PS LA 2005/19 - Approved forms

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This document has changed over time. This version was published on *30 January 2025*

This practice statement was originally published on 11 November 2005. Versions published from 12 February 2008 are available electronically - refer to the online version of the practice statement. Versions published prior to this date are not available electronically. If needed, these can be requested by emailing TCNLawPublishingandPolicy@ato.gov.au .

PS LA 2005/19
Approved forms

This Practice Statement provides guidance in relation to approved forms.

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

Taxpayers can rely on this Practice Statement to provide them with protection from interest and penalties in the following way. If a statement turns out to be incorrect and taxpayers underpay their tax as a result, they will not have to pay a penalty, nor will they have to pay interest on the underpayment provided they reasonably relied on this Practice Statement in good faith. However, even if they do not have to pay a penalty or interest, taxpayers will have to pay the correct amount of tax provided the time limits under the law allow it.

1. What this Practice Statement is about

This Practice Statement sets out:

- when a form will need to meet the requirements of an approved form contained in section 388-50 of Schedule 1 to the *Taxation Administration Act 1953* (TAA)
- what you need to consider in creating and obtaining approval for an approved form, and
- how approved forms should be managed.

All legislative references in this Practice Statement are to Schedule 1 to the TAA, unless otherwise indicated.

Section 388-50 and this Practice Statement do not apply where:

- The obligation to give an approved form is in an Act administered by the Commissioner which has its own definition of 'approved form'; in these cases, the requirements set out in that definition will apply.
- The relevant Act is silent in respect of any requirements for a form but where the Commissioner requires a form to be created in connection with the exercise of either an implied power or their power of general administration of a taxation law.

2. Approved forms

A person must lodge a document in the approved form where it is required by the relevant provision.

An approved form can be a return, notice, statement, application or other document in a form approved in writing by the Commissioner, including in paper form or in a 'virtual form'.

A virtual form is one that does not have a physical existence, being lodged electronically, digitally or given by phone.

Once a form has been approved, information that is required to be given under the relevant provision must be made using that approved form.

3. Other names for approved forms

Sometimes a provision of a taxation law may use expressions other than 'approved form', for example, 'in a form approved by the Commissioner' or 'in a form approved in writing by the Commissioner'.

Generally, these expressions will be considered to mean 'approved form' and so be subject to the requirements of section 388-50, except where the Act in which the term appears has its own definition of approved form.

4. When is a document in the approved form

To be in the approved form, 4 requirements set out in subsection 388-50(1) must be satisfied:

(a) it is in the form approved in writing by the Commissioner for that kind of … document; and

(b) it contains a declaration signed by a person or persons as the form requires … ; and

(c) it contains the information that the form requires, and any further information, statement or document as the Commissioner requires, whether in the form or otherwise; and

(d) for a … [form] that is required to be given to the Commissioner – it is given in the manner that the Commissioner requires (which may include electronically).

5. Considerations when creating and approving an approved form

When creating an approved form, you need to consider several specific factors as detailed in this Practice Statement. You also need to consider that:

- all approved forms should be designed to minimise the cost of compliance
- all forms that collect personal information (both paper and virtual forms) must comply with the *Privacy Act 1988*.[1]

You should also note that in rare circumstances, the approved form will not be an ATO form, so the requirements of the form will depend on the agency to which the form belongs. For example, some excise amendments are required to be made in the form approved by the Australian Border Force. The signature, declaration and manner in which the form is required to be lodged will be in accordance with Australian Border Force requirements.

Purpose of the approved form

Consider the purpose of the form and whether it will serve multiple purposes. For example, the form may also notify a change of name or address. All relevant legislative references will need to be referred to in the approved form.

Information required to process the form

When looking at the content the approved form should have, you need to consider what information is necessary to satisfy the requirements of the provision for which it is being created and the information that may be needed in order to process that form.

How the approved form is to be given to the Commissioner

When designing a form, preference should be given to developing a form that can be given to us electronically.

Lodgment channels should be clearly specified and it should be clear in the instructions what the requirements are for the lodgment channel. For example, for lodgments made via digital channels, you may need to specify the requirements for each channel.

Note that providing several methods of lodgment may be required or preferable.

If the document does not have to be given to the Commissioner, the approval must state that.

