# *PS LA 2007/6 - Guidelines for settlement of widely-based tax disputes*

This cover sheet is provided for information only. It does not form part of *PS LA 2007/6 - Guidelines for settlement of widely-based tax disputes*

The Administrative Review Tribunal (ART) was established by the *Administrative Review Tribunal Act 2024* and commenced operations on 14 October 2024, replacing the Administrative Appeals Tribunal (AAT).

In this Practice Statement, a reference to a right to seek review of a reviewable objection decision or an extension of time refusal decision in the AAT should instead be read as a reference to a review in the ART.

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This practice statement was originally published on 21 February 2007. Versions published from 1 July 2011 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

Australian Government
Australian Taxation Office

# Practice Statement Law Administration

# PS LA 2007/6

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**FOI status: may be released**

*This law administration 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. ATO personnel, including non ongoing staff and relevant contractors, must comply with this law administration practice statement, unless doing so creates unintended consequences or is considered incorrect. Where this occurs, ATO personnel must follow their business line's escalation process.*

| | |
|---|---|
| **SUBJECT:** | **Guidelines for settlement of widely-based tax disputes** |
| **PURPOSE:** | **To set out practical guidance for the settlement of widely-based tax disputes including but not limited only to disputes involving taxpayers who have participated in tax planning arrangements (whether subject to the general anti-avoidance provisions or otherwise).** |

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**STATEMENT**

1. This practice statement provides guidance about proposals for settlement of widely-based tax disputes. It must be read in conjunction with the *Code of Settlement Practice* which provides general guidance about settlement of taxation disputes.

2. Widely-based tax disputes include tax avoidance arrangements whether considered by the ATO not to be effective by operation of the ordinary provisions of the law or application of a specific or general anti-avoidance rule (such as Part IVA of the *Income Tax Assessment Act 1936* for income tax).

3. A Widely-based Settlement Panel (the Panel) has been established to provide advice to decision-makers about offers and proposals to settle widely-based tax disputes involving at least 20 taxpayers.

4. The purpose of the Panel is to ensure that the terms and conditions of widely-based settlement proposals adopted by the ATO are consistent and appropriate and that the reasons for the adopted proposals are transparent.

5. A widely-based settlement proposal means a proposal by the ATO to offer certain terms of settlement to taxpayers or a proposal made to the ATO by or on behalf of taxpayers to settle their disputes.

6. A decision-maker is required to ensure:

   - that a dispute can be settled in accordance with the *Code of Settlement Practice*, and
   - to seek the Panel's advice

   before making a decision to give effect to a widely-based settlement proposal.

7. This practice statement sets out factors to be considered by decision-makers and the principles that the Panel will apply when formulating advice to a decision-maker about a widely-based settlement proposal. The Panel in formulating its advice will also consider the principles and guidelines in the *Code of Settlement Practice*, the taxpayers' charter and the compliance model.

8. When deciding whether to make, accept or reject a widely-based settlement proposal the decision-maker must consider the Panel's advice. However, the Panel's advice does not fetter the decision-maker in the ultimate exercise of his or her delegation or authorisation to make, accept or reject a settlement proposal.

## EXPLANATION

### General matters

9. The Commissioner announced on 18 November 2004 (Media Release 04/78) that a Panel of senior tax officers would be set up to consider widely-based settlement proposals, and to advise decision-makers in situations where a widely-based settlement proposal may be appropriate. The panel is known as the Widely-Based Settlement Panel (the Panel).

10. When considering a settlement proposal the objective of the Panel is to ensure:

    (a) consistency in the factors taken into consideration when a decision-maker is contemplating whether to make, accept or reject a settlement proposal

    (b) consistency in similar situations about the way factors are applied, and the elements, terms and conditions of widely-based settlement proposals

    (c) appropriate differentiation and weighting of factors according to differences in the circumstances of the taxpayers involved in the dispute, and

    (d) transparency around the advice and reasons for recommending whether a proposal should be accepted, modified or rejected.

11. These guidelines, the quality of the Panel's advice and the way widely-based settlement proposals are managed will be periodically reviewed and this will involve public consultation.

12. Proposals for widely-based settlements of tax disputes may arise:

    - externally – for example, by one or more participants in a tax planning arrangement proposing to the ATO a settlement offer, or
    - internally – for example, by way of a general settlement offer or invitation from the ATO to a group of taxpayers such as participants in a particular tax planning scheme arrangement.

