Companies   Professional Services   Tax avoidance

The inside story of PwC's tax scandal

The consultancy is facing one of the biggest crises in its history following revelations that dozens of PwC operatives used confidential updates on government tax plans to drum up new clients. This is how it happened.

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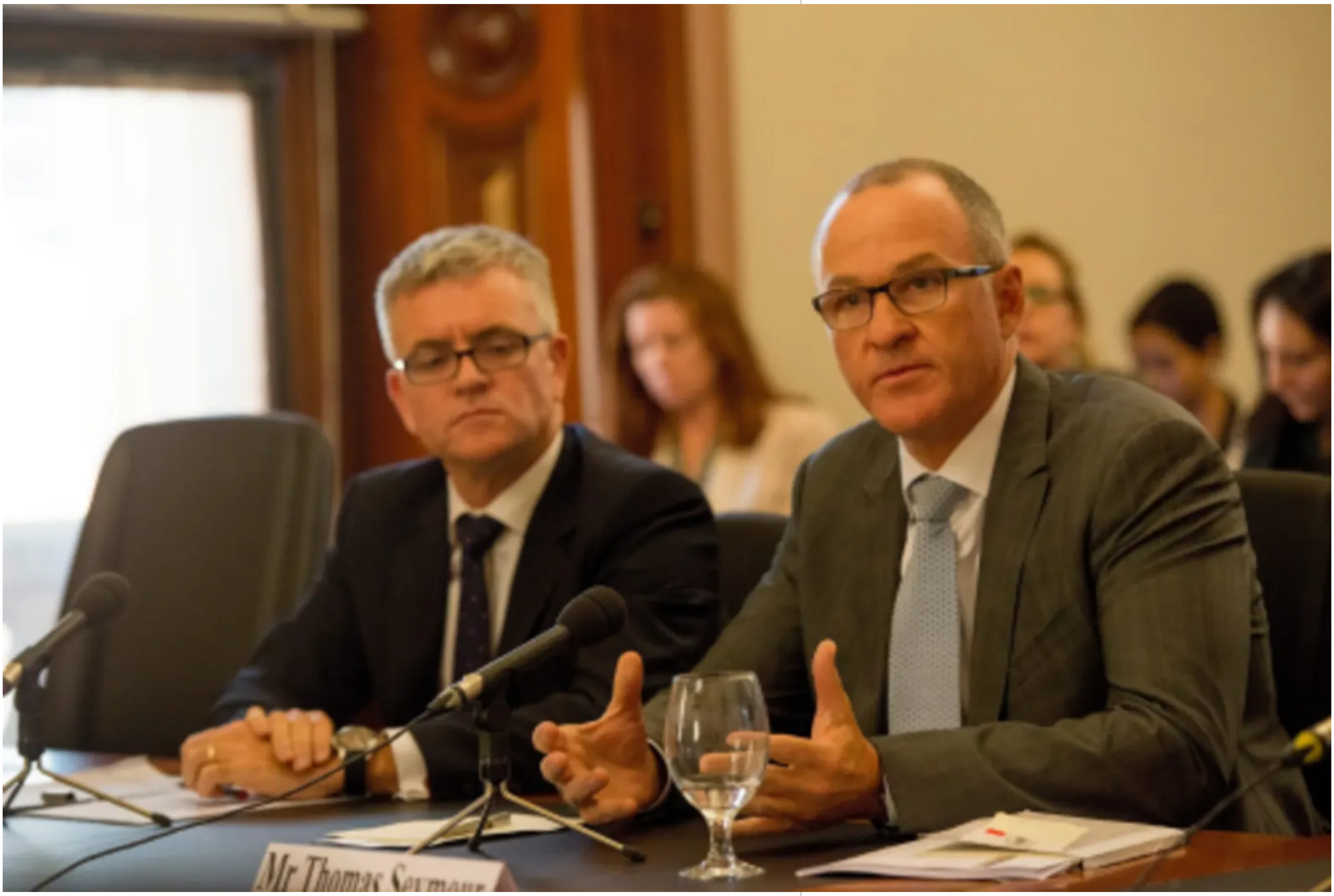
PwC Australia chief executive Tom Seymour was sitting next to the company's international tax chief Peter Collins in 2015 when he told a Senate inquiry that none of the big four firm's 5000 employees had acted improperly.

"I have the utmost faith in the ethical standards of the people we employ," Seymour told the inquiry into corporate tax avoidance in April 2015. “I certainly would be shocked and hugely disappointed if anyone in our firm is breaching laws.”

