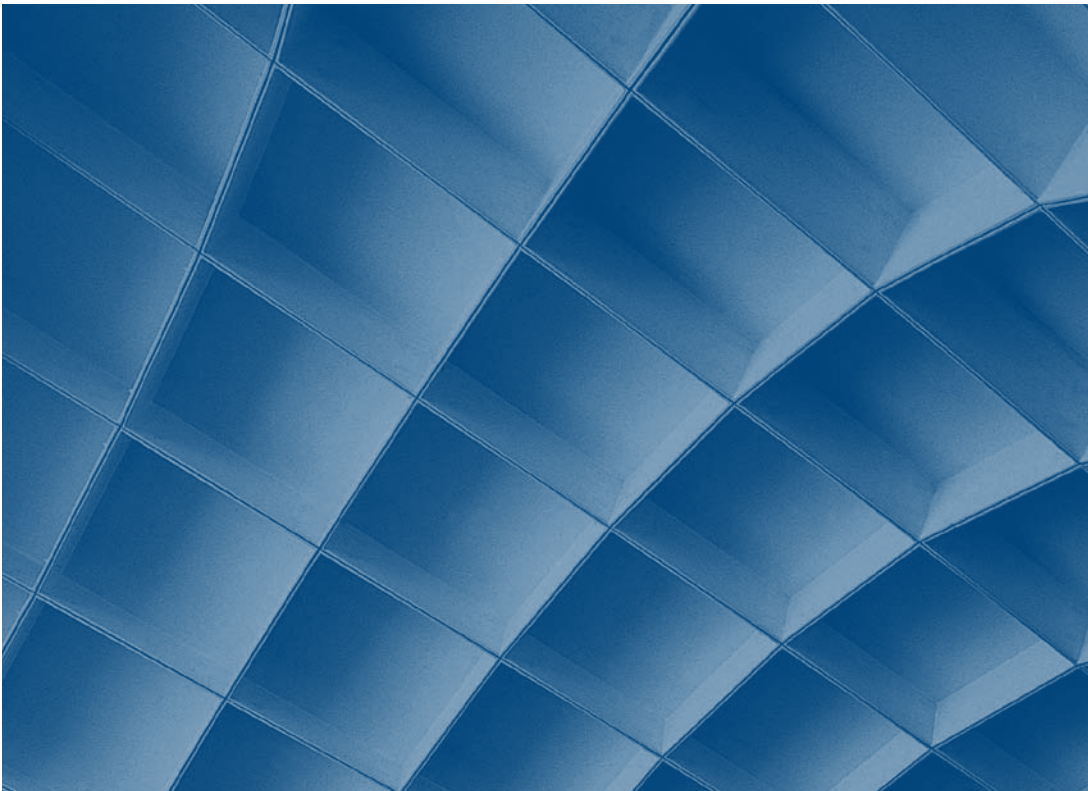




Australian Government
Australian Taxation Office

Taxpayers' charter

If you're subject to enquiry or audit



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 January 2007. 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 **www.ato.gov.au** or contact us.

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INTRODUCTION

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

However, we have a responsibility to the community to ensure everyone complies with the tax laws. For this reason, we sometimes check the accuracy of the information you give us. We do this by selecting some tax returns, activity statements and other documents for checking.

If we check your tax affairs it does not mean we think you are dishonest. Even if we find a discrepancy we accept that mistakes can be made. If the law allows us to, we take this into account when considering any penalties.

- For more information, see our publication *Your honesty and complying with the tax laws* (NAT 2550). It is available at www.ato.gov.au by searching for '2550' or phone **1300 720 092** to have a copy posted to you.

The charter is for everyone who deals with us on tax, including superannuation, excise and the other laws we administer.

Throughout this publication, unless we say otherwise, 'tax' means all matters dealt with by the Tax Office.

WHAT THIS PUBLICATION COVERS

This publication describes what you can expect if you are selected for a face to face review or audit.

It does not cover:

- checks that we make over the phone or by letter
- 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
- integrity reviews of registered and unregistered tax agents
- enquiries under the promoter penalty laws, and
- criminal tax investigations.

The tax officer who contacts you will let you know the purpose of the visit.

WHAT IS INVOLVED?

A review or audit usually involves looking at your tax affairs to ensure the information you have given us is accurate and you have complied with your tax obligations.

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

However, there are differences between a review and an audit.

REVIEW

We may conduct a review to check for any errors and help you correct these. We also use reviews to collect information about particular industries and activities.

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

AUDIT

If we think you may not be complying with your tax obligations, or do not believe a review can look into the issues sufficiently, we conduct an audit. We may correct any discrepancies we find.

If you tell us about any error before we notify you of an audit, including at any time during a review, we may significantly reduce any penalty that we would have imposed otherwise.

OUR APPROACH

We prefer to consult with you and obtain information cooperatively.

We conduct reviews and audits in an impartial, fair, reasonable and professional manner.

- We treat all taxpayers in accordance with the law and the principles outlined in the taxpayers' charter.
- We listen to you and take your relevant circumstances into account when we make decisions.
- We try to minimise cost and inconvenience to you.
- We conduct quality assurance checks to ensure we act in accordance with the law and the principles outlined in the charter.

WHAT IS EXPECTED OF YOU

Under the cooperative approach, we expect you to provide our officers with full and free access to buildings, premises, records and documents.