13. A widely-based settlement proposal is one where there are at least 20 taxpayers disputing the ATO view in relation to the same or similar arrangement including tax avoidance arrangements which are not effective because of the operation of the ordinary provisions of the law or the application of a specific or general anti-avoidance provision (such as Part IVA of the *Income Tax Assessment Act 1936*). Also within the scope of this practice statement are disputes of a non-scheme nature which nevertheless affect a large number of taxpayers.

14. Decision-makers are also required to seek the advice of the Panel on settlement proposals involving less than 20 taxpayers where the settlement proposal may have broader implications on community confidence in the administration of the tax system, or where the case involves issues and factors which may be applicable to settlement of other disputes involving larger numbers of taxpayers. Where there is uncertainty about whether a proposal should be referred to the Panel for advice decisions-makers are expected to seek clarification from the Chair of the Panel and to consider the amount of revenue involved (although, of itself, the amount of revenue is not a reason for the proposal to be referred to the Panel) and the *Code of Settlement Practice*.

15. For the purposes of this practice statement 'dispute' has a broad meaning. The term 'dispute' includes a reference to a disputed liability or entitlement involving primary tax, penalties, payments, franking credits and debits, foreign

tax credits, credits and refunds of indirect taxes, general interest charge, and interest. A settlement proposal can be considered prior to formal assessments being raised, for example, during the course of an audit after taxpayers involved in the matter have considered a position paper from the ATO or other ATO communication of its thinking.

16. This practice statement does not apply to any settlement, or any component of a settlement, which concerns compensation or similar monetary claims against the ATO, as described in Corporate Management Practice Statement PS CM 2004/05 (RM) *Handling compensation and similar monetary claims against the ATO*.

**Code of Settlement Practice**

17. The *Code of Settlement Practice* provides general guidance about settlement of taxation disputes. Settlement, as an alternative to litigation of the substantive issues in dispute, will be appropriate where considerations of sensible administration and good management of the tax system outweigh the general rule that the Commissioner does not forego tax properly payable (including shortfall penalty and general interest charge). The 'good management rule' that underpins the Commissioner's approach to settling a dispute also has application to settlement of widely-based tax disputes, including marketed tax planning arrangements, although the factors taken into consideration and the elements of the settlement offer can often be different in a widely-based dispute to those discussed in the *Code of Settlement Practice*.

18. While the terms of a settlement proposal will always turn on the particular facts of the issue as well as the behaviours or special circumstances of the taxpayers and others involved, scrutiny of our administration of mass-marketed investment schemes and employee benefit arrangements has shown that the ATO also needs to give particular attention to questions of fairness, consistency and transparency of widely-based settlement proposals across groups of taxpayers and across different kinds of arrangements. The guidelines in this practice statement therefore supplement the *Code of Settlement Practice* by dealing with the issues relevant in the context of settlement of a widely-based dispute.

**Decision-makers**

19. The power to settle a dispute in accordance with the *Code of Settlement Practice* is delegated only to senior officers. While these delegated officers may authorise other officers to carry out their responsibilities, the intention is to limit the exercise of the power to settle taxation disputes to a restricted range of taxation officers.

20. The Panel does not exercise a delegated power to settle disputes. Its role is purely advisory. All decision-makers referring settlement proposals to the Panel for advice must ensure that duly made delegations and authorisations are in place.

21. The basic principle that there should be no unilateral decision making in relation to settlements applies to widely-based tax disputes. This means that a case officer or team leader who is approached with an offer to settle a dispute or who reaches a view that it may be appropriate to make a settlement offer to the participants must refer the matter to an officer at an appropriate level external to the team to decide whether the settlement process should be initiated.

22. Once it is decided that a matter needs to be referred to the Panel for advice, the Submission to the Panel must be made by a senior officer who holds a delegation or authorisation to conclude a settlement.

### Approach to resolving disputes through a widely-based settlement

23. The settlement of a widely-based dispute is to be approached in 3 stages:

    (1) identifying the 'base settlement proposal'

    (2) identifying appropriate differentiations from the base settlement proposal, and

    (3) taking a taxpayer's unique individual circumstances into account in his or her individual settlement.

24. The first stage involves taking into account characteristics of the arrangement and circumstances that are common to all individual affected taxpayers. These common characteristics and circumstances are relevant to the formulation of the components of the 'base settlement proposal' that is intended to be common to all participants.

