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Mr Tony Poulakis
Assistant Commissioner
Small Business
Australian Taxation Office

Email: tony.poulakis@ato.gov.au

12 June 2026

Dear Tony,

PSI Priority Education and Guidance Requirements

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 176,000 members in over 100 countries and regions. We make this submission in response to the Australian Taxation Office (ATO)'s consultation paper on **PSI Priority Education and Guidance Requirements** on behalf of our members and in the broader public interest.

Executive summary

CPA Australia supports the ATO's educational focus on personal services income (PSI) alienation arrangements and the need for clearer practitioner guidance on ATO compliance focus. Our key message is that recent ATO communications help establish urgency, but they do not provide sufficient practical certainty for tax practitioners dealing with real world client structures, corrective action and manage income alienation risks. Practitioners need concrete and clear guidance on what constitutes a genuine attempt, workable benchmarks for commercial remuneration and profit retention, and practical examples that show how the ATO expects clients to transition to lower-risk arrangements before 30 June 2027.

Key comments and recommendations (no Question 2 due to mislabeling in ATO consultation paper)

- Q1: The ATO communications help signal urgency but need more operational detail, including guidance on genuine attempts, valuation, risk thresholds, transition issues and commercially framed safe harbours.
- Q3: The concept of a genuine attempt remains poorly understood and is often mistaken for a forward-looking fix rather than a documented transition that may also involve lookback risk.
- Q4: Practical examples would be highly valuable if they show clear metrics, corrective steps, lookback consequences and where Part IVA risk may still arise.
- Q5: Practitioners need practical corrective action guidance, including remuneration benchmarks, documentation expectations, voluntary disclosure pathways and transition plans for retained profits.
- Q6: Advice is most difficult in the grey zone between an individual PSI arrangement and a growing professional practice, where PCG 2025/5 and PCG 2021/4 may both be relevant.
- Q7: Common lifecycle issues include contractor classification, personal service business (PSB) misconceptions, income splitting, excessive profit retention, poor separation of PSI and business income, and weak governance.
- Q8: Education should combine practical management steps, including governance, evidence requirements and monitoring of profit allocations.
- Q9: A webinar would be effective if structured as a practical workshop using case studies, worked examples and structured Q&A rather than a high-level legal presentation.
- Q10: After a webinar, practitioners should be better able to assess client risk, document genuine attempts, plan corrective action and manage transitions.

- Q11: Essential topics include lookback risk, commercial working capital, associate service valuation, statements of distribution (SOD) data matching, Division 7A, hybrid practices, token adjustments and evidence expectations.

If you have any queries, contact me at jenny.wong@cpaaustralia.com.au or Bill Leung, Tax Technical Advisor on bill.leung@cpaaustralia.com.au.

Yours sincerely,

Jenny Wong
Tax Policy Lead

Detailed discussion

Effectiveness of existing PSI communications – see Background

1. Do the recently released compliance communications adequately support you to explain the ATO's compliance focus on PSI alienation arrangements to clients?

The three recently released ATO bulletins help convey the ATO's compliance focus and provide tax practitioners with the understanding of the ATO's data-matching approach and the timeline. However, there are technical gaps that need to be included for practitioners to advise their clients on PSI alienation arrangements.

o *If not, where do you consider key gaps or points of ambiguity arise?*

While the bulletins establish ATO's approach on PSI alienation arrangements, they do not provide the operational detail practitioners need. That is, how to determine and measure compliance and where the boundaries lie to stay compliant with the ATO's PSI rules. In short, practitioners need clear and concrete guidance on documentation, risk thresholds and transition issues. They include:

1. Defining "genuine attempt"
Genuine attempt is an administrative term and not a legislative definition. The ATO needs to explain what documentary evidence is required to evidence genuine attempt. For example, does it encompass:

- Formal, dated review minutes.
- A written, stepped unwinding or restructuring plan.
- Adjusting current year drawings and profit allocations to reflect true market value before lodgment.

2. The valuation gap
To shift a high-risk arrangement to low-risk, PCG 2025/5 requires that the individual's remuneration align with the "commercial market value" of their services. The recent ATO bulletins provide zero guidance on how a sole contractor or small consultancy is supposed to benchmark their market rate and the distinction between acceptable and unacceptable "profit retention".

