RISK PROTECTOR

Your First Line of Defence Against Director Liability, ATO Enforcement and Asset Exposure

BUSINESS & DIRECTOR RISK IDENTIFIER TOOL — NO. 20

ATO Audit Notice
First Response Plan

My first response steps — what to do and what not to do in the first 72 hours after receiving an ATO audit notice

admin@riskprotector.com.au | +61 466708100 | www.riskprotector.com.au | ABN 71 696 228 770

BEFORE YOU BEGIN — READ THIS FIRST

An ATO audit notice is a formal notification that the ATO is examining one or more aspects of your tax affairs for one or more financial years. It is not an accusation. It is not a finding. It is the beginning of a formal process that will result in either a clean outcome or an amended assessment with additional tax, interest and potentially penalties owing.

How you respond in the first 72 hours determines the trajectory of the entire audit. Directors who respond promptly, professionally and with proper representation almost always achieve better outcomes than those who delay, cooperate informally without advice, or attempt to manage the audit themselves. The ATO has trained audit officers, extensive data matching capability, and access to third-party information you may not know they have.

An audit that begins in one area — GST, income tax, trust distributions — can expand into related areas if the initial examination reveals inconsistencies. The scope of the audit is determined largely by what the ATO finds in its first review. Preparation, proper records and professional representation directly limit that scope.

HOW TO USE THIS PLAN

Work through every step in order. Tick each one when complete and record the date and time. This plan covers all types of ATO audit notice — income tax audit, GST audit, trust distribution review, employer obligations audit, and research and development claims review. The steps apply regardless of the specific audit type.

PHASE 1 — Receive & Understand — Read Everything Before You Respond to Anything

Hours 0 to 24 — Do not contact the ATO, do not provide documents, do not respond

STEP	Action Required	Done	Completed
1 CRITICAL	**Secure and read the entire audit notice — every word, every page** Read the notice in full. Note: the ATO officer's name and contact details, the ATO reference number, the type of audit (income tax, GST, employer obligations, trust, other), the financial years under review, what specific areas are being examined, what documents or information have been requested, and the deadline for the first response. Write all of this down before doing anything else.	☐ DONE	Date / Time
2 CRITICAL	**Photograph or scan the entire notice and email it to yourself immediately** Create a timestamped digital record of the notice. Retain the envelope with postmark intact — the date of receipt matters. If the notice was delivered electronically through the ATO portal, take screenshots of the full notice with the date visible. This record establishes when you received the notice and what it said at that time.	☐ DONE	Date / Time
3 CRITICAL	**Identify the type of audit and the specific years under review** Different audit types carry different risks and require different responses. An income tax audit may expand to trust distribution integrity or Division 7A compliance. A GST audit may reveal issues	☐ DONE	Date / Time

	with input tax credits or taxable supply characterisation. An employer obligations audit may identify PAYG withholding or superannuation gaps that create DPN exposure. Know what type you are dealing with before assessing your exposure.		
4 CRITICAL	**Do NOT contact the ATO, respond to the notice, or provide any documents yet** You are entitled to time to prepare. You are entitled to engage a representative before responding. The ATO cannot compel an immediate response without a formal access notice or production order — neither of which is a standard audit notice. Do not call the ATO officer listed on the notice. Do not send any documents. Do not email any explanations. Prepare first.	☐ DONE	Date / Time
5 CRITICAL	**Assess your immediate personal director exposure from the audit subject matter** Does the audit cover PAYG withholding obligations? If deficiencies are found, are there Director Penalty Notice implications for you personally? Does the audit cover trust distributions? If recharacterised, could this result in personal tax assessments against you? Does the audit cover GST? If credits are disallowed, does the company have the capacity to pay the resulting liability? Think through personal consequences now.	☐ DONE	Date / Time

Audit type: ____________ | Years under review: ____________ | ATO officer: ____________ | Reference number: ____________ | First response deadline: __ /__ /__

PHASE 2 — Engage & Prepare — Get the Right Adviser and the Right Records

☐ Hours 24 to 48 — Professional representation and record review before any ATO contact

STEP	Action Required	Done	Completed
6 CRITICAL	**Ask qualifying questions of your prospective tax adviser before engaging them** You should ask qualifying questions of your prospective tax agent — have you managed ATO audits of this type before? Are you experienced in containing audit scope rather than allowing it to expand? Do not engage them yet. Contact Risk Protector for their take on the subject.	☐ DONE	Date / Time
7 CRITICAL	**Contact Risk Protector before your adviser responds to the ATO on your behalf** Before your tax adviser makes first contact with the ATO, before any documents are provided, contact Risk Protector for a free A13 Structural Exposure Assessment. An ATO audit rarely examines only what the notice says. Understanding your full structural exposure — trust integrity, director loan accounts, distribution history, entity relationships — allows your adviser to respond with full awareness of what else may be at risk if the audit widens.	☐ DONE	Date / Time
8 CRITICAL	**Locate and review all financial records for every year under audit** Gather every document that relates to the years under audit: tax returns (company, trust, personal), BAS statements, bank statements for all accounts, general ledger and trial balance, invoices for significant transactions, trust distribution minutes and resolutions, director loan account records, and any third-party agreements relevant to the audit subject. Do this yourself before your adviser asks — it tells you immediately what is missing.	☐ DONE	Date / Time
9 CRITICAL	**Identify any records that are missing, incomplete or inconsistent**	☐ DONE	Date / Time