25. The second stage involves taking into account circumstances not common to all individual affected taxpayers, to determine if there should be a differentiation to the base settlement for certain taxpayers or groups of taxpayers involved in the dispute (for example whether there should be a differentiation between those who merely invested in an arrangement and those who additionally were associated with the promotion or sale of the arrangement to others).

26. The third stage involves giving consideration to any unique individual circumstances raised by a taxpayer when formulating the individual settlement for that taxpayer (for example the terms of the settlement may involve special payment arrangements in light of a taxpayer's particular financial situation). When there are large numbers of taxpayers involved in a dispute, submissions from decision-makers will need to include appropriate procedures to ensure that taxpayers have the opportunity to raise unique individual circumstances.

27. Attachment 1 sets out the process for referring widely-based settlement proposals to the Panel.

### Role and operation of the Panel

28. The role of the Widely-based Settlement Panel is to assist the ATO in its administration of settlement proposals for widely-based tax disputes to:

    - ensure that the terms and conditions of widely-based settlement proposals are consistent and appropriate
    - ensure that the reasons for settling a dispute, including any differentiation to a base settlement for certain taxpayers or groups of taxpayers involved in the dispute are transparent
    - provide objective advice to a decision-maker on the above, including advice regarding the primary tax matter, appropriate imposition and remission of penalties and remission of interest, and
    - to ensure that the principles and guidelines set out in this practice statement and in the *Code of Settlement Practice* have been applied and followed.

29. The Panel will also provide advice to a decision-maker about whether (or not) it may be appropriate to enter into a widely-based settlement for a particular dispute and, if so, appropriate terms and conditions of a base settlement proposal and appropriate differentiations to the base settlement proposal.

30. Where administrative difficulties arise, or might arise, in implementing a widely-based settlement the decision-maker can obtain advice of the Chair of the Panel.

31. Except for individual circumstances as outlined in paragraph 26, if a decision-maker decides not to follow the Panel's advice he or she is required to discuss this with the Chair of the Panel before implementing that decision. A decision-maker is also required to provide the Panel with information about the final settlement including reasons for any variations from the Panel's advice.

32. Meetings of the Widely-based Settlement Panel, including its conclusions and recommendations will be documented and stored in accordance with the ATO records management system.

33. The ATO will publish on its internet homepage (www.ato.gov.au) the general terms of widely-based settlements and the factors and principles applied.

34. All decisions on widely-based settlement proposals, including any variations in individual cases will also be recorded on the Siebel case management system.

**Submissions to the Panel**

35. A submission to the Panel will be prepared when a decision-maker decides that a widely-based settlement proposal should be escalated to the Panel for advice. The Submission needs to address the guidelines outlined in this practice statement and the *Code of Settlement Practice*. If the risk involved in the settlement proposal warrants it, advice on the submission may be sought from Law and Practice[1], or external legal advice may be sought. Any advice received should form part of the Submission.

36. When a matter referred to the Panel is in response to a settlement proposal generated external to the ATO, the decision-maker will:

    (a) provide an outline of the nature of the dispute, the steps taken by the ATO to identify the issues in dispute, the number of taxpayers involved in the dispute, the amount of revenue involved, and how the matter reached the stage where a settlement proposal was made

    (b) indicate whether the proposal was made on behalf of all of the taxpayers involved in the arrangement subject to dispute. Where a proposal was made on behalf of a particular group of taxpayers, the Submission must outline whether (or not) the settlement proposal should be made available to the other taxpayers involved in the disputed arrangement

    (c) provide copies of external submissions or, where the number of submissions makes this impractical, a representative set of submissions, and

    (d) any other papers, submissions and information relevant to the history and conduct of the dispute.

37. If the decision-maker is not in agreement with the settlement proposal, then an alternative view on an appropriate basis of settlement, or management of the

[1] Refer to PS LA 2012/1 *Guide to managing high risk technical issues and engagement of tax technical officers in Law and Practice*.

dispute in the absence of a settlement, should be included with the Submission.

38. Attachment 2 provides a template to be completed by the decision-maker when making a Submission to the Panel for consideration of a widely-based settlement proposal.