3. Quantifying risk
The recent bulletins refer to moving from higher to lower risk, but they do not explain the underlying parameters. Practitioners need clear guidance on what low- and high-risk arrangements look like in practice.

4. Transition issues
The ATO needs to provide tangible parameters, such as employee headcount, gross revenue, or asset value as to when a business stops being a personal services entity (PSE) and starts being a professional firm. Taxpayers also need to know if (merely) having an 'intention' or an active 'restructuring road map' counts as a "genuine attempt" if the structural transition is not completed by 30 June 2027. Furthermore, the expiry of the PCG 2021/4 transitional window in 2024 creates a difficult overlap for growing clients moving from PSI arrangements to professional firms. Taxpayers need practical guidance on how the two frameworks interact during business transition.

o *What additional information or framing would most improve adviser confidence?*
To improve tax practitioner confidence, the following are needed:

1. Safe harbours
Similar to the percentages used in the professional firm guideline PCG 2021/4, the ATO needs to provide a "green zone" safe harbour, with clear formulaic remuneration quantifying the "commercial market value" for businesses transitioning out of PSI arrangements.

2. Improve messaging
Instead of framing a structure review entirely around Part IVA, tax avoidance, and penalties, ATO can improve its messaging by framing the conversation around commercial asset protection, scaling, and the transition point to PCG 2021/4.

"Genuine attempt" to move towards a lower-risk arrangement

3. How well understood is the concept and expectations of a "genuine attempt" among your clients?

The concept of a "genuine attempt" is not well understood among small business clients and practitioners. Tax practitioners who are aware of the 30 June 2027 deadline would misinterpret it as either a formal "tax amnesty" or a standard regulatory transition period.

o *Where do you see the greatest uncertainty or reluctance in practice?*

1. Lookback risk
Many taxpayers believe that a "genuine attempt" simply means fixing their corporate behaviour moving forward. They assume that if they adjust their salary or unwind their income-splitting structure by the 2026–27 financial year, the past is ignored. There is a lack of awareness regarding the "lookback risk" and paying back-tax.

2. Reluctance
In practice, client is reluctant to conform with (new) ATO PSI requirements. This is driven by a perception of commercial reality and inertia in three areas:

a) PSB test
Clients assume that passing the statutory PSB tests (e.g., the 80% rule, the results test, or the unrelated clients test) meant their corporate structure was legitimate for PSI rules. Practitioners and their clients do not align with the ATO position that passing the PSI tests does not mean the general anti-avoidance provision of Part IVA does not apply under PCG 2025/5.

b) Income splitting
Under PCG 2025/5, paying an associate an inflated rate for minor administrative work is a "high risk" zone activity. Because there is no official safe harbour on salary scale for administrative associates, the ATO will need to quantify what "commensurate with market value" means for a spouse who manages the books, answers phones, handles scheduling, and coordinates marketing.

c) Profit retention
The ATO needs to provide clear metrics on how much "temporary" working capital a sole contractor can commercially retain in their business. For service-based companies, keeping money inside the company at the 25 per cent small business tax rate is their primary wealth building and risk mitigation tool.

4. Would practical examples illustrating what constitutes a genuine attempt — and where Part IVA may still be considered — assist you in advising clients?
Highly specific, practical examples would significantly transform how practitioners approach these client reviews. It would bridge the gap between vague administrative text and concrete, predictable outcomes. At present, advising a client based on genuine attempt feels lacks certainty. If the ATO were to publish explicit scenarios illustrating the boundaries of acceptable transition behaviours versus behaviours that still trigger Part IVA, it would give practitioners two immense advantages in practice.

o Please provide feedback on the examples included in this paper.
These draft examples provide a starting point because they focus on real world, everyday scenarios (the trade, the professional consultant, and the corporate contractor) that tax practitioners encounter when an escalation of ATO "taking action" looks like. To maximise practitioner action, they need clear metrics and sharper boundaries**,** specific structural mechanics**,** and a clearer stance on the "lookback" risk we highlighted before.

Please find below our review of each example, along with suggestions:

Example 1: electrician
This example is silent on what happens to the 'prior' income years (e.g., 2023–24 and 2024–25) where the spouse was overpaid salaries. If the electrician ceases the behaviour in 2025–26, does the ATO grant an automatic pass on the previous years? Or will an ATO auditor still expect voluntary amendments for the historical overpayments?

