PS LA 2001/8 - ATO interpretative decisions

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PS LA 2001/8
ATO interpretative decisions

This Practice Statement explains the policy for ATO interpretative decisions.

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

1. ATO interpretative decisions

An ATO interpretative decision (ATO ID) is a summarised version of a decision we have made on the application of the law[1] to a particular situation. We issued ATO IDs between 2001 and 2016.

2. Why we have ATO IDs

ATO IDs set out a precedential ATO view, as explained in Law Administration Practice Statement PS LA 2003/3 *Precedential ATO view.*

We produce precedential ATO views to ensure we provide consistent interpretative decision-making. You must search for existing precedential ATO views and those being prepared when resolving interpretative issues.

You must follow an ATO ID where:

- in your judgment, there is no material difference between the facts of the issue you are making a decision on and the facts of an existing ATO ID, and
- you are satisfied that the application of the precedential ATO view set out in the ATO ID will result in a correct decision.[2]

An interpretative issue is one where the application of the law is not straightforward.

An exercise of a discretion, a conclusion of fact or the determination of a value, for example, would not be an interpretative issue.

3. Taxpayer reliance on ATO IDs

ATO IDs are publications approved in writing by the Commissioner and therefore offer penalty and interest protection to any taxpayer who might rely on them.[3]

4. Maintaining the currency of ATO IDs

In line with the requirements of PS LA 2003/3, business lines must have processes in place to ensure ATO IDs, as precedential ATO view documents, are reviewed and (if necessary and in a timely manner) updated, withdrawn and replaced (with an appropriate replacement product), or withdrawn.

We no longer prepare new ATO IDs or significantly update existing ATO IDs.

Amending ATO IDs – minor updates

ATO IDs that require only a *minor* update, which does not affect the decision or reasons for decision, can be amended.

Withdrawing and replacing ATO IDs – substantial updates

If an ATO ID requires a *substantial update*, it should be withdrawn and an appropriate replacement product produced.

You should:

- consult with your business line's Public Advice and Guidance (PAG) Unit, as listed in PAG – Key contacts (link available internally only), to determine the most appropriate product, and
- (if necessary) follow the procedures for developing PAG products in PAG development procedures – end to end (link available internally only).

As a general rule, an ATO ID should not be withdrawn before the replacement product is published.

Withdrawing ATO IDs without replacement

In limited circumstances (for example, where the provision which the ATO ID discusses has been repealed but not replaced or the issue covered no longer has sufficient value to warrant the investment in producing the replacement product), the ATO ID may not need to be replaced.

[1] Law administered by the Commissioner includes law governing income tax, indirect taxes, fringe benefits tax, withholding taxes, resource rent taxes, superannuation and excise.

[2] If following the ATO ID would result in an incorrect decision, you should escalate the issue as per the process in PS LA 2003/3.

[3] See sections 361-5 and 298-20 of Schedule 1 to the *Taxation Administration Act 1953*.

Note that normally you should not withdraw an ATO ID where it is still correct. There is no value in doing this.

5. More information

For more information:

- view ATO IDs on ATOlaw (link available internally only) or the Legal database
- contact PAG Governance in the Office of the Chief Tax Counsel.

Date issued: 8 June 2007

Date of effect: 8 June 2007

Business line: OCTC

Amendment history

22 January 2025

Part	Comment
Section 3	Updated to explain that we no longer prepare ATO IDs.
Section 4	Updated maintenance expectations for ATO IDs and when they should be replaced with alternative products.
Throughout	Included references to Enterprise Knowledge Management procedures for preparing PAG products.
Throughout	Updated in line with current ATO style and accessibility requirements.

9 June 2016

Part	Comment
All	Updated to the new LAPS format and style.
Section 3	Clarify when an ATO might be prepared in accordance with new PAG guidelines.
Section 5	Replace reference to ATO ID guidelines with PAG processes.

3 September 2014

Part	Comment
Paragraph 30	Format amended for clarity.
Paragraph 31	Deleted. Requirement for professional accreditation for authorised officers removed.

3 May 2013

Part	Comment
Paragraphs 19 to 21	Revised to clarify that a public ruling should be considered when issue represents a significant risk.
Paragraph 28	Remove reference to general written advice, following integration of GST rulings system into general rulings provisions.
Paragraph 34	Update to provide link to ATO ID template in Other References.

28 March 2013

Part	Comment
Paragraph 17	Corrected dot point reference to paragraph 27 to paragraph 28.
Other References	Updated link to ATO ID Guidelines.

21 May 2012

Part	Comment
Throughout	Updated to: • reflect the replacement of the priority technical issues system and the requirement to escalate precedential issues to Centres of Expertise with the new rules for engagement of tax technical officers in Law and Practice set out in PS LA 2012/1 • delete material which was merely a replication of policy stated elsewhere; that is – the protection afforded by ATO IDs, which is set out now in PS LA 2008/3 – responsibilities for reviewing and maintaining ATO IDs, which is set out in PS LA 2003/3 • improve clarity about when an ATO ID should be prepared – particularly around the interplay of ATO IDs with other precedential ATO view documents (paragraphs 17 to 22) • clarify requirements for accreditation to issue ATO IDs • remove lower-level detail in the preparation and publishing process • more logically reorder material and remove duplication.

1 December 2011

Part	Comment
Paragraphs 46 to 48	Content updated as a result of the publication of TD 2011/19 which explains general administrative practice.
Throughout	References to PMU changed to PTI & PRU. References to Tax Office changed to ATO. Correction of citation of references to related law administration practice statements.

9 November 2009

Part	Comment
Paragraphs 14, 28, 31 and 29	References to the Technical Decision Making System (TDMS) updated to refer to Siebel.
Paragraph 25	Updated reference to CGT.
Paragraph 28	Instance of when an ATO ID does not need to be prepared deleted.
Paragraph 30	Updated reference to TCN.
Paragraph 32	Updated a reference to a related practice statement from PS LA 2001/7 to PS LA 2008/4. Further clarification on publication and preparation of an ATO ID added BSL references updated from OCTC to L&P.
Footnote 12	Updated a reference to a related practice statement from PS LA 2001/4 to PS LA 2008/3.

2 September 2009

Part	Comment
Contact details	Contact officer details updated.

23 July 2009

Part	Comment
Footnote 12	Updated a related practice statement from PS LA 2001/4 to PS LA 2008/3.

11 August 2008

Part	Comment
Contact details	Contact officer details updated.

26 November 2007

Part	Comment
Paragraph 45	Corrected paragraph reference of PS LA 2003/3 (from paragraph 33 to 35 of that practice statement).

8 June 2007

Part	Comment
Throughout	To clarify the issue of what 'no material difference' means and to detail new exceptions to the requirement that ATO IDs are to be published.

References

Legislative references	TAA 1953 Sch 1 298-20 TAA 1953 Sch 1 361-5
Other references	PAG – Key contacts (link available internally only) PAG development procedures – end to end (link available internally only)
Related practice statements	PS LA 2003/3

ATO references

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