## Principles and guidelines – overview

39. The following principles and guidelines are to be taken into consideration by the decision-maker in preparing a Submission to the Panel, and by the Panel in formulating its advice about the 'base settlement proposal' and any differentiations to the base settlement:

    (a) the cost to revenue of the settlement proposal, the impact of the settlement on compliance attitudes and behaviours of the parties to the settlement, and the community generally

    (b) justifiability of the settlement proposal in terms of consistency in the application of factors and outcomes in similar settlements; appropriate differentiation where circumstances are not comparable; and standards and expectations in the management of widely-based tax disputes that reflect community expectations and promote community confidence in the administration of the tax system

    (c) the circumstances surrounding affected taxpayers involved in the dispute. In the case of widely-based tax planning arrangements this includes: the circumstances surrounding participants' entry into the arrangement; the manner in which the arrangement was put into practice; the extent to which participants could have been reasonably expected to rely on the professional advice given, marketed or obtained; and the ability of the participants to implement the terms of the settlement proposal

    (d) litigation issues, including whether there is already a well established ATO view of the law, whether the disputed arrangement has been subject to litigation in a court and the outcome of that litigation and whether a previous proposal to settle without proceeding to litigation of the issue in dispute has been rejected. The guidelines in the *Code of Settlement Practice* must be followed when deciding that settlement is preferable to litigation of the substantive technical issues involved in the dispute. Given that the purpose of a settlement is to not proceed to litigation of a dispute where good management of the tax system makes settlement of the issue justifiable, it is unlikely that second or subsequent proposals, made during the litigation processes, would be accepted on more favourable terms, and

    (e) other considerations relevant to the specific circumstances of the settlement proposal.

## Principles and guidelines – additional explanations

### *Revenue cost and compliance impact*

40. The impact of the proposed settlement on compliance behaviours of the relevant group of taxpayers, and the broader taxpaying community will be considered. The Panel may take into account the loss of revenue, potential litigation savings, whether settlement will lead to ongoing compliance by the taxpayers involved and how the settlement might affect compliance attitudes and behaviours among the community generally.

41. In disputes involving aggressive tax planning, the Panel will also consider whether the settlement proposal effectively deals with the tax mischief underlying the scheme. In forming the settlement terms in these cases the Panel's advice may include considerations about changes in the compliance behaviours of the affected taxpayers over time up to and including their current income tax assessment.

### *Consistency with previous settlements of the same or similar matters*

42. The Panel will be informed by the facts, circumstances and terms of previous widely-based settlements that are similar to the settlement proposal under consideration. The Panel will also seek to ensure that a widely-based settlement proposal will broadly apply to all affected taxpayers. This may include taxpayers who have previously negotiated (on less favourable terms) an individual settlement of the dispute that is the subject of the settlement proposal being considered, as well as taxpayers who are awaiting the outcome of test case litigation or a lead case.

43. In considering the terms of a widely-based settlement proposal the Panel will take into account whether there is a clearly articulated ATO view on the issues in dispute, such as a view contained in a Taxation Ruling. Also relevant to the Panel's advice will be whether the ATO had issued a Taxpayer Alert or other publication if the dispute arose from a tax avoidance arrangement, and whether there were any ATO actions that may be relevant to the matters in dispute.

### *The likely impact on community confidence*

44. The Panel will consider the likely impact of reaching settlement with a group of taxpayers on the confidence the wider community has in the administration of the tax system. The making of a settlement proposal which pertains to a tax avoidance arrangement would not, unless other factors are present, justify a reduction in tax, penalty, Shortfall Interest Charge (SIC) or General Interest Charge (GIC) where those outcomes are out of step with community expectations. For example, it cannot be expected that settlements in tax avoidance scheme disputes will be so generous that promoters or participants would see no real downside to promoting or participating in tax avoidance arrangements.

### *Circumstances of the affected taxpayers*

45. The decision-maker and the Panel will consider any relevant circumstances for groups of affected taxpayers when considering the base settlement offer. These circumstances may include:

    (a) the method of marketing of a scheme or arrangement to the participants

    (b) the compliance history of affected taxpayers

    (c) whether the taxpayers have been misled in any way by another person

    (d) the timing and nature of any ATO information and enquiries in relation to a scheme or arrangement

    (e) the level of uncertainty surrounding the law with respect to the scheme or arrangement, including for example whether there is a test case on the issue under the Test Case Litigation program, and

    (f) the ability of the parties to meet the terms and conditions of the proposed settlement.

46. The decision-maker will include any proposed differentiations to the base settlement for groups of affected taxpayers where the characteristics demonstrate material differences from other taxpayers, or groups of taxpayers. These circumstances may include:

    (a) in relation to the particular arrangement, whether some of the affected taxpayers had a real knowledge of what the arrangement involved

    (b) the compliance history of the taxpayers involved or affected, and

    (c) level of tax mischief in how they personally implemented the arrangement.

