PS LA 2011/20 - Payment and credit allocation

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This document has changed over time. This version was published on *5 September 2013*

Australian Government
Australian Taxation Office

Practice Statement Law Administration

PS LA 2011/20

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: **Payment and credit allocation**

PURPOSE: **This practice statement outlines the payment and credit allocation policy to be applied to taxpayer accounts by the Australian Taxation Office (ATO).**

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BACKGROUND

1. This practice statement outlines the payment and credit allocation policy to be applied by tax officers. It includes general statements of policy regarding payment and credit allocation as well as specific rules for a range of payment and credit situations. Also discussed is the discretion available to the Commissioner to disregard taxpayers' instructions regarding their preferred allocation of amounts to specific debt/s.

2. In making decisions on the allocation of payments and credits tax officers must give consideration not only to this practice statement but also to the particular facts of a case. 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, and must not be made at the direction of another person. (The decisions and actions taken by tax officers must be consistent with the commitments made by the ATO in the Taxpayers' Charter. Tax officers are also expected to follow Corporate Management Practice Statement PS CM 2007/01 *Respecting clients' rights for review.*)

3. The common law provides that a person who owes two debts to the same person is entitled to appropriate a payment to one debt rather than another. If the person does not make an appropriation at the time of payment, then the creditor may make the appropriation. In some instances, the taxpayer may not have made an appropriation, but it is clear from the amount of the payment that it is to be allocated to a specific debt. If neither the taxpayer nor the ATO makes specific appropriation, the payment will normally be regarded as having been allocated against the earliest debt.

4. However, common law principles regarding allocation of payments and credits have been modified by legislation, for example section 8AAZLE of the *Taxation Administration Act 1953* (TAA). Section 8AAZLE of the TAA provides that the Commissioner is not required to take account of any direction of any entity when allocating payments and credits. For example, this provision allows the Commissioner to apply a payment made by a taxpayer which was for less than the full amount of the business activity statement (BAS) towards other earlier debts.

Accounts

5. Depending on a taxpayer's reporting responsibilities, their tax obligations may be recorded under several different account types and maintained on different accounting system platforms that may include the integrated core processing (ICP) system and the ATO integrated system (AIS). For example, the ATO maintains:

   - an income tax account which records annually assessed income tax obligations together with related penalties and charges, and
   - an integrated client account which records obligations notified via an activity statement, including the pay as you go (PAYG) instalment amounts and any associated penalties and charges of which the ATO is required to notify a taxpayer.

6. Other accounts include those that record the superannuation guarantee charge (SGC) and annually assessed fringe benefits tax (FBT).

How payments can be made by taxpayers

7. Taxpayers are obliged to make payments in relation to their liabilities by the due date. Taxpayers make payments for their liabilities/debts by sending payment:

   - electronically via electronic funds transfer (EFT)
   - via Australia Post – using a personalised payment slip or, for those taxi drivers who are registered for goods and services tax (GST), using an Activity Statement Payment Card (a plastic payment card for business activity statement (BAS) prepayments only)
   - via BPAY – using an appropriate ATO biller code and payment reference number (PRN)
   - via credit card using the EFT code or PRN
   - via mail – using cheque or postal order, with accompanying personalised payment advice form or letter.

8. Subregulation 18(3) of the *Taxation Administration Regulations 1976* (TAR) specifies that a taxpayer must pay the amount of the debt in one payment unless the Commissioner agrees to allow the taxpayer to make more than one payment to satisfy the debt. However, in practice, payments are allocated to the appropriate accounts based on the method in which the payment is received.

9. From time to time a taxpayer may purport to attach certain conditions to payments (for example, that the Commissioner permit some arrangement or not take some action). In some cases, a letter accompanying the taxpayer's payment may be phrased in such a way as to imply that banking of the cheque denotes acceptance of stipulated conditions. The banking of a cheque does not bind the ATO to the terms stipulated by the taxpayer. Moneys tendered need not be returned to the taxpayer, but advice should issue as soon as possible, informing the taxpayer that the amount is being retained unconditionally as payment towards their outstanding debt.

10. The stipulated conditions may instead be treated as a proposal to the ATO and, where this is the case, the taxpayer will also be advised whether this proposal is acceptable or not. For example, the taxpayer's proposal may outline the time that they would like to pay their tax debts. Accepted proposals will usually be subject to additional conditions outlined by the ATO (for example, that where any amount is not paid by the original due date, general interest charge (GIC) will accrue).

11. Taxpayers sometimes offer payment of a tax debt in foreign currency. Subregulation 18(1) of the TAR stipulates that tax debts must be paid in Australian currency.

12. In some circumstances, the administrator of an insolvent company, that may have no significant assets that could be realised to pay a reasonable dividend to creditors, may offer equity in the company to creditors where it is possible the company can trade out of its difficulties.

13. The ATO is not prevented from accepting property in payment of tax where it is appropriate for maximising the collection of revenue. However, the ATO cannot be compelled to accept property[1] except by law. A binding deed of company arrangement entered into under the provisions of Part 5.3A of the *Corporations Act 2001* may compel the Commissioner to accept property such as shares in satisfaction of his rights as a creditor. This is discussed further in Law Administration Practice Statement PS LA 2011/16 *Insolvency – collection, recovery and enforcement issues for entities under external administration*.

14. For the purposes of taxation laws, a payment in respect of a tax debt is taken not to have been made until it is received by the ATO or a person acting on behalf of the Commissioner (section 8AAZM of the TAA).

TERMS USED

Note: Following changes to the law effective from 1 July 2012, a system of self assessment now applies to the reporting of indirect tax amounts (including GST) in an activity statement. For the purposes of this practice statement any reference to assessed net amounts can be read as relating to net amounts for tax periods prior to 1 July 2012.

15. The following terms are used in this practice statement:

Additional charges (or the GIC) – means the general interest charge, worked out in accordance with Part IIA of the TAA, that a person is liable to pay when a provision of an Act, of which the Commissioner has general administration, makes the person liable. For example, a person is liable to pay the charge if an amount that the person must pay to the Commissioner is not paid on time.

Additional superannuation guarantee charge – applies to a period (annual or quarterly) and is comprised of the shortfall late payment penalty (LPP)/GIC, penalty under Part 7 of the *Superannuation Guarantee (Administration) Act 1992* (SGAA) and the Part 7 of the SGAA penalty and related LPP or GIC. (LPP does not apply to quarterly additional superannuation guarantee charge.)

BAS – business activity statement.

BAS amounts – any debts or credits that arise directly under the BAS provisions.

BAS provisions – means:

- Part VII of the *Fringe Benefits Tax Assessment Act 1986*
- the indirect tax law (the GST law, the wine equalisation tax law, the luxury car tax law and the fuel tax law), and
- Parts 2-5 and 2-10 of Schedule 1 to the TAA (which are about the PAYG system).

Contributing member – an entity that was a subsidiary member of a group for at least part of the period to which the group liability relates.

Credit – includes an amount that the Commissioner must pay to a taxpayer under a taxation law, whether or not described as a credit.

Excess non-RBA credit – will exist when the payment or credit is greater than the non-RBA tax debt to which it has been allocated.

[1] The ATO will usually vote against any resolution that may result in a transfer of property rather than in payment of money.

Excise claims – include applications for refunds or drawbacks by entities that conduct business activities with controlled commodities, more specifically:

- refunds occur where excise duty has been overpaid and the client is entitled to a refund of the amount of overpaid duty, and
- drawbacks occur where excise duty has been paid and the goods have been exported and the client is entitled to a refund of the amount of duty paid.

Excise fuel payment schemes – means any of the following:

- Diesel and alternative fuels grants scheme
- Diesel fuel rebates payable under either the *Excise Act 1901* or the customs diesel fuel rebate provisions of the *Customs Act 1901*
- Fuel sales grants scheme
- Product stewardship (oil)
- Energy grants (credits) scheme.

Family tax benefit (FTB) debt – is an amount payable under *A New Tax System (*Family *Assistance) (Administration) Act 1999*.

Grants Scheme debt – is an amount payable under t*he Diesel and Alternative Fuels Grants Scheme Act 1999* and/or the *Product Grants and Benefits Administration Act 2000*.

Group liability – is one of the tax-related liabilities referred to in subsection 721-10(2) of the *Income Tax Assessment Act 1997* (ITAA 1997). A group liability includes a PAYG instalment amount and the assessed amount of an annual income tax assessment.

IAS – instalment activity statement.

Integrated Core Processing (ICP) – an accounting system used within the ATO.

ITXSA – means an indirect tax sharing agreement.

ITXSA contribution amount – in respect of a particular indirect tax law liability is the amount allocated to a participant of a GST joint venture or a member of a GST group under an indirect tax sharing agreement.

Net fuel amounts – arise under section 60-5 of the *Fuel Tax Act 2006*. A net fuel amount worked out in accordance with section 60-5, if greater than zero, is a debt payable to the Commissioner.

Non-RBA tax debt – means a primary or secondary tax debt but does not include an RBA deficit debt. A debit assessment for income tax or a debit assessed net amount in respect of a tax period for indirect tax and the GIC payable as a result of paying these amounts after they are due for payment are examples of non-RBA tax debts.

Primary tax debt – means any amount due to the Commonwealth directly under a taxation law, including any such amount that is not yet payable. Primary tax debts are usually allocated to an RBA where they then are combined with other primary tax debts, payments and credits to form the balance of that RBA. For example, a primary tax debt includes a debit assessment for income tax and the GIC that would accrue as a result of paying this amount after it is due for payment. An RBA deficit debt is also a primary tax debt.