The example also states the salary exceeded the "value of the services provided". Tax practitioners need more certainty. For instance, clarifying that "the spouse was paid $60,000 for 5 hours of bookkeeping a week, which was subsequently adjusted to a market rate of $25/hour, with the remainder paid to the electrician as salary" makes the example more practical and functional.

Example 2: consultant
Most small business clients and their tax agents are not keen to proactively engage with the ATO to discuss appropriate corrective action. We suggest instead to provide positive outcomes that does not require an open-ended ATO disclosure. For example:
"The IT consultant documents their self-review in a formal contemporaneous minute, ceases trust splitting from 1 July 2025, and utilises the ATO's voluntary disclosure process to amend the 2024–25 return, thereby qualifying for reduced shortfall penalties and protection against Part IVA."

Example 3: contractor
When a company maintains two years of dividend distributions to clear legacy PSI profits and if the company lacks the actual physical cash to pay the dividends, the dividends will create a Division 7A debit or an overdrawn director's loan account. Whether the willingness to declare the dividends and take the personal tax hit over two years satisfy "genuine attempt" even if it creates an un-cashed dividend/loan scenario? Adding something similar to below would provide certainty:
"The ATO accepts the two-year dividend path as a genuine attempt, provided the resulting top-up tax is fully declared by the individual, even if the structural unwind spans multiple financial years"

o Are there other real world scenarios that would be particularly useful?
We add the following three real world scenarios to address common, complex PSI situations.

Scenario A: tech/engineering consultant
A software engineer contracts through a Personal Services Entity (PSE) and safely satisfies the "results test" each year. They pay themselves a modest salary of $100,000 but generate $300,000 in net profit. Over five years, they have accumulated $600,000 in retained earnings inside the company, taxed at the 25% corporate rate. The client has no employees or major physical assets. They state they are holding the cash as "working capital" in case they lose their primary contract.

This scenario targets taxpayers who have legally passed the PSB tests but have left large cash reserves sitting in a corporate structure. It illustrates the boundary between acceptable working capital and indefinite profit retention with a tax deferral purpose under PCG 2025/5.

The ATO should clarify that the client does 'not' have to liquidate the company or pay out all $600,000 instantly by 30 June 2027. Or whether a genuine attempt involves executing a formal board minute before the deadline that caps the retained "contract buffer" at a reasonable commercial metric (e.g., 3 to 6 months of average operating overheads) and a binding, multi-year dividend payment plan to clear the cash reserves, ensuring tax is progressively paid at the individual's marginal rate.

Scenario B: medical health practice
A sole physiotherapist operates through a discretionary trust. Over the last two years, they have grown. They now rent a commercial clinic space and employ two junior physiotherapists who generate 40% of the clinic's gross fee income, while the founder generates the other 60%. The founder still splits a significant portion of the total net practice profits with a non-working spouse via the trust. The founder believes they are completely safe from PSI rules because they employ staff and have a commercial lease.

This scenario addresses the transition point between individual PSI (PCG 2025/5) and a broader professional practice (PCG 2021/4). It highlights the founder's personal billings are still strictly PSI, while the income generated by the junior staff is general business income.

The example shows that a genuine attempt requires the tax practitioner to mathematically sever the two income streams. The founder must attribute and pay 100 per cent of their 'personal' net PSI to themselves. However, for the residual profit generated by the 'employees and clinic infrastructure', the client can transition to the risk-rating matrix of PCG 2021/4 (professional firms) and safely distribute a portion of 'that' commercial profit pool to the spouse, provided they pass the standard Gateway 1 (commercial rationale) and Gateway 2 (no high risk features) tests.

Scenario C: the asset-rich group
A management consultant earns 100% PSI through a company (Company A). Instead of paying the profits to themselves or retaining them as cash, Company A has historically made interest-free, undocumented loans to a related family trust (Trust B) to fund the purchase of residential investment properties. No Division 7A loan agreements were ever executed because it was "all within the family group".

This scenario deals with the intersection of PSI alienation and broader private group compliance issues, specifically Division 7A and the 2026 Full Federal Court's decision in ***S.N.A. Group***[1] regarding unwritten intra-group arrangements. It underscores that a genuine attempt cannot be a superficial fix. To avoid Part IVA penalties, the group must completely formalise their tax governance, such as:

- Executing retrospective, compliant Division 7A complying loan agreements for the inter-entity balances.
- Documenting the commercial justification for any intra-group transactions with written agreements and ensuring that from the 2025–26 year onward, all new net PSI generated by Company A is paid directly out to the individual consultant as a salary or director's fee.

