Introduction for investors

Understanding tax-effective investments

Helping you make the right decision

Australian Government
Australian Taxation Office

NAT 73759-04.2011

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How this guide can help you

If you're considering entering into an investment arrangement that will affect your tax liabilities, there are certain things you need to know.

Many people enter into some type of investment at some stage of their lives. This could involve shares, real estate, financial products or any other arrangement where there is an expectation of receiving a benefit either immediately or in the future. Regardless of the type of investment, often the result is a reduction in taxable income or an increase in the amount of claimable tax deductions. However, as appealing as the underlying investment might be, it's important to carefully investigate the actual tax consequences before getting involved.

Sometimes, despite 'expert' opinions, the promised tax benefits of the investment might not actually be available due to incorrect interpretation of the tax law. Not getting the right advice can lead to negative tax consequences and leave you with unforseen tax liabilities.

Often, the ATO identifies investment arrangements where the promised tax benefit isn't available under the law. In this situation the arrangement is deemed to be a tax avoidance scheme. As a result, tax deductions for the investment are disallowed and investors face potential penalties.

This guide is intended to provide you with information to help you recognise some of the common types of schemes so you can reject them and avoid the negative consequences that come from participating. We encourage you to let us know as soon as possible about any arrangements you suspect may be tax schemes. This helps us to act quickly to prevent others being caught up in them.

Before you invest

You're entitled to minimise the amount of tax you pay through legal tax planning arrangements. However, under Australia's self-assessment system the way your tax affairs are structured is your own responsibility. This is regardless of whether you use a tax agent to prepare your tax return. The claims you make are also your own responsibility, so when making investment decisions that will impact your tax liabilities, it's important to get independent and impartial advice.

Tax schemes aren't limited to the 'too good to be true' type of arrangement. They can be more sophisticated than many people realise. Schemes can be complex arrangements that are offered to you by some advisers with claims the availability of tax benefits is confirmed by genuine experts.

What makes an arrangement a tax scheme?

A tax scheme is an arrangement where the intention is to avoid or defer tax obligations. There are many different types of tax schemes and these vary from the mass-marketed arrangements that you might see advertised to the general public, to specialist financial arrangements offered directly to experienced investors.

Many of these arrangements use a series of complex transactions, moving funds through several entities such as trusts. The aim is to avoid or minimise tax which would otherwise be payable.

Schemes may also involve distorting the way funds are being used to incorrectly claim tax deductions or structuring investments to exploit concessional tax rates such as those applied to superannuation funds. Some schemes even offer ways to release superannuation funds early.

The person or entity behind a scheme is known as a promoter. A promoter is someone who has a vested interest in securing your involvement in the arrangement. Scheme promoters are generally quite active in marketing the investment, charge substantial fees and receive a payment, including commissions, from your investment.

What to look out for

Some arrangements have characteristics that make them seem like an obvious tax scheme to experienced investors. However there are many less obvious features that can also indicate a potential illegal scheme.

Advice and documentation

Financial planners, tax agents, accountants, legal practitioners and others are not necessarily promoters just because they provide advice about investment arrangements. However, they may be a promoter if they:

- have a substantial role in marketing a tax scheme, and
- derive income from doing so.

You should be wary of arrangements that:

- offer zero risk guarantees
- do not have a product disclosure statement or prospectus
- refer you to a particular adviser or expert who they claim has specific knowledge about the arrangement and the promised tax benefits
- ask you to maintain secrecy to protect the arrangement from rival firms and discourage you from obtaining independent advice.

Finance

Many tax schemes are promoted with mechanisms to help you finance your investment. The following are examples of 'red flags' that should prompt you to investigate further before becoming an investor.

- 'Round robin' financing where the funds are passed through various entities and usually back to the initial entity. This may take the form of the entity offering the arrangement lending you the money to invest in their product.
- Non-recourse loans that you don't have to repay if the investment goes bad.
- Complex financing arrangements involving limited recourse loans, where your liability is limited to your share in the investment.
- Investments that are primarily funded through tax deductions – for example, including substantial interest prepayments in a financial year.

