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Settlement

When and how settlement may be used to avoid or resolve disputes.

Code of settlement

Use this code to see the ATO policy on the settlement of taxation and superannuation disputes.

Model settlement deeds

Model settlement deeds available to download in Microsoft Word.

Widely-based settlement arrangements

A guide of widely-based settlements endorsed by the panel for investment schemes and employee benefit arrangements.

Settlements

We put a high priority on resolving disputes early as part of the ATO's commitment for effective dispute resolutions.

Practical guide to the ATO code of settlement

Practical examples to assist taxnavers and tax officers in

Independent Assurance of Settlements program



We ensure our settlements are fair and reasonable by working with taxpayers to resolve disputes as early as possible.

QC 39548

Code of settlement

Use this code to see the ATO policy on the settlement of taxation and superannuation disputes.

Last updated 24 June 2024

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What this code is about

This code sets out the ATO policy on the settlement of taxation and superannuation disputes, including disputes involving debt.

The ATO is committed to working with taxpayers to resolve disputes as early and cooperatively as possible.

At all times ATO officers involved in settlements will act with integrity.

What is a settlement

A settlement involves an agreement between parties to resolve matters in dispute where one or more parties make concessions on what they consider is the legally correct position.

Settlement is part of good administration

The ATO has an obligation to administer the taxation and superannuation laws through assessing, collecting taxes and determining entitlements. The ATO also has an obligation to administer the taxation system in an efficient and effective way balancing competing considerations and applying discretion and good sense.

Settlement is an important element of the administration of the tax system.

Settlement negotiations

Settlement negotiations or offers can be initiated by any party to the dispute. They can occur at any stage including prior to assessments being raised.

The nature of the dispute will determine who will participate in negotiations on behalf of the ATO.

Alternative dispute resolution approaches, including mediation, may be used during settlement negotiations.

Where there are multiple taxpayers involved in the same or similar arrangement the ATO would seek to ensure consistency of treatment for taxpayers in comparable circumstances. This may include developing a widely based settlement position.

Statements made during settlement negotiations are not to be construed as an admission of liability and cannot be given in evidence. This is to ensure that, in the event that negotiations break down, parties are not prejudiced as a result of a position taken in the course of trying to resolve the matter.

Settlement considerations

When deciding whether or not to settle, **all** of the following factors must be considered:

- the relative strength of the parties' position
- the cost versus the benefits of continuing the dispute
- the impact on future compliance for the taxpayer and broader community.

Settlement would generally not be considered where:

- there is a contentious point of law which requires clarification
- it is in the public interest to litigate
- the behaviour is such that we need to send a strong message to the community.

Settlement decision

The ATO decision to settle or not must be a fair, effective and efficient means of resolving the matters in dispute.

A decision will be based on an informed understanding of the relevant facts and issues in dispute and any advice of a settlement advisory panel, or legal or other expert opinions relevant to the matter being considered.

A settlement can only be approved by an officer who has delegation or authorisation to do so.

Responsibilities

During settlement negotiation parties are expected to **both**:

- act fairly, honestly and in good faith
- disclose to their best knowledge and belief, relevant and material facts which relate to the matters in dispute.

Parties must adhere to the terms of the settlement agreement unless it emerges that relevant and material facts were not disclosed.

Settlement deed

Settlements must be finalised by the parties signing a written agreement which sets out the terms. The usual form of the agreement is a deed of settlement. A settlement agreement must reflect the final agreed position between the parties (including any payment or future obligations).

Settlement agreements are intended to resolve the matters in dispute for both parties. A settlement agreement will only be varied in exceptional circumstances if requested by the taxpayer who is party to the agreement.

The ATO has **model deeds** available to use as a basis for a deed of settlement.

Future years

A settlement agreement provides a reasonable basis for treating similar issues in future years unless it is specifically stated that it is not to apply to future years or transactions, or:

- the taxpayer's circumstances change materially
- the application of the law remains unclear
- there have been subsequent amendments to the law
- a taxation ruling has been subsequently released on the issue
- there has been a subsequent court or tribunal decision on the issue.

The ATO can provide greater certainty to a taxpayer for future years if required.

