



# ***PS LA 2001/2 - ATO Advice to the Government***

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# ATO Practice Statement Law Administration

**PS LA 2001/2**

**\*\*NOTE: Law Administration Practice Statement PS LA 2001/2 was withdrawn on 31 July 2003. Policy advice to Government is now handled via the Treasury; please refer to Practice Statement PS CM 2003/14 (CGR) for guidance on formal ATO advice to Treasury.\*\***

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**FOI status: may be released**

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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.*

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**SUBJECT: ATO Advice to Government**

**PURPOSE: To provide information on the protocol for incorporating the position of tax professional bodies in ATO advice to Government**

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## **STATEMENT**

1. The ATO is accountable for providing advice to Government on issues related to the Commissioner's responsibility to administer the tax laws. Unless waived by the Government, that advice is confidential: the ATO is precluded from disclosing the general nature of advice provided to Government, even where other parties have been consulted in framing that advice.
2. Where the ATO seeks comment from professional bodies in preparing advice to Government, it is appropriate the bodies have confidence that their comments have been taken into account and conveyed to Government in a balanced way.
3. The protocol below has been developed in consultation with the professional bodies represented at the NTLG (see also the attached flowchart). It provides a means by which these professional bodies can have their view attached to ATO advice provided to Government on a new proposal that relates to the administration of the tax law where their view has been obtained by the ATO through consultation.
4. Professional bodies and individuals are encouraged to make separate submissions to Government on any matter they consider to be important, rather than to rely on the ATO to provide exclusive presentation of their view.

## **Protocol**

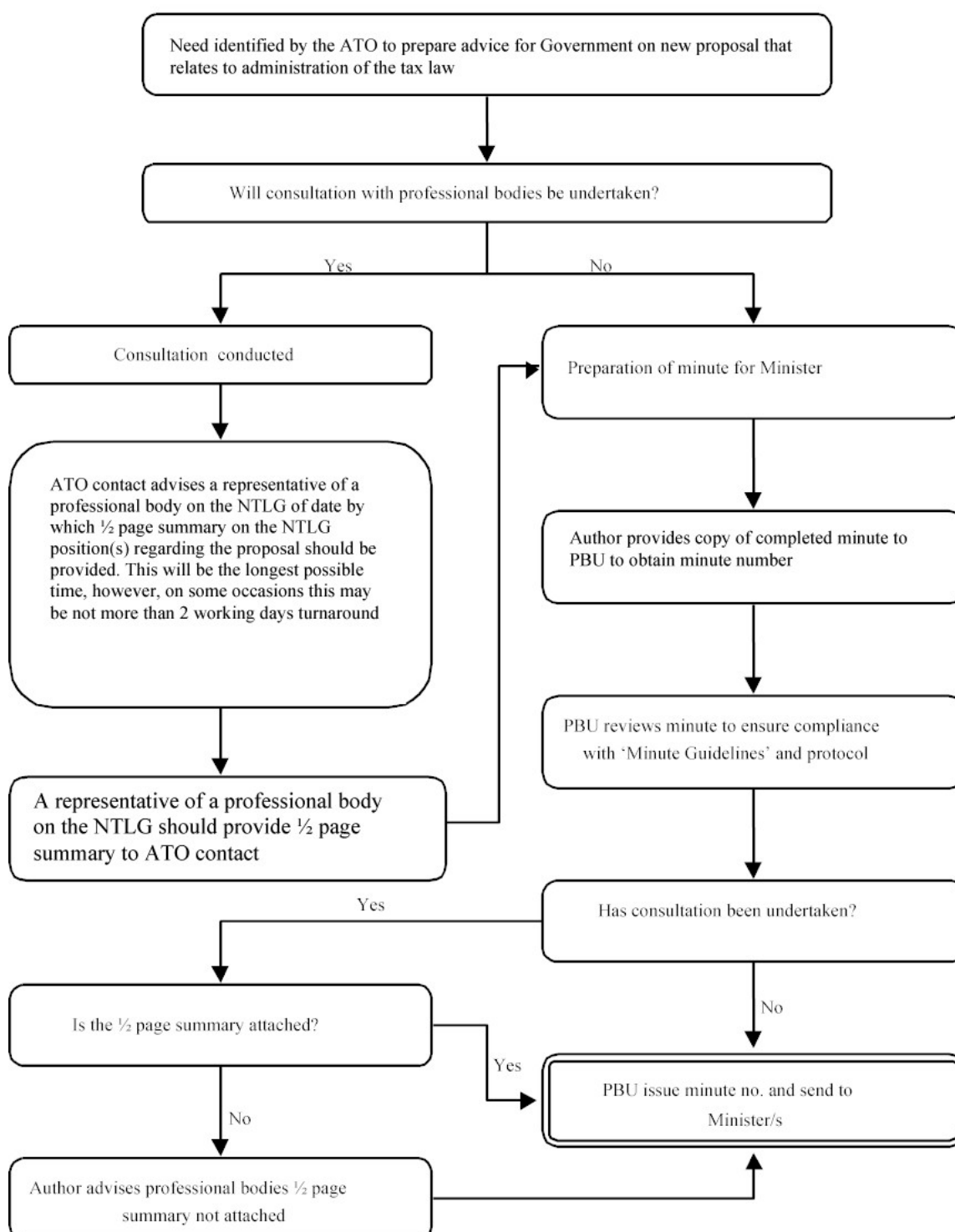
5. Advice to Government is necessarily brief.
  - The presentation of the position of professional bodies on new proposals will generally be limited to around a half page note.

6. Advice to Government must be timely.
  - The longest possible time will be provided for professional bodies to provide their comments. However, it is recognised that on occasions, professional body comment may be sought within the briefest possible time, including no more than 2 working days turnaround.
7. Access to Advice
  - The ATO will attach the note from professional bodies to the advice to Government or advise the professional bodies where this is not done.
8. Application of protocol
  - The protocol only covers the professional bodies represented at the NTLG.
  - The protocol only covers those areas where the ATO provides advice to Government on new proposals.
  - Treasury is often responsible for providing advice to Government on new policy proposals and the protocol does not include this advice. Nor does it include circumstances where ATO staff are actively involved in consultation but the minute providing advice to Government is signed by Treasury.
  - The protocol does not cover new proposals where consultation with the relevant professional bodies does not take place.
  - The protocol does not mean that consultation will necessarily occur on all new proposals.

## **EXPLANATION**

9. This protocol has arisen out of discussions at the NTLG on consultation processes. The view held by these professional bodies is that the value of consultation has been diminished because their advice appears, on some occasions, not to have been taken into account when legislation is tabled or when other decisions are taken by the Government of the day.
10. The protocol was agreed to by the Commissioner at the 31 August meeting of the NTLG.

## Protocol for incorporating the position of tax professional bodies in ATO advice to Government



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*subject references:* ATO advice to the Government

*file references:* 2001/000745

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