Disappointed doesn’t begin to describe the feelings of PwC’s 900 partners in Australia this week as Seymour tried to explain why the firm is facing one of the biggest crises in its history [https://www.afr.com/link/follow-20180101-p5d5oc] over ethical standards, triggered by leaks by the man Seymour sat beside at the 2015 inquiry.



PwC’s Peter Collins (left) and Tom Seymour at the tax inquiry. Mr Collins told Senators that any arrangement made for a sole or predominant reason of avoiding income tax was not effective “and we certainly would not advise a client to do that”.

What he didn’t say at the inquiry was that, by this stage, tax partners under his supervision were at least a year into a project aimed at helping as many companies as possible sidestep the new tax laws the firm was also helping the then-government to design.

Seymour, the head of Australia's largest accounting firm, is now fighting to keep his job [https://www.afr.com/link/follow-20180101-p5d5vx] after revelations in internal emails which show that, for years, dozens of PwC operatives used confidential updates on government tax plans obtained by Collins to drum up new tax clients.

On Friday afternoon, after months of stonewalling questions about what he knew about the leaks of government documents, while PwC privately briefed that none of the senior leadership knew about it, Seymour confirmed in a partners' meeting what had become increasingly obvious: he was in the emails.

Partners told *AFR Weekend* that Seymour said only "six to eight" partners actually shared confidential information, but 30 to 40 (including Seymour himself) were on emails where the plans to use the information to market to clients were made. But this wider group, which included Seymour, did not know Collins was passing confidential information. He didn't intend to stand down.

Internal PwC emails published by the Senate this week [https://www.afr.com/link/follow-20180101-p5d5e4] underline the crisis of trust that now confronts Australia's biggest accounting firm. It's facing public indignation that a firm that won $537 million in government contracts in the last two years had a business model – Project North America – in which using leaked government information to win clients played a key role.

The revelations put at risk the long-established system where the government of the day consults widely with experts and other stakeholders, sometimes confidentially, on draft legislation to ensure that the new laws are both workable and achieve their stated policy aims. As John Roskam, the head of conservative think tank The Institute of Public Affairs, wrote in these pages on Friday [https://www.afr.com/link/follow-20180101-p5d52e], "What PwC did wrecked this process and will have repercussions for years."

Taxpayers the losers

Unlike the other big four accounting firms, PwC had developed an industrialised approach to creating and selling tax schemes, while also advising on the design of tax laws. In fact, the former relied on the privileged access of the latter.

The loser in all of this was the Commonwealth and by extension the taxpayer. In this case, the emails show that the firm earned a measly $2.5 million after advising 14 multinational clients about how they could sidestep the new Multinational Anti Avoidance Law the government was relying on to collect more tax from locally earned profits.

The firm, which markets itself as “a human-led, tech-powered community of solvers coming together in unexpected ways to solve the world’s important problems”, has likely sold out the public over the years for cents or even fractions of cents in the dollar.

More galling is that at the same time, PwC was winning federal, state and local government contracts worth hundreds of millions of dollars. The revelations put at risk their share of the more than the $2 billion a year in contracts that the federal government entered into in the last financial year.

Using outsiders can be invaluable for government, but how do you run a system when you have lost trust?

What did Seymour know?

The man at the heart of this storm, Tom Seymour, faces a tough question. He was the head of tax. When so many of the emails refer to information as being confidential or “for your eyes only” – information that would be a key part of the strategy to sign up new clients – how did Seymour miss that this was a breach of confidence?

It’s a long way from the almost accidental way that this saga began in mid-2018. The Tax Office had become alarmed about PwC’s ability to market schemes that countered the government’s new tax avoidance laws to multiple clients.

Tax officers issued orders to PwC to produce all correspondence with clients about these schemes. But PwC claimed this was covered by legal professional privilege. In the past decade, PwC moved to providing tax advice through firm lawyers, which protected almost all documents and communications with their client from ATO scrutiny – at least that's what PwC claimed.

But there was a loophole. Correspondence between PwC partners and staff could not be subject to legal privilege. So PwC's internal emails, which were a small subset of the documents originally sought, were passed to the ATO.

And what emails they proved to be.

They showed PwC Australia had a business plan called Project North America. The plan targeted big US tech firms to sell them schemes to get around new laws aimed at international companies operating in Australia – the MAAL in 2016, the Diverted Profits Tax (DPT) and other later measures.

