PS LA 2006/11 (Withdrawn) - ATO Receivables Policy

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Law Administration Practice Statement PS LA 2006/11 was withdrawn on 28 August 2008 and has been replaced by PS LA 2008/13.

Refer to end of document for amendment history. Prior versions can be obtained from the PTI & Public Rulings Branch if required

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Practice Statement Law Administration

PS LA 2006/11

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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 or where it is considered incorrect. Where this occurs Tax office staff must follow their business line's escalation process.

SUBJECT:	**The *ATO Receivables Policy***
PURPOSE:	**To outline the administrative policy of the Tax Office relating to payment and lodgment obligations of taxpayers and the payment of refunds and interest**

BACKGROUND

1. The *ATO Receivables Policy* was first published as the *Policy for Collection of Taxation Debts* and was subsequently revised and republished, both externally and internally, as the *ATO Receivables Policy* in December 2000. Version 1 incorporated changes resulting from the introduction of the new tax system. It outlined the law and Tax Office administrative policy as at 1 July 2000. The Commissioner released version 2 in 2001 and version 3 in 2003. This current version (version 4) is issued as a Practice Statement and reflects changes in legislation, case law and Tax Office administrative policy.

STATEMENT

2. The *ATO Receivables Policy* (the Policy) contains the administrative policy of the Tax Office relating to the obligations imposed on taxpayers by the various taxation laws in respect of the:

   - lodgment of returns and other documents, and
   - payment of liabilities,

   as well as guidelines for the remission of penalties and interest charges arising from a breach of those obligations.

   It also includes chapters relating to the payment of interest and refunds by the Commissioner.

3. Tax officers must follow the administrative policies outlined in this Policy. In relation to the exercise of the Commissioner's various discretions under the relevant taxation laws, it is not possible to set out all the circumstances in which the discretion may or may not be exercised. Cases that appear similar in nature may have different outcomes based upon their particular facts. Each case has to be considered on its merits and on the basis of all the relevant facts. Tax officers must take care not to consider irrelevant considerations, and must exercise their own judgment in arriving at an appropriate decision. The decision should be made in good faith and without bias.

4. All proposed changes to this Policy should be sent by email to Policy and Practice in Operations at the following address:

   OPSP&NMATOReceivablesPolicy@ato.gov.au

Currency of the Policy

5. The online version of this Policy is the only current version. Tax officers must check the online version for updates when making a decision to which the Policy relates.

6. Tax officers who require previous versions of the Policy should contact Operations Policy and Practice at the email address provided in paragraph 4 of this Law Administration Practice Statement.

7. Where there is any reason to doubt the currency, correctness or applicability of the information contained in this Policy, the matter must be escalated for review (together with documented reasons) in accordance with the escalation process of the relevant business line.

EXPLANATION

8. Complying with taxation obligations is an important community responsibility. Taxpayers are expected to lodge correct returns and statements by the due date and to pay their taxation debts as and when they fall due for payment.

9. Where taxpayers fail to meet their taxation obligations the Tax Office will differentiate in its treatment of taxpayers according to their individual circumstances and the reasons for their non-compliance.

10. In providing policies relating to the exercise of the Commissioner's various discretions, there is no intention to restrict Deputy Commissioners and authorised officers in the exercise of those discretions – it is essential that they retain the flexibility necessary to deal with each case on its merits. However, this Policy provides guidance as to the manner in which the discretions might generally be exercised, and aims to promote consistency and fairness in decision making.

11. The subject matter of each of the chapters which form part of this *ATO Receivables Policy* Practice Statement, and the hyperlinks to each chapter are provided below. The index (Chapter 123) is provided to expedite research on specific issues.

Part A INTRODUCTION

1. Principles underlying the Receivables Policy of the ATO
2. Accountability and review of decisions
3. Risk management

Part B THE COLLECTION OF TAXATION DEBTS

4. Introduction to Part B – the collection of taxation debts
5. Taxation debts and the due date for payment
6. Estimating a liability
7. Allocation of payments or credits
8. The collection process
9. Deferring the time for payment
10. Arrangements to pay tax-related liabilities by instalments
11. Payment agreements
12. 'Garnishee' notices
13. Departure prohibition orders
14. Personal liabilities of company directors
15. Writs/warrants of execution
16. Bankruptcy Act – Part X arrangements
17. Bankruptcy Act – Part IX debt agreements
18. Bankruptcy action – conditions and factors to consider
19. Bankruptcy Act – Division 6 of Part IV (an earlier end to Bankruptcy)
20. Corporations Act 2001 – Part 5.3A Arrangements (Voluntary Administration)
21. Liquidation action – conditions and factors to consider
22. Voidable transactions
23. Referral for prosecution action – debt recovery
24. Release from payment of some taxation liabilities
25. Waiver of taxation debts
26. Deciding not to pursue recovery of taxation debts
27. Compromise of taxation debts
28. Recovering disputed debts
29. Securities
30. Indemnities for trustees and liquidators
31. Clearances – obligations of trustees and the Commissioner
32. Deceased estates
33. Running balance accounts
34. Collection of GST – special rules
35. Collection of consolidated group liabilities
36. Mareva injunctions

Part C LODGMENT OF DOCUMENTS AND NOTIFICATION OF LIABILITIES

51. Introduction to Part C – lodgment of documents
52. Lodgment requirements for approved forms
53. The role of intermediaries
54. Due date for lodgment of an approved form
55. Deferral of the due date for lodgment and suspension of lodgment action
56. Actioning non-lodgment
57. Issuing a default assessment, making estimates and bringing tax related liabilities to account
58. Referral for prosecution action – lodgment of documents

Part D REFUNDS AND CREDITS

71. Introduction to Part D – refunds and credits
72. Offsetting of refunds and credits against taxation and other debts
73. Refunds of amounts withheld in error
74. Withholding of refunds – financial institution accounts details not provided
75. Retained refunds – activity statements or related information not provided and other restrictions on refunds

Part E INTEREST PAYABLE BY THE COMMISSIONER

81. Introduction to Part E – interest payable by the Commissioner
82. Interest on early payments
83. Interest on overpayments
84. Delayed refund interest

Part F PENALTIES AND INTEREST RELATING TO RECEIVABLES ACTIVITIES

91. Introduction to Part F – penalties relating to receivables activities
92. Additional charges for late payment
93. General interest charge
95. Variation and underestimation penalties
96. Failure to notify penalty
97. Late reconciliation statement penalty
98. Lodgment penalty
99. Electronic notification and payment penalty
100. PAYG withholding non-registration penalty

Part G MISCELLANEOUS

111. Information gathering (including tracing a Taxpayer)
122. Update of ATO Receivables Policy

Part H ATO RECEIVABLES POLICY INDEX

123. Index A-L
Index M-Z

Subject references	ATO Policy, Policy, GIC, penalties, approved forms, remission of penalties, bankruptcy, payment agreements, Mareva, securities, tax debts, interest on early payments, interest on overpayments, compromise, debt, accounting, lodgment, imposition of penalties, ATO receivables policy
Legislative references	Refer to each chapter for relevant legislative references.
Related public rulings	
Related practice statements	
Case references	Refer to each chapter for relevant case references
File references	06/14059
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Other Business Lines consulted	Excise, Superannuation, Lodgment Compliance, GST, Small Business, Personal Tax, OCTC
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