Further information

A practical guide to the ATO code of settlement provides examples and illustrations of how the code operates.

General information

- ATO Dispute management plan 2013-14
- Practice Statement PS LA 2015/1 – Code of settlement

- Practice statement PS LA 2013/3 – Alternative dispute resolution in Tax Office disputes and litigation
- Practice Statement PS LA 2007/6 – Guidelines for settlement of widely-based tax disputes
- Practice Statement PS LA 2009/9 – Conduct of ATO Litigation





QC 32705

Model settlement deeds

Model settlement deeds available to download in Microsoft Word.

Last updated 14 October 2024

The model deeds listed below can be used as a basis for a deed of settlement

1. [Full model deed](#)  - Used for a complex income tax dispute
2. [Short model deed](#)  - Used for a less complex income tax dispute
3. [GST model deed](#)  - Used for a GST dispute
4. [Short deed for ART cases](#)  - Used for an income tax dispute that is currently with the Administrative Review Tribunal

Find out more

- Code of settlement
 - Practical guide for the ATO Code of settlement
-

QC 42817

Widely-based settlement arrangements

A guide of widely-based settlements endorsed by the panel for investment schemes and employee benefit arrangements.

Last updated 24 June 2024

On this page

[Investment schemes](#)

[Employee benefit arrangements](#)

[Managed partnership arrangements](#)

This page contains details of widely-based settlements that were endorsed by the widely-based settlement panel for investment schemes and employee benefit arrangements entered into after June 2003.

The details of settlements for the various schemes are published progressively. If the information you are seeking is not here, you can:

- contact the tax officer currently dealing with your dispute (if known)
- phone us on **1800 060 062**.

Investment schemes

Schemes endorsed by the widely-based settlement panel include:

- [Joint venture loss arrangement](#)
- [Management investment schemes – purported partnership arrangement](#)
- [Deduction scheme – refinancing home loans](#)

Joint venture loss arrangement

The arrangement seeks to create losses or deductions for participant taxpayers. The arrangement involved a group of corporate entities

involved in the business of asset financing and leasing. Documents were created, executed and presented to taxpayers to invest in a purported joint venture(s) or partnership(s) with the corporate group, which reported deductions and losses under a partnership entity. The alleged partnership or joint venture then distributed losses to participants during the 2008 to 2016 income years in return for one or more financial contributions.

There have been significant deficiencies found in the legal documents and in the implementation of the arrangement, such that the participants appear to have no interest in the purported joint venture(s), nor does it appear they are partners in a partnership(s). Furthermore, most of the tax losses do not appear to exist for distribution to the participants in the first instance.

A private ruling was applied for by the corporate group in respect of the joint venture loss arrangement (see the edited version of the **Private Ruling 1011451125719 'Joint Venture'**). This private ruling appears to have been referenced by several participants and said to have confirmed the tax treatment of the investment in the purported joint venture(s) or partnership(s) and its associated tax losses.

The private ruling did not apply to the participants as:

- the factual circumstances of the purported joint venture(s) was materially different from the arrangement described in the private ruling, and
- the private ruling was applied for by the corporate group and not by each of the individual participants.

Settlement conditions and disclaimers

The following settlement information is a general guide only.

Status of this settlement offer: Open


Does this settlement apply to you?

The Commissioner of Taxation has identified the participants involved in the joint venture loss arrangement and will directly contact them about their involvement in the arrangement and the terms of this settlement offer.

If you believe you are a participant in the joint venture loss arrangement as described above, you can request this settlement.

There are instances where these settlement terms may not apply. The instances include, but are not limited to, participants who were involved in the arrangement and either:

- received a fee for another person's participation in the scheme, or
- were involved in the design, preparation, management or implementation of the joint venture loss arrangement.

Send an e-mail to PW_IC@ato.gov.au  to check if you have been identified as a participant, whether the settlement offer applies to you or to find out more about when we will contact you.