5. What types of guidance would most assist advisers when discussing corrective action with clients?
To empower tax practitioners to confidently guide their clients through corrective actions before the 30 June 2027 deadline, the ATO must provide guidance that moves away from high-level warnings and shifts toward practical, administrative, and structural examples.

Alienation risk across the business continuum

6. As clients grow or evolve from a personal services business to a more complex professional practice, at what point do PSI and alienation issues become most challenging to advise on?
The transition phase along the business spectrum, moving from an individual contractor governed by PCG 2025/5 to a multi-person professional practice governed by PCG 2021/4, presents the single most challenging advising environment for tax practitioners. The complexity peaks in the "grey zone", precisely when a business ceases to rely 'solely' on the founder's personal exertion but has not yet grown into a clearly defined, asset-backed, or heavily staffed firm. Advising becomes exceptionally difficult because tax practitioners are forced to manage two entirely different ATO regulatory frameworks and risk assessment matrices.

7. What are the key tax and PSI related issues that you see arise most frequently across the business growth lifecycle?
As an individual entrepreneur scales their operations from a solo contractor into a substantial professional firm, the tax and PSI issues they face evolve dramatically. The key friction points and compliance hurdles pool into four distinct phases of the business growth lifecycle as follows:

Phase 1: solo trader

[1] *Commissioner of Taxation v S.N.A Group Pty Ltd* [2026] FCAFC 10 (17 February 2026)

At inception, an individual is selling nothing but their own time, expertise, and labour. The corporate structure is usually basic, often a single company or a sole trader ABN. The issues are:

- **The contractor versus employee:** Mischaracterising the relationship with the client. If the contract dictates hourly pay, provides tools, and requires no rectification of defects, the client is an employee at law.
- **The "results test":** Solo operators often assume that because their contract says they are "paid for a deliverable," they automatically pass the PSI's results test.
- **Deduction limits:** Failing to realise that if the PSI rules apply, standard corporate deductions (like home office occupancy expenses or uncommercial payments to a spouse) are disallowed, reverting the tax profile to a wage earner.

Phase 2: boutiques and interposed entities

As individual revenue grows, the sole operator establishes a trust or an interposed company. They would generally pass a PSB test, such as the 80 per cent rule or the unrelated clients test and believe they have passed the PSI rules. The issues are:

- **PSB status:** This is the pain point targeted by PCG 2025/5. Clients mistakenly believe passing the PSB test places them outside the scope of anti-avoidance measures.
- **Income splitting:** Distributing profits from the individual's personal exertion to a non-working spouse, family members in lower tax brackets, or a corporate beneficiary.
- **Profit retention:** Leaving large amounts of cash sitting inside the company under the guise of "working capital" when the entity has no physical assets or employees. If those funds are subsequently used for personal benefit or drawn down informally, it triggers Part IVA and Division 7A.

Phase 3: the scaling firm

The business enters the "grey zone". The founder begins hiring their first full-time employees, bringing in junior contractors, or investing in specialised software/equipment. The issues are:

- **The fragmentation:** The founder's personal billings are still strictly PSI, while the revenue generated by the employees is general business income.
- **Restructuring too early:** Trying to transition from a corporate structure to a multi-tiered discretionary trust model to access the professional firm profit allocation rules under PCG 2021/4 while the business still relies on the founder's personal exertion rather than institutional brand equity.

Phase 4: the professional firm

Revenue is largely driven by employee leverage, systems, and institutional goodwill. The business has completely exited the individual PSI rules and is governed entirely by the allocation of professional firm profits under PCG 2021/4. The issues are:

- **Transition expiry:** With the expiry of the two- year transitional safety window under PCG 2021/4, firms need to actively calculate their aggregate risk score across the three approved gateways (effective tax rate, proportion of profit returned, and commercial matrix).
- **Digital transparency:** Partnerships and multi-entity firms that continue to split distributions to family members or bucket companies without meeting the exact commercial parameters of the "green zone".
- **Intra-group assets:** Utilising unwritten or interest-free loans between the main trading entity and related asset-holding family trusts to fund private property portfolios.