RBA – means a running balance account established under section 8AAZC of the TAA to keep account of the primary tax debts, payments and credits allocated to that RBA. For the purposes of establishing an RBA, GIC that has accrued in relation to non-RBA tax debts and an RBA deficit debt cannot be allocated to an RBA (an RBA deficit debt is subject to GIC under section 8AAZF of the TAA).

RBA deficit debt – means a balance on an RBA in favour of the Commissioner, where the total amount of due and payable primary tax debts allocated to the RBA are greater than the payments and credits allocated to that RBA.

RBA surplus – means a balance on an RBA in favour of the entity, where the primary tax debts allocated to the RBA are less than the payments and credits allocated to that RBA.

Remittance provisions – include a payer's obligation to withhold amounts and pay them to the Commissioner as set out at Subdivision 16-B of Schedule 1 to the TAA and the various provisions of the *Income Tax Assessment Act 1936* (ITAA 1936) that require a taxpayer to remit:

prior to 1 July 2000:

- deductions made from reportable payments
- tax instalment deductions made from payments of salary and wages
- deductions from prescribed payments
- deductions made from natural resource payments or unattributed payments; and
- dividend, interest and royalty withholding taxes

on or after 1 July 2000:

- a payer's obligations to pay amounts withheld under the PAYG withholding system.

Secondary tax debt – means an amount that is not a primary tax debt, but is due to the Commonwealth in connection with a primary tax debt (for example, an amount due to the Commonwealth under an order of a court made in a proceeding for recovery of a primary tax debt).

Shortfall interest charge (SIC) – replaces GIC on shortfall amounts from the due date of the earlier understated assessment until the day before the amended assessment issues, where 2004-05 and later year income tax assessments are amended increasing the taxpayer's liability. Section 280-105 of Schedule 1 to the TAA provides the formula for calculation of the charge. It is based upon a base interest rate and uplift factor of 3%.

Superannuation excess contributions tax assessment – means an assessment of excess concessional contributions tax or excess non-concessional contributions tax assessed under Division 292 of the ITAA 1997.

Superannuation guarantee charge – applies to a period (annual or quarterly) and is comprised of superannuation guarantee shortfall, nominal interest and the administration component.

Tax debt – means a primary tax debt or a secondary tax debt. It includes grants scheme debts administered under the provisions of the *Product Grants and Benefits Administration Act 2000* but not grants scheme debts under the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

Tax-related liability or liability – is a term used to define any pecuniary liability to the Commonwealth arising directly under a taxation law (including a liability the amount of which is not yet due and payable). It encompasses all types of taxes, penalties and additional charges for late payment, (including amounts previously defined under the ITAA 1936 as 'tax' and under the SGAA as 'superannuation guarantee charge'). A table which lists the tax-related liabilities is found at section 250-10 of Schedule 1 to the TAA. This includes excise and diesel fuel rebate debts administered under the provisions of the *Excise Act 1901*, diesel fuel rebate debts administered under the 'diesel fuel rebate Customs provisions' of the *Customs Act 1901*, grants scheme debts administered under the provisions of the *Diesel and Alternative Fuel Grants Scheme Act 1999* and the *Product Grants and Benefits Administration Act 2000*, and net fuel amount debts arising under the *Fuel Tax Act 2006*.

TSA – means a tax sharing agreement.

TSA contributing member – is a contributing member that is party to a tax sharing agreement.

TSA contribution amount – in respect of a particular group liability is the amount allocated to a TSA contributing member under a tax sharing agreement.

Unmatched payment – Unmatched payment is a term used to describe where a payment does not equal the amount of a particular tax debt for a period or a combination of tax debts for a period.

STATEMENT

Allocating payments

16. The ATO can allocate payments using the discretion available in section 8AAZLE of the TAA rather than by taking into account the taxpayer's instructions.

17. In the absence of a valid reason to make an exception, the policy will be that:

- all payments will be allocated to earliest (oldest) debts within an account,

except

- where the payment relates to a 'Listed Payment'.

18. Payments representing the full amount of a taxpayer's obligations notified on a form (for example, a notice of assessment or statement of account) are usually applied to the taxpayer's account in accordance with the taxpayer's directions. This is generally achieved via a PRN that accompanies the payment. For example, the PRN is usually provided by the taxpayer on the payment slip or keyed in at the time when an electronic payment is made.

Reallocating payments

19. The Commissioner can choose to set aside a taxpayer's instructions and can apply the payment against tax debts recorded within an account in accordance with the order of allocation outlined in this practice statement. The order may sometimes be contrary to a taxpayer's wishes. For example, a payment for less than the full amount of a current obligation may instead be applied to older debts maintained on the same account. Also, certain payments are required by legislation to be matched with specific component debts (for example, payments in relation to SGC incurred for a quarter generally must be applied to nominal interest before the other components of the SGC).

20. Tax officers should advise taxpayers as soon as possible if payments are allocated differently (that is, using the Commissioner's discretion under section 8AAZLE of the TAA) to the manner requested or indicated by them.

21. Payments that have been allocated to an account may need to be transferred where, following an error by the taxpayer or the ATO, they have been allocated to an account different to the one that the taxpayer had originally intended. This may occur in situations where:

    - the taxpayer supplied the wrong personalised payment advice form or used an incorrect PRN, or
    - the ATO interpreted instructions in a letter incorrectly (subject to the policy outlined in this document) or there was a disruption with ATO processes.

22. Accordingly, these payments may need to be transferred to another account of the taxpayer (for example, from a taxpayer's IT account to the same taxpayer's integrated client account containing BAS obligations) or to a related taxpayer's account (provided it is legal to do so). Most of these situations arise where taxpayers request the ATO to correct the error and such requests (if appropriate) are usually followed.

23. Common examples that may call for reconsideration of which specific tax debt to apply a payment against include:

    - where a payment does not finalise all outstanding tax debts
    - a reconciliation of an account by matching payments and liabilities, which is required to isolate certain component debts in an account, for example, when ascertaining an amount payable by directors in relation to a director penalty notice (see Law Administration Practice Statement PS LA 2011/18 *Enforcement measures used for the collection and recovery of tax related liabilities and other amounts*)
    - listed payments (see paragraphs 28 and 47 to 91 of this practice statement) which are required to be identified or matched as separate component liabilities, or quarantined.

24. Payments received for reported PAYG withholding liabilities of a particular financial year will not be reallocated towards estimates raised for periods throughout that year that are the result of a reconciliation discrepancy. This recognises that, although the due date for the estimate liability will be the same as the due date of the underlying liability previously notified, the estimate liability was not an existing liability at the date of the payment.

25. A payment received for a greater amount than the balance of the account to which it is allocated will result in a surplus. This surplus will then be allocated as listed in the order of allocation (see paragraph 46 of this practice statement). ATO systems will generally offset credits automatically against a taxpayer's other outstanding debts, although a manual offsetting process can apply in certain situations.

26. Where a payment exceeds the balance on the account it was initially allocated to, the remaining credit from that payment would then be allocated against the earliest, SGC debt, if any, due for payment as listed in the order of allocation (see paragraph 46 of this practice statement). Any remaining credit continues to be allocated against any unpaid tax debts as listed in the order of allocation (see paragraph 46 of this practice statement). Once all outstanding debts (including certain other Commonwealth debts) are extinguished, any remaining balance is able to be refunded.

Other Commonwealth debts

27. Where there are no unpaid tax debts to allocate or apply a payment or a credit against, before any amount is refunded to a taxpayer it will be allocated:

- firstly to any family tax benefit debts, provided the refund relates to income tax

  then to

- any child support debts as notified by the Child Support Agency

  then to

- debts in relation to Social Security, Family Assistance or Student Assistance where a garnishee has been received from Centrelink.

Special allocation rules (Listed Payments)

28. Some payments are subject to specific rules with regards to their allocation. These payments are referred to as 'Listed Payments':

Listed Payments

- full payment of taxation obligations
- arrangements to pay tax-related liabilities by instalments
- administrative overpayment
- payment agreements made under former section 222ALA of the ITAA 1936 prior to 1 July 2010
- payment of company liabilities arising under a remittance provision
- director penalty liabilities
- disputed tax debts
- current legal proceedings
- secondary tax debts such as judgment debts and associated costs
- garnishee notices
- voluntary payments
- dividends received from insolvency administrations
- head company group liabilities and TSA contribution amounts

- GST joint venture or GST group ITXSA contribution amounts
- SIC
- late payment GIC
- SGC payments
- superannuation excess contributions tax payments

Allocating credits

29. Credits, other than payments, can arise on a taxpayer's account as a result of account adjustments and in relation to credit entitlements at law. These include transfers, lodgment of a BAS/IAS or income tax return and credit assessments via amendments.

30. Generally the policy for credits is that they will be:

- allocated first to the account from which they originate, and
- any excess will then be offset as listed in the order of allocation (see paragraph 46 of this practice statement).

Special allocation rules (Listed Credits)

31. However, credits are often subject to specific rules with regard to their allocation. These credits are referred to as 'Listed Credits'.