Structure

The way an investment arrangement is structured can indicate whether it is a tax scheme. Arrangements with the following features should be carefully investigated.

- Deferring income so the tax is paid in a later period than it should be.
- Not declaring income or hiding income (for example, in an offshore location such as a tax haven).
- Changing the nature of the income so less tax is paid, for example changing capital expenses into revenue expenses.
- Changing private expenses into business expenses so they can be claimed against income.
- Creating an entitlement to a tax offset or credit which wouldn't have otherwise been available.
- Arrangements that are set up for the sole purpose of obtaining tax benefits and have no underlying business purpose.
- Moving the income around to a trust or partnership for no other reason than to split the income amongst people in a lower tax bracket so less tax is paid.
- Inflating or artificially creating deductions.
- Moving taxable income to a tax exempt or lower tax rate entity, such as a charity, company or superannuation account.

Help us protect the community by reporting tax schemes

You can help us protect the community by preventing others from being caught up in tax schemes.

If you come across an arrangement that sounds like a tax scheme, you can call us on **1800 177 006** and give us information.

Providing this information to us as early as possible enables us to act quickly to investigate the arrangement. Early detection of schemes can help us take action to prevent other taxpayers from becoming involved.

Common types of tax schemes marketed to individuals

‘Mortgage Management’ plans

In this arrangement, a tax scheme promoter offers you a means of creating deductible interest payments, equivalent to your home loan interest payments, using the existing equity in your home to obtain additional loans for the purpose of claiming investment deductions.

This is achieved by re-financing your existing home loan through a financial institution. The amount financed under the new loan is made up of the outstanding balance on your previous home loan (Loan A) as well as additional funds, namely an interest only investment loan (Loan B). Both Loan A and Loan B are secured over your home (often to the maximum debt level that you could be lent to by a financial institution).

You make principal and interest repayments on Loan A and invest the amount of Loan B by purchasing shares in companies controlled by the promoter who in turn undertakes to pay the interest on Loan B on your behalf. The promoter also lends you additional funds (Loan C) to supplement your investment in promoter controlled companies. This loan is either non-recourse or recourse limited to the shares in the promoter controlled company. This means that you either do not have to repay the loan or your liability is otherwise limited to the shares you have purchased.

Generally, you do not derive any dividend income from the share investments and in all cases it appears you are unlikely to do so in the future. However you claim large deductions for the interest paid on Loan B and supposedly paid on Loan C.

This is a scheme because there is no real investment and the dominant purpose of the arrangement is to reduce your assessable income by claiming deductions you are not entitled to.

There are significant commercial risks if you enter into these types of arrangements. Shares in the promoter company may not deliver a reasonable return or be worth far less than you anticipate. The promoter may also cease making repayments on Loan B.

For more information see *Taxpayer Alert TA 2009/20 – Interest deduction generators involving promoter controlled companies*.

Case study

In one arrangement, home owners were sold a ‘mortgage management’ plan that turned into a very expensive failure. Investors in the scheme were promised a way of paying off their mortgage faster by using the existing equity in their home to obtain additional loans for the purpose of claiming investment deductions, equivalent to their home loan interest payments.

As well as being falsely told the scheme had ATO approval, investors were asked to maintain confidentiality about the arrangement to protect it from rival firms and therefore discouraged from seeking independent advice.

The arrangement was revealed to be a tax avoidance scheme, as the sole purpose of the ‘investments’ was to claim tax deductions that would not otherwise be available. The company offering the arrangement was wound up and investors lost hundreds of thousands of dollars. Many are now faced with the possibility of having to sell their homes to pay money owed.

Early access to superannuation benefits via self-managed super funds

In this arrangement, a promoter claims they can unlock your superannuation (super) before you reach your retirement age.

The promoter arranges for you to roll over your super into a self-managed superannuation fund (SMSF). This might sound tempting to anyone wanting to use the money for personal expenses such as a holiday or car.

The promoter withdraws the amount from the SMSF and pays it to you minus their fee. This is a scheme as it is illegal to gain early access to super, except in very limited circumstances.