***The likelihood of the proposal being accepted by all affected taxpayers***

47. The Panel will consider the likelihood of a widely-based settlement proposal being accepted by the affected taxpayers. When considering this matter the Panel will closely consider any external submissions provided with the proposal. A settlement proposal is unlikely to be made or accepted unless there is sufficient prospect of acceptance by a large proportion of affected taxpayers.

***Any special terms or conditions that are appropriate to place on the settlement***

48. In some circumstances, the Panel may provide advice on special terms and conditions beyond those contemplated in the Model Deed of the *Code of Settlement Practice*. Without intending to limit the terms that may be applied, the Panel may provide advice about:

    (a) whether there is to be a comprehensive settlement, or a minimum number of participants who must agree before a settlement proposal is made or accepted, and

    (b) the period for which the settlement offer or particular terms in the settlement offer are available. For example:

    - where a term of settlement includes a remission of GIC it may only be available up to a certain date. Affected taxpayers would still be able to settle after that date but the GIC remission would not be available to them, or
    - a settlement offer may only be available until a court decision has been handed down in a specified case.

***Quality assurance of the process***

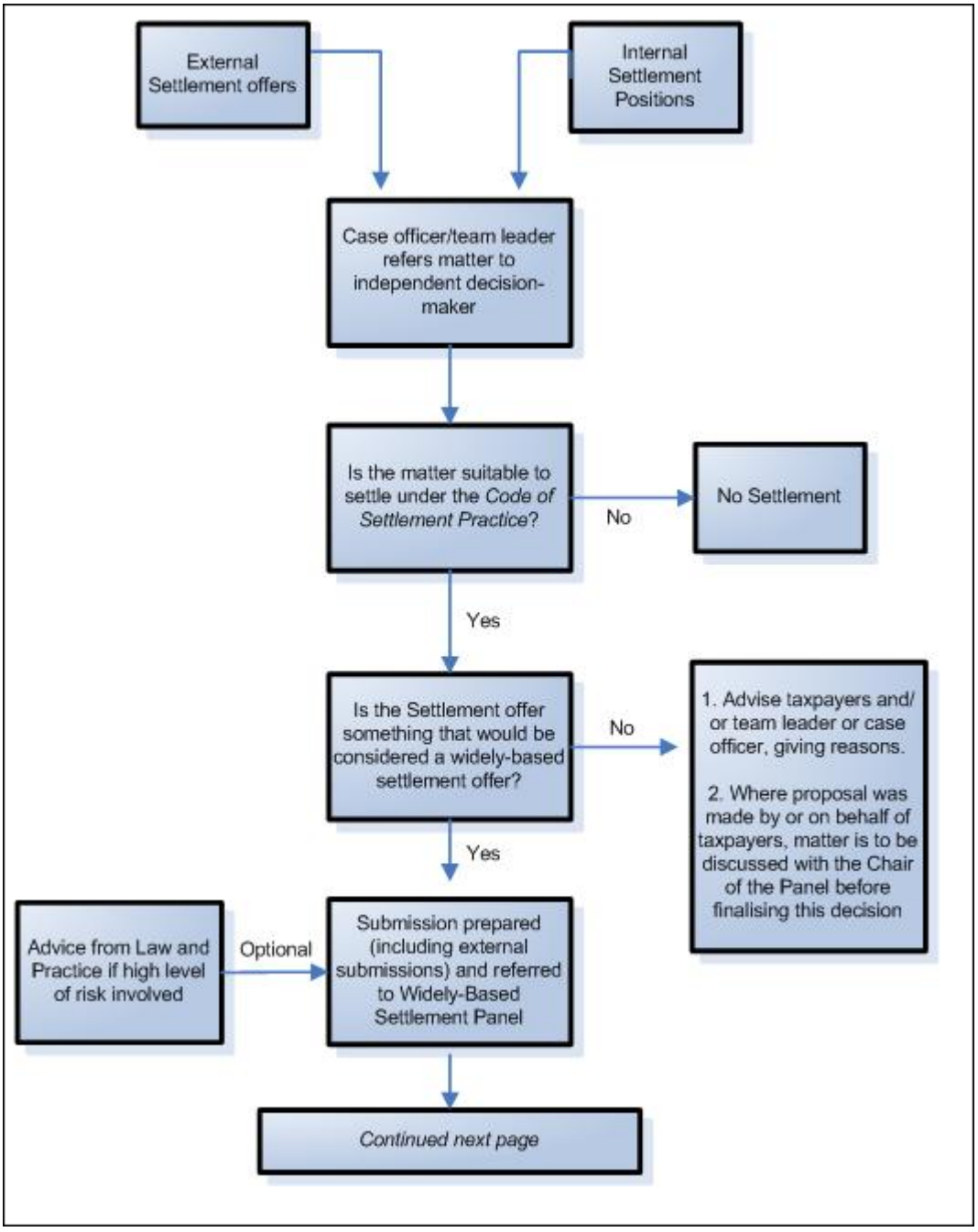
49. These matters are dealt with in the *Code of Settlement Practice* which all decision-makers are required to apply. However, the Panel will conduct regular reviews of the settlements it has endorsed to determine the success or otherwise of the proposal in order to better inform future decisions.