Digital

If the document is to be given to us via a digital channel, consider:

- what channels are acceptable, for example, Standard Business Reporting enabled software, or ATO online services
- whether there is a need to specify the way it is lodged digitally and whether there are existing processes which might be used in the future, even if not to be used at the time the form is approved
- whether it is required to be sent to one or more electronic addresses or to be given to the Commissioner using specified software.

Phone

If the document is to be given to us via phone, consider:

- whether there is a requirement for phone lodgment
- what phone number is to be used
- whether there are any restrictions on accepting the form via phone, such as only accepting the current year forms or a certain number of forms at one time.

Paper

If the document is to be given to us in paper format, consider:

- whether there is a requirement for paper lodgment
- whether a digital channel would be more appropriate
- what address it should be sent to.

What type of signed declaration is required

The exact wording of the declaration must be set out in the approved form. Consider whether different wording is required depending on who is lodging the approved form and the lodgment channel.

[1] In particular, the requirements of Australian Privacy Principle 5 – notification of the collection of personal information and the Privacy (Tax File Number) Rule 2015.

Advice on these requirements is available from the Office of General Counsel, through your business line's Privacy Network member.

Where an entity lodges an approved form requiring a signed declaration, the declaration must include the statement that the information in the approved form is true and correct.[2]

Similarly, where an agent lodges a form on behalf of an entity, the declaration must include statements that:

- the form has been prepared in accordance with the information supplied by the entity
- the agent has received a declaration from the entity that the information provided to the agent is true and correct, and
- the agent is authorised by the other entity to give the document to the Commissioner.[3]

A declaration can also include additional information applicable to the particular document, such as that:

- all income has been declared
- the taxpayer has receipts for deductions claimed, or
- an income tax return is not required to be lodged.

In drafting declarations, consider the purpose of the form and who will sign.

Typically, a virtual form is signed by either the entity or its agent and may require only one declaration. This may be because the lodgment channel can only be used by certain types of entities or only by agents.

The declaration for a virtual form will require an electronic or phone signature, which must be separately approved by the Commissioner.[4]

A paper form may be signed by an entity, its agent or both, which could mean more than one signed declaration is required.

The approved form must set out the signature requirement for each lodgment channel.

In some instances, no declaration is technically required, for example, because the form is not to be given to the Commissioner. However, it would be prudent to include a declaration in any case.

What instructions are needed

The instructions for the completion of an approved form should include:

- details of the entity, or class of entity, that must prepare or provide the document or information in the approved form
- methods of lodgment and addresses to be used, and
- clear instructions where information is essential, such as ticking certain boxes, completing certain labels or attaching schedules.

Where the form is to be provided electronically, edits should be built into the system so that the form cannot be lodged in an incomplete manner.

6. Approval process for approved forms

Approval of an approved form may only be given by the Commissioner, a Second Commissioner or a Senior Executive Service officer who is a delegate of the Commissioner.

In the approval, the approving officer must include the following information:

- a statement that approval is being given under section 388-50 of Schedule 1 to the *Taxation Administration Act 1953*
- a reference to the legislative provisions which require the document to be in the approved form
- a reference to any other relevant legislation[5]
- where instructions have been created as part of the approved form, a copy of the instructions as approved
- the approving officer's name and position title
- the approving officer's signature or electronic signature.

An example of the wording that can be used for approving an approved form is provided at Attachment A of this Practice Statement.

More than one form can be approved as part of a single approval process.[6] However, the approver must be careful to approve each form in writing in that approval process.

[2] Section 388-60.
[3] Section 388-70.
[4] Examples of signatures for virtual forms can be found in Law Administration Practice Statement PS LA 2005/20 *Signature requirements for approved virtual forms, lodged electronically or given by phone*.
[5] For example, where the form can be used to nominate a third-party representative, reference would be made to paragraph 355-25(2)(g) or, where the form can be used to change or withdraw a preferred address for service reference would be made to section 17 of the *Taxation Administration Regulations 2017*.
[6] Subsection 388-50(2).

An approved form takes effect from the date the approval is signed or from a specified future date. It should not be backdated or applied retrospectively.

When an approved form is revised or the instructions substantially revised (other than to correct grammar or typographical errors), a new approval must be sought. The revised approved form replaces the previous approved form from the date the new approval is granted.

7. Managing approved forms

Approved forms must be stored on a central internal register which contains both the form and its approval (see section 9 of this Practice Statement).

Approved forms (without the approval documentation) are also stored on the consolidated listing of approved forms on the ATO's external website.

