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

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

This Law Administration Practice Statement provides guidance on:

- signature requirements for making declarations in approved virtual forms lodged electronically or by telephone
- the approval process for electronic or telephone signatures.

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

1. What is this Practice statement about?

This Practice statement sets out the:

- signature requirements for making declarations in approved virtual forms which are lodged electronically or given by telephone
- process which we must follow when approving an 'electronic signature' or a 'telephone signature'.[1]

2. What is an approved form?

Approved forms meet the requirements contained in section 388-50 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).[2]

3. What is a virtual form?

Virtual forms are lodged electronically or given by telephone.[3]

4. How are approved virtual forms to be lodged or given to the ATO?

An approved form that is lodged with or given to the ATO is required to contain a signed declaration from the entity lodging or giving the form.[4]

Where the form is lodged electronically, any required signature must be an electronic signature[5], defined as 'a unique identification of the entity in electronic form that is approved by the Commissioner'.[6] This gives the ATO a broad discretion to determine the appropriate signature to be used on forms that are transmitted to us electronically. An entity may be required to have more than one electronic signature.

Similarly, where the form is given by telephone, a telephone signature is required[7], which is defined as 'a unique identification of the entity that can be given by telephone and that is approved by the Commissioner'.[8]

5. Who may be an approving officer for the signature requirements of approved virtual forms?

The following staff may approve the electronic or telephone signature requirements for an approved virtual form:

- the Commissioner
- a Second Commissioner holding the appropriate delegation from the Commissioner, or
- an SES officer holding the appropriate delegation from the Commissioner.[9]

6. What are the requirements for approving a signature?

The approving officer must approve a signature that:

- is adequate to authenticate the identity of the entity signing the declaration in a form
- minimises the risk that the declarations made can be repudiated or denied by the entity signing the declaration in a form
- is linked to and in the control of the signatory and to no other entity.

[1] See subsection 995-1(1) of the *Income Tax Assessment Act 1997* (ITAA 1997).
[2] See also Law Administration Practice Statement PS LA 2005/19 *Approved forms.*
[3] See also PS LA 2005/19 *Approved forms*.
[4] Sections 388-60, 388-65 and 388-70 of Schedule 1 to the TAA.
[5] Subsection 388-75(3) of Schedule 1 to the TAA.
[6] Subsection 995-1(1) of the ITAA 1997.
[7] Subsection 388-75(4) of Schedule 1 to the TAA.
[8] Subsection 995-1(1) of the ITAA 1997.
[9] See Taxation Authorisation Guidelines.

7. What must the approving officer consider?

The approving officer must ensure the electronic or telephone signature is approved so that it applies to any declaration in the form.

The approving officer for an electronic signature should ensure that the approved virtual form includes the declaration details for every signed declaration required by the form.

The form may not be approved unless the required electronic signature and telephone signature have been obtained and/or verified.

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 A and B of this Practice statement for electronic and telephone signatures respectively.

8. Instrument of approval for electronic and telephone signatures

An instrument of approval, containing either:

- an electronic signature for a document that can be lodged electronically or
- a telephone signature for a document that can be lodged by telephone

should be held as an appendix to the instruments of approval for the related approved virtual forms.

A register for instruments of approval for electronic or telephone signatures is not required because these form part of the ancillary material to the instruments of approval for the related approved virtual forms. These arrangements are not part of the approval process for electronic and telephone signatures.[10]

9. Examples of approved electronic signatures

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 (ECI) system. Others can be as simple as a personal identification number (PIN).

For lodgment via the practitioner lodgment service a tax agent certificate is required, comprising the tax agents' declaration together with their electronic signature.

The tables in Attachment C list some examples of the different electronic and telephone signatures which have previously been approved for use.

[10] PS LA 2005/19 *Approved forms*.

10. Electronic signature requirements not covered by the signature provisions

A number of Acts administered by the Commissioner have electronic signature requirements that are not covered by the signature provisions[11] or the definition of electronic signature.[12] In approving electronic signatures for provisions in those Acts, approving officers must follow the process outlined in this Practice statement.

More information

For more information, refer to the OPAL SharePoint page on Approved Forms (link available internally only).

This contains an Instrument of Approval (IOA) guide and IOA template to assist you in writing an IOA and dealing with the relevant signature requirements.

The signature requirements for forms that we receive by facsimile transmission are not dealt with by this Practice statement because they are not considered to be transmitted in an electronic format approved by the Commissioner. Instead, giving documents by facsimile transmission is considered to be a way of giving the form in paper form for the purposes of subsections 388-75(1) and (2) of Schedule 1 to the TAA.

Date issued 11 November 2005

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[11] Section 388-75 of Schedule 1 to the TAA.
[12] Subsection 995-1(1) of the ITAA 1997.

ATTACHMENT A

APPENDIX [Insert letter] – Electronic signature

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, [insert name of the delegate of the Commissioner], hereby approve the following form of electronic signature for the following purpose:

Form of Electronic Signature	**Purpose**

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

Name: [insert delegate name]

Position: Assistant Commissioner, [insert BSL].

Signature:

ATTACHMENT B

APPENDIX [Insert letter] – Telephone signature

INSTRUMENT OF APPROVAL FOR A 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, [insert name of the delegate of the Commissioner], hereby approve the following as forms of telephone signature for the following purposes:

Form of Telephone Signature	**Purpose**

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

Name: [insert SES name]

Position: Assistant Commissioner, [insert BSL].

Signature:

Delegate for the Commissioner of Taxation

ATTACHMENT C

Table A – examples of electronic signatures (non-exhaustive)

Signature requirement	*Purpose*
Digital signature produced through the use of an AUSkey®[13] which is a single key to access government online services.	AUSkey® is used to login to a range of business to government websites and to electronically sign forms when lodged via certain ATO online services.
Digital signature produced through the use of an AUSkey® which is a single key to access government online services.	AUSkey® is used to login to a range of business to government websites and to electronically sign forms accepted under the Standard Business Reporting (SBR) enabled software.
Digital signature produced through the use of an AUSkey® which is a single key to access government online services.	For signing an approved virtual form lodged or given to the ATO via ATO Online Services including the Business, BAS or Tax Agent Portals.
Digital signature produced by the use of identity credentials provided by the myGov service.	For signing an electronic approved virtual form that is lodged or given to the ATO via ATO Online.

Table B – examples of telephone signatures (non-exhaustive)

Signature requirement	*Purpose*
Identification of the person in accordance with 'Proof of record ownership' procedures for inbound calls prepared under Identity Management Chief Executive Instruction (CEI).	To allow the person to lodge the form via the telephone.
Identification of the person in accordance with 'Proof of record ownership' procedures for outbound calls prepared under Identity Management CEI.	To undertake contact with the person where the paper form or electronic form is incomplete.

[13] References to AUSkey® apply until it is decommissioned. These examples are a non-exhaustive list.