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Tax Commissioner Chris Jordan warns private equity firms

BEN BUTLER, **LEO SHANAHAN** BUSINESS SPECTATOR 12:00AM March 23, 2016

Tax Commissioner Chris Jordan has warned private equity groups that their fondness for complex ownership structures will "trigger some red flags" — and ATO attention.

Mr Jordan yesterday released tax data that revealed a number of companies in private equity hands paid no tax in 2014. They included power group Alinta, beverage company Accolade Wines Holdings and Fusion Retail Brands, which owns troubled clothing chain Colorado.

Mr Jordan said ATO officers "particularly look at companies with significant transactions".

"So if that is a private equity transaction we would be analysing that, examining the implications, talking to them about intended treatment very early in the transaction," he said.

"Because that's what tends to cause the very sophisticated structuring, so that's what does trigger some red flags."

Private equity funds typically use ownership structures that load their investment targets with debt, enabling them to efficiently strip out profits and return them to their investors. With tax calculated on profit, investment losses can depress taxable income.

The ATO has long had its eyes on the private equity sector, famously rushing to the Victorian Supreme Court in 2009 to freeze $1.5 billion reaped from the float of department store Myer. TPG had used an ownership structure involving companies in Australia, Luxembourg and the Cayman Islands to hold the Myer investment — something that would now be less tax effective after a global crackdown on exotic transnational arrangements.

The ATO claimed to be owed $452 million in tax, but its legal action came too late to stop all but a few dollars being drained from TPG's Australian accounts. The case was later settled.

TPG has been trying to sell Alinta Energy for more than a year, last month pitching the company as a "leading Australian utility" in a flyer sent to potential buyers by adviser Lazard.

The ATO data released yesterday shows Alinta Power Cat, which is the Australian subsidiary of Cayman Islands-registered owner Alinta Holdings, reaped revenue of $1.69bn in the 2014 financial year. It had taxable income of $449,000 but paid no tax.

Also on the ATO's list of non-payers were two private equity-controlled health groups: Australian Hospital Partners, owned by Archer, and hospital, vet and logistics group CH2 Holdings, owned by Allegro.

Ice cream company Peters, owned at the time by a PEP fund, also paid no tax in 2014. It was sold that year to Europe's R & R, backed by French private equity group PAI Partners.

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