The laws were designed to crack down on a problem that had become increasingly costly to tax revenues. Multinationals were using complex tax schemes with names like the Double Irish (pioneered by PwC Ireland), the Triple Dip, Debt Dumping and the many interest and royalty structures set up by PwC Luxembourg.

They all helped multinationals avoid paying tax where they made their money by routing it through lower-tax countries. PwC knew exactly how valuable such schemes could be, as they had helped develop them.

As the government tried to rein the multinationals in, PwC Australia came up with a new plan. PwC tax partner Neil Fuller visited the head offices of dozens of US tech giants in 2015 to promote PwC's tax schemes for their Australian operations.

The emails showed that those running Project North America had access to confidential Treasury documents that allowed them to build ways around the new laws – they knew what the laws would say and when they would be introduced.

Internal PwC email from January 2016.

Fox in the hen house

The emails were extraordinary. But what was Treasury to do with them? The emails appear to have bounced around several government bodies before they ended up with the tiny Tax Practitioners Board, which regulates Australia's tax agents.

In 2021, the TPB launched an investigation that brought PwC's head of international tax, Peter Collins, into focus. Since December 2013, Collins had been part of a group of tax experts advising Treasury on writing the government new anti-avoidance tax laws as part of the OECD's Base Erosion Profit Shifting (BEPS) measures.

It was an unconventional appointment. Collins had been involved in a string of tax controversies, including the huge loans that energy companies such as Chevron loaded onto their Australian operation to reduce taxable income; Singapore marketing hubs; and an $88 million loan structure for Orica that the Federal Court found was tax avoidance.

If you were to be kind to Treasury, the appointment was the ultimate poacher turned gamekeeper play. A less generous assessment would be they let the fox into the hen house.

Collins signed three confidentiality agreements with Treasury, the most recent in February 2018, which warned that breaches of confidentiality could result in penalties under the Crimes Act.

But PwC's internal emails showed that Collins repeatedly ignored those agreements, sharing secret government documents, decisions and planning with PwC partners in Australia, the UK, the US and Ireland, with various admonitions: "For your eyes only", "please don't circulate this," "Treasury tells me", "an early confidential draft".

On December 22 last year, the TPB announced that it had deregistered Collins as a tax agent for two years (he had left PwC shortly before), and sanctioned PwC by ordering it to run courses to train its people how to recognise conflicts of interest.

The issue exploded a month later when the TPB revealed what Collins and PwC had been doing, with detailed findings of how PwC partners had used confidential information to win customers.

'Perception problem': Seymour

Tom Seymour in conversation with Jennifer Hewett at The Australian Financial Review Business Summit in March. **Michael Quelch**

PwC was abject in its initial response: the firm had “failed the standards we set for PwC and we deeply regret this occurred”. The response made a virtue of PwC strengthening its conflict management procedures and policies, which was largely what the TPB had ordered it to do.

But after TPB chief executive Michael O’Neill appeared before Senate Estimates on February 15 and said that between 20 and 30 PwC partners and staff had been involved in sharing the confidential information, Tom Seymour struck back.

Under questioning from columnist Jennifer Hewett, he told *The Australian Financial Review* Business Summit on March 9 there was “no finding that 30 people got the information [https://www.afr.com/link/follow-20180101-p5cqh5] ... What was said at the Senate committee was that there is a perceived issue around the 20 to 30 [PwC partners and staff].”

It was just a perception problem. And life goes on.

By last week, PwC appeared confident the crisis had passed. Then it was blindsided. Unknown to PwC, in late February after Estimates, Labor Senator Deborah O'Neill lodged a Question on Notice asking the TPB to table the report of its investigation as well as all PwC emails.

Last Monday night, O'Neill received the TPB's response. Its investigation report, which might have connected more of the dots, was suppressed, but 144 pages of heavily redacted emails painted a devastating picture of how deeply involved many PwC partners were in sharing the confidential information that Collins fed them from Treasury and the Board of Taxation.

We help 'tax laws work better'

Collins' colleagues knew this was confidential, but it appears no one was deterred by this. They repeatedly asked him for details of government plans – they called it "leveraging Peter Collins" – and he told them to call his detailed inside information "gossip" or "rumour".

This was at its peak when Seymour and Collins appeared before the Senate tax avoidance inquiry on April 10, 2015, and Seymour gave his assurance that no one in the firm was breaching laws. "I think we have a great contribution to making Australia's tax laws work better," he said.