However, records and documents that are in confidence between you and your barrister, solicitor, or professional accounting adviser are excluded. These records or documents may be in confidence because of:

- legal professional privilege, or
- the administrative concession applying to professional accounting advisers' papers.

We expect you to allow us to make copies of, or take extracts of, records and documents. Again, this is except for those that are in confidence.

We expect you to provide reasonable facilities and assistance to us. For example, we may need a desk and chair in a work area with adequate lighting and access to equipment you may have, such as a photocopier.

We expect you to provide complete, accurate and timely responses to requests for information.

We expect you to be truthful and honest in your dealings with us.

NOTIFICATION OF REVIEWS AND AUDITS

In most circumstances, we will tell you about a review or audit before we visit you.

We send a letter, normally to the address where you have asked us to send your mail. Sometimes we will contact you by phone first to arrange an interview time.

Our letter will:

- tell you the name and phone number of the tax officer you will be dealing with
- 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
- tell you that you may have a representative present at any stage, and
- tell you about your rights and obligations.

If you need to consult 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.

ACCESS WITHOUT NOTICE

Sometimes we need to get access to documents, information or goods urgently, for example, if we have reason to think 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.

HOW TO PREPARE

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

If you find any errors, bring them to our attention immediately. If you do this, any penalty that would otherwise have been imposed may be reduced.

THE INITIAL INTERVIEW

At the initial interview the tax officer will:

- provide you with their Tax Office identification and contact phone number when they first meet you (unless they have already done this), as will any other tax officers present
- tell you the name and phone number of their manager if you ask (except in very limited circumstances)
- outline the process they will follow, and
- give you the opportunity to volunteer information about any possible errors you have found. If you do this, any penalty we would otherwise have imposed may be reduced.

THE ENQUIRY PROCESS

During our enquiries, we will:

- guide you through the review or audit 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 visit
- ask clear and unambiguous 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 attend interviews with you

i 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.

- tell you in advance when the tax officer will have a legal adviser present during an interview
- give you reasonable time to provide records, documents and other information, unless we have reason to think that they may be destroyed or altered
- answer any reasonable and relevant questions
- allow you to tape record or take notes of any conversations or interviews. You will need to provide us with a copy of any audio tape
- tape record 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 tape at the end of the interview

- provide you with a signed copy of the written record of conversation or interview if you ask for one. If we ask you to sign this record, we will explain the implications of doing this
- respect your right, 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

➤ Further details on the administrative concession and legal professional privilege are contained in our *Access and information gathering manual*. It is available at www.ato.gov.au by searching for 'access'.

- 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 implying any wrongdoing by you
- allow you to give your views on any relevant issue, including any proposed adjustments, and
- keep you informed on our progress.

If you do not speak English, we will arrange with you for an interpreter to attend any meetings or interviews. You can also ask that telephone 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.

OUR FORMAL POWERS

Under the tax laws, 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 tax laws 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 consult 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.

WHEN WE FINISH OUR ENQUIRIES

When we finish our enquiries we will:

- tell you if you are not complying with your obligations and help you to fix this
- clearly explain the basis of any adjustments we will be making
- clearly explain the reasons for any penalty or interest and how this will be calculated
- give you the opportunity to tell us about any circumstances you believe justify a reduction in any penalty or interest
- tell you if we have found any error which has meant you have paid too much tax or received less payment than you were entitled to
- give you written notification of the outcome, generally within seven days of making our decision
- tell you how you can get our decisions reviewed, and
- explain any issues that will help you to understand and meet your tax obligations in the future.

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

SETTLEMENT MEETINGS

Settlement meetings are usually held for more involved or complex audits. If there is a settlement meeting (or the equivalent type of meeting in the case of excise duty collections or excise payment schemes matters):

- the tax officer managing the audit will usually be accompanied by at least one other officer
- settlement agreements will be reached without any inducements or duress and will be undertaken in accordance with the *Code of Settlement Practice* (this is available from www.ato.gov.au by searching for 'settlement'), and
- the terms of any settlement agreement reached will be documented and we will give you a copy.

PENALTIES, INTEREST CHARGES AND OFFENCES

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

If we do, we will ask you to pay the money and we may also charge you interest.

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

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

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

These are serious offences.

🔗 For more information, see our publication *Your honesty and complying with the tax laws* (NAT 2550). It is available at www.ato.gov.au by searching for '2550' or phone **1300 720 092** to have a copy posted to you.

MORE INFORMATION

For more information about the taxpayers' charter, visit www.ato.gov.au and search for 'charter'. To have a copy posted to you, phone **1300 720 092** and tell us the NAT number of the publication you want from the list below.

TAXPAYERS' CHARTER PUBLICATIONS

- *Taxpayers' charter – what you need to know* (NAT 2548)
- *Taxpayers' charter – expanded version* (NAT 2547)
- *Treating you fairly and reasonably* (NAT 2549)
- *Your honesty and complying with the tax laws* (NAT 2550)
- *Your privacy and the confidentiality of your tax affairs* (NAT 2552)
- *Getting advice from the Tax Office* (NAT 2553)
- *Accessing information under the Freedom of Information Act* (NAT 2554)
- *Who can help with your tax affairs* (NAT 2555)
- *If you're not satisfied* (NAT 2556)
- *If you're subject to enquiry or audit* (NAT 2558)
- *Fair use of our access and information gathering powers* (NAT 2559)