Listed Credits

- PAYG credits allocated to any of: higher education contribution scheme (HECS) assessment debts, compulsory repayment amounts arising under the *Higher Education Support Act 2003* (HESA) or student financial supplementary scheme (SFSS) assessment debts as described in the *Student Assistance Act 1973* (SAA)
- credits for instalments such as GST instalments, PAYG instalments and FBT instalments or for amounts withheld
- assessed GST net amounts less than zero
- assessed net fuel amounts less than zero
- credit in respect of excise fuel payment schemes and other excise claims
- credits arising from delayed refund interest and interest on overpayments and early payments
- credits arising from account adjustments (including SIC and GIC remission)
- excess imputation credits
- credits relating to excess baby bonus – tax offset
- credits relating to or arising from FTB
- credits arising from HESA overpayments
- credits in relation to pre-insolvency periods
- credits in relation to post-insolvency periods
- credits in relation to GST groups

- credits in relation to GST joint ventures
- credits in relation to GST and PAYG withholding branches
- credits in relation to consolidated groups
- credits in relation to refunds of excess concessional contributions

Payment and credit allocation for FBT and income tax accounts in ICP

32. ICP automatically applies 'unmatched payments' and credits in an order which is fundamentally different to the order of allocation applied to non ICP accounts.

33. It is important to remember the CARPAT structure of ICP:

    - client
    - account
    - role
    - period
    - assessment
    - transaction,

    when applying payments in ICP. This is because, for unidentified payments and excess credits, ICP tries to match payments to higher level debts within the CARPAT structure before it tries to find matching balances at lower levels. For example, ICP will initially look to match a payment against the balance owing for a particular period before, if unsuccessful, looking to match a payment against a particular tax debt within a period.

34. ICP requires debts of a particular role type to be satisfied before any excess credits can be offset against debts of another type. Consequently, the ICP role allocation hierarchy rules have been developed.

35. Payments are allocated in ICP using the PRN which includes a two digit payment processing indicator (PPI) which specifies the method by which a payment is allocated to the account. Generally:

    - Account level documents such as a statement of account will show an account level PPI of '21'.
    - Role level documents such as a notice of assessment will show a PPI specific to the role from which it was generated. A payment accompanying a role level PPI, will not on its own, result in the payment being applied against the related debt (that is, the debt notified on the notice of assessment) but it will at least result in the payment being allocated to that particular role.

36. In ICP, unmatched payments and credits are applied to debts within the income tax and FBT accounts on a role by role basis (role allocation hierarchy), with the oldest outstanding period (based on period start date) within the highest priority role paid first. That is, payments and credits are first applied against the oldest debts within a **role** (rather than the **account** as a whole) in accordance with ICP's role allocation hierarchy rules.

    Note: All payments and credits processed in ICP will be automatically allocated in accordance with the pre-determined allocation rules. There is no requirement for staff to change the allocation so as to apply a payment against the oldest debt within an account, that is, generally ICP's allocation hierarchy

(described below) should be maintained except for circumstances where there are genuine legal or other special reasons to deviate from that allocation.

ICP role allocation hierarchy rules

Payments made with a PPI

37. Generally, the role allocation hierarchies shown in the following tables should be followed.

Income tax

38. The following table sets out the allocation order for account level payments made to the income tax account.

Role allocation order	**Role type**
1	Income tax from former account (ie pre-conversion)
2	Franking tax
3	Income tax
4	Family trust distribution tax
5	Ultimate beneficiary tax
6	Excess contributions tax
7	General interest charge
8	Administrative penalties

Fringe benefits tax

39. The following table sets out the allocation order for account level payments made to the FBT account.

Role allocation order	**Role type**
1	Fringe benefits tax from former account (ie pre-conversion)
2	Fringe benefits tax
3	General interest charge
4	Administrative penalties

40. In order to apply payments made following the deployment of income tax and fringe benefits tax within the ICP system as per the tables above, the two payment allocation policies detailed below must be followed.

Account level payment allocation rules

41. Account level payments should be allocated within the specified account as follows:

Step 1

Based upon dollar match (a tolerance of $0.99 is applied).

Where period balances within the account which alone or in combination equal the payment received are identified, the payment is applied to the relevant period balances.

If no matching period balances are identified within the account, but there are liabilities (that is, at the lower assessment level) within the account which alone or in combination equal the payment received are identified, the payment is applied against those liabilities.

Step 2

If dollar match is unsuccessful.

Outstanding periods are paid off based upon the role allocation hierarchy (see table above). The oldest outstanding period within the highest role in the allocation hierarchy is paid first, based on period start date, and commencing with the oldest debts for that period. The payment will continue to be applied in this order until it has been fully extinguished.

Step 3

Once all account liabilities have been paid, any payment remaining is applied in anticipation of future liabilities as follows:

- If there are either expected future lodgments or lodgments that have not been finalised (unassessed periods) on the account or one can be created, the credit is applied to the earliest expected lodgment/unassessed period, based on period end date.
- If a future lodgment/unassessed period cannot be created on the account the payment will be applied to the most recent lodged period, even if it is a nil balance or has a credit balance.
- As a result, the payment may then be applied against a tax debt owed by the taxpayer that is recorded on other accounts in accordance with the order of allocation (outlined at paragraph 46 of this practice statement).

Role level payment allocation rules

42. Role level payments will be allocated as follows:

Step 1

Based upon dollar match (a tolerance of $0.99 is applied)

Where role level period balances which alone or in combination equal the payment received are identified, the payment is applied to the relevant period balances.

If no matching periods balances are identified within the specified role, but there are liabilities (that is, at the lower assessment level) within the role which alone or in combination equal the payment received are identified, then the payment is applied against those liabilities.

Step 2a

If dollar match is unsuccessful and the payment is allocated within the following role types as described below:

- Income Tax – Company
- Income Tax – Super Fund
- Income Tax – Consolidated Group

If there is an expected future lodgment (an unassessed period) on the role (or one can be created), and it is likely that the payment relates to an unassessed period, the payment is applied to the earliest unassessed period based on period end date.

If it is necessary to establish which liabilities are outstanding (for example, in order to commence recovery proceedings in a court), the payment is applied to the outstanding periods based upon the role allocation hierarchy (see above). The oldest outstanding period within the highest role in the allocation hierarchy is paid first, based on period start date.

If there are no expected future lodgments or lodgments that have not been finalised (an unassessed period) or one cannot be created, the payment is applied to the outstanding periods based upon the role allocation hierarchy (see table above). The oldest outstanding period within the highest role in the hierarchy is paid first, based on period start date. If there are no outstanding periods the payment should be applied to the most recent period as a payment in advance.

The payment may then be applied against a tax debt owed by the taxpayer that is recorded on other accounts in accordance with the order of allocation (outlined at paragraph 46 of this practice statement).

Step 2b

If dollar match is unsuccessful, and the payment is allocated within any role not listed in Step 2a above:

The payment received is applied to the oldest outstanding period within the role, based on period start date. If a credit remains once all liabilities on that role have been paid then that credit is applied to other roles within the account, based upon the role allocation hierarchy (see table above). The oldest outstanding period within the highest role is paid first, based on period start date.

Step 3

Once all account liabilities have been paid any payment remaining is applied in anticipation of future liabilities as follows:

- If there are expected future lodgments or lodgments that have not been finalised (unassessed periods) on the particular role or one can be created, the credit is applied to the earliest unassessed period, based on period end date.
- If there are no expected future lodgments/unassessed periods on the particular role or one cannot be created the payment is applied to the most recent lodged period as a payment in advance.

The payment may then be applied against a tax debt owed by the taxpayer that is recorded on other accounts in accordance with the order of allocation (outlined at paragraph 46 of this practice statement).

Payments made without a PPI

43. Payments made without a PPI will be allocated differently to the way an unspecified payment was allocated prior to the deployment of IT and FBT within ICP.

44. Payments made without a PPI will be applied by ICP using the 'account level payment allocation rules' as described in paragraph 41 and as per the tables above. Payments will be maintained in the account to which the payment was originally allocated.

Order of allocation

45. The following order of allocation applies only to payments which are not 'Listed Payments' or credits which are not 'Listed Credits'.

46. The order of allocation of a payment or a surplus created by the allocation of payments or credits on an account is as follows:

(i) to any annual superannuation guarantee charge debts relating to periods **before** 1 July 2003, commencing with the debts that have the earliest due date, applying the payments in the following order:

- the administration component
- additional charges for the unpaid Part 7 of the SGAA of the SGAA penalty charges (LPP)
- additional charge for the unpaid Part 7 of the SGAA penalty charges (GIC)
- Part 7 of the SGAA penalty charges
- additional charges for the unpaid total of the individual superannuation guarantee shortfall (LPP)
- additional charge for the unpaid total of the individual superannuation guarantee shortfall (GIC)
- the nominal interest component
- the total of the individual superannuation guarantee shortfall.

The same order is to be followed in applying payments to each subsequent pre 1 July 2003 period debt until all outstanding annual pre 1 July 2003 SGC debts are finalised, and then:

Payments received for quarterly SGC liabilities (relating to periods after 1 July 2003) are to be credited towards the debt with the earliest due date in the following order:

- the nominal interest component
- additional charges for the unpaid total of the individual superannuation guarantee shortfall (GIC)
- the total of the individual superannuation guarantee shortfall
- the administration component

- additional charges for the unpaid Part 7 of the SGAA penalty charges (GIC)
- Part 7 of the SGAA penalty charges.

The same order is to be followed in applying payments to each subsequent post 1 July 2003 period debt until all outstanding quarterly SGC debts are finalised.

Where there has been a late payment offset and a further payment is made to be applied for the benefit of multiple employees, the proportional entitlement for each employee must first be calculated then applied to pay nominal interest first.

Payments received in respect of a director penalty relating to a quarterly SGC liability are to be credited towards the earliest SGC director penalty debt in the following order:

- the nominal interest component
- the total of the individual superannuation guarantee shortfall
- the administration component.

The same order is to be followed in applying payments to each subsequent SGC director penalty debt until all outstanding penalty debts are finalised.