Beside him, Collins noted that any arrangement made for a sole or predominant reason of avoiding income tax was not effective "and we certainly would not advise a client to do that".

Seymour said PwC always urged clients to consider how a tax position might be seen by the public. They would say, he said, "Well, it's absolutely legal. It's the rules. But do you want to do that, because it will be frowned upon by the community?'"

Five days later, Collins was emailing with a subject line, “au beps update national ptrs mail”. His update on BEPS was sent to all national partners, telling them that PwC was consulting with Treasury about BEPS measures that Treasurer Joe Hockey would announce in the budget.

“I am helping the Govt think about the [tax] proposals that I expect will be released in our budget on 12 May,” he told a PwC Ireland partner on April 17, suggesting he could advise US companies using the Double Irish tax structure about the new tax.

PwC was working up an ingenious scheme involving partnerships that totally bypassed any MAAL liability at all – and which triggered an angry Tax Office response when it appeared just weeks after MAAL came into effect in January 2016.

The very night that Hockey announced the MAAL in the May 12 budget, thanks to Collins’ updates, PwC was sending pitches to 23 US tech companies warning of the threat the new law posed for them with a “suggested work plan” to get around it.

What PwC said about the tax leaks (versus what internal emails show)

What PwC said *Jan 2023* "We acknowledge the TPB found that a partner of the firm did not comply with confidentiality agreements in relation to a consultation process with Treasury, which occurred in 2014."	**What the emails show** Leaks of government information extended from October 2014 to January 2017. Other partners who shared Collins' documents cautioned that they were confidential: "Don't circulate it beyond us or discuss it outside PwC – it would really put PwC Australia and me in a real bind."

Additional 2 rows not shown.

Table: Financial Review

'Aggressive' action

So it went on. By January 6, 2016, PwC partners were jubilant. They had signed up 14 new clients, some described as "brand-defining" for the firm, with schemes to sidestep MAAL.

This was a big result due in part because "we were aggressive in telling these relationships they needed to act early (heavily helped by the accuracy of the intelligence that Peter Collins was able to supply us)", a partner wrote gleefully.

They had booked $2.5 million in fees – and that was just for starters. "They would have earned a shitload more than $2.5 million," says one industry player.

Collins' updates had become part of the business plan – and his colleagues feted him for it.

Senator O'Neill was outraged: "When Mr Collins's proposal to monetise confidential information that belongs to the Australian people became known, he should have been shut down, shunned and shamed by his colleagues at PwC.

"Instead, senior people in PwC Australia and the US, UK and Ireland, joined in with him to create a scheme to take money from the Australian people and make personal gain at our expense," she says.

In turns out the TPB chief's estimate of 20 to 30 people involved was understated. On Seymour's own figures on Friday, six to eight PwC partners were actually sharing the leaked information plus 30 to 40 were receiving the emails and aware of the scheme (even if they weren't fully aware of the sensitivity of the information).

Together with Collins that's between 37 and 49 people involved – which would suggest 7 per cent to 9 per cent of the firm's 553 partners in 2016.

Who were they? Selective as they are, the emails make it clear that there was a structure to this scheme. Some emails include directions, orders for certain actions to be taken.

This wasn't one of Collins' peers. It reads like someone in PwC's leadership team. And what was Seymour doing all of this time?

Senate Economics Legislation Committee

Treasury Portfolio

Agency:
Question No:
Topic:
Reference:
Senator:

Question:

In the end, an alarmed Tax Office blocked the new schemes and stared the tech companies down. In September 2016, the ATO's then head of international tax, Mark Konza, was so incensed [https://www.afr.com/technology/google-tax-ato-warns-big-four-accountants-20160914-grgarn] after being walked through a new MAAL scheme in PwC's Sydney offices that he stormed out, vowing not only to audit PwC's client but to order the Big Four firms to open their books on their correspondence on MAAL.

It didn't end so well. In 2017, senior Tax Office figures were complaining that Big Four firms were making blanket claims of legal professional privilege.

Then the Tax Office took an inspired decision to get around the LPP claim by focusing on internal emails. It took a while, but Collins' career – and PwC's reputation – was toast.

Read more about the PwC leak

The Tax Practitioners Board has terminated the registration of former PwC partner Peter Collins as a tax agent after a lengthy investigation found he had shared secret information about the government's tax plans to other partners and staff at PwC, despite signing a series of confidentiality agreements with Treasury from 2013 to 2018.
In May, newly released internal firm emails showed dozens of PwC partners and staff were involved in a plan to exploit, for profit, information Mr Collins had gleaned while advising the government on developing the multinational tax avoidance laws.

