RISK PROTECTOR

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

BUSINESS & DIRECTOR RISK IDENTIFIER TOOL — NO. 31

ATO Letter Situation Guide

Is This Serious or Routine?

Read this guide when you receive any letter, notice or correspondence from the ATO

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WHAT THIS GUIDE DOES — AND WHAT IT DOES NOT DO

Not all ATO letters are equal. Some are routine system-generated reminders. Others are the opening move in a formal enforcement sequence that will escalate automatically unless you respond correctly. Most directors cannot tell the difference — and that inability to distinguish routine from serious is one of the most common reasons ATO situations get out of hand.

This guide helps you read the letter you have received and assess — based on what it says and what it does not say — whether it requires urgent attention or routine monitoring. It does not tell you how to respond. That requires professional advice. What it does is tell you whether and how urgently you need to get that advice.

1	Have the ATO letter in front of you. Read the entire document before answering any question in this guide.
2	Answer each question YES, NO or UNSURE based on what the letter actually says — not what you hope or assume it means.
3	The verdict panel beside each answer tells you what that answer means in plain language. The overall assessment at the end tells you how urgently you need to act.
4	If any answer is NO or UNSURE, treat the situation as requiring attention — not as routine. The cost of treating something serious as routine is always higher than the cost of treating something routine as serious.

SECTION 1 — What Type of Letter Is This?

Identify the category of ATO contact before assessing urgency

1 Does the letter state a specific dollar amount that the ATO says is owed?

☐ YES	☐ NO	☐ UNSURE
— This is a debt contact — not a routine reminder. The ATO has a specific claim against your company or you personally.	— Proceed to the next question. The letter may still be significant even without a stated amount.	— Read the letter again. Amounts are sometimes referenced indirectly. If still unclear, treat as YES.

2 Does the letter refer to PAYG withholding, Superannuation Guarantee Charge or both?

☐ YES	☐ NO	☐ UNSURE
— These are the two obligations that generate Director Penalty Notices — personal liability for directors. This letter has personal consequences for you, not just the company.	— The letter relates to a different obligation — GST, income tax or other. Still requires attention but DPN personal liability is less immediate.	— Check the letter for any reference to employee-related obligations, BAS, SGC or PAYG. If uncertain, treat as YES.

3 Does the letter contain a response deadline or a date by which action is required?

☐ YES	☐ NO	☐ UNSURE
— This is a time-critical document. Missing the deadline can result in automatic escalation — default assessments, penalties or enforcement action — with no further warning.	— The letter does not state a deadline. It may still require a response but the urgency is lower. Note the date you received it.	— Some deadlines are embedded in reference text rather than clearly labelled. Re-read carefully. If still unclear, treat as YES.

SECTION 2 — How Serious Is the Language?

The words the ATO uses signal where this sits in the enforcement sequence

4 Does the letter use words such as 'Director Penalty Notice', 'DPN', 'personal liability' or 'director'?

☐ YES —	☐ NO —	☐ UNSURE —
This letter is directed at you personally — not just your company. Your personal assets, not just company assets, are in the ATO's line of sight. This is serious.	The letter is directed at the company, not at you personally. Personal liability through a DPN is not yet in play from this letter alone.	Scan the letter for any reference to directors, personal obligations or individual liability. If present in any form, treat as YES.

5 Does the letter use words such as 'legal action', 'enforcement', 'wind-up', 'garnishee' or 'court'?

☐ YES —	☐ NO —	☐ UNSURE —
The ATO is signalling formal enforcement. These words do not appear in routine correspondence — they appear when the ATO has moved beyond reminders into active collection. This requires immediate attention.	The language is administrative rather than enforcement-oriented. This reduces — but does not eliminate — the urgency.	Enforcement language is sometimes softened or used in conditional sentences. Treat any reference to legal consequences, however framed, as YES.