Payments received in respect of an estimate of SGC under Division 268 of Schedule 1 to the TAA are to be credited first towards the estimate relating to the earliest period.

(ii) to any RBA deficit debt which represents pay as you earn (PAYE) debts

(iii) to any RBA deficit debt which represents prescribed payment system debts

(iv) to any RBA deficit debt which represents reportable payment system debts

(v) to any RBA deficit debt which represents sales tax debts

(vi) to the RBA which records BAS amounts (these obligations are commonly notified on a BAS/IAS). When applying the payment to the component tax debts that have been allocated to this RBA, the payment will be allocated first to the debts with the earliest due date. Where the component tax debts allocated to this RBA have the same due date for payment, the ATO will apply payments in the following order:

- the assessed net amount for the GST (which includes wine equalisation tax and luxury car tax) and other amounts of GST
- assessed net fuel amounts greater than zero
- FBT instalments
- PAYG withholding
- deferred company and superannuation fund instalments
- PAYG instalments
- administrative penalties, including GIC for late payment.

The same order is to be followed in applying payments to each subsequent period until all outstanding component tax debts are finalised.

(vii) to any debt which represents dividend, interest and royalty withholding tax debts including any associated charges and penalties

(viii) to any debt which represents only assessed FBT debts including any associated charges and penalties

(ix) to any debt which represents superannuation surcharge debts including any associated charges and penalties

(x) to any debt which represents mineral resource rent tax (MRRT) including any associated charges or penalties

(xi) to any debt which represents TSA amounts for MRRT including any associated charges or penalties

(xii) to any debt which represents petroleum resource rent tax (PRRT) including any associated charges or penalties

(xiii) to any debt which represents TSA amounts for PRRT including any associated charges or penalties

(xiv) to any debt which represents excise debts (except diesel fuel rebate scheme debts) including any associated charges and penalties

(xv) to any debt which represents grants or benefits scheme debts arising under the *Product Grants and Benefits Administration Act 2000* including any associated charges and penalties

(xvi) to any debt which represents diesel and alternative fuels grants scheme debts including any associated charges and penalties

(xvii) to any debt which represents diesel fuel rebate scheme debts including any associated charges and penalties

(xviii) to any debt which represents an assessed net fuel amount greater than zero (where the taxpayer is not registered or required to be registered for GST)

(xix) to any debt which represents franking deficit tax, over-franking tax or venture capital deficit tax including any associated charges and penalties

(xx) to any debt which represents the superannuation self managed superannuation fund supervisory levy including any associated charges or penalties

(xxi) to any debt which represents only assessed income tax debts including any associated charges and penalties

(xxii) to any debt which represents only TSA amounts for assessed income tax debts including any associated charges and penalties

(xxiii) to any debt which represents assessed superannuation excess contributions tax including any associated charges and penalties

(xxiv) to any secondary tax debts (for example, the costs involved in obtaining a judgment against a taxpayer and subject to the requirements specified under the subheading below, entitled 'Secondary tax debts such as judgment debts and associated debts')

(xxv) to any director penalty amount in respect of PAYG withholding (or an estimate of PAYG withholding) pursuant to Division 269 of Schedule 1

to the TAA, commencing with the oldest period director penalty amount until all penalty amounts are finalised

(xxvi) to any debt which represents PAYG withholding non-compliance tax (NCT) commencing with the oldest period NCT amount

(xxvii) to any further tax debts which are due and payable, not including debts subject to dispute

(xxviii) to any debt which represents tax debts that are subject to objection, review or appeal including any associated charges and penalties, and

(xxix) to any further amounts due to the Commonwealth directly under a taxation law, which are due but not yet payable.

EXPLANATION

Listed payments

Full payments of tax obligations

47. A full payment received in relation to a taxation obligation, will be allocated to that respective tax debt regardless of whether there are earlier unpaid tax debts within that account. For example, payments received accompanied by a personalised payment advice form will be allocated to the corresponding account and if necessary, matched to the respective liability.

48. For example, the following are common situations that would include full payment of the liabilities:

- an annual income tax assessment
- an RBA deficit debt advised by an RBA statement, or
- the balance payable (including GST and indirect tax amounts assessed as payable) under the BAS provisions for an activity statement.

49. However, part payments of taxation obligations other than listed payments (discussed below) will be allocated to earlier tax debts within that account. Accordingly, where a taxpayer has lodged a BAS and only provided part of the payment towards the total liability, the payment will generally be allocated to earlier tax debts within that account.

Arrangements to pay tax-related liability by instalments

50. Payments (made in full or part) in relation to an arrangement where the taxpayer has been granted permission to pay tax-related liabilities by instalments may be reviewed to ensure a taxpayer is complying with the terms of the arrangement. The payment received in accordance with such an arrangement will be allocated in the order as advised by the ATO.

51. Such payments are usually identified through accompanying personalised payment advice forms provided to the taxpayer. Payments received in accordance with such an arrangement will reduce the overall indebtedness of an account, and if necessary, will be allocated to the earliest tax debts within that account.

52. A payment arrangement may be required to be entered into for multiple debts that are maintained on different accounts, for example, the income tax account and the integrated client account. Generally, in these circumstances the instalment payments will be allocated in a consecutive manner as listed in the order of allocation (see paragraph 46 of this practice statement). However, circumstances may arise where it would be appropriate for the ATO to take a different approach to the allocation order, for example, where there are multiple debts recorded on different accounts it may be more appropriate due to relevant considerations of the case to apply instalment payments in a concurrent manner against two or more accounts or some other order. Generally, in these circumstances it would be appropriate to apply the payments against the debts with the earliest due dates.

53. Where an arrangement is sought by a taxpayer involving BAS amounts, many of the debts will have the same due date. In this circumstance the ATO will usually require that payments received are allocated to the debts with the earliest due date and as listed in the order of allocation (see paragraph 46 of this practice statement). For example, where there is an unpaid GST debt and PAYG withholding amount for the same reporting period, the ATO will usually require that the payments received in accordance with the arrangement be applied against the GST debt first.

54. Taxpayers should be informed at the earliest opportunity of the order in which the ATO proposes to apply the payments received in relation to the arrangement. Taxpayers should always be advised in writing how their entitlement to a tax credit that arises during the life of such an arrangement will be treated. The ATO will usually insist that such credits are retained in addition to instalments payable under the arrangement. In certain circumstances, however, the Commissioner will exercise discretion to refund these credits. This is discussed further in the Law Administration Practice Statements PS LA 2011/21 *Offsetting of refunds and credits against taxation and other debts* and PS LA 2011/14 *General debt collection powers and principles*.

Administrative overpayment

55. An administrative overpayment is where an amount has been paid to a person by the ATO by mistake. The person is not entitled to the amount and the ATO requires the return of that payment to rectify the mistake.

56. Where payment has been made (in full or in part) in relation to an administrative overpayment, the payment will be allocated to that overpaid amount.

Payment agreements made under former section 222ALA prior to 1 July 2010

57. A payment (made in full or in part) pursuant to a written agreement with the taxpayer in accordance with former section 222ALA of the ITAA 1936 is allocated in the order detailed in the schedule attached to that written agreement.

58. Former section 222ALA of the ITAA 1936 has been repealed with effect from 1 July 2010. However, section 222ALA payment agreements made prior to 1 July 2010 continue in effect afterwards.

Payment of company liabilities arising under a remittance provision

59. Where it can be readily identified that a payment received has been made in respect of a particular liability of a company arising under a remittance provision (for example a PAYG withholding obligation), the ATO will generally allocate the payment to that liability.

Director penalty liabilities

60. A director may incur a penalty under Division 269 of Schedule 1 to the TAA (and previously under Division 9 of Part VI of the ITAA 1936) in respect of their company's unpaid PAYG withholding and SGC amounts. Before commencing recovery of the penalty the ATO may issue a director penalty notice (DPN) on a director pursuant to Division 269.

61. Where payment is received (in full or in part) in relation to a director penalty liability, the payment must be allocated to reduce the penalty on the director's account and the corresponding parallel liability on the company account (for example, the relevant PAYG withholding amounts). If the payment is less than the full amount it will reduce the penalty owed on the director's account by that amount and will be allocated against the company's earliest SGC liability or PAYG withholding amounts for which the director has a parallel liability. In the event a director has incurred separate director penalties in respect of outstanding SGC and PAYG withholding, then payments will be allocated as per the order of allocation (see paragraph 46 of this practice statement). That is, SGC liabilities are cleared first and then PAYG withholding.

62. Given that personalised payment advice forms are not provided in relation to director penalty liabilities, when making a payment the director must advise the ATO what particular penalty liability or liabilities the payment relates to. For example, the director may advise that payment is in respect of liabilities included on a DPN that has issued.

Disputed tax debts

63. The ATO will allocate or apply a payment (made in full or part) or an entitlement to a tax credit towards tax debts which are in dispute and subject to objection, review or appeal (see Law Administration Practice Statement PS LA 2011/4 *Recovering disputed debts*) where:

- statute requires the entitlement to a credit to be so allocated
- the credit relates to an amendment made to that disputed tax debt, or
- the taxpayer has entered into an arrangement with the ATO to direct such amounts towards those disputed tax debts. For example, a 50/50 arrangement where a payment or credit would be allocated on a *pro-rata* basis against the disputed tax debts up to the value of 50% of the disputed debt until the period of deferral has expired. Any amounts offset over that amount will usually be refunded on request.

64. Once the ATO has allocated the payment or credit to the disputed debt, there will usually be no further appropriation. For further discussion refer to PS LA 2011/4 and PS LA 2011/21.

