

PRODUCT

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Australian Government

Australian Taxation Office

FILE REF:

Instructions for Completing an APA Case Plan

Product linked to the Practice Statement Law Administration
PS LA 2011/1



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These instructions should be read in conjunction with the Practice Statement Law Administration PS LA 2011/1.

The Australian Taxation Office (ATO) and the taxpayer are jointly responsible for:

- creating and finalising an agreed Advance Pricing Arrangement (APA) case plan
- agreeing and meeting plan timeframes
- reaching agreement on the level of information/documentation required
- agreeing milestones for the APA Process, for example, timeframes for providing information
- maintaining open and ongoing communication.

The taxpayer may consider lodging a draft APA case plan with their APA proposal. The APA case plan should be developed during pre-lodgment and finalised as soon as practicable after the formal application is lodged.

The target cycle times for different types of APAs from pre-lodgment to finalisation are as follows:

APA Products				
	Simplified	Standard		Complex
Types of APA products	Unilateral	Unilateral	Bilateral	Unilateral/ Bilateral
Target cycle time for a typical APA from pre-lodgment to finalisation (months) (a)	9	12	18 – 24	24

Notes: (a) It is expected that pre-lodgment phase would take between one to three months depending on the type of APA product.

Where there is a collateral issue in an APA then it should be processed as either a standard or complex APA.

The APA case plan should contain a structured timeline and work plan jointly developed with the taxpayer and, for a bilateral APA, the tax treaty partner, where possible. Both the ATO and taxpayer should use their best endeavours to adhere to the timeline and work plan. The progress of the APA application should be reviewed against the plan throughout the process and the APA case plan should be updated when required.

The APA case plan agreed between the ATO and the taxpayer should also set out the information/documentation requested, the date it is required, an explanation of the relevance of the information/documentation request, and the agreed processes for gathering information. The APA processes may include requesting certain information from third parties with the consent of the taxpayer.

The APA case plan will be tailored to the circumstances of each case. The plan for example will include:

- the scope of the APA and the identified collateral issues (if any)
- the processes for resolution of collateral issues
- the number of times a case will need to be reviewed by the Transfer Pricing Review Panel which will generally depend on the complexity of the case
- the number of meetings between the taxpayer and the ATO which will also generally depend on the complexity of the case
- the scheduled dates for Competent Authority meetings for bilateral APAs.

There are several ways in which the ATO will seek information from a taxpayer during the APA process, including:

- formal information/documentation requests
- questionnaires, or
- interviews with relevant personnel.

The information/documentation should be supplied in a timely manner to meet the planned milestones in the APA case plan. In the event that the ATO encounters difficulties in meeting the timeframes committed to in the APA case plan, the APA case leader should advise the taxpayer at the earliest opportunity of the delay and expected time of completion. Similarly, where the taxpayer encounters difficulties in meeting the timeframes they have committed to in the case plan then the taxpayer is expected to keep the APA case leader informed and advise of the expected time of completion. This will allow the APA case plan to be kept up to date and conclude the case within the agreed timeframe.

If the taxpayer has any queries about the APA case plan they should contact either the APA case leader.