

PS LA 2001/13 - Franking credits and part payment of liabilities notified on activity statements

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Practice Statement Law Administration

PS LA 2001/13

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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 staff unless doing so creates unintended consequences or is considered incorrect. Where this occurs ATO staff must follow their business line's escalation process.

SUBJECT: Franking credits and part payment of liabilities notified on activity statements

PURPOSE: This Law Administration Practice Statement sets out the effect that a part payment of liabilities notified on activity statements has on an entity's entitlement to franking credits.

STATEMENT

1. Where a payment for less than the full amount owing is made (a part payment) or other credit is allocated to a running balance account which records the primary tax debts notified on an activity statement, an entity which is required to keep a franking account ('entity') needs to know the amount of the part payment or credit which represents a payment of pay as you go (PAYG) instalments. Knowing this amount enables the entity to credit its franking account as this amount gives rise to a franking credit.
2. The order in which the Commissioner applies payments or credits against tax debts is set out in Chapter 7¹ of the *ATO Receivables Policy* (the policy). Generally, the Commissioner will apply part payments and other credits to the running balance account in an order based on the date that the primary tax debts became due and payable and commencing with the primary tax debt that became due and payable earliest.
3. Where the primary tax debts have the same due date for payment (which is usually the case for amounts notified on the same activity statement), Chapter 7 of the policy provides that the Commissioner will apply part payments and other credits in the following order:
 - net amount of Goods and Services Tax (which includes Wine Equalisation Tax and Luxury Car Tax)
 - net fuel amounts
 - Fringe Benefits Tax instalments
 - PAYG withholding
 - Deferred Company and Superannuation Fund instalments
 - PAYG instalments, and

¹ Chapter 7 is entitled, 'allocation of payments and credits'.

- administrative penalties, including general interest charge for late payment.
4. If an entity has other unpaid liabilities which were notified in an earlier activity statement, part payments or other credits will not necessarily be applied against the primary tax debts notified in the latest activity statement lodged.
 5. Where there are no outstanding primary tax debts relating to a previous activity statement, payments received and other credits, will be applied to the primary tax debts notified in the latest activity statement in the order set out in the policy.

EXPLANATION

6. Under Part 3-6 of the *Income Tax Assessment Act 1997*, entities that are required to keep franking accounts are entitled to franking credits in respect of income tax and PAYG instalments the entity has paid. Payments of income tax and PAYG instalments by an entity give rise to franking credits, the benefit of which may be passed on to shareholders in the form of fully or partly franked dividends.
7. Since 1 July 2000 the Commissioner has maintained a running balance account for all of a taxpayer's primary tax debts as notified on activity statements instead of maintaining separate accounts for each tax type.
8. Chapter 7 of the policy outlines the ATO's order of allocation for payments and other credits. The allocation policy for payments of tax also applies to the allocation of any other credits arising on an entity's running balance account. Generally, part payments will be applied in an order based on the date that the primary tax debts became due and payable and commencing with the primary tax debt that became due and payable earliest. The payment is not required to be applied in accordance any directions provided by the entity at the time of making the payment.²
9. Franking credits will only arise in relation to the payment of primary tax amounts notified on an activity statement to the extent that the payment extinguishes the PAYG instalment liability.
10. Where the Commissioner allocates a payment towards primary tax debts in accordance with the policy and the payment does not fully satisfy the PAYG instalment liability, franking credits will not arise in relation to the PAYG instalment amount that remains outstanding.
11. Where an entity that is required to keep a franking account, pays its liabilities notified in an activity statement in full, franking credits arise in respect of the full amount of PAYG instalment notified and paid.
12. Taxpayers with an outstanding liability in respect to amounts notified in an activity statement receive running balance account statements each month which include an opening balance, new liabilities, payments, credits, and any applicable general interest charge. However, these statements do not detail the order in which payments or credits have been applied to the individual primary tax debts that have been allocated to the running balance account. Entities which are required to keep franking accounts, that have an outstanding liability in respect of these running balance accounts, can calculate the amount of income tax or PAYG instalment that has been paid by referring to Chapter 7 of the policy. Alternatively, details of the amount of income tax paid can be requested from the ATO.

² Section 8AAZLE of the *Taxation Administration Act 1953* provides that the Commissioner is not required to take account of any instructions of any entity when applying payments and credits against primary tax debts.

Amendment history

Date of amendment	Part	Comment
22 May 2007	All	General amendments made to bring both the franking law and Receivables Policy information up to date.
11 September 2008	Paragraph 2 Related practice statements	References to PS LA 2006/11 removed. Reference to PS LA 2006/11 removed.
26 November 2010	General update	All references to Tax Officer changed to ATO in line with new style guide.

Subject references	
Legislative references	ITAA 1997 Pt 3-6 TAA 1953 8AAZLE
Related practice statements	PS LA 1998/1
Other references	ATO Receivables Policy ATO Receivables Policy (link available internally only)
File references	2001/14526
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Contact email	OperationalPolicyAssuranceandLawWorkManagement@ato.gov.au
Section	Operational Policy, Assurance and Law