Current legal proceedings

65. Payments (made in full or in part) in respect of current legal proceedings will be allocated to those debts. Part payments in respect of these proceedings will be allocated to the debts with the earliest due date that contribute to the balance of the claim.

Secondary tax debts such as judgment debts and associated costs

66. Generally, when applying payments to a case where judgment has been entered against a taxpayer, payments made (in full or in part) will be allocated firstly against the judgment debt and then to the costs involved in obtaining the judgment. Where judgment has been entered against a taxpayer in NSW State courts, the *Civil Procedure Act 2005* (NSW) (CPA 2005) at section 136 requires that, 'Unless the court otherwise orders, any payment made on account of a judgment debt is to be appropriated:

    (a) firstly, towards such part of the judgment debt as comprises interest payable under section 101 of the CPA 2005, and

    (b) secondly, towards the balance of the judgment debt'.

67. Section 136 of the CPA 2005 only relates to the application of payments on account of a judgment debt obtained in NSW State courts. However, in order to maintain consistent application of payments and credits in such matters, the Commissioner will treat credits in the same manner as payments for NSW judgment debts only.

68. Section 101 of the CPA 2005 as referred to above, covers only post-judgment interest from the date on which the judgment takes effect, or such later date as the court may order, as they relate to NSW judgment debts only. Furthermore, subsection 101(3) of the CPA 2005 provides that interest is not payable on the amount of a judgment if the amount is paid in full within 28 days after the date on which the judgment takes effect, unless the court orders to the contrary.

Garnishee notices

69. Where a payment is made (in full or in part) pursuant to a garnishee notice, the payment will be allocated to the respective component amounts that constitute the total payable in that notice. Part payments in respect of a garnishee notice will be allocated to tax debts in accordance with the payment allocation rules prescribed by the particular accounting system under which the debt is managed. For example, in relation to a part payment received towards an indirect tax debt managed in the Receivables Management System (RMS) such part payment will be first allocated to the liability with the earliest due date that contributes to the balance of the claim. On the other hand, a part payment received towards debts managed in the ICP system (for example, income tax debt), will be allocated in accordance with the role allocation hierarchy rules, that is, the oldest outstanding period within the highest role will be paid first, based on the period start date.

70. For example, XYZ Pty Ltd owes the following amounts:

    - 2012 income tax due date 1 December 2012 – $25,000
    - 2012 FBT due date 21 May 2012 – $15,000
    - 2013 FBT due date 21 May 2013 - $5,000

ABC Pty Ltd receives a garnishee notice in relation to the taxation debts owed by XYZ Pty Ltd. The garnishee notice requires ABC Pty Ltd to pay amounts it owes or holds in relation to XYZ Pty Ltd to the ATO up to the value of $45,000. ABC Pty Ltd owes XYZ Pty Ltd an amount of $30,000 and it pays this amount to the ATO.

In these circumstances, because these accounts are managed in ICP and paragraph 46 states that FBT has a higher priority than income tax, the amount received from ABC Pty Ltd as a result of the garnishee should be allocated as follows:

- $15,000 to the FBT debt due 21 May 2012
- $10,000 to the income tax debt, and
- $5,000 to the FBT debt due 21 May 2013.

Voluntary payments

71. Payments made voluntarily (in full or in part) in respect of an anticipated tax debt will be appropriated to that anticipated tax debt, provided there are no other outstanding tax debts against which the payment can be allocated.

Dividends received from insolvency administrations

72. Payment of dividends of less than 100 cents in the dollar received by the ATO from insolvency administrations are allocated on a pro-rata basis. They are apportioned to each tax-related liability and other debts (including costs and judgment interest and subject to the requirements specified in paragraphs 66 to 68 of this practice statement) that formed the ATO's claim in the administration that gave rise to that dividend. This is in accordance with the decisions of *Turner Manufacturing Co Pty Ltd v. Senes* [1964] NSWR 692 and *Thompson v. Hudson* (1871) 6 Ch App 320. In addition, if more than one of the tax-related liabilities that make up a claim are RBA deficit debts, then the part of the dividend allocated to an RBA is also to be apportioned on a pro-rata basis amongst the component tax debts (and GIC on those tax debts) that establish that RBA deficit debt. Where director penalties are involved the ATO will apportion dividends received, as discussed above, in order to identify the balance of unpaid amounts subject to director penalties. The ATO will usually claim in respect of an entity's RBA deficit debt and therefore dividends received for less than 100 cents in the dollar will simply reduce the overall RBA deficit debt.

73. Dividends received from insolvency administrations in relation to SGC liabilities should be allocated on a pro-rata basis. Non-priority dividends that do not follow the receipt of a priority dividend should be allocated in the order outlined in paragraph 72 of this practice statement. Otherwise, dividends in relation to SGC liabilities should be allocated as follows:

Company insolvencies under the Corporations Act 2001

Priority dividends

For pre 1 July 2003 debts the order of allocation for payments of SGC priority dividends, subject to capping,[2] is as follows:

[2] For companies that went into liquidation, receivership or entered into a Deed of Company Arrangement on or after 31 December 2007, priority benefits paid to excluded employees - that is, directors, their spouses or relatives - will be subject to being capped under subsection 556(1A) of the Corporations Act. The capped amount will vary depending on the other benefits payable to that person under

- the administration component
- the nominal interest component
- the total of the individual superannuation guarantee shortfall,

pro-rata to each annual SGC debt.

For post 1 July 2003 debts the order of allocation for payments of SGC priority dividends, subject to capping,[3] is as follows:

- the nominal interest component
- the total of the individual superannuation guarantee shortfall
- the administration component,

pro-rata to each quarterly SGC debt.

Non-priority dividends where priority dividends have already been received

For pre 1 July 2003 debts, the order of allocation for payments of non-priority SGC dividends which follow priority dividends is as follows:

- if priority dividends paid previously were subject to capping,[4] any balance outstanding for the nominal interest or individual superannuation guarantee shortfall for excluded employees
- additional charges for the unpaid Part 7 of the SGAA penalty charges (LPP)
- additional charge for the unpaid Part 7 of the SGAA penalty charges (GIC)
- Part 7 of the SGAA penalty charges
- additional charges for the unpaid total of the individual superannuation guarantee shortfall (LPP)
- additional charge for the unpaid total of the individual superannuation guarantee shortfall (GIC),

pro-rata to each annual SGC debt.

For post 1 July 2003 debts, the order of allocation for payments of non-priority SGC dividends is as follows:

- if priority dividends paid previously were subject to capping,[5] any balance outstanding for nominal interest or individual superannuation guarantee shortfall for excluded employees
- additional charges for the unpaid total of the individual superannuation guarantee shortfall (GIC)
- additional charges for the unpaid Part 7 of the SGAA penalty charges (GIC)
- Part 7 of the SGAA penalty charges,

pro-rata to each quarterly SGC debt.

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paragraph 556(1)(e) of the Corporations Act but the amount paid with respect to each excluded employee for the nominal interest and individual superannuation guarantee shortfall components will not exceed $2,000. As the administration component is not paid to the employee, it should not be included in the capped amount.

[3] Ibid.

[4] Ibid.

[5] Ibid.

Individual insolvency administrations under the Bankruptcy Act 1966

Priority dividends

For pre 1 July 2003 debts, for insolvency administrations **after 5 May 2003,** the order of allocation for payments of SGC priority dividends, subject to capping,[6] should be as follows:

- the administration component
- the nominal interest component
- the total of the individual superannuation guarantee shortfall
- additional charge for the unpaid total of the individual superannuation guarantee shortfall (GIC)

pro-rata to each annual SGC debt.

For post 1 July 2003 debts, the order of allocation for payments of SGC priority dividends, subject to capping,[7] should be as follows:

- the nominal interest component
- the total of the individual superannuation guarantee shortfall
- the administration component
- additional charge for the unpaid total of the individual superannuation guarantee shortfall (GIC),

pro-rata to each quarterly SGC debt.

Non-priority dividends where priority dividends have already been received

For pre 1 July 2003 debts, the order of allocation for payments of SGC non-priority dividends which follow priority dividends should be as follows:

- if priority dividends paid previously were subject to capping, any balance outstanding for nominal interest or individual superannuation guarantee shortfall for excluded employees
- additional charges for the unpaid Part 7 of the SGAA penalty charges (LPP)
- additional charge for the unpaid Part 7 of the SGAA penalty charges (GIC)
- Part 7 of the SGAA penalty charges
- additional charges for the unpaid total of the individual superannuation guarantee shortfall (LPP)

[6] Whilst the priority for SGC and GIC applies to administrations from 5 May 2003, the Commissioner can only apply the capping where the date of bankruptcy is on or after 31 December 2007; for personal insolvency agreements, if the agreement makes provision for distributions pursuant to section 109 of the Bankruptcy Act, the Commissioner will apply the capping if the date of the section 188 authority is on or after 31 December 2007. (The date of the section 188 authority is not the effective date of the Part X.) The capped amount will vary depending on the other benefits payable to that person under paragraph 109(1)(e) of the Bankruptcy Act, but the amount paid with respect to each employee for the nominal interest, individual superannuation guarantee shortfall components and additional charge for the unpaid total of the individual superannuation guarantee shortfall (GIC) will not exceed an amount calculated, and increased at the applicable CPI rate, according to regulation 6.02 of the *Bankruptcy Regulations 1996* for any individual employee. As the administration component is not paid to the employee, it should not be included in the capped amount.

[7] Ibid, note 5.