January 2023

- The Tax Practitioner Board investigation findings about PwC and former partner Peter Collins [https://www.afr.com/companies/professional-services/the-tax-practitioner-board-investigation-into-pwc-over-tax-leaks-20230127-p5cfz0]

- PwC partner leaked government tax plans to clients [https://www.afr.com/companies/financial-services/pwc-partner-leaked-government-tax-plans-to-clients-20230120-p5ceaz]

- Treasurer slams PwC tax leak as 'shocking breach of trust' [https://www.afr.com/companies/professional-services/treasurer-slams-pwc-tax-leak-as-shocking-breach-of-trust-20230125-p5cfdj]

- How a paper tiger mauled PwC [https://www.afr.com/companies/professional-services/how-a-paper-tiger-mauled-pwc-20230126-p5cfqb] Shock revelations by the Tax Practitioners Board offer the government a major reset of how it takes advice on tax policy from the big-four accounting firms.

- PwC tax leak 'once-in-a-lifetime' chance for crackdown: former ATO exec [https://www.afr.com/companies/professional-services/pwc-tax-leak-once-in-a-lifetime-chance-for-crackdown-former-ato-exec-20230129-p5cgag]

February 2023

- Tax agent regulator gets more teeth in wake of PwC leaks [https://www.afr.com/companies/financial-services/tax-agent-regulator-gets-more-teeth-in-wake-of-pwc-leaks-20230213-p5ck52]

- PwC leaks scandal widens [https://www.afr.com/companies/financial-services/pwc-leaks-scandal-widens-20230215-p5ckvv] Up to 30 partners and staff were involved in sharing confidential government tax policy, Senate estimates was told.

March, 2023

- Treasury reviews Tax Practitioners Board positions after PwC scandal [https://www.afr.com/companies/professional-services/treasury-reviews-tax-practitioners-board-positions-after-pwc-scandal-20230302-p5corp] Board members can reapply for their roles as their terms on the Tax Practitioners Board expire in the aftermath of the PwC leaks scandal.

- PwC has a 'perception' problem over tax leak: CEO [https://www.afr.com/companies/professional-services/pwc-has-a-perception-problem-over-tax-leak-ceo-20230308-p5cqh5#:~:text=PwC%20chief%20executive%20Tom%20Seymour,a%20Senate%20committee%20last%20r

PwC chief executive Tom Seymour has denied that up to 30 partners and staff were involved in sharing confidential government tax policy, contradicting evidence heard by a Senate committee last month.

- Rear Window: [https://www.afr.com/rear-window] [https://www.afr.com/rear-window/pwc-boss-tom-seymour-s-big-fail-on-tax-leak-20230315-p5csgt]PwC boss Tom Seymour's big fail on tax leak [https://www.afr.com/rear-window/pwc-boss-tom-seymour-s-big-fail-on-tax-leak-20230315-p5csgt] PwC are experts at minimisation, so there's no irony when they also prefer this as their PR strategy.

May, 2023

- 'For your eyes only': How PwC leaks helped global clients dodge tax [https://www.afr.com/companies/financial-services/for-your-eyes-only-how-pwc-leaks-helped-global-clients-dodge-tax-20230501-p5d4rf] Previously secret emails show PwC charged $2.5 million in fees to advise 14 clients how to sidestep new tax avoidance laws in 2016, relying on confidential information.

- Those 'directly involved' in tax leak have left firm: PwC CEO [https://www.afr.com/companies/professional-services/those-directly-involved-in-tax-leak-have-left-firm-pwc-ceo-20230503-p5d5e4]

- AFR View: PwC's scandalous monetising of tax secrets raises big questions [https://www.afr.com/policy/economy/pwc-s-scandalous-monetising-of-tax-secrets-20230502-p5d52a]

- PwC boss under fire over tax leaks scandal [https://www.afr.com/companies/professional-services/pwc-boss-under-fire-over-tax-leaks-scandal-20230504-p5d5oc]

- Rear Window: Tom Seymour's PwC tax scandal backsplash [https://www.afr.com/rear-window/tom-seymour-s-pwc-tax-scandal-backsplash-20230504-p5d5ra] The chief executive seems to have no grasp of what's at stake here, no real sense of how bad this is.

- Opinion: PwC and the consulting industrial complex [https://www.afr.com/politics/federal/pwc-and-the-consulting-industrial-complex-20230502-p5d52e]

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