8. Forms not lodged in the approved form

If a form is not lodged in the approved form, we may consider the form not lodged. This could result in the taxpayer incurring failure to lodge on time penalties.

Additionally, the taxpayer may not have protection of safe-harbour provisions.

We may choose to accept and action the information provided based on a risk-management approach. Talk to your team leader about the form and whether it can be accepted.

9. More information

For more information, see:

- Approved Forms (link available internally only)
- Australian Privacy Principles
- PS LA 2005/20 *Signature requirements for approved virtual forms, lodged electronically or given by phone*.

Date issued	11 November 2005
Date of effect	14 November 2005
Business line	Frontline Operations

ATTACHMENT A

Under section 388-50 of Schedule 1 to the *Taxation Administration Act 1953* [or insert other relevant approval provision], I, [name of delegate], approve the form set out in Appendix [A] as the approved form required to be lodged with or given to the Commissioner of Taxation (Commissioner) [electronically or in paper] by [insert entity or class of entities required to use the form], under [insert relevant legislative provision], for the [insert relevant period or relevant approved period in lieu].

These forms require signed declarations and (for the forms lodged electronically) electronic lodgment declarations and electronic signatures. The approvals of the electronic signatures for the related forms as set out in Appendix [A] are in Appendix [B]. The approvals of the phone signatures for the related forms as set out in Appendix [A] are in Appendix [C].

Signed this [insert date] day of [insert month insert year]

Name: [insert delegate name]

Position: [insert position], [insert BSL]

Signature:

Delegate for the Commissioner of Taxation

Appendix A

Contents of the approved form

Signed declaration

Signature requirement

Lodgment (approved channels)

If the content is incomplete, incorrect or requires confirmation

Appendix B

Electronic signature

Appendix C

Phone signature

Amendment history

30 January 2025

Part	Comment
All	Updated in line with current ATO style and accessibility requirements.

29 November 2017

Part	Comment
Footnote 6	Updated.
All	Rewritten into new format.

19 November 2015

Part	Comment
All	Update to new LAPS format and style.
Section 7 Manage the approved form	Updated to reflect a newer process.
Section 8 What if the form is not lodged in the approved form	Added to allow guidance for staff about when we might accept the form.
Section 9 More information	Updated links.

11 March 2014

Part	Comment
Paragraph 50	Replace words 'Information Privacy Principle 2' with Australian Privacy Principle 5. Italicise 'Tax File Number Guidelines' and add '2011' at end of sentence. Replace words 'ATO's Legal Services Branch' with 'General Counsel section'.

3 January 2012

Part	Comment
Paragraphs 6 and 7	Remove words ‘unless the contrary intention appears’.

12 November 2010

Part	Comment
Paragraph 11	Example of what may not be required as part of the approved form.
Paragraph 17	Clarifying requirement for a declaration to be included on an approved form given to the Commissioner.
Paragraphs 18 to 24	Administrative support processes to be followed once a document has been approved.
Various	Changed 'approval instrument' to 'instrument of approval' for consistency.
Paragraph 39	Requiring information in an 'approved form' created after the original due date for lodgment.
Paragraph 40	Guidance on when a new 'approved form' should be prepared.
Paragraph 41	Clarifying the requirement to have a declaration that the information in the form is 'true and correct'.
Paragraphs 41 to 46	Guidance on what should be included in the declaration.
Attachment B	Example of an instrument of approval where there is a description of the information to be provided rather than a specific form itself.
Various	Tax Office updated to ATO.
Legislative references	Additional references added.

21 February 2007

Part	Comment
References	Unnecessary legislative references removed and other references added.

References

Legislative references	TAA 1953 Sch 1 355-25(2)(g) TAA 1953 Sch 1 388-50 TAA 1953 Sch 1 388-50(1) TAA 1953 Sch 1 388-50(2) TAA 1953 Sch 1 388-60 TAA 1953 Sch 1 388-70 Taxation Administration Regulations 2017 17 Privacy Act 1988 Privacy (Tax File Number) Rule 2015
Other references	Approved Forms (link available internally only) Australian Privacy Principle 5 – notification of the collection of personal information Australian Privacy Principles
Related Practice Statements	PS LA 2005/20

ATO references

ISSN	2651-9526
File no	File 2003/5758; 1-1UUVGSV; 1-5AHX0J6; 1-15883J64
ATOlaw topic	Administration ~~ Internal ATO processes

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