PS LA 2005/20 - Signature requirements for approved forms lodged electronically or given by telephone

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Australian Taxation Office

Practice Statement Law Administration

PS LA 2005/20

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 Tax office staff unless doing so creates unintended consequences. Where this occurs Tax Office staff must follow their Business Line's escalation process.

SUBJECT: **Signature requirements for approved forms lodged electronically or given by telephone**

PURPOSE: **To explain:**

- **the signature requirements and the process for approving electronic and telephone signatures in approved forms; and**
- **basic administrative support arrangements to be followed once a signature is approved.**

STATEMENT

1. This practice statement sets out:

   - the signature requirements for making declarations in 'approved forms' which are lodged electronically with the Commissioner or given to the Commissioner by telephone, and
   - the process which Tax Office staff must follow when approving an 'electronic signature' or a 'telephone signature' as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997* (ITAA 1997).

   Attachment A contains a glossary of terms and abbreviations used in this practice statement.

2. The signature requirements for documents that are sent to the Tax Office by facsimile transmission are not dealt with by this practice statement.

Electronic and telephone lodgment of 'approved forms' – declaration and signature requirements

3. The meaning of the term 'approved form' as used in this practice statement is explained in Law Administration Practice Statement PS LA 2005/19. Forms that are lodged electronically or given by telephone are referred to as 'virtual forms' in PS LA 2005/19.

4. Generally an approved form that is lodged with or given to the Commissioner must contain a declaration from the person lodging or giving the form that any information in the document is true and correct: sections 388-60 and 388-65 in Schedule 1 to the *Taxation Administration Act 1953* (TAA). The Commissioner may give written approval for a form not to contain a declaration.

5. Where the form is lodged electronically, it must contain the declaration of the person giving the form with their electronic signature (subsection 388-75(3) in Schedule 1 to the TAA). The purpose of the signed declaration is to have the person making the statements in the document attest to the truth and correctness of the information given to the Commissioner.

6. Similarly, for documents given by telephone, subsection 388-75(4) in Schedule 1 to the TAA requires the document to contain the telephone signature of the person giving the document.

7. Only the Commissioner, a Second Commissioner or an SES officer holding the appropriate delegation from the Commissioner (the approving officers) may approve the electronic or telephone signature requirements for an approved form. The approving officer must approve a signature that:

   - is adequate to authenticate the identity of the person lodging or giving the document, and
   - minimises the risk that the statements made in the document can be repudiated or denied by the person lodging or giving the document.

   The officer approving the related approved form may also approve any electronic and/or telephone signature required by that form, as referred to in paragraph 9 of Law Administration Practice Statement PSLA 2005/19.

8. The approving officer for an electronic signature should ensure that the approved form includes a dialogue box containing the declaration details required by sections 388-60 and 388-70 in Schedule 1 to the TAA (see paragraph 4 above).

9. Similar requirements must be followed when approving a telephone signature. Instead of a dialogue box the Tax Office's interactive voice response (ATO IVR) system will outline the appropriate declaration to which the preparer will verbally respond.

10. Approving officers must record in writing the electronic or telephone signature and their approval of the signature requirements. Standard forms of instruments of approval are at Attachments B and C for electronic and telephone signatures respectively.

11. Instruments of approval must be held as ancillary material to the instruments of approval for the related approved forms in accordance with the administrative support arrangements set out in paragraph 10 of Law Administration Practice Statement PSLA 2005/19. Therefore a separate register for them is not required. However, business lines may decide to create such a register. As stated in paragraph 10 of PSLA 2005/19, these arrangements are not part of the approval process for electronic and telephone signatures.

12. Electronic and telephone signatures will be approved on the basis of business practicalities and system capabilities such as developments in lodgment technology.

13. A number of Acts administered by the Commissioner have electronic signature requirements that are not covered by the signature provisions in section 388-75 in Schedule 1 to the TAA or the definition of electronic signature in subsection 995-1(1) of the ITAA 1997. In approving electronic signatures for provisions in those Acts, approving officers must follow the process outlined in this practice statement.

14. The tables in Attachment D list some of the different electronic and telephone signatures which have previously been approved for use with these forms of transmission.

EXPLANATION

Signed declarations in approved forms

15. Where a person or their agent is required to make a statement in a document to be given to the Commissioner, the relevant taxation law usually requires a signed declaration that any information in the document is true and correct (section 388-60 and 388-65 in Schedule 1 to the TAA). A statement that is false or misleading can result in an administrative penalty under subsection 284-75(1) in Schedule 1 to the TAA, or constitute an offence under section 8K or section 8N of the TAA.