- additional charge for the unpaid total of the individual superannuation guarantee shortfall (GIC),

pro-rata to each annual SGC debt.

For post 1 July 2003 debts, the order of allocation for payments of SGC non-priority dividends, should be as follows:

- if priority dividends paid previously were subject to capping, any balance outstanding for nominal interest or individual superannuation guarantee shortfall for excluded employees
- additional charges for the unpaid total of the individual superannuation guarantee shortfall (GIC)
- additional charges for the unpaid Part 7 of the SGAA penalty charges (GIC)
- Part 7 of the SGAA penalty charges,

pro-rata to each quarterly SGC debt.

Head company group liabilities and TSA contribution amounts

74. Payments made (in full or in part) in relation to a head company (HC) group liability or a TSA contribution amount will be allocated as appropriated by the taxpayer. (For further discussion regarding TSAs see paragraphs 124 to 129 of this practice statement under the subheading 'Listed Credits').

GST joint venture or GST group ITXSA contribution amounts

75. Payments (made in full or in part) in relation to a GST joint venture or GST group liability or an ITXSA contribution amount will be allocated as appropriated by the entity.

76. In relation to a GST joint venture, the joint venture participants (the participants) are jointly and severally liable for the total indirect tax amount (including GST) payable by the joint venture operator (the operator) for the GST joint venture: section 444-80 of Schedule 1 of the TAA.

77. Similarly, in relation to a GST group, the GST group members (the members) are jointly and severally liable for the total indirect tax amount (including GST) payable by the representative member for the GST group: section 444-90 of Schedule 1 of the TAA.

78. If a valid ITXSA exists then the indirect tax liability of the participants may be limited to the extent provided in the ITXSA. Similarly for GST groups the existence of an ITXSA may limit the members liability to the extent provided in the ITXSA.

79. The ATO may receive payments from the operator or any of the participants in the joint venture. For GST group purposes the ATO may receive payments from the representative member or any of the members of the group.

80. A payment in relation to a joint venture or group liability will be allocated as appropriated by the entity, as follows:

- Payment by a participant or member where a valid ITXSA exists will be offset against the participant or member's liability under the ITXSA and will also reduce the related operator or representative member's liability.

- Payment by a participant or member where no ITXSA exists will be offset against the joint and several liability of the participant or member making the payment. It will also reduce the liabilities of all participants or group members as well as the related operator or representative member's liabilities.
- Payment by the operator or representative member where a valid ITXSA exists will be offset against the operator or representative member's liability and may also reduce each participant's or member's component liabilities, depending on the terms of the ITXSA and only to an extent equalling the related unpaid amount of the operator or representative member. In this respect, the ITXSA regime operates similar to the income tax consolidated group tax sharing agreement regime. Refer to the example provided at the third point under paragraph 129 in this practice statement.
- Payment by the operator or representative member where no ITXSA exists will be offset against the operator or representative member's liability and will also reduce the participants' or members' joint and several liabilities equally.

Shortfall interest charge

81. For the 2004-05 and later years, where an income tax assessment is amended to increase a taxpayer's liability, an interest charge at a lower rate than GIC has been introduced for the shortfall period. This lower interest charge is known as SIC and replaces GIC in the shortfall period (the due date of the earlier understated assessment until the day before the amended assessment issues). The shortfall and SIC is due and payable 21 days from when the taxpayer is given the notice (may be a notice of assessment or other notice), and payment should be allocated against it accordingly.

Late payment GIC

82. For the purpose of ascertaining the order that a payment will be allocated, and for no other purpose, GIC for late payment that has been notified is considered to be due for payment on the day that it is posted to the account. GIC that has not been notified will have payments allocated against it after all other tax debts that are due for payment, which have been allocated to the account, have been paid.

83. For example, a part payment in respect of the total amount payable notified in a BAS/IAS, generally will be first allocated to the RBA which records those obligations before it is also allocated against the non-RBA tax debts, with the earliest due date allocated to that account and the GIC for late payment of those tax debts. When applying this payment, the GIC that has been notified (usually in a monthly RBA statement but could also be by other means including telephone contact) is considered to be due for payment when it is posted to the account. Where this GIC is considered to be due for payment on the same date as the component debts allocated to the RBA, the payment would be allocated as listed in the order of allocation (see paragraph 46 of this practice statement). That is, the GIC is usually the last of these tax debts for that period to have the payment allocated against it before the same order is then followed in applying payments to the tax debts of each subsequent period. After all tax debts that are due for payment for each period have been paid, payments are then allocated to the GIC which has not been notified.

84. The treatment of GIC for late payment outlined in paragraphs 82 to 84 of this practice statement does not affect the Commissioner's ability to claim these additional charges as a due and payable tax-related liability, as prescribed in legislation, in other actions, for example in negotiations for an arrangement to pay a tax-related liability by instalments or in legal proceedings to recover such a liability.

SGC payments

85. SGC payments (made in full or in part) and additional SGC payments (made in full or in part) may be allocated to their corresponding annual or quarterly liability, where that liability is specified by the employer at the time of making the payment.

86. However, in discharging the employer's liability, the priority of allocation in respect of a SGC liability for a return period is as listed in the order of allocation (see paragraph 46 of this practice statement). The order of allocation for quarterly debts reflects the Parliament's clear intention to prioritise payment of employee entitlements ahead of monies due to consolidated revenue. Similarly, dividends in relation to SGC received from insolvency administrations are treated as a listed payment.

87. Payments in respect of an estimate of SGC (made in full or in part) may be allocated to their corresponding quarterly liability, where that liability is specified by the employed at the time of making the payment.

88. For payments in respect of a director penalty relating to SGC refer to paragraphs 60 and 61 of this practice statement.

89. Once a SGC payment has been made against the components of an employer's liability, the ATO must subsequently pay or credit the employees' entitlements, that is, SGC shortfall and associated GIC and the nominal interest component. This will be the full payment for a single employee, and where there are multiple employees' payments, these are to be applied on a proportional basis to the employees' entitlements.

Superannuation excess contributions tax payments

90. Superannuation excess contribution tax payments will be allocated to their corresponding excess contribution tax assessment, where that liability is specified by the taxpayer at the time of making their payment.

91. Payments received from a superannuation provider in accordance with a release authority must be allocated to the corresponding superannuation excess contributions tax assessment.

Listed Credits

PAYG credits to be allocated first to HEC assessment debts, compulsory repayment amounts and FS assessment debts

92. Section 8AAZLD of the TAA provides priority for HECS assessment debts, compulsory repayment amounts arising under the HESA and FS assessment debts from credit that arises under the PAYG system. For example, where an entitlement to a credit arises in relation to an income year for PAYG instalments payable or from amounts withheld from PAYG withholding payments, that credit will be allocated initially to any HECS assessment debt or any compulsory repayment amount, then to any FS assessment debt before being allocated against any income tax debts that are payable for that year. Former subsection 8AAZL(3) of the TAA still provides priority for debts from provisional tax, tax instalment deductions, prescribed payment deductions, reportable payment deductions and certain natural resource and royalty payments that have been paid.

Credits for instalments

93. An entitlement to a credit for instalments payable in relation to GST instalments, PAYG instalments, amounts withheld from withholding payments or FBT instalments that arise upon the ATO making an assessment of the annual returns for GST, income tax or FBT will be initially allocated to those respective assessed taxes for that income year.

Assessed GST net amounts less than zero

94. Amounts of input tax credits, the special credit for wholesale sales tax and amounts of GST attributable to the same tax period (including appropriate adjustments) as well as wine tax and luxury car tax amounts must be set off against each other to produce a net amount in accordance with sections 7-5, 17-5, 123-15, 126-5 and 162-105 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). Where the net amount notified in an activity statement is less than zero the entity will be entitled to a corresponding credit. This credit will initially be applied to any other liabilities notified in the same BAS in the order outlined in subparagraph 46(vi) of this practice statement. Any GST credit remaining will be applied against the tax debts with the earliest due date for that account in the order outlined in subparagraph 46(vi) of this practice statement.

Assessed net fuel amounts less than zero

95. Amounts of fuel tax credits and amounts of fuel tax (including appropriate adjustments) attributable to the same tax period must be set off against each other to produce a net fuel amount in accordance with section 60-5 of the *Fuel Tax Act 2006*. Where the net fuel amount for a particular period is less than zero, the entity will be entitled to a corresponding credit. This credit will initially be applied to any other liabilities notified in the same BAS in the order outlined in subparagraph 46(vi) of this practice statement. Any fuel tax credits remaining will be applied against the tax debts with the earliest due date for that account in the order outlined in subparagraph 46(vi) of this practice statement.

Credits in respect of excise fuel payment schemes and other excise claims

96. An entitlement to a credit under any of the excise fuel payment schemes will initially be allocated against any liabilities owing under the particular scheme in which the credit arises. Any credit in relation to an excise claim, either a refund or a drawback, will initially be allocated against any related excise debts.

Credits arising from delayed refund interest, interest on overpayments and early payments

97. Division 3 of Part IIB of the TAA enables interest payable to a taxpayer, arising under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*, to be allocated against any tax debt owed. The interest will be initially allocated to the account to which it pertains.

Credits arising from account adjustments (including SIC and GIC remission)

98. Credits arising from account adjustments are allocated against the account posting to which it pertains. Any excess credit is allocated in reduction of the oldest unpaid component debts due and payable on the account to which the adjustment is posted and then as listed in the order of allocation (see paragraph 46 of this practice statement).