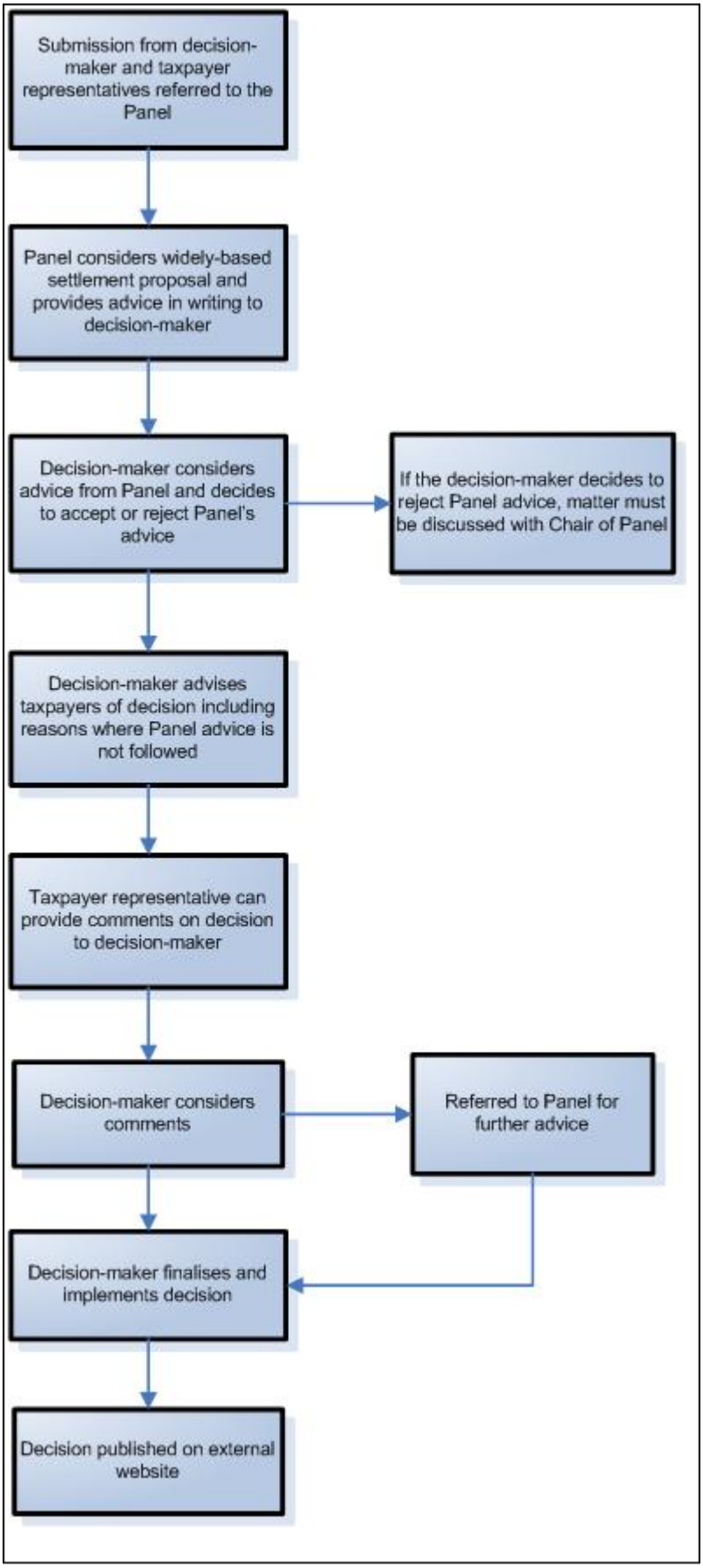
**Application**

50. This practice statement applies to widely-based settlement proposals arising after 18 November 2004.

51. This practice statement also applies to widely-based settlement proposals that were under consideration as at 18 November 2004.