Anyone entering this type of arrangement will not only lose money to the promoter for their fee, which in some instances has been as high as 30% of the super savings, but could also face prosecution and pay extra tax and penalties.

For more information see *Taxpayer Alert TA 2009/1 – Superannuation Illegal Early Release Arrangements*.

Thousands of people have already been caught up in these schemes with 1,100 audits on individuals involved in illegal access of super completed by the ATO in 2009–10.

Being involved in these schemes can have devastating effects. The organisers of these arrangements normally charge heavy fees that will not be tax deductible. In some cases, people have also lost all their super funds when the promoter has disappeared with the money.

Agribusiness Managed investment schemes

Managed Investment Schemes (MIS) are generally mass-marketed arrangements for investment in primary industry. Arrangements usually relate to activities such as forestry, agriculture, horticulture and aquaculture and are for a fixed number of years depending on the nature of the activity. While fee structures for MIS vary, often the investor pays an upfront fee for initial services and may also pay for ongoing services in later years. The upfront fee is typically a large amount and may be financed by a loan, sometimes offered by the MIS provider or a related entity.

While many MIS arrangements don't constitute a tax scheme, investors should be careful if the arrangement doesn't have an ATO product ruling confirming the intended tax benefits. Even where a ruling has been issued, it's important to be aware that having a product ruling isn't a guarantee of commercial success and that the ATO may withdraw or amend it. This could happen if something changes in the way the arrangement is carried out or the arrangement is terminated or wound up early. In this situation, the promised tax benefits may no longer be available.

Scholarship trusts and Education funding programs

In these types of arrangements the promoter offers you a way to fund your children's education expenses through a scholarship trust.

You are advised to invest funds into a trust which holds the funds until the student (who is a family member belonging to the trust) is accepted into a program of study. When the student begins their studies, the funds are transferred into a scholarship trust which makes payments to the student during the course of their study. There is no income tax payable, as the student receives funds as scholarship payments or a student loan.

To be considered a genuine scholarship trust, the arrangement must benefit a student selected through a process open to a wide range of candidates and through independent selection criteria.

This arrangement is a scheme because it is not a genuine scholarship fund. In this situation, you would incorrectly be paying educational expenses through pre-tax trust income and making subsequent payments to children tax exempt.

For more information see *Taxpayer Alert TA 2007/6 – Scholarship Trusts and Education Funding Programs*. The ATO view on this arrangement is set out in *Taxation Ruling TR 93/39*.

Home loan unit trust arrangement

In this arrangement, a promoter claims they can make your home loan interest payments tax deductible.

Using a unit trust the scheme promoter sets you up to borrow funds to purchase a property. You then live in the property and pay rent to the unit trust at market rates which the trust declares as taxable income.

The trust claims associated expenses and interest charges as deductions against the rental income and you claim a tax deduction for the interest payments on the borrowing.

This is a scheme because it involves getting a tax benefit from borrowings for private expenses – your home. You would not be entitled to claim the interest payments as deductions and you risk having to pay penalties and interest.

For more information see *Taxpayer Alert TA 2001/1 – Home Loan Unit Trust Arrangement*. The ATO view on this arrangement is set out in *Taxation Ruling TR 2002/18.*

Inflated tax deduction for donation of goods to charity

In this arrangement a promoter claims you can make a charitable donation and obtain a tax deduction for an amount that is significantly greater than the actual cash amount you outlay.

This is done by entering into an agreement to purchase goods for donation to a charity for use overseas. You make an upfront payment for a percentage of the value that the goods are supposedly worth. The balance of the payment for the goods is financed through a loan from either the vendor of the goods or a lender nominated by the promoter. The terms of the loan are unusual in that the loan is for a very long term, is unsecured and interest charges are often minimal. The claimed tax deduction is for the full amount that the goods are supposedly worth – being the upfront payment and the loan amount.

This is a scheme because the dominant purpose is to obtain a scheme benefit. The value of deductions claimed is much larger than the portion of the donation funded with your own money and the additional borrowed funds are provided through a loan which is uncommercial in nature. It is also probable the market value of the goods is much less than the invoiced amount.