99. A component liability may have previously been reduced by a payment/credit and then may also be subject to an account adjustment. In these situations, where an excess credit arises, it is allocated in reduction of the oldest unpaid component debts due and payable on the account to which the adjustment is posted and then as listed in the order of allocation (see paragraph 47 of this practice statement). However, it is noted that the excess credit is not a result of the account adjustment itself, but stems from the previous payment/credit. This is because the account adjustment merely returns the liability to its true position, and therefore the credit arises from the excess of the previous payment/credit.

100. A SIC or GIC remission posting should be allocated against the imposition posting to which it relates. However, at times, a GIC remission may not be easily identified with amounts which have been imposed. Where an excess credit arises from a GIC remission which has been applied to an original GIC amount, that excess credit should be applied to the earliest GIC debts on the account.

Excess imputation credits

101. Imputation credits are a refundable tax offset. These tax offsets must be initially allocated against the relevant assessed income tax liability for the income year before they may then be allocated against any other tax debt.

Credits relating to excess baby bonus – tax offset

102. The baby bonus is also a refundable tax offset. Accordingly, these tax offsets must be initially allocated against the relevant assessed income tax liability for the income year before any residual amount can be allocated against any other tax debt or refunded.

Credits relating to or arising from family tax benefit

103. The ATO may apply the whole or part of an income tax refund to any family tax benefit debts. Conversely, the ATO may apply the whole or part of a family tax benefit credit (other than child care benefits) to any primary tax debts.

Credits from HESA overpayments

104. Where a person pays an amount to the Commonwealth under Division 151 of the HESA and the amount exceeds the total debts owed under Chapter 4 of the HESA, the excess may be applied against the person's primary tax debts as listed in the order of allocation (see paragraph 47 of this practice statement) prior to being refunded.

Credits relating to pre-insolvency periods

105. Credits relating to pre-insolvency periods will first be allocated against pre-insolvency debts regardless of whether the entity has or has not been released from those debts. Such credits will first be allocated to pre-insolvency debts on the account on which the credit originates, and then as listed in the order of allocation (see paragraph 46 of this practice statement). Any further or remaining credit will then be allocated against any post-insolvency debts on the account on which the credit originates and then against any other post-insolvency debts as listed in the order of allocation (see paragraph 46 of this practice statement).

106. For further information on credits in insolvency administrations refer to PS LA 2011/16 and 2011/21.

Credits relating to post-insolvency periods

107. Credits relating to post-insolvency periods will be allocated first to post-insolvency debts. Such credits will first be allocated to post-insolvency debts on the account on which the credit originates, and then as listed in the order of allocation (see paragraph 46 of this practice statement). If the entity has not been released from its pre-insolvency debts, any remaining post-insolvency credit will be allocated against any pre-insolvency debts on the account on which the credit originates and then against any other pre-insolvency debts as listed in the order of allocation (see paragraph 46 of this practice statement).

108. As credits under the excise fuel payment schemes do not come within the operation of the Division 3 of Part IIB of the TAA, these types of credits relating to post-insolvency periods generally cannot be set-off against pre-insolvency debts. One exception to this restriction is when there has been an appointment of a receiver, as such an appointment does not impact on the rights of unsecured creditors, including a right of legal set-off.

    (Note: credits under the excise fuel payment schemes do not include fuel tax credits under the *Fuel Tax Act 2006.*)

109. For further information on credits in insolvency administrations refer to PS LA 2011/21.

Credits in relation to GST groups

110. Under Division 48 of the GST Act, certain entities may elect to group, so that one entity within the group (representative member) deals with all the indirect tax law obligations of the group. The indirect tax amounts of the group are payable by the representative member. All contributing members are jointly and severally liable for these amounts, but their exposure to the liability may be limited under the terms of a valid ITXSA.

111. A payment made by or credit entitlement of the representative member or another member that is applied against their ITXSA contribution amount under a valid ITXSA may reduce the amount owed by the other members but only to an extent equalling the related unpaid amount of the representative member. In this respect, the ITXSA regime operates similar to the income tax consolidated group tax sharing agreement regime. Refer to the example provided at the third point in paragraph 129 of this practice statement.

112. Under subsections 8AAZLA(1) and 8AAZLB(1) of the TAA the ATO may apply any member's RBA surplus or excess credit against any tax debt of other members of that group. The ATO will, as a general rule, apply such surplus or credit amounts of a member initially against any tax liabilities due by that member as listed in the order of allocation (see paragraph 46 of this practice statement).

113. If that member has no tax liabilities, the amount would then be allocated across the group as listed in the order of allocation (see paragraph 46 of this practice statement) commencing with the member that has the debts with the earliest due date for each tax type. For example, the surplus would then be allocated to the member in the group with the earliest debt due for payment of SGC debts as listed in the order of allocation (see paragraph 46 of this practice statement). until all superannuation guarantee debts are finalised for that member. Any remaining surplus credit would then be allocated to the member with the next earliest superannuation guarantee debt due for payment in the group or if no such debts existed, to the member with the earliest PAYG withholding debt due for payment. Any such remaining surplus credit would continue to be allocated, as listed in the order of allocation (see paragraph 46 of this practice statement), across the group until all tax debts within that group are finalised before being refunded.

114. However, where there is a valid ITXSA or where a member of the GST group is also a HC or subsidiary member of a consolidated group for income tax purposes, the legislative intent behind the introduction of the ITXSA and tax sharing agreement regimes is to be respected. Therefore, the order outlined above may be modified (refer to paragraphs 132 to 134 of this practice statement).

Credits in relation to GST joint ventures

115. Under Division 51 of the GST Act entities may elect to enter into a GST joint venture and nominate one entity to be responsible for the GST reporting and payment obligations that relate to that joint venture operation.

116. The indirect tax amounts for the joint venture are payable by the nominated joint venture operator, to the extent that they relate to the joint venture.

117. The joint venture participants (participants) are jointly and severally liable for these amounts, but their exposure to the liability may be limited under the terms of a valid ITXSA.

118. A payment made by, or a credit entitlement of, the joint venture operator or another participant that is applied against their ITXSA contribution amount under a valid ITXSA may reduce the amount owed by the others participants. However, this is only to an extent equalling the related unpaid amount of the joint venture operator. In this respect, the ITXSA regime operates similar to the income tax consolidated group tax sharing agreement regime. Refer to the example provided at the third point in paragraph 129 of this practice statement.

119. The ATO may offset a participant's credit entitlements against any GST or fuel tax related debt incurred by the GST joint venture. The ATO will, as a general rule, apply credit entitlements of a participant as listed in the order of allocation (see paragraph 46 of this practice statement) with the following modification – their credit entitlements will be applied against their GST joint and several or ITXSA liability last.

Credits in relation to GST and PAYG withholding branches

120. Under Division 54 of the GST Act and Subdivision 16-BA of Schedule 1 to the TAA, certain entities may elect to register their business operations as branches provided each branch has an independent accounting system and the branch can be identified by reference to its activities or location. If the ATO registers a GST or PAYG withholding branch, each branch will lodge their own BAS separately and make corresponding payments of BAS liabilities or receive BAS refunds.

121. Although GST and PAYG withholding branches operate as distinct entities, the parent entity still bears the ultimate legal responsibility for lodging the branches' activity statements and making corresponding payments. The parent entity is also required to lodge a separate activity statement for activities not included in the activity statement of its GST and PAYG withholding branches.

122. Generally, the ATO will not offset an available credit entitlement between branches and the parent entity. However, the ATO may do so if there are tax debts due (even where they are not yet payable) by any of the branches or the parent entity. The ATO will, as a general rule, apply such credit entitlements of a branch initially against any of their own tax liabilities.

123. If the branch has no tax liabilities, the amount would then be allocated across the branches and parent entity as listed in the order of allocation (see paragraph 46 of this practice statement), commencing with the entity that has the oldest period tax debt for each tax type.

Credits in relation to consolidated groups

124. Under Division 721 of the ITAA 1997, wholly-owned groups of entities can elect to consolidate and thereafter be treated as a single entity for income tax purposes. Broadly, this means that the subsidiary entities lose their individual income tax identities and are treated as parts of the HC of the consolidated group for the purposes of determining the income tax liability during the period in which they are members of the group. Under Division 215 of the *Minerals Resource Rent Tax Act 2012*, consolidated groups (including MEC groups) can also choose to consolidate for MRRT purposes. If this option is adopted, subsidiary members are, as with income tax, treated as part of the HC of the group for certain purposes including calculating the MRRT payable for the period in which they are members of the group. Under Division 8 of the *Petroleum Resource Rent Tax Assessment Act 1987*, consolidated groups (including MEC groups) can also choose to consolidate for PRRT purposes. If this option is adopted, subsidiary members are, as with income tax, treated as part of the HC of the group for certain purposes including calculating the tax on interests in onshore petroleum projects payable for the period in which they are members of the group.

125. Liability to pay the income tax, MRRT and PRRT attributable to group activities rests with the HC. If the HC does not pay a group liability by the due date (the HC's due time) all entities that were members of the group for a part of the liability period (the contributing members) become jointly and severally liable for that group liability. However, joint and several liability is avoided by the contributing members if just before the HC's due time the particular group liability was covered by a TSA that, amongst other requirements, reasonably allocated the liability amongst the parties to that agreement, and that agreement is provided when requested by the ATO. Where a group liability is covered by a TSA a particular contributing member may have no liability or be liable for only a portion of the group debt.

126. A member's full joint and several liability or allocated liability under a TSA does not become due and payable until 14 days after the ATO gives the entity written notice.