6 Is this the second or subsequent letter you have received from the ATO about the same obligation or period?

☐ YES —	☐ NO —	☐ UNSURE —
A pattern of ATO correspondence on the same issue is a significant escalation signal. The ATO sends multiple contacts in sequence before formal enforcement — each one moves you closer to that point.	This appears to be the first contact on this obligation. That is better — but the question is why the ATO is making contact at all.	If you are not certain whether you have received prior letters on this matter, treat as YES. Missing prior correspondence is itself a risk.

SECTION 3 — What Does Your Situation Look Like Behind the Letter?

The letter is a symptom — this section asks about the underlying condition

7 Are your company's PAYG withholding and SGC obligations currently lodged and paid up to date?

☐ YES —	☐ NO —	☐ UNSURE —
Your compliance position is current. The letter may relate to a historical period or a specific transaction — not an ongoing systemic issue.	Your compliance position has gaps. The ATO letter is consistent with what a system that has detected those gaps would generate. There are likely further contacts to come.	You do not know your current PAYG or SGC position. Contact your accountant for this information only — do not ask them to act yet. Contact Risk Protector for their take on the subject.

8 Can you explain the specific issue or transaction the letter relates to?

☐ YES —	☐ NO —	☐ UNSURE —
You have context for what triggered this letter. That context will be important in framing any response. Document it now while it is fresh.	You cannot identify what triggered this letter. That uncertainty is itself significant — it suggests either a compliance gap you were unaware of, or an ATO data-matching result you cannot account for.	You have a partial explanation but are not certain. Proceed as though the answer is NO until you can account for the letter fully.

9 Do you have a solicitor or accountant who has dealt with ATO enforcement matters before?

☐ YES —	☐ NO —	☐ UNSURE —
You have access to experienced professional support if this letter escalates. Before briefing them, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so your adviser understands your complete structural position from the outset.	You do not have an experienced adviser readily available. If this letter requires a response, you will need to find one. Ask qualifying questions before engaging — have they handled ATO enforcement matters of this type before? Contact Risk Protector for their take on the subject.	You have an accountant or solicitor but are unsure of their ATO enforcement experience. Ask them directly before briefing them on this matter.

SECTION 4 — Your Overall Situation Assessment

Based on your answers — where does this letter sit on the urgency scale?

✓✓ MOSTLY YES — LOWER IMMEDIATE URGENCY

Your answers suggest this letter is likely administrative in nature — a routine compliance check, a system-generated reminder, or a request for information that your accountant can manage. However: lower urgency does not mean no urgency. Every ATO letter requires a response or a conscious decision not to respond. Ignoring it is never the right answer. Monitor closely and ensure your compliance position remains current.

⚠ MIXED ANSWERS — DEVELOPING CONCERN

Your answers indicate this letter sits in a grey zone — not clearly routine, not clearly enforcement. This is the most dangerous zone, because directors in this zone tend to underreact. A letter that looks administrative but contains enforcement language, or relates to PAYG or SGC, or follows prior correspondence, can escalate automatically to formal enforcement without further warning. Treat this as requiring professional attention within the next few days.

✗ MOSTLY NO OR UNSURE — SERIOUS AND URGENT

Your answers indicate this letter is serious. It relates to obligations that create personal director liability, uses enforcement language, follows prior correspondence, or relates to a compliance position you cannot fully explain. The window to respond effectively narrows quickly once the ATO moves to formal enforcement. Before briefing any adviser, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so that any response is built on a complete picture of your full structural exposure, not just this letter.

IF THIS GUIDE HAS RAISED CONCERN ABOUT YOUR LETTER

An ATO letter is rarely about just one thing. It is a signal that sits within a broader picture of your entity structure, your compliance history, your director obligations and your personal exposure. The Risk Protector A13 Structural Exposure Assessment maps that complete picture — so that any response to this letter is informed by everything that is relevant, not just what the letter says.

The Risk Protector A13 Structural Exposure Assessment

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This tool is a situation awareness guide only. It is not a diagnostic, not advice and does not replace a professional structural assessment. Risk Protector Pty Ltd provides strategic advisory services only. Not legal or financial advice. Covered by $50M Professional Indemnity Insurance.

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