For more information see *Taxpayer Alert TA 2010/8 – Gift deductions for donation of pharmaceuticals to charities operating overseas*.

Specialised arrangements for individuals

Hybrid trusts and uncommercial use of trusts

In this arrangement a promoter claims they can increase your tax deductions using a trust.

The promoter sets up a trust with several beneficiaries and arranges for you to borrow funds to purchase an income producing investment property through the trust. You then claim all of the interest expenses as income tax deductions.

However, either part or all of the income or capital from the investment property is distributed amongst the other trust beneficiaries rather than to you (the original borrower of the funds). Often these beneficiaries are on lower marginal income tax rates.

This arrangement is considered to be a scheme because you are claiming deductions for all of the interest expenses on the borrowing but you haven't received all the associated benefit in the form of income or capital or both.

For more information see *Taxpayer Alert TA 2008/3 – Uncommercial use of certain trusts*. The ATO view on the major issue in this arrangement is set out in *Taxation Determination TD 2009/17*.

Retail financial products

Many banks and other financial institutions offer financial products to investors. These arrangements can be very complex and you should check whether the product has an ATO product ruling. Product rulings offer certainty about the tax consequences of an arrangement, provided the arrangement is implemented exactly as it has been outlined in the ruling.

You should be cautious if the product doesn't have an ATO product ruling confirming the intended tax benefits.

There can be risks associated with financial products if elements of the product are contrary to the law. A product may offer significant tax benefits to investors, for example through franking credits, interest deductions or

income sheltering or deferral. However, the tax benefits may be accompanied by little or no commercial purpose and the product may contain features that are artificial or contrived.

Some features to be wary of include:

- claiming deductions for prepaid financing costs (such as interest) which in some instances may not be allowed
- deferring income to later years or substituting it for income from another source
- inappropriately costing the capital protection element where interest rates for borrowings are set above the prescribed benchmark rate
- generating excessive franking credits when compared to the amount of real income received.

Self-managed superannuation funds deriving income from uncommercial trusts

In this arrangement a promoter claims they can increase your tax deductions using a self-managed superannuation fund (SMSF). They assist you to borrow funds to invest in a trust which has, as one of its beneficiaries, an SMSF. The trust uses the funds to buy a rental property.

You then claim all of the borrowing costs as income tax deductions. However, some of the income from the investment is distributed to the SMSF which is taxed at the concessional rate.

This arrangement is considered to be a scheme because you are claiming deductions for all of the interest expenses on the borrowing but the borrowing has also been used to derive income for other beneficiaries of the trust. Also, the income distribution from the trust to the SMSF is non arm's-length income and therefore not entitled to the concessional rate.

For more information see *Taxpayer Alert TA 2008/4 – Self-managed superannuation funds deriving income from certain uncommercial trusts*. The ATO view on the major issue in this arrangement is set out in *Taxation Ruling TR 2006/7*.

Uncommercial offshore superannuation trusts

Arrangement 1

In this arrangement, an overseas resident seeks to avoid paying income tax on money they want to bring into Australia. The overseas resident sets up an offshore trust fund in a tax haven country claiming it is an offshore superannuation (super) fund. They also set up a business entity of which they are primary shareholder and director. However the business does not perform any business activities and many do not even have a bank account.

The business then makes contributions to the trust just prior to the individual becoming an Australian resident. After a number of years the funds are moved to a complying Australian super fund.

This is a scheme because the arrangement may avoid payment of tax in Australia under Australia's foreign source income attribution rules on the accrued income held in the offshore trust fund.

Arrangement 2

In this arrangement, an Australian resident working overseas seeks to avoid paying tax on their overseas income. The Australian resident establishes an offshore trust fund claiming it is a super fund. Payments are made by their employer directly to the offshore trust fund and claimed to be super contributions.

The trust fund invests these contributions in a business owned and controlled by the individual through discounted loans or purchase of shares. After a number of years the original funds and investment earnings are transferred to Australia and claimed to be super payments.

