PS LA 2025/1

Extension of time to apply for a director identification number

This Practice Statement outlines the policy to be applied to the use of the Registrar's power to extend an eligible officer's time to apply for a director identification number.

This Practice Statement is an internal ATO document and an instruction to ATO staff.

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1. What this Practice Statement is about

This Practice Statement sets out:

- director identification number (director ID) obligations
- the time by which a person must have a director ID
- information about extensions of time to apply for a director ID.

2. A person's director identification number obligations

A person:

- must have a director ID at the time they become an eligible officer[1,2]
- needs to apply for their director ID prior to being appointed as a director to ensure they are compliant with their obligations[3]
- may apply for a director ID if they intend to become a director within the next 12 months.[4]

3. Extending the time to apply for a director identification number

It is an offence to not have a director ID when required. However, the law enables the Registrar[5] to extend the time for an eligible officer to apply for their director ID.[6]

The Registrar cannot proactively extend an eligible officer's time to apply – an eligible officer must apply to the Registrar for an extension.[7]

The power to extend an eligible officer's time to apply is discretionary. This discretion allows the Registrar to extend an eligible officer's time to apply where warranted in the circumstances.

The purpose of extending the time to apply for a director ID is to allow a greater period of time for an eligible officer to apply for a director ID where circumstances have prevented, or can reasonably be attributed to preventing the eligible officer from applying for their director ID.

4. Extension of time requests

A request for an extension of time to apply should be made *before* a person applies for their director ID.

5. Requesting an extension of time and the information needed

A request for an extension of time to apply for a director ID should be made in writing. A request must include:

- the eligible officer's details
- details of the circumstances that have prevented or are preventing the eligible officer from applying for their director ID
- the proposed extended due date.

6. Extending the time to apply

We can grant an extension of time to apply for a director ID when it is reasonable to do so, taking into account all relevant circumstances. This approach seeks to balance our obligations to administer the director ID regime and its purpose[8] consistently and

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[1] 'Eligible officer' takes its meaning from section 1272B of the *Corporation Act 2001* (Corporations Act) and section 308-15 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

[2] Subsection 1272C(1) of the Corporations Act; subsection 308-20(1) of the CATSI Act.

[3] Paragraph 2.35 of the Explanatory Memorandum to the Treasury Laws Amendment (Registries Modernisation and Other Measures) Bill 2019.

[4] Subsection 1272A(3) of the Corporations Act; subsection 308-10(3) of the CATSI Act.

[5] 'Registrar' takes its meaning from section 9 of the Corporations Act and is defined as the 'Commonwealth Registrar' under section 694-120 of the CATSI Act.

[6] Section 1272E of the Corporations Act; section 308-30 of the CATSI Act.

[7] Subsection 1272E(1) of the Corporations Act; subsection 308-30(1) of the CATSI Act.

[8] For further information, refer to About director ID.

fairly but also consider an eligible officer's individual circumstances.

Matters we should consider when deciding whether to grant an extension of time include:

- the reasons why the eligible officer did not apply before their appointment
- the length of time the eligible officer needs to apply for their director ID (an extension of time will usually be granted where the timeframe is less than 90 days from the appointment date, but longer periods may be considered if appropriate)
- the eligible officer's director ID compliance history (for example, where there have been prior extensions)
- the circumstances which reasonably prevented or are preventing the eligible officer from applying for their director ID
- the purpose of the director ID regime
- whether the eligible officer is subject to enforcement action.[9]

It would generally be considered appropriate to grant an extension of time to apply to eligible officers where the inability to apply is reasonably attributed to exceptional or unforeseen circumstances.

Exceptional or unforeseen circumstances include but are not limited to:

- the serious illness or death of a family member
- system issues, such as outages in our online services
- impeded access to records (for example, records seized during a police search or retained as evidence in a court matter).

We generally will not grant an application for an extension of time to apply for a director ID where a person already has a director ID.

Each request should be considered on its merits and the extension of time to apply determined considering the eligible officer's particular circumstances.

7. Communicating extension to apply decisions

If a request is made for an extension of time to apply for a director ID, we must document all factors considered and the reasons for the decision (either to grant the extension or to deny the request) and communicate the decision and reasons to the eligible officer.

8. Reviewing extension of time decisions

If the eligible officer is not satisfied with the extension of time decision, they may request an internal review. If the eligible officer or their agent is not satisfied with the internal review decision, they may appeal to the Federal Circuit Court of Australia or the Federal Court of Australia for a review of the decision under the *Administrative Decisions (Judicial Review) Act 1977.*

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[9] Enforcement action includes but is not limited to direction notices, Australian Securities and Investments Commission investigations and prosecution.

References

Legislative references	Administrative Decisions (Judicial Review) Act 1977 Corporations Act 2001 9 Corporations Act 2001 70 Corporations Act 2001 1272A(3) Corporations Act 2001 1272B Corporations Act 2001 1272C(1) Corporations Act 2001 1272C(2)(a)(iii) Corporations Act 2001 1272E Corporations Act 2001 1272E(1) Corporations (Aboriginal and Torres Strait Islander) Act 2006 308-10(3) Corporations (Aboriginal and Torres Strait Islander) Act 2006 308-15 Corporations (Aboriginal and Torres Strait Islander) Act 2006 308-20(1) Corporations (Aboriginal and Torres Strait Islander) Act 2006 308-20(2)(a)(iii) Corporations (Aboriginal and Torres Strait Islander) Act 2006 308-30 Corporations (Aboriginal and Torres Strait Islander) Act 2006 308-30(1) Corporations (Aboriginal and Torres Strait Islander) Act 2006 694-50 Corporations (Aboriginal and Torres Strait Islander) Act 2006 694-120
Other references	About director ID Explanatory Memorandum to the Treasury Laws Amendment (Registries Modernisation and Other Measures) Bill 2019

ATO references

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