16. Taxation documents are generally required to be given in the approved form. Section 388-50 in Schedule 1 to the TAA sets out the requirements for approved forms. Law Administration Practice Statement PS LA 2005/19 explains the procedures for approval of approved forms.

17. If an agent is providing information in an approved form on behalf of another entity, section 388-70 in Schedule 1 to the TAA requires the agent to make a declaration to the Commissioner about the document being given. The dialogue box must state that:

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

Electronic and telephone signatures on approved forms

18. Under subsection 388-75(3) in Schedule 1 to the TAA, approved forms that are lodged electronically by a person must contain the person's declaration under section 388-60 with the person's electronic signature. Where forms are lodged electronically by an agent, they must contain the agent's declaration under section 388-70 with the agent's electronic signature.

19. Similarly, under subsection 388-75(4) in Schedule 1 to the TAA approved forms that are given by telephone must contain the person's or agent's telephone signature.

20. The term 'electronic signature' of an entity is defined in subsection 995-1(1) of the ITAA 1997 as 'a unique identification of the entity in electronic form that is approved by the Commissioner'. This gives the Commissioner a broad discretion to determine the appropriate signature to be used on documents that are transmitted electronically to the Tax Office. A person may be required by the Tax Office to have more than one electronic signature.

21. Some electronic signatures are complex digital identifiers, such as the digital certificates issued to businesses that lodge business activity statements over the Internet using the electronic commerce interface system (ECI). Others can be as simple as a personal identification number (PIN). For documents lodged by a registered tax agent using the electronic lodgment service (ELS) the electronic signature is a combination of the tax agent's registration number and a unique ELS approved number.

22. The term 'telephone signature' of an entity is also defined in the same broad way in subsection 995-1(1) of the ITAA 1997 as 'a unique identification of the entity that can be given by telephone and that is approved by the Commissioner'.

Approving electronic and telephone signatures

23. The authority to approve an electronic or telephone signature rests with the Commissioner, a Second Commissioner or SES officer holding the appropriate delegation or authorisation from the Commissioner.

24. Whenever the Tax Office accepts that an approved form can be lodged electronically or given by telephone, it must approve the electronic or telephone signature requirements for that form.

25. In each instance the officer approving the signature requirements must be satisfied that the identity of the entity giving the approved form can be authenticated, and that statements made by that person cannot be repudiated. This ensures the integrity of the data and prevents a person who has given an approved form from denying it was theirs.

legislative references	*Income Tax Assessment Act 1936* subsection 251L(6) *Income Tax Assessment Act 1997* subsection 995-1(1) *Taxation Administration Act 1953* section 8K section 8N subsection 284-75(1) in Schedule 1 section 388-50 in Schedule 1 section 388-60 in Schedule 1 section 388-65 in Schedule 1 section 388-70 in Schedule 1 subsection 388-75(3) in Schedule 1 subsection 388-75(4) in Schedule 1
related public rulings	Taxation Ruling TR 2005/9
related practice statements	Law Administration Practice Statement PS LA 2005/19 Approved forms
file references	04/11055

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Amendment history	**29 September 2006:** Legislative references: Remove reference to section 37 of the *A New Tax System (Australian Business Number) Act 1999* (now repealed) **4 July 2006:** References to Electronic Lodgment System corrected to Electronic Lodgment Service Update reference to Auspac to Internet Protocol Networks in Attachments A and D Remove reference to BAS agent in Attachments A and D
Contact email	OperationalPolicyAssuranceandLawWorkManagement@ato.gov.au
Section	Operational Policy, Assurance and Law

ATTACHMENT A

Glossary

ABN means Australian Business Number which is a single, unique identifying number for all business dealings with government.

ABR means the Australian Business Register which is a comprehensive register of information provided by businesses when they register for an ABN. The ABR is administered by the Tax Office and enables entities to maintain their information on the ABR electronically.

ATO means the Australian Taxation Office.

ATO IVR means the Integrated Voice Recognition system operated by the Tax Office that enables the recording of information from entities given by telephone.

ATO OCA means the Organisational Certificate Authority that has been accredited by the Chief Executive Officer, National Office for the Information Economy, to issue Keys and Certificates for taxation purposes.

ATO Electronic Commerce Interface means that part of the Tax Office's infrastructure that has been established to receive documents signed by a person using Keys and Certificates issued by the ATO OCA.

Internet Protocol (IP) Networks means the networks used for transmitting ELS messages – either the Telstra Dial IP network or an internet IP network.

