What is the outstanding claims liability declaration?

Use this form to complete a general insurance declaration on the tax outstanding claims liability value.

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How to obtain copies of this publication

You can download a printable version of the form in Portable Document Format (PDF):

- Download the form General insurance declaration on the tax outstanding claims liability value (PDF, 106KB, NAT 74942)

Income years to which declaration applies

The outstanding claims liability (OCL) declaration applies only to the 2023 and earlier income years, that is, to income years that started before 1 January 2023. Following the **Amendments to income tax law for general insurers**, an OCL declaration should not be completed for the 2024 or later income years.

Background to declaration process

OCL is a provision for claims incurred on insured events that have occurred but have not yet been paid.

The value of a general insurer's OCL is determined by management in conjunction with actuaries and has a major impact on income tax liability. Taxpayers need to ensure that the value of OCL is appropriately determined and substantiated for income tax purposes.

We are requesting declarations from companies when the tax OCL is worked out at a higher percentage probability of adequacy (PoA) than the PoA used in working out OCL for APRA capital reporting, or where there is a change in the tax PoA. We consider that these situations present a higher risk for tax compliance purposes.

The declaration process addresses this risk by confirming that the Board is satisfied that the tax PoA has been appropriately determined for tax purposes and that the reasons for adopting it are well documented.

Circumstances where declaration is requested

General insurers are requested to complete the OCL declaration on an annual basis where:

- the percentage PoA of the closing value of tax OCL for an income year is greater than the general APRA regulatory minimum (generally 75%); and/or
- the percentage PoA of the closing value of tax OCL has increased or decreased from the percentage PoA of the opening value carried over from the previous income year.

The declaration process is an administrative approach to manage income tax risk. The non-completion of the OCL declaration doesn't indicate non-compliance with the requirements of Division 321 of the *Income Tax Assessment Act 1997*.

The Commissioner will generally view the percentage PoA chosen for the risk margin used for income tax purposes as 'low risk' where:

- the OCL declaration has been completed
- documentation to explain the Board's decision about the OCL risk margin exists in accordance with the guidance given under the heading documentation to evidence decision on risk margin, and
- the PoA for the aggregated group tax OCL hasn't changed.

All relevant circumstances must be taken into account in determining a risk rating. The Commissioner may also make further enquiries regarding the OCL value determined for income tax purposes to better understand the relevant circumstances and any potential tax compliance risk. The basis for changes in the percentage POA will require close consideration including situations where the declaration has been made.

If an OCL declaration is not completed, we may conduct further enquiries to understand the reasons for not completing the declaration.

Documentation to evidence decision on risk margin

The nature and extent of documentation held by a particular general insurer to evidence the decision on the tax OCL risk margin under our administrative approach will vary depending on:

- the existing requirements of internal corporate governance processes
- the general insurer's policy in relation to the determination of tax OCL risk margins.

While it is accepted that there will be a range of documentation approaches within the general insurance industry, the following is provided as guidance to illustrate the key features that we would generally expect in relation to that documentation.

1. Details about the OCL risk margin policy

The documentation details the general insurer's policy in relation to determining tax OCL risk margins, for example:

- Does the general insurer have a policy of adopting a risk margin based on achieving a fixed or target range PoA in each income year?
- If the taxpayer is the head company of an income tax consolidated group that includes more than one general insurance subsidiary member, how is the total tax OCL determined? Are the provisions (central estimate and risk margins) of the individual members aggregated, or is the tax OCL worked out based on the group accounting value with adjustments made for income tax?

In relation to the policy referred to, the documentation details:

- why the particular policy has been adopted by the general insurer

- whether the policy has been reviewed during the relevant income year in order to assess its ongoing suitability
- the changes, if any, that have been made to the policy and reasons for the changes.

2. Factors informing the tax OCL risk margin decision

The documentation details the factors that have informed the decision in relation to the tax OCL risk margin and explains how these factors are relevant to determining the risk that the central estimate may be insufficient to settle outstanding claims. Where the percentage PoA associated with the tax OCL value has changed compared to the previous income year, the document details the reasons for the changes.

3. Documentation part of the decision making process

The documentation evidencing the risk margin decision forms part of the internal corporate governance process of the general insurer. That is, there is evidence that the relevant decision makers had regard to the matters raised in the document when making their decision in relation to OCL. For example, in extracts of minutes of Board of Directors.

4. Quantitative details about the OCL tax value

The documentation details the opening and closing values of the:

- central estimate
- risk margin
- indirect settlement costs for the general insurer (or each of the subsidiary members of the consolidated group).

The document also details the PoA associated with each OCL provision.

The documentation states the level of the opening and closing OCL risk margin at 75% or other applicable percentage PoA used for APRA regulatory reporting and sets out the reasons for using a different percentage (where applicable) in the tax OCL. Where the percentage

PoA of the accounting OCL is used for tax purposes, the reasons for the difference between the accounting percentage and the regulatory percentage should include a reference to the matters set out in the discussion of risk margins in Accounting Standard AASB 1023.

Where to send declaration

The OCL declaration should be emailed to **OCLDeclaration@ato.gov.au** at the time the tax return for the income year is lodged.

QC 53536

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We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.