PS LA 2000/3 - Signing non-electronic applications for amendment and objections

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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: Signing non-electronic applications for amendment and objections

STATEMENT

1.   In some instances the law does not specify whether a non-electronic application for amendment or an objection must be signed. This Law Administration Practice Statement sets out signing requirements in those instances.

2.   Non-electronic applications for amendment lodged by tax agents on behalf of taxpayers under the *Income Tax Assessment Act 1936* (ITAA) or the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) must be signed by the taxpayer.

3.   Objections made under Part IVC of the *Taxation Administration Act 1953* by tax agents on behalf of taxpayers in respect of an ITAA or FBT matter must be signed by the taxpayer.

4.   Objections made under Part IVC by tax agents in respect of a superannuation matter must be signed by the person who the agent is representing. Depending on the relevant superannuation legislation, this person could be a taxpayer, employer, member or superannuation provider.

5.   A tax agent may sign applications for amendment and objections on behalf of a taxpayer or other person where authority to do so has been given under a power of attorney.

EXPLANATION

6.   A non-electronic application for amendment is an application made in writing which is physically delivered or mailed to the ATO. An application for amendment sent by facsimile is not covered by this Law Administration Practice Statement because such an application is in an electronic form. Subsection 264B(3) of the ITAA sets out the signing requirements in relation to electronic applications for amendment lodged by tax agents.

7.   Section 264B of the ITAA and section 124B of the FBTAA set out signing requirements for the following notices, returns and applications for amendment:

- a notice, return or application for amendment lodged by a taxpayer in a non-electronic form must be signed by the taxpayer;

- a notice, return or application for amendment lodged by a taxpayer in electronic form must contain the electronic signature of the taxpayer;

- a notice, return or application for amendment lodged by a tax agent in electronic form must contain the electronic signature of the tax agent.

8.   Neither of the above sections says whether a non-electronic notice, return or application for amendment lodged by a tax agent on behalf of a taxpayer must be signed. Nor does section 14ZU of the *Taxation Administration Act 1953* (TAA), which sets out how objections are to be made, say whether an objection must be signed.

9.   Where the law does not say if a document must be signed, the Commissioner may use his general administrative powers under the ITAA, FBTAA and TAA to specify signing requirements. A signature on a document serves as a means of authentication and binds the person to statements made in that document. For these reasons, the Commissioner requires that most kinds of documents lodged under the laws which he administers be signed.

subject references:	applications for amendment; objections; signing applications for amendment; signing objections.
legislative references:	FBTAA 1986 124B ITAA 1936 264B TAA 1953 Part IVC TAA 1953 14ZU
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