**Attachment 1: Referral Process**




Submission from decision-maker and taxpayer representatives referred to the Panel
Panel considers widely-based settlement proposal and provides advice in writing to decision-maker
Decision-maker considers advice from Panel and decides to accept or reject Panel's advice
If the decision-maker decides to reject Panel advice, matter must be discussed with Chair of Panel
Decision-maker advises taxpayers of decision including reasons where Panel advice is not followed
Taxpayer representative can provide comments on decision to decision-maker
Decision-maker considers comments
Referred to Panel for further advice
Decision-maker finalises and implements decision
Decision published on external website

## Attachment 2: Format to be used for Panel Submissions

### WIDELY-BASED SETTLEMENT PANEL SUBMISSION

*This proposal is to be sponsored by the properly authorised decision-maker*

## Cover details

**Date:**

**Name of arrangement:**

**Name of Decision-maker:**

**Position:**

**Phone number:**

**Name of National Program Manager (if appropriate):**

**Position:**

**Phone number:**

**Business Line or Capability SES/Director:**

**Position:**

**Phone number:**

==========

### This section to be completed by the decision-maker

*Note: the Decision-maker will prepare a separate report summarising their decision to refer the matter to the Panel.*

| | |
|---|---|
| **Properly authorised decision-maker:** | |
| | |
| **Date approved for referral:** | |

## *Part A: Executive summary of submission*

Insert key dots points from each of the parts B - G under the following headings:

Background to settlement proposal

[Please include key points from Part B here]

Description of base settlement proposal

[Provide a summary of the base settlement offer from Part C here]

Differentiations to base settlement proposal

[Provide a summary of any differentiations to the base settlement offer from Part D here]

Individual settlement proposals

[Provide a summary of any how individual settlement proposals taking into account unique individual circumstances will be managed from Part E here]

Background to impact of settlement proposal

[Please include key points from Parts F here]

Consideration of settlement issues

[Please include key points from Parts G here]

Recommendation of decision-maker

[Please include key points from Parts H here]

## *Part B: Background to Settlement Proposal*

**Who has made the settlement offer and why?**

State whether the proposal was initiated by the ATO, by taxpayers or by taxpayer representatives.

Please include with this submission all settlement submissions received from taxpayers or their representatives for the Panel to consider. Where there are a number of submissions, please include a representative set of submissions.

**Brief description of background to the settlement offer**

This will include:

- if you are recommending any remission of SIC or GIC due to unreasonable ATO delay include a timeline of events clearly showing the period of unreasonable ATO delay
- ATO actions to date (for example, whether and when amended assessments were issued)
- taxpayers' actions to date (for example, whether objections been lodged), and
- whether the taxpayers are part of a common group (for example, clients of same accounting firm, or participants in same scheme or arrangement).

More detailed documents explaining the background (for example, position papers or legal options) may be attached.

**Role of promoters in determining participant's level of culpability**

Who were the promoters of the arrangement? Was the arrangement targeted at select knowledgeable participants? If not, who was the arrangement targeted at? How much did the participants rely on the advice of the promoters and their associates? Did the promoters have any sort of tax advice from the ATO which they were using to encourage participation? What if any action is being taken against the promoters?

**Clarification of legal issues**

Has this arrangement been considered by the Courts? If yes, provide a brief summary of outcome. If no at what stage is litigation? (that is, still amending to disallow, have begun determining objections or several cases in AAT first likely hearing date will be **/**/**)

Is there a lead case or test case for this matter? If so what stage is it at?

## *Part C: Description of base settlement proposal*

**Brief description of base settlement proposal**

Please advise who this settlement offer will be available to (for example, only available to taxpayers in dispute with ATO) and any timeframes for accepting the settlement offer.

Provide here details of the various settlement terms proposed and the reasoning for offering each of these terms.