Principal settlement terms

Based on the circumstances around the implementation of the joint venture loss arrangement the Commissioner is currently aware of, the identified participants may have adjustments made for all income years during which they were involved with the arrangement. The settlement terms that were endorsed by the widely-based settlement panel are as follows:

- All the deductions or tax losses claimed by the participants in respect of the purported joint venture will be disallowed in full.
- Reversal of any interest income reported by the participants in respect of the purported joint venture.
- A shortfall penalty of 50% reduced to 10%.
- Impose shortfall interest charge (SIC) on any shortfall in prior years.
- Agree to the negotiation of payment plans for up to 12 months on any resulting tax liability.

The circumstances of participants, not including those the Commissioner has already identified, will be considered when deciding which years will be adjusted.

In return, participants will agree to the following terms:

- give up the right to continue (or begin) to dispute the liability or entitlement to losses arising from the joint venture loss arrangement (any objection or appeal currently in process is to be withdrawn), and
- pay the amended tax debt by the due date or enter into other payment arrangements as agreed.

For further information on resolving disputes through widely-based settlement, refer to:

- **Practice Statement PS LA 2007/6 – *Guidelines for settlement of widely-based tax disputes***. This practice statement addresses the Commissioner's approach to resolving widely-based disputes including consideration of a taxpayer's individual circumstances in their individual settlements.
- **Code of settlement practice.**

Managed investment schemes: Purported partnership arrangement

The aim of this scheme is to create deductions for individuals who are not entitled to claim them. It involves a promoter and associates executing documentation to invest in a managed investment scheme (MIS). The promoters then allegedly created partnerships and claimed the deductions associated with the MIS. The promoters then distribute the partnership losses to participants who have not signed any of the relevant documentation, and so have no interest in the MIS, nor are they partners in a partnership.

See also:

- **TA 2009/13 *Managed Investment Schemes: Purported partnership participation*** – describes other features which may apply to this arrangement.

Settlement conditions and disclaimers

The following settlement information is a general guide. You should read Settlement conditions and disclaimers for more detailed information.

Status of this settlement offer: closed

Does this settlement apply to you?

You can request this settlement if you:

- have entered into a managed investment schemes: purported partnership arrangement, and
- have a current disputed liability or entitlement under the **Code of settlement practice**, or

- are able to enter into such a dispute.

These settlement terms apply to participants who were involved in the arrangement and who:

- did not receive a fee for another person's participation in the scheme
- were not involved in the design, preparation, management or implementation of an investment scheme.

Participants who received a fee for getting someone else involved in the scheme, or who designed, prepared, managed or implemented the scheme, are required to contact us.

Phone us on **1800 060 062** to discuss the settlement options available to you.

Principal settlement terms

The settlement terms were endorsed by the widely-based settlement panel based on the factors and principles below.

We agreed:

- that no deduction was allowed for partnership losses claimed
- a further reduction of 5% to the shortfall penalty amount imposed, depending on the individual circumstances, was appropriate due to the circumstances of the participants, and such remission would be an incentive to settle
- no further remission of interest, other than any remission available in accordance with ATO Practice Statement Law Administration PS LA 2006/8 *Remission of shortfall interest charge and general interest charge for shortfall periods*.

In return, participants agreed to:

- give up the right to continue (or begin) to dispute the liability or entitlement for the arrangement (any objection or appeal currently in process was to be withdrawn)
- pay the amended tax debt by the due date or entering into other agreed payment arrangements.

Deduction scheme: Refinancing home loans

This scheme seeks to generate interest deductions for the taxpayer through refinancing a taxpayer's existing home loan and establishing purported investment loans to fund the purchase of shares in companies controlled by the promoter of the arrangement.

The taxpayer claims large deductions for the interest purportedly incurred on the investment loans. The scheme may be promoted as part of a 'mortgage management plan' said to assist taxpayers to repay their home loan sooner.

See also:

- TA 2009/20 *Interest deduction generators involving promoter controlled companies* – for a further description of this type of scheme.

Settlement conditions and disclaimers

The following settlement information is a general guide. You should read Settlement conditions and disclaimers for more detailed information.

Status of this settlement offer: closed

Does this settlement apply to you?

While this settlement offer was current, we wrote to participants who we were aware had entered into the scheme and who, for the purposes of the **Code of settlement practice**, had an existing disputed liability or were able to enter into a dispute in relation to a liability.