127. Under subsections 8AAZLA(1) and 8AAZLB(1) of the TAA the Commissioner is able to offset one entity's refunds or credits against the debts of another entity where both entities are members of a GST group for the purposes of Division 48 of the GST Act. The law in relation to offsetting should be distinguished from the legislation that makes entities jointly and severally liable for a liability.

Allocation of payment received by the Commissioner for a consolidated group

128. Because the membership of a consolidated group may change from one liability period to another, and because of the implications that this may have on the application of other tax laws on the members (former and current members), some divergence from the usual policy of applying payments and credit entitlements to tax debts with the earliest due date is warranted.

129. The ATO may receive payments from the HC or, following a demand being issued to a subsidiary member, from that member. A payment in relation to a HC group liability or a TSA contribution amount will be allocated as appropriated by the taxpayer. Accordingly, payments by the HC or subsidiary members will be allocated as follows:

- A payment to the ATO by a subsidiary member in relation to their TSA component amount will be offset against that subsidiary member's TSA liability and will also reduce the related HC liability. This reduction in the HC liability may, in turn, also reduce the balance of the contribution amounts payable by the other members, depending on the manner in which the group liability is allocated under the TSA. (See the third dot point below.)
- A payment to the ATO by a subsidiary member in relation to a HC group liability where they are jointly and severally liable will be offset against that liability and will also reduce all related subsidiary members' liabilities and the related HC liability.
- A payment to the ATO by the HC where an effective TSA exists will be offset against the HC group liability and will also reduce the related subsidiary members' component amounts but only to the extent that it reduces each subsidiary member's liability to an amount equalling the HC liability (that is, in some cases there will be no reduction in the subsidiary member's component amount). For example, where the HC group liability for a period is $10,000,000 and an effective TSA exists determining that subsidiary member A's TSA component amount for that period is $4,000,000 and subsidiary member B's TSA component amount is $2,000,000, payments received from the HC will have the following effect:

Payment received from the head company	**Balance of the head Company's group liability**	**Balance of the subsidiary member A's related TSA component amount**	**Balance of the subsidiary member B's related TSA component amount**
	10,000,000	4,000,000	2,000,000
5,000,000	5,000,000	4,000,000	2,000,000
2,000,000	3,000,000	3,000,000	2,000,000
1,500,000	1,500,000	1,500,000	1,500,000
1,500,000	Nil	Nil	Nil

- A payment to the ATO by the HC where members are jointly and severally liable will be offset against the HC group liability and will also reduce the related subsidiary members' liabilities.
- Any other unpaid PAYG instalment liability or associated administrative penalty of the HC for other years of income, commencing with the liability that has the earliest due date.

Allocation of refunds and credits for a consolidated group

130. When an income tax assessment is made in relation to the HC, the ATO will initially apply any credit entitlements, including tax offsets and credit for PAYG instalments payable, to the assessed tax payable for that income year. Where the credit exceeds the assessed tax payable the remaining credit will then be allocated to the HC's PAYG instalment obligations for that income year, commencing with the instalment that has the earliest due date and its associated administrative penalties (including SIC and GIC). Any remaining credit would then be allocated in the following order:

- To any other unpaid assessed tax or associated administrative penalty of the HC, commencing with the liability that has the earliest due date.
- To any other liability of the HC as listed in the order of allocation (see paragraph 46 of this practice statement).

131. A credit in relation to PAYG instalments for choosing a varied instalment rate or estimating a benchmark tax will be initially allocated to the related instalment liability.

Consolidated and GST groups

132. There may be situations in which the HC and subsidiary members of a consolidated group are also members of a GST group. As mentioned, the ATO may apply any GST member's refund or credit against any tax debt of other GST members of the group. This is because a credit of a member of a GST group can be allocated to the tax debt of another member of the group: subsections 8AAZLA(1) and 8AAZLB(1) of the TAA. When allocating payments and credits in this scenario, the legislative intent behind the introduction of the TSA and ITXSA regimes is to be respected.

133. The ATO will, as a general rule, apply a HC, subsidiary member or GST group member refund or credit entitlement initially against their own tax liabilities as listed in the order of allocation (see paragraph 46 of this practice statement), subject to the modifications in relation to the HC outlined above.

134. If that HC or member has no tax liabilities, the credit amount could then be allocated across the other GST group members as listed in the order of allocation (see paragraph 46 of this practice statement) commencing with the member that has the debts with the earliest due date for each tax type. Any such remaining surplus credit would continue to be allocated as listed in the order of allocation (see paragraph 46 of this practice statement), across the GST group members until all tax debts within that group are finalised before being refunded.

Credits in relation to refunds of excess concessional superannuation contributions

135. Taxpayers whose superannuation contributions to a superannuation fund are found to exceed their concessional cap by $10,000 or less (in the relevant income year) will be able to opt to have the contributions returned to them as assessable income rather than have to pay excess contributions tax on the excess.

136. In this circumstance the taxpayer must sign a voluntary release authority to enable their superannuation fund to remove the funds from their superannuation account. Once this is done the superannuation fund pays to the ATO the requested amount (up to 85% of the excess amount originally contributed). This amount is then included by the ATO in the tax return (usually by way of an amended assessment for the relevant year) as assessable income and taxed at the taxpayer's relevant marginal tax rate.

137. When assessed on the returned amount the taxpayer is entitled to credits as follows:

- A tax credit equal to the full amount returned by the superannuation fund to the ATO.
- A tax offset credit equivalent to the contributions tax paid (usually 15%) by the superannuation fund on the returned contribution.

138. These credits will first be applied to the assessed income tax (for the assessment that includes the relevant returned amount as income) and then, to the extent that the credits exceed the income tax and other amounts payable in that assessment, may be refundable. The credits will be applied in the order:

- the tax credit

  then

- the refundable tax offset.

Amendment history

Date of amendment	Part	Comment
5 September 2013	Various	Update content to include application of new law including: Mining Resource Rent Tax, changes to Petroleum Resource Rent Tax, Director Penalties for unpaid Superannuation Guarantee, Refunds of Excess superannuation contributions and GST default assessment regime.
	Various	Changes made in order to reduce duplication, incorporate policy from internal practice note regarding payment application in the ICP system and heading/style/ordering changes made to improve readability.

Subject references	Credit offset Recovery of tax Refunds
Legislative references	ANTS(GST)A 1999 7-5 ANTS(GST)A 1999 17-5 ANTS(GST)A 1999 Div 48 ANTS(GST)A 1999 Div 51 ANTS(GST)A 1999 Div 54 ANTS(GST)A 1999 123-15 ANTS(GST)A 1999 126-5 ANTS(GST)A 1999 162-105 ITAA 1936 222ALA ITAA 1936 Pt VI Div 9 ITAA 1997 Div 292 ITAA 1997 Div 721 ITAA 1997 721-10(2) TAA 1953 Pt IIA TAA 1953 8AAZC TAA 1953 8AAZF TAA 1953 Pt IIB Div 3 TAA 1953 8AAZL(3) TAA 1953 8AAZLA(1) TAA 1953 8AAZLB(1) TAA 1953 8AAZLD TAA 1953 8AAZLE TAA 1953 8AAZM TAA 1953 Sch 1 Pt 2-5 TAA 1953 Sch 1 Pt 2-10 TAA 1953 Sch 1 Subdiv 16-B TAA 1953 Sch 1 Subdiv 16-BA TAA 1953 Sch 1 250-10 TAA 1953 Sch 1 Div 268 TAA 1953 Sch 1 Div 269 TAA 1953 Sch 1 280-105 TAA 1953 Sch 1 444-80 TAA 1953 Sch 1 444-90 A New Tax System (Family Assistance) (Administration) Act 1999 Bankruptcy Act 1966 Bankruptcy Act 1966 109 Bankruptcy Act 1966 109(1)(e) Bankruptcy Act 1966 188 Corporations Act 2001 Pt 5.3A Corporations Act 2001 556(1A) Corporations Act 2001 556(1)(e) Customs Act 1901 Diesel and Alternative Fuels Grants Scheme Act 1999 Excise Act 1901 FBTAA 1986 Pt VII Fuel Tax Act 2006 Fuel Tax Act 2006 60-5 Higher Education Support Act 2003 151 Mineral Resource Rent Tax 2012 Div 215

	Petroleum Resource Rent Tax Assessment Act 1987 Div 8 Product Grants and Benefits Administration Act 2000 Student Assistance Act 1973 SGAA 1992 Pt 7 Taxation (Interest on Overpayments and Early Payments) Act 1983 Civil Procedure Act 2005 (NSW) 101 Civil Procedure Act 2005 (NSW) 101(3) Civil Procedure Act 2005 (NSW) 136 Bankruptcy Regulations 1996 Bankruptcy Regulations 1996 6.02 Taxation Administration Regulations 1976 18(1) Taxation Administration Regulations 1976 18(3)
Related practice statements	PS LA 2011/4 Recovering disputed debts PS LA 2011/14 General debt collection powers and principles PS LA 2011/16 Insolvency – collection, recovery and enforcement issues for entities under external administration PS LA 2011/18 Enforcement measures used for the collection and recovery of tax related liabilities and other amounts PS LA 2011/21 Offsetting of refunds and credits against taxation and other debts PS CM 2007/01 Respecting clients' rights for review
Case references	Turner Manufacturing Co. Pty. Ltd. v. Senes [1964] NSWR 692 Thompson v. Hudson (1871) 6 Ch App 320
Date issued	14 April 2011
Date of effect	14 April 2011
Contact email	OperationalPolicyAssuranceandLawWorkManagement@ato.gov.au
Section	Operational Policy, Assurance and Law