	As you review the records, note any gaps: missing invoices, undocumented transactions, trust resolutions not signed on the correct date, director loan accounts without written loan agreements, distributions made without proper minutes. These gaps will be identified by the ATO during the audit. Knowing about them first gives you and your adviser time to understand and address them properly.		
10 IMPORTANT	**Request an extension of time for the first response if needed — do so through your adviser** If the deadline for the first response does not give you adequate time to prepare, your adviser can request an extension from the ATO. The ATO routinely grants reasonable extensions for the first response when the request is made professionally and promptly. Do not let a deadline pass without either responding or requesting an extension — a missed deadline signals disorganisation and can accelerate the audit.	☐ DONE	Date / Time

Tax adviser engaged: YES / NO | A13 requested: YES / NO | Records located: YES / NO | Gaps identified: YES / NO | Extension requested: YES / NO / NOT NEEDED

PHASE 3 — Assess & Protect — Understand the Full Exposure Before the Audit Proceeds

Hours 48 to 72 — Know your worst-case position before your adviser engages the ATO

STEP	Action Required	Done	Completed
11 CRITICAL	**Prepare a written summary of every significant transaction in the audit period** For every year under audit, prepare a written summary of significant transactions: major sales or income items, large deductions claimed, related party transactions, trust distributions made and to whom, director loans drawn or repaid, and any unusual or one-off transactions. This summary is for your adviser's use and for your own understanding. Auditors focus on anomalies — know what they will find before they do.	☐ DONE	Date / Time
12 CRITICAL	**Review whether your personal tax affairs for the audit period are consistent with the company's position** If the ATO is auditing your company, your personal returns for the same period will be cross-referenced. Are trust distributions reflected correctly in your personal return? Are director loans or deemed dividends disclosed? Inconsistencies between company and personal returns expand the audit to you personally. Contact Risk Protector for their take on the subject.	☐ DONE	Date / Time
13 IMPORTANT	**Assess whether voluntary disclosure of any errors reduces penalties** If your review of the records has identified errors, omissions or mischaracterisations in the returns under audit, voluntary disclosure to the ATO before the auditor identifies those issues significantly reduces the penalties that apply. Your adviser can advise on the timing and mechanics of voluntary disclosure. Do not make voluntary disclosures without advice — the framing and timing matter enormously.	☐ DONE	Date / Time
14 CRITICAL	**Assess whether your personal asset protection position is adequate for the worst-case outcome** If the audit results in a significant liability that the company cannot pay, what is your personal exposure? Is your family home protected? Are your personal savings at risk through personal guarantees or DPN liability? Does the audit period include PAYG withholding or superannuation obligations that could generate	☐ DONE	Date / Time

	personal DPN liability if the company cannot pay the assessed amounts? Understand this before the audit result is known.		
15 CRITICAL	**Document all decisions, communications and actions throughout the entire audit process** Keep a written record of every step taken, every document produced, every ATO communication received and every decision made. This record demonstrates good faith cooperation and is your strongest asset in any post-audit dispute. When the audit concludes, contact Risk Protector to confirm whether the findings have changed your structural exposure position and what needs addressing going forward.	☐ DONE	Date / Time

Worst-case liability estimate: $____________ | Company can pay: YES / NO | Voluntary disclosure considered: YES / NO | Personal assets protected: YES / NO / UNCERTAIN | Single comms point established: YES / NO

WHAT NOT TO DO — ACTIONS THAT WILL MAKE YOUR SITUATION WORSE

✕ **Do NOT respond to the ATO directly or informally before engaging a tax adviser.** Calling the ATO officer to explain the situation, sending informal emails or providing documents before your adviser is engaged removes your adviser's ability to control the information flow. Anything you say or provide in informal contact can be used in the audit and cannot be unsaid.

✕ **Do NOT provide more documents than the notice specifically requests.** Providing documents beyond what was requested expands the audit scope. Every additional document is an opportunity for the ATO to identify additional issues. Provide exactly what is requested, nothing more. Your adviser will manage what is provided and how it is presented.

✕ **Do NOT alter, reconstruct or backdate any records.** Altering financial records, reconstructing documents after the fact, or backdating agreements or resolutions to support positions in the audit constitutes fraud. The ATO has forensic capability to identify document manipulation. The consequences — criminal prosecution, maximum penalties, and complete loss of credibility in the audit — are catastrophic and irreversible.

✕ **Do NOT assume the audit is limited to what the notice says.** ATO audits routinely expand beyond the initial scope if the first review reveals inconsistencies, related-party transactions, or indicators of broader non-compliance. A GST audit can become a trust audit. An income tax audit can become an employer obligations investigation. Prepare as if the full picture will be examined — because it may be.

✕ **Do NOT delay engaging your adviser because you think the audit will go away or resolve itself.** Audit notices do not expire if ignored. A missed first response deadline triggers ATO access powers that are far more intrusive than a standard audit. Delays signal disorganisation, reduce your adviser's preparation time, and remove the option of requesting reasonable extensions. Engage your adviser on the day you receive the notice.

YOUR MOST IMPORTANT NEXT STEP

An ATO audit examines what happened in the past. But the structural vulnerabilities that made those transactions possible — trust distribution patterns, director loan accounts, entity relationships, asset locations — exist right now and will still exist after the audit closes. Understanding and resolving those vulnerabilities before the next audit, the next DPN, or the next enforcement action is what the A13 is designed to do.

The Risk Protector A13 Structural Exposure Assessment

Free. Confidential. The only forensic structural assessment of its kind available to Australian directors.

Visit www.riskprotector.com.au and click the GET MY FREE A13 ASSESSMENT button.

No obligation. No cost. Absolute discretion.

Risk Protector Pty Ltd | ABN 71 696 228 770 | +61 466708100 | www.riskprotector.com.au