8. Would it be more useful for education to focus on:
o what arrangements are likely to attract higher scrutiny and why?

Focusing education on what arrangements attract higher scrutiny and why is almost always more useful for tax practitioners and sophisticated clients than simply teaching abstract rules. While understanding statutory frameworks sets the baseline, it is the operational reality, the "risk zones", that dictates whether a structure survives evaluation or triggers a multi-year dispute. We submit that focusing education on the mechanics of scrutiny, such as mismatched risk-to-reward ratios, uncommercial related-party payments, or profit retention without operational need, they teach taxpayers how to evaluate an arrangement through the eyes of the ATO.

o or what practical steps advisers can support clients to take to manage alienation risk? (or a combination of both?)
For maximum educational impact, the educational focus toward practical management allows practitioners to use three practical steps:
1. Business advisor
Instead of telling an IT consultant "The ATO says you are avoiding tax", the practical management approach allows the practitioner to say:
"The ATO expects a personal services entity to behave like a true business if it wants corporate tax treatment. To keep your low-risk status, we need to implement professional corporate governance."

2. Genuine attempt
Because the ATO has explicitly stated that it will refrain from allocating Part IVA compliance resources if a taxpayer shows a genuine attempt before 30 June 2027, education must focus on what physical evidence satisfies that standard. Giving practitioners a checklist of steps, such as shifting current-year drawings, documenting cash flow plans, or executing voluntary amendments, gives them a tangible service delivery package to offer to clients immediately.

3. Automated data
With the 7 April update mandating digital lodgments for SODs, the time for manual, retrospective adjustments at tax time are over. Practical-step education teaches practitioners how to implement real-time, contemporary monitoring systems (like quarterly profit allocation reviews) so that the data flowing to the ATO matches a low-risk profile month-to-month, rather than scrambling to patch up a high-risk structure at the end of the financial year.

Webinar design and learning outcomes

9. Is a tax professional industry webinar an effective forum for exploring these issues?
An ATO run tax professional industry webinar is an effective forum for exploring PSI issues, provided it is structured as a practical workshop rather than a passive lecture on black-letter law.

o If so, what format would be most valuable (for example, worked examples, case studies, or a Q&A-style discussion)?
To deliver the highest educational value, the webinar should be structured as case studies with worked examples, concluded by Q&A.

10. What would you expect to be able to do differently, or more confidently, after attending such a webinar?
Attending a well-structured PSI webinar would shift tax practitioners from a state of reactive uncertainty to proactive strategic management.

11. Are there particular topics, scenarios or adviser questions that you consider essential to include?

1. Essential topics
- **Lookback:** define when a genuine attempt triggers a need for voluntary disclosure of prior year returns versus a forward-looking transition.
- **Working capital:** define and defend a mathematical baseline (e.g., specific liquidity ratios or months of operating costs) that practitioners can use as a defensible "safe harbour" for working capital/retained earnings.
- **Associate service valuation:** Since there is no official ATO salary scale for spouses/associates, provide practitioners with a "market reality" benchmark.
- **Digital data matching:** How the new mandatory SODs are being used by ATO to flag professional firm profit-splitting.

2. Essential scenarios

- **Division 7A:** How do practitioners restructure this without triggering immediate tax penalties or Division 7A non-compliance?
- **The hybrid practice:** Educate tax practitioners how to mathematically sever founder/staff income streams so the founder's income does not contaminate the firm's broader profit-sharing ability.
- **Token adjustment:** Where a practitioner 'tried' to fix an alienation issue but failed, e.g., only increasing salary by 10% when 80% was needed), show tax practitioners exactly where the "genuine attempt" threshold will fail an audit.

3. Adviser questions

- **Past lookback:** "If I move a client to a low risk position by 1 July 2026, does the ATO still reserve the right to audit the 2023 and 2024 tax returns?"
- **Division 7A:** "If a company lacks the liquid cash to pay out the dividends required to clear legacy retained PSI profits, is there an ATO-accepted path for an 'un-cashed' dividend distribution plan?"
- **Goodwill valuation:** "How do I defend a restructuring to a multi-tiered trust when the ATO claims the 'goodwill' of the practice is 100% personal and therefore the restructuring has no commercial purpose?"
- **Evidence:** "What is the order of importance for a 'genuine attempt' file? Are contemporaneous board minutes more important than a professional valuation, or is cash flow evidence the primary factor?"