PS LA 2014/3 - Simplifying transfer pricing record keeping

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PS LA 2014/3
Simplifying transfer pricing record keeping

This Practice Statement provides guidance on the application of the simplified transfer pricing record-keeping options.

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

Taxpayers can rely on this Practice Statement to provide them with protection from interest and penalties in the following way. If a statement turns out to be incorrect and taxpayers underpay their tax as a result, they will not have to pay a penalty, nor will they have to pay interest on the underpayment provided they reasonably relied on this Practice Statement in good faith. However, even if they do not have to pay a penalty or interest, taxpayers will have to pay the correct amount of tax provided the time limits under the law allow it.

1. What this Practice Statement is about

This Practice Statement provides guidance when considering whether to undertake compliance action with respect to cross-border conditions between entities (CBCBE) for the purposes of Subdivisions 815-B and C of the *Income Tax Assessment Act 1997* where entities have applied one or more of the simplified transfer pricing record-keeping options (simplification options) in Practical Compliance Guideline PCG 2017/2 *Simplified transfer pricing record-keeping options*.

All legislative references in this Practice Statement are to Schedule 1 to the *Taxation Administration Act 1953*, unless otherwise indicated.

2. Context behind this Practice Statement

For income years commencing on or after 29 June 2013, Australia's modernised transfer pricing rules apply to CBCBE, including Subdivision 284-E, which deals with transfer pricing documentation.

Subdivision 284-E does not mandate the preparation or keeping of documentation. However, if the requirements in section 284-255 are not met, it is presumed that the entity does not have a reasonably arguable position. As a direct result, a higher base penalty amount will apply.

Documentation that satisfies the requirements of Subdivision 284-E can impose an administrative burden on an entity disproportionate to their risk of not complying with the transfer pricing rules. We have developed some simplification options that eligible entities can elect to apply to their relevant CBCBE to minimise their record-keeping costs.

The application of these options to CBCBE does not limit or waive the operation of the law but acknowledges that the entity has demonstrated a willingness to comply by choosing to apply and disclose an option.

PCG 2017/2 provides assurance that if an entity has elected to apply a simplification option, we will generally not allocate compliance resources or take other compliance action to review the covered transactions or arrangements that a simplification option is applied to for transfer pricing purposes, beyond confirming the entity's eligibility to elect to apply an option.

This assurance applies for income years commencing:

- on or after 29 June 2013 for the small taxpayers, distributors, low-value adding intra-group services and low-level inbound loans options
- on or after 1 July 2015 for the materiality, technical services and low-level outbound loans options
- on or after 1 July 2015 to the end of an entity's 2019 income year for the management and administration services option.

3. Ascertaining when a taxpayer has elected to apply a simplification option

You can ascertain whether an entity has elected to apply one of the simplification options by checking whether code 7 is shown for the 'percentage of dealings with documentation code' within the relevant labels on the entity's International Dealings Schedule (IDS).

Entities can also elect to apply a simplification option in their country-by-country (CbC) reporting statements, where applicable.

Entities may still have an opportunity (by way of an amendment) to elect to apply the simplification options after lodging their IDS or CbC reporting statements, as long as they meet the eligibility criteria for the options for the relevant income year.

4. Taxpayer has elected to apply a simplification option

If an entity has elected to apply one or more simplification options (whether in the IDS or CbC reporting statements), you are generally not to review the relevant CBCBEs for the relevant covered transactions or arrangements for the income years that fall within the assurance for transfer pricing purposes, beyond conducting a check to confirm that entity's eligibility to elect the options they have.

An entity is expected to have kept contemporaneous documents that evidences their eligibility, as a mere assertion will not suffice. The evidence does not have to be comprehensive but should simply and sensibly explain how and why they were eligible to apply an option or options.

You should refer to PCG 2017/2 for details as to the relevant options, the eligibility requirements and their conditions of operation.

5. More information

For more information, see:

- PCG 2017/2
- Transfer pricing risk assessment.

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Date of effect: 1 July 2013

Business line: ISP

Amendment history

23 January 2025

Part	Comment
Throughout	Checked for technical accuracy and currency. Updated in line with current ATO style and accessibility requirements.

16 January 2019

Part	Comment
All	Updated to align with the changes to PCG 2017/2 published on 9 January 2019.

10 May 2018

Part	Comment
All	Updated to reference PCG 2017/2

14 January 2016

Part	Comment
All	Updated to new LAPS format and style. Inclusion of further options.

References

Legislative references	ITAA 1997 Subdiv 815-B ITAA 1997 Subdiv 815-C TAA 1953 Sch 1 Subdiv 284-E TAA 1953 Sch 1 284-255
Other references	PCG 2017/2 Transfer pricing risk assessment

ATO references

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