

PS LA 1998/9 - Application of general anti-avoidance provisions

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⚠ This document has changed over time. This version was published on *17 December 1998*



ATO Practice Statement Law Administration

PS LA 1998/9

****NOTE: Law Administration Practice Statement PS LA 1998/9 was withdrawn on 18 Dec 2000. Refer to Law Administration Practice Statement PS LA 2000/10 for guidance on the practical application of Part IVA.****

FOI Status: may be released

This Practice Statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by ATO officers unless doing so creates unintended consequences. Where this occurs ATO officers must follow their Business Line's escalation process.

SUBJECT: Application of general anti-avoidance provisions

STATEMENT

1. Where officers seek to apply the general anti-avoidance provisions they must, before proceeding, refer the matter to the Tax Counsel Network (TCN) using their business line's escalation process.
2. A member of the TCN will provide interim advice, and arrange for that advice and relevant papers to be provided to the Assistant Commissioner, OCTC (Litigation) who will, in consultation with the Chief Tax Counsel and Deputy Chief Tax Counsels (using the Part IVA Panel as appropriate), monitor and confirm the application of the general anti-avoidance provisions.

EXPLANATION

3. The proper application and development of general anti-avoidance provisions is an issue of importance to the ATO.
4. The Part IVA Panel (which includes community representatives) has been established to advise the ATO on general anti-avoidance issues. The panel looks at cases usually just before the application of the general anti-avoidance provisions is formalised (e.g. a Part IVA determination is made), so that taxpayers will know their case has been fully considered before that step was taken. However, important and/or sensitive cases may come to the panel at an earlier stage.
5. The panel considers the use and development of the general anti-avoidance provisions as a whole, rather than being necessarily "driven" by individual cases.

subject references: anti avoidance measures; avoidance & evasion; escalation processes; general anti avoidance provisions; tax avoidance; tax benefits under tax avoidance schemes; tax planning

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