PS LA 2008/13 (Withdrawn) - ATO Receivables Policy

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Law Administration Practice Statement PS LA 2008/13 was withdrawn on 5 December as effective on 7 November 2013. PS LA 2008/13 is no longer required as the policies previously published under the ATO Receivables Policy have either been archived or published as practice statements.

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Practice Statement Law Administration

PS LA 2008/13

This practice statement was originally published on 28 August 2008. Versions published from 18 June 2009 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 obtained from the Corporate Policy and Process Unit in Law and Practice.

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FOI status: may be released

This practice statement is issued under the authority of the Commissioner of Taxation 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 is considered incorrect. Where this occurs Tax Office staff must follow their business line's escalation process.

SUBJECT: **ATO Receivables Policy**

PURPOSE: **To**

- **prescribe the mandatory use of the *ATO Receivables Policy***
- **provide direction on the processes that must be followed in the development, review and publication of policy chapters, including the roles and responsibilities involved in the editorial clearance, technical clearance, approval and publishing processes.**

Table of contents **Paragraph**

STATEMENT **1**

Currency of the Policy 5

Review Process 8

Types of review 8

Half yearly reviews 9

Changes in legislation, case law or Tax Office policy 10

As a result of feedback 11

Business rules 15

Responsibilities 17

The general responsibilities of the policy area 18

The roles and responsibilities of the Policy co-ordinator 19

The roles and responsibilities of technical reviewers 20

The roles and responsibilities of cross line representatives 22

The roles and responsibilities of editorial reviewers 23
Types of changes 24
Approval process 27
New chapters 30

STATEMENT

1. In April 2011 the majority of the policy chapters in the *ATO Receivables Policy* (Policy) were transferred into Law Administration Practice Statements. This practice statement PS LA 2008/13, continues to operate in relation to the remaining two chapters:

   Chapter 34 – contains the administrative policy of the ATO relating to goods and services tax and the special rules that apply in particular circumstances. It also details the policy relating to collection of excess rebates claimed under the wine equalisation tax law.

   Chapter 35 – contains the administrative policy in relation to the collection of group liabilities from consolidated entities.

2. A link to the Policy is contained in the other references section at the conclusion of this practice statement.

3. Tax Office staff must follow the administrative policies outlined in the 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 Office staff 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 are to be escalated for review (together with documented reasons for any proposed changes) in accordance with the escalation process of the relevant business line and then sent by email to Complex Law and Administrative Policy in Operations at the following address: ATOReceivablesPolicy@ato.gov.au (Policy Mailbox).

Currency of the Policy

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

6. Tax Office staff who require previous versions of the Policy should contact Operations Complex Law and Administrative Policy at the email address provided in paragraph 4 of this practice statement.

7. Where there is any reason to doubt the currency, correctness or application of the information contained in this Policy, or for any other reason, please escalate for review (together with documented reasons for any proposed changes) in accordance with the escalation process of the relevant business line.

Review Process

Types of review

8. Changes to chapters may be required for a number of reasons including; as a result of a half yearly review, changes to legislation, case law or Tax Office policy, or as a result of feedback.

Half yearly reviews

9. This review process is initiated by the Policy co-ordinator and undertaken 6 months after the last review date for the chapter. The relevant policy area will undertake the review and either update or provide assurance that the chapter is still current.

Changes in legislation, case law or Tax Office policy

10. When there are changes to legislation, case law or Tax Office policy, impacted chapters of the Policy should be updated as soon as possible.

As a result of feedback

11. Both external parties and Tax Office staff may provide feedback/propose changes to any aspect of the Policy at any time. Feedback and proposed changes should be directed to the Policy Mailbox.

12. As prescribed in paragraph 7 of this practice statement Tax Office staff should adhere to the escalation process applicable to their business line.

13. Dependant upon the type of feedback/proposed change the policy area may decide to include any changes in the half yearly review process or update the chapter immediately.

14. All feedback/proposed changes will be acknowledged and a response provided.

Business rules

15. The business rules that are linked to this practice statement specify the procedures and practices to be followed to ensure the timely and effective updating of the Policy chapters.

16. A link to the business rules is provided for internal use by Tax Office staff in the other references section at the conclusion of this practice statement.

Responsibilities

17. The responsibilities below should be read in conjunction with the procedures and processes outlined in the business rules.