This is a scheme because the arrangement may avoid payment of tax in Australia under Australia's foreign source income attribution rules on the accrued income held in the offshore trust fund.

For more information see *Taxpayer Alert TA 2009/19 – Uncommercial offshore superannuation trusts*.

Arrangements targeting businesses

Avoidance of capital gains tax using a trust structure

Using this arrangement, an entity (either an individual, partnership or trust but not a company) seeks to avoid paying capital gains tax (CGT) on the sale of an asset it intends to dispose of.

The entity establishes a trust (Trust 1) within its structure. It also establishes a special purpose company (SPC) to act as trustee for Trust 1. The entity then transfers the asset to Trust 1 and claims CGT rollover relief on the transfer. The cost base value of the asset also transfers to Trust 1.

A second trust (Trust 2) is established which acquires the asset from Trust 1 for a nominal amount. The entity claims that due to the CGT provisions the acquisition by Trust 2 was at market value. Trust 2 then disposes of the asset to a third party for its market value. This is the same amount paid when the asset was acquired from Trust 1.

Trust 1 has made a capital gain as the asset's value at the time of disposal is greater than its value when initially acquired. Trust 1 appoints additional beneficiaries, chosen for their tax exempt status or availability of tax losses and distributes the capital gain to those beneficiaries.

This is a scheme because the sole purpose of the arrangement is to avoid CGT on disposal of the asset.

For more information see *Taxpayer Alert TA 2003/3 – Avoidance of Capital Gains Tax Utilising a Trust Structure*. The ATO considers that this arrangement is a variation of the reduction arrangements discussed in *Taxation Determination TD 2003/03* and the discussion of the application of Part IVA in that Determination applies equally.

Foreign trust arrangement

In this arrangement, a business uses an artificial arrangement to claim tax deductions for funds sent offshore, seemingly as payment for services to the business. In reality the funds are available to be used by the business.

Through a tax scheme promoter, the business establishes an overseas based foreign discretionary trust with a nominated Australian representative. The trust provides services, often at an inflated cost, to an Australian resident business. The Australian business claims the inflated service fee costs as a tax deduction, however, the business has access to these funds through the trust's Australian appointed representative.

This is a scheme because it is an artificial arrangement to avoid tax and claim deductions for the inflated service fees.

For more information see *Taxpayer Alert TA 2004/4 – New Zealand Foreign Trust*. The ATO view on the arrangement is set out in *Taxation Ruling TR 2005/14*.

Profit washing scheme using a trust and loss entity

In this type of arrangement, a tax scheme promoter offers a way for businesses to offset their income, to minimise tax liability.

The business purchases an unrelated entity in a tax loss situation. The business transfers their income through a chain of trusts until it reaches the purchased entity. The income is offset against the loss, meaning that tax is never paid on the income.

This is a scheme because it is a contrived arrangement where the sole intention is to offset the business income.

For more information see *Taxpayer Alert TA 2008/15 – Profit washing scheme using a trust and a loss entity*.

Distribution to superannuation fund from interposed unit trust

In this arrangement, a promoter offers the owners of a business a way to take advantage of the concessional superannuation tax rate to reduce the tax payable by their business on its income. They establish a unit trust linked to the discretionary trust their business operates under. The unit holder of the unit trust is a self-managed superannuation fund (SMSF) of which the business owners and associated individuals are members.

The business diverts business income through the unit trust to the SMSF which pays tax at the concessional rate of 15%. This is a scheme because it artificially reduces the amount of tax payable on the business' earnings as well as avoiding income tax liabilities which would otherwise have been payable by the SMSF members had they received income directly from the business.

For more information see *Taxpayer Alert TA 2003/1 – Distribution to Superannuation Fund from Interposed Fixed Trust*. The ATO view on this arrangement was first set out in *ATO Interpretative Decision 2003/230* and is now set out in *TR 2006/7*.

Employee benefit trust arrangements

In this type of arrangement, a business sets up an Employee Benefit Trust (EBT), supposedly to provide benefits to employees.

