



Investigations

This factsheet provides taxpayers with information about the investigation process

The NSW Office of State Revenue (OSR) collects state taxes and administers other revenue programs, grants and subsidies for the government.

Our tax systems rely on the honesty of taxpayers to voluntarily self-assess and comply with their tax obligations.

Why do we investigate taxpayers?

Sometimes errors occur due to a taxpayer's lack of understanding of legislative requirements. We will work with you to help you to bring your tax affairs up-to-date and to help you understand any future tax obligations.

Investigations are regularly conducted to ensure taxpayers pay the correct tax or duty. We try to provide clients with the highest standards of integrity and service possible while conducting our investigations.

When conducting routine investigations, all clients are presumed to be complying with their tax obligations. However, some investigations are targeted at blatant tax evasion and fraud. This work helps protect the integrity of our tax system and ensures equity for all taxpayers.

How are cases selected?

Our investigations are selected as a result of our research, data mining and data matching programs.

Some cases are selected randomly from a particular industry or client group. The results of these investigations help us to identify client education needs or issues requiring improvements in policy and legislation.

What if you are selected for an investigation?

If you are selected for an investigation, our staff will:

- phone you to let you know an investigation is to be conducted
- explain the process and scope of the investigation
- specify the records you need to produce
- allow you reasonable time to prepare those records
- arrange a convenient time and place to interview you or your representative
- confirm these arrangements in writing.



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During an investigation, our investigation officer will conduct interviews and make enquiries to establish your compliance with the legislation.

The investigation will examine and test some of your business and financial records. After the investigation you will receive written advice of the outcome and notice of any proposed action.

All OSR officers are bound by legislative secrecy provisions. Information gathered during an investigation is treated with the strictest confidence and will not be used or divulged except for purposes required by law.

What powers does an investigator have?

The Taxation Administration Act, 1996 and other legislation administered by OSR permit our investigator to:

- gain access to buildings and property
- inspect, examine, copy and seize books, documents or records
- require you to answer questions and provide information
- require you to give reasonable assistance.

Investigators can also obtain search warrants to gain access to premises, to seize or examine records and other materials.

If a person fails to comply with an investigator's lawful requests, greater penalties or prosecution may result.

How to prepare

You should ensure all records the investigator requests are ready for examination when needed.

If you find any discrepancies or undeclared tax liabilities and you voluntarily tell the investigator about them before the interview, penalties may be reduced.

The length of an investigation often depends on the information you provide, how quickly you provide it, its accuracy and completeness.

In dealing with complex matters, you may wish to ask your legal or financial representative for advice. We encourage you to do this if it helps you understand the issues involved.

If you have any questions about any arrangements for an investigation or the processes involved, please ask the investigator for assistance.

Your rights before an investigation

- you can ask for reasonable time to produce your records
- you can negotiate the time and place for the initial interview with the investigator
- you will be given written confirmation of those arrangements.

During an investigation, you can:

- expect the investigator to be professional and courteous
- see the investigating officer's identification authority
- involve your accountant, legal or other representative in the process
- ask how long the investigation will take
- expect your affairs to be treated with strict confidentiality
- obtain a receipt for records or other material the investigator removes from your office
- be given the opportunity to explain the reasons for any irregularities and discrepancies.

After an investigation, you can:

- expect to receive an explanation of the results or findings
- ask the investigator how penalty provisions are to be applied
- ask for advice about the objection and appeal process
- discuss any aspect of the case with the investigator or case manager.

Your obligations during an investigation are to:

- give the investigator reasonable assistance and facilities
- give complete and honest answers and explanations to questions
- provide prompt, full and free access to all relevant information, records, documents, data and systems as required.

Penalties

Penalties will generally apply if tax or duty has been underpaid. The level of penalty depends on the level of culpability and is specified in the Taxation Administration Act, 1996.

Penalties can range from nothing, where the client has taken reasonable care to comply or where circumstances occurred beyond the client's control, through to 75 per cent of the unpaid tax where a client has intentionally disregarded the law.

Voluntary disclosure of any underpayment of tax before or during the investigation will qualify the client for reduced penalties. On the other hand, hindering or obstructing the investigator or concealing information will result in increased penalties.

Our staff have comprehensive guidelines on how penalties are to be applied consistently and can provide you with further information on request.

Payment

The investigator will negotiate an appropriate payment arrangement with you if you owe money and are unable to pay the amount in full.

For other than short-term payment arrangements, a written application accompanied by financial information (including detailed cash flow projections) is required.

Interest is generally charged on amounts payable between the time when the debt should have first been paid and when it is paid in full.

Objections and appeals

If you are not satisfied with any assessment of liability made, or a decision, you are entitled to lodge a formal objection in writing with OSR. You have 60 days from the date of service of the assessment or the decision to lodge an objection. Your objection will be considered by independent staff who work in a separate review unit at OSR.

If you remain dissatisfied after the determination of your objection, you may seek a further review, either via the Administrative Decisions Tribunal (ADT) or the NSW Supreme Court.

Administrative Decisions Tribunal

The ADT provides an external review of decisions of various NSW Government agencies. You can ask the ADT to review your case on most matters.

If you are dissatisfied with the decision of the ADT you have the further right of review by the NSW Supreme Court.

MORE INFORMATION



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Help in community languages is available.

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NSW Supreme Court

In certain circumstances you may wish to go directly to the NSW Supreme Court instead of the ADT to have your case reviewed.

If you commence proceedings in the NSW Supreme Court and then decide you want the ADT to review your case, you can do so provided the NSW Supreme Court has not finalised your case.

You must obtain approval from the Supreme Court to withdraw your application for review, for the purpose of enabling the ADT to deal with the matter.

If the NSW Supreme Court has made a decision and you are dissatisfied with the decision, you can not have your case reviewed by the ADT.

Time limits for reviews

You should lodge your request for review within 60 days of the date of issue of the notice of determination of your objection or after 90 days from the date of lodgement of your objection if you have not been given a decision.

You can request an extension of time to seek your review. An extension of time can only be granted by the ADT or NSW Supreme Court.

Comments on conduct of an investigation

At the completion of an investigation, OSR conducts client surveys to ensure our level of professionalism and customer service is maintained. Your comments will be very much appreciated.

More information

If you need more details or clarification of any aspect of an investigation, you should ask the investigator assigned to your case.