The general responsibilities of the policy area

18. The policy area that has ownership for a Part of the Policy is responsible for reviewing and updating the chapter in accordance with the procedures outlined in the Business Rules. This includes consulting with stakeholders, ensuring the currency of the chapter by completing reviews within agreed timeframes and that the information contained in the chapters is consistent with the S*tyle guide* and the *Tax Office Standard for Citations and References*.

The roles and responsibilities of the Policy co-ordinator

19. The role of the Policy co-ordinator is to ensure the efficient and effective updating of the Policy. The Policy co-ordinator is responsible for managing the half yearly review process, as well as ensuring the appropriate approval processes have been followed for each chapter update. The Policy co-ordinator also has responsibility for maintaining a register of chapters including status and ensuring the appropriate archival of chapters.

The roles and responsibilities of technical reviewers

20. The primary role of the technical reviewers is to review the information contained in the chapter to ensure that it is technically correct.

21. The technical reviewer can also suggest changes to formatting and language to improve the readability of the document. However, suggested formatting and language changes are not mandatory changes that are required to be made before technical clearance is obtained.

The roles and responsibilities of cross line representatives

22. Cross line representatives co-ordinate, review and provide policy clearance of chapters within agreed timeframes. Cross line representatives are only responsible for clearing information which impacts on their business line.

The roles and responsibilities of editorial reviewers

23. The tax officers who provide editorial clearance must ensure the content of a chapter aligns with the agreed tone and language for the policy document and is consistent with the S*tyle guide* and the *Tax Office Standard for Citations and References*.

Types of changes

24. The approval process that will be followed for each change depends on the type of change being made. A change to a chapter can either be a minor or a significant change.

25. A minor change is considered to be a change to formatting, language, grammar or spelling or correction of typographical errors. Minor changes also include changes to wording that do not affect the substance of the document.

26. A significant change is a new policy, a change to an existing policy, or a change that is not a minor change.

Approval process

27. The approval process followed will be dependant upon whether the change made is either a minor or significant change.

28. For both minor and significant changes, sign off is required at the Director level.

29. For a significant change the following clearance will be required:

    - Editorial clearance

- Technical clearance from the area within the business line responsible for providing technical advice.
- Cross line policy clearance from Excise, GST, Micro Enterprises and Individuals, Superannuation, Small and Medium Enterprises, Large Business and Internationals, Law and Practice, Tax Practitioner and Lodgment Strategy (TPALS), and Debt and Client Accounting Services (CAS).
- If there is sufficient risk involved with the change, final technical clearance is to be provided by Law and Practice.[1]
- One or more of the following: Deputy Commissioner Debt; Deputy Commissioner CAS and/or Deputy Commissioner TPALS.

New chapters

30. Where it is identified that a new chapter should be included in the Policy a request, along with supporting documentation should be sent to the Policy Mailbox for consideration.

31. As prescribed in paragraph 7 of this practice statement Tax Office staff should adhere to the escalation process applicable to their business line when requesting a new chapter be incorporated into the Policy.

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

Amendment history

Date of amendment	Part	Comment
5 December 2013		Withdrawn
26 April 2012	Paragraph 29 and footnote 1	Updated to reflect the implementation of the TTTDM model and the issue of PS LA 2012/1.
20 July 2011	Paragraph 1	Minor change to alert the move of policy to LAPS format and change coverage to the 2 remaining chapters.
17 February 2010	Heading (Purpose)	Further detail added
	Paragraphs 4, 6, 18, 27 and 28	Minor amendments to reflect name changes and update contact sources
	Paragraph 23	Paragraph inserted 'The roles and responsibilities of editorial reviewers'
	Paragraph 29	Updated to include editorial review
18 June 2009	Paragraph 28	Minor changes to update naming conventions

Subject references	bankruptcy compromise of tax debts credit offset disputed debts general interest charge interest for early payment interest on overpayments garnishees judgement debts late payments lodgment compliance lodgment of tax returns Mareva injunctions penalties recovery of tax refunds remission of penalties securities shortfall interest charge
Legislative references	Refer to each chapter for relevant legislative references
Related public rulings	
Related practice statements	PS LA 2006/11 ATO Receivables Policy (withdrawn 28 August 2008)
Case references	Refer to each chapter for relevant case references
Other references	*ATO Receivables Policy* *ATO Receivables Policy* (link available internally only) *Business Rules* (link available internally only)
File references	08/9611
Date issued	28 August 2008
Date of effect	28 August 2008
Authorised by	Raelene Vivian
Other Business Lines consulted	Excise, GST, MEI, Superannuation, LBI, TPALS, TCN