The employer makes a contribution to the EBT on behalf of a group of employees – for example, the principals of the business. The employees participate by receiving a loan from the trust to purchase units in the same trust, or are nominated as beneficiaries of the trust. The contributed funds may be loaned back to the employer or invested in property. Generally the contributed funds remain in control of the employer and/or the principals.

This is a scheme because the contribution is not a business expense but a distribution of profit to the principals (it is capital in nature). The business is not able to claim deductions for a capital expense. Where the employees are not principals, then the business may have obtained a tax benefit, being the deduction claimed. The arrangement has also avoided fringe benefits tax on the contribution.

For more information see *Taxpayer Alert TA 2007/2 – Employee Entitlement Fund*.

Employee share trust arrangements

In this type of arrangement an employee share trust (EST) is established in an attempt to convert salary or wages income into a capital gain for employees.

Employees participate in the arrangement by entering into an agreement with the employer to contribute salary or bonus income to the EST. The employer then makes a contribution to the EST which is subsequently loaned to employees to purchase units in the trust. Employees may also be issued with bonus units which typically equal the amounts previously contributed.

This is a scheme because the employees can defer being assessed on their salary and wages while accessing their sacrificed amounts through non taxable loans. When exiting the arrangement, employees also receive concessional treatment on their deferred salary and wages as they are incorrectly treated as capital gains.

For more information see *Taxpayer Alert TA 2008/13 – Employee Savings Plans*. The ATO view on this arrangement is set out in *TD 2010/10*.

How you can protect yourself from tax avoidance schemes

Before committing to an investment arrangement, make sure you understand the arrangement and are certain that the promised tax benefits are available.

Independent advice

Before you invest, it's important to get independent advice from an adviser who has no connection with the seller or the investment arrangement. Don't be misled by advisers who are recommended to you by someone involved with the arrangement.

Provider's licence details

Anyone who offers financial products and advice must be:

- an Australian Financial Services (AFS) licence holder
- a director or employee of an AFS licence holder, or
- an Authorised Representative of an AFS licence holder.

If the person or entity offering you the arrangement doesn't hold a valid licence issued by the Australian Securities and Investment Commission (ASIC), they are operating illegally and you are not protected.

You can check licence details free of charge and find out more information at the ASIC website at www.moneysmart.gov.au

Product disclosure statement

A product disclosure statement (PDS) sets out important information about an investment arrangement. This includes details of fees and commissions, outlining the benefits and risks of the investment and other information to help you make an informed decision.

All potential investors must be given a PDS or prospectus when an arrangement is recommended or offered. This document must give enough information about the arrangement for you or your adviser to make an informed decision.

Information available from the ATO

The ATO has information available to help you make informed decisions.

Taxpayer alerts

You can check ATO taxpayer alerts to see if the arrangement you are considering, or one with similar characteristics, is listed as having potential negative tax consequences. Alerts are early warnings to taxpayers either when we have concerns about particular arrangements that we believe are high-risk, or when we are in the process of assessing them. An alert provides the name of the arrangement and a brief description, highlighting the features we have concerns about.

If an alert hasn't been issued for the type of arrangement you are considering, this doesn't mean the arrangement is legitimate. You can apply for a private ruling to provide certainty of the tax consequences for your particular circumstances.

Product rulings

When you're considering an investment arrangement you should check if a product ruling has been issued for it. If the arrangement is covered by a product ruling it provides you with certainty of the tax consequences, as long as the arrangement is implemented exactly as it has been outlined in the ruling.

It's important to make sure the product ruling is valid. It must be current and also needs to apply to that particular investment, in that particular year. If there is a financing or loan element of the product you're considering, then it should be described in the product ruling. You are not covered by product rulings for similar investments – the ruling must apply to the exact arrangement you are considering.

You should also check that the tax benefits the arrangement promises you are consistent with what is outlined in the product ruling otherwise they may not apply.

If the arrangement you're considering doesn't have a product ruling there is no certainty that the promised tax benefits are available. In this situation you might consider applying for a private ruling to cover your particular circumstances.