## *Part D: Differentiation to base settlement proposal*

**Brief description of each differentiation to the base settlement proposal**

If you are proposing a different settlement proposal to some participants in the arrangement, the reasons for each differentiation from the proposed base settlement proposal should be provided here. (Please ensure that participants who will be subject to this differentiation are clearly defined.)

Examples of when you may want to contemplate a different proposal to groups of taxpayers within the overall arrangement would be:

1. Promoters – those who designed, prepared, and managed the scheme including directors and office bearers of an entity which managed the investment or sold the arrangement.
2. Tax advisers, financial planners and others who whilst not involved in the design, preparation and management of the scheme did sell the scheme.
3. Taxpayers within the arrangement who undertook further tax mischief within the arrangement.
4. Taxpayers with a poor compliance history.

## *Part E: Unique individual settlements*

**Brief description of each differentiation to the base settlement proposal**

While common individual circumstances are used to form the base settlement proposal, unique individual circumstances are matters for consideration by the decision-maker. However, as outlined in paragraph 26 please include here details of procedures to ensure that taxpayers have the opportunity to raise unique individual circumstances.

## *Part F: Impact of settlement proposal*

**Impact on clients – potential numbers affected**

| | DIRECT | INDIRECT |
|---|---|---|
| Individuals: | | |
| Micro: | | |
| SME: | | |
| Large: | | |
| Not for Profit: | | |

**Likely tax effect of Settlement**

Outline the tax effect on a typical affected taxpayer in the group of taxpayers to be included in the proposed settlement offer. Outline more than one tax effect if differentiations in the base settlement are being considered.

**Potential impacts on revenue, business and industry**

*Note: For revenue include $ and product – Income Tax, GST, FBT, Super, Excise, other)*

## *Part G: Consideration of settlement Issues*

**Factors considered in determining whether appropriate to settle**

The decision-maker is to have regard to the *Code of Settlement Practice* and PS LA 2007/6 *Guidelines for settlement of widely based tax disputes* in outlining the circumstances that were taken into account in referring the matter to the Panel.

Arguments for and against should be listed here.

Comments to be provided for consideration by the Panel include:

1. The clarity of the ATO view on the matter and the basis of settlement of previous like matters.
2. The nature of the dispute and level of tax mischief involved.
3. The likely impact of a settlement on community confidence.
4. Special circumstances of the affected taxpayers as a whole.
5. The likelihood of the offer being accepted by affected taxpayers and what is the compliance effect that will be generated by the widely-based offer.

6. The primary tax, rate of penalty and interest charges that should be offered in the widely-based settlement offer given the above five factors.

7. The extent to which the settlement proposal is consistent in the application of factors and outcomes to similar settlements.

8. Any special terms or conditions that are appropriate to form part of the settlement.

## *Part H: Recommendation of the decision-maker*

Recommendation of the decision-maker:

**Amendment history**

| Date of amendment | Part | Comment |
|---|---|---|
| 13 June 2013 | Contact details | Updated. |
| 19 October 2012 | Contact details | Updated. |
| 21 May 2012 | Paragraph 28 | Removed old paragraph 28: role of TCN Network. |
| | Paragraph 35 | Updated following the issue of PS LA 2012/1. |
| | Attachment 1: Referral Process | Updated following the issue of PS LA 2012/1. |
| | Contact details | Updated. |
| 15 November 2011 | Contact details | Updated |
| 30 June 2011 | Paragraph 35 | Updated 'ATO settlement Register' to 'Siebel case management system'. |
| | Other references | Additional hyperlinks to guidelines included. |
| 9 November 2010 | Contact details & general update | Updated contact details & changed reference to Tax Officer to ATO throughout the document. |
| 31 May 2010 | Contact details | Updated. |
| 20 August 2008 | Contact details | Updated. |
| 6 August 2008 | Contact details | Updated. |
| 8 February 2008 | Contact details | Updated. |

| | |
|---|---|
| Subject references | disputes<br>settlement<br>widely-based |
| Related practice statements | PS LA 2007/5<br>PS LA 2012/1 |
| Other references | Guidelines for what is not a settlement for the purposes of the Code of Settlement Practice (link available internally only)<br>Pre-settlement position: a guide (link available internally only)<br>Review into aspects of the ATO's settlement of active compliance activities<br>Glossary of settlement terms (link available internally only)<br>Guide for determining settlement parameters (link available internally only) |
| File references | 06/20384<br>1-385IFLG |
| Date issued | 21 February 2007 |
| Date of effect | 18 November 2004 |
| Other Business Lines consulted | All |