Authentication refers to the process of establishing that the sender of a message is who he or she claims to be.

Certificate Holder means a responsible officer with authority to sign documents electronically on behalf of an Entity that holds an ABN.

Digital certificate is an electronic file that contains information which identifies a person when using Tax Office online services.

Digital signature is an electronic signature created using a Private Signing Key.

Electronic signature is a data element associated with a message, which identifies a person and indicates his or her approval of the contents of the message.

ECI means the Electronic Commerce Interface which is an Internet-based application, which allows business clients to deal electronically with the Tax Office using recognized electronic certificates.

ELS is the Electronic Lodgment Service used by registered agents for lodging documents electronically.

e-tax means the system operated by the Tax Office that enables individuals to lodge tax returns electronically.

Keys and Certificates means authentication key pairs and related certificate, and confidentiality key pairs and related certificate as issued by the ATO OCA to a Key Holder.

Key pair is a pair of asymmetric cryptographic keys (that is, one decrypts messages which have been encrypted using the other) consisting of a Public Key and a Private Key.

Private authentication key is the key used by a Key Holder to digitally sign messages on behalf of an organisation.

Private key is the key in an asymmetric Key Pair that must be kept secret to ensure confidentiality, integrity, authenticity and non-repudiation, as the case may be.

Private signing key is a Private Key used by a Key Holder to digitally sign messages on behalf of an organisation.

Public key is the key in an asymmetric Key Pair which may be made public.

Public Key Infrastructure is the combination of hardware, software, people, policies and procedures needed to create, manage, store and distribute Keys and Certificates based on public key cryptography.

ATTACHMENT B

INSTRUMENT OF APPROVAL OF ELECTRONIC SIGNATURE

In accordance with subsection 388-75(3) of Schedule 1 to the *Taxation Administration Act 1953* and the definition of 'electronic signature' in subsection 995-1(1) of the *Income Tax Assessment Act 1997*, I hereby approve the following form of electronic signature for the following purposes:

Form of Electronic Signature	**Purpose (including identifying details of the related approved form)**

Signed this .....day of 200

By: …….....

Name: …….....

Position: …….....

Signature:

Delegate of the Commissioner of Taxation.

ATTACHMENT C

INSTRUMENT OF APPROVAL OF TELEPHONE SIGNATURE

In accordance with subsection 388-75(4) of Schedule 1 to the *Taxation Administration Act 1953* and the definition of 'telephone signature' in subsection 995-1(1) of the *Income Tax Assessment Act 1997*, I hereby approve the following form of telephone signature for the following purposes:

Form of Telephone Signature	**Purpose (including identifying details of the related approved form)**

Signed this .....day of 200

By: …….....

Name: …….....

Position: …….....

Signature:

Delegate of the Commissioner of Taxation.

ATTACHMENT D

Table A Forms of electronic signatures

Form of Electronic Signature	**Purpose**
Digital signature produced by use of a private authentication key that is associated with a Digital Certificate that has been issued by the ATO OCA to a Certificate Holder on behalf of an entity.	For a Certificate Holder to sign a document; where the document is to be lodged with the Tax Office via the Tax Office Electronic Commerce Interface and other applications such as the ABR that accept Tax Office issued Keys and Certificates.
Digital signature produced by use of 'one time only use' keys generated by e-tax.	For signing an individual income tax return, where the income tax return is to be lodged with the Tax Office via e-tax.
Digital signature produced by a document preparer using his or her tax agent registration number in combination with the ELS registration/approval of the transmitter.	For signing a declaration in an approved form that is lodged by a registered tax agent via ELS on the Internet Protocol (IP) networks.
Electronic signature placed by the client on the Dealing Electronically On-line Registration Form.	To complete a registration form to receive ATO Public Key Infrastructure (PKI) digital keys and certificates, the Electronic Commerce Interface (ECI) software.

Table B Forms of telephone signatures

Form of Telephone Signature	**Purpose**
Telephone signature produced by the client by interacting with the ATO IVR and use of a tax file number in combination with a telephone identification number and the job number of the previous year's notice of assessment.	For lodging simplified tax returns by telephone.
Telephone signature produced by the client by interacting with the ATO IVR and use of a tax file number in combination with date of birth and postal code.	For lodging a claim for baby bonus benefits by telephone.
Telephone signature produced by the client by interacting with the ATO IVR and use of a tax file number in combination with date of birth, postal code and gender.	For lodging an application for refund of imputation credits by telephone.