Remember that a product ruling is not a guarantee of the commercial or financial viability of the product and therefore you need independent advice.

You can check our list of product rulings on **www.ato.gov.au** or by calling us on **1800 177 006**.

Private rulings

A private ruling sets out the ATO's view about the way a tax law applies, or would apply, to you in your particular circumstances.

A private ruling relates only to you and your individual situation. It will provide you with certainty of the tax consequences of an arrangement as long as you provide us with all the facts and the circumstances do not change.

To obtain a private ruling you must complete an application form and forward it to us. You can use the *Private Ruling Application form* (NAT 13742) or call **1300 720 092** to have one sent to you.

Private Ruling requests can be lodged via the Tax Agent Portal or the Business Portal, if you have access to them.

What to do if you're involved in a scheme

Not only can involvement in a tax scheme risk your original investment, you could also have to pay back any missing tax with interest and penalties.

If you voluntarily tell us about your involvement in a tax scheme, you may be eligible for a reduction in any penalties you face.

If you think you may have become involved in a tax scheme you can start by talking to your tax agent. You can also call us on **1800 177 006**. If you need to request an amendment to your income tax assessment, we can help you.

For more information about making a voluntary disclosure, see *Voluntary disclosures – approved form* (NAT 72121).

Penalising tax scheme promoters

Legislation to deter the promotion of tax exploitation schemes was introduced in 2006.

The promoter penalty laws protect you from unscrupulous promoters by providing for both civil and administrative penalties for scheme promoters. This means that the Federal Court can impose civil penalties such as fines or grant an injunction.

These laws also cover situations where a scheme has been promoted on the basis that it has an ATO product ruling but has been implemented in a way that is materially different to the conditions described in the ruling, making the product ruling invalid.

If you have concerns about a promoter or an investment arrangement, you can call the ATO Schemes hotline on **1800 177 006**.

Quick checklist

The following checklist summarises the things to consider when thinking about a tax-effective investment.

- [ ] Always get independent advice from someone not associated with the investment.
- [ ] If your adviser is a tax agent, you can check they are a registered agent with the Tax Practitioners Board. Visit **www.tpb.gov.au** and:
  - download a current list
  - use the online search database.
- [ ] The salesperson selling you the investment must hold an Australian Financial Services licence, issued by the Australian Securities and Investments Commission (ASIC). You can check licence details free with ASIC by:
  - visiting their website at **www.moneysmart.gov.au**
  - phoning their infoline on **1300 300 630**.
- [ ] By law, you must be given either a product disclosure statement (PDS) or a prospectus for the investment. If you haven't been provided with a current PDS or prospectus you should contact ASIC by:
  - email to **infoline@asic.gov.au**
  - phone on **1300 300 630**.
- [ ] ATO taxpayer alerts provide warnings about some of the tax scheme arrangements you might be offered. You can check alerts on our website at **www.ato.gov.au/investing**
- [ ] Many tax-effective investments have an ATO product ruling. A product ruling provides you with legally binding assurance that the tax deductions set out in the ruling will be available provided the scheme is carried out as described in the product ruling. You can find out if the scheme has a ruling by contacting us on **1800 177 006** or speaking to an independent tax adviser.
- [ ] To apply for a private ruling to cover your individual circumstances complete the *Private Ruling Application form* (NAT 13742) or call **1300 720 092** to have one sent to you.

More information

For more information about tax planning and schemes visit our website at **www.ato.gov.au/investing**

You can also get other independent advice from:

- ASIC – provides information about investing and financial products. Visit the ASIC website at **www.moneysmart.gov.au**
- The Australian Competition and Consumer Commission (ACCC) provides warnings about known investment scams. Visit the SCAMwatch website at **www.scamwatch.gov.au**

Publications

- *Don't take the bait* (NAT 8625)
- *Investigate before investing* (NAT 72936)
- *Making tax-effective investments* (NAT 73470)
- *Investment checklist*
- *Recognising and reporting tax avoidance schemes* (NAT 72935) – for tax agents

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