Although this particular offer is closed, you may still be eligible to enter into a settlement arrangement.

Phone us on **1800 060 062** to discuss the options available to you.

Principal settlement terms

The settlement terms were endorsed by the widely-based settlement panel based on the factors and principles below.

We agreed:

- all interest deductions claimed by participants with respect to Loan B and Loan C would be disallowed in full
- compensating adjustments would reduce any amount of dividend income or franking credits included in participants' income tax returns with respect to the scheme

- a further reduction of 50% to the shortfall penalty amount imposed, depending on the individual circumstances, was appropriate due to the circumstances of the participants
- the shortfall interest charge rate would be reduced to the base rate from 23 April 2009 until the day before the notice of amended assessment, and any further remission available would be in accordance with ATO Practice Statement Law Administration PS LA 2006/8 *Remission of shortfall interest charge and general interest charge for shortfall periods*.

In return, participants agreed to:

- give up the right to continue (or begin) to dispute the liability or entitlement for the arrangement (any objection or appeal currently in process was to be withdrawn)
- pay the amended tax debt by the due date or entering into other agreed payment arrangements.

Employee benefit arrangements

Arrangements endorsed by the widely-based settlement panel include an:

- [Employee entitlement fund](#)
- [Employee savings plan](#)

Employee entitlement fund

The employee entitlement fund is an arrangement where an employer seeks deductions for contributions made to an entitlement fund, which is supposed to meet employee entitlements in the future. The entitlement fund is established for the employer (in Australia or in a foreign country) and is controlled by those who market the arrangement.

The contributed funds are then returned to the employer, or put under the employer's control, via associates. The contributions may be funded by a promissory note or loan, cash, or in-specie payments. They are then invested in tax-free offshore life insurance bonds.

See also:

- TA 2007/2 *Employee Entitlement Fund* – describes other features which apply to this arrangement.

Settlement conditions and disclaimers

The following settlement information is a general guide. You should read the relevant [settlement conditions and disclaimers](#) for more detailed information.

Status of this settlement offer: Closed

Does this settlement apply to you?

You can request this settlement if you:

- have entered into the employee entitlement fund arrangement, and
- have a current disputed liability or entitlement under the **Code of settlement practice**, or
- are able to enter into such a dispute.

These settlement terms apply to participants who were involved in the arrangement and who:

- did not receive a fee for another person's participation in the scheme
- were not involved in the design, preparation, management or implementation of an investment scheme.

Participants who received a fee for getting someone else involved in the scheme or who designed, prepared, managed or implemented the scheme, are required to contact us.

Phone us on **1800 060 062** to discuss the settlement options available to you.

Principal settlement terms

The settlement terms were endorsed by the widely-based settlement panel based on the factors and principles below.

We agreed:

- where interest expense claimed is verified as an amount paid, allow a deduction for the interest expense; this was considered to be fair where expense was genuinely and economically incurred

- reducing the shortfall penalty to 10% was consistent with the settlement terms of the other employee benefit arrangements and any further remission will be subject to individual circumstances
- interest to be remitted to the base rate for the period 28 July 2007 to 11 April 2008.

In return, participants agreed to:

- give up the right to continue (or begin) to dispute the liability or entitlement for the arrangement (any objection or appeal currently in process was to be withdrawn)
- pay the amended tax debt by the due date or entering into other agreed payment arrangements.

Employee savings plan

This scheme attempts to convert salary or wages income into a capital gain. The employee defers their salary or bonus income payable by the employer, to the employee savings plan (the trust). The employee then receives an interest-free loan from the trust, equal to the amount contributed to the trust. The loan funds are used by the employee to purchase units in the trust.

Once the employee satisfies the minimum holding period, usually 12 months, the employee redeems their units. At the same time, bonus units are issued by the trustee at no cost to the employee, to the same value of the loan. The bonus units extinguish the loan and the employee receives the deferred amount plus any capital appreciation.

See also:

- *TA 2008/13 Employee Savings Plan* – describes other features of this type of scheme.

Settlement conditions and disclaimers

The following settlement information is a general guide. You should read the relevant settlement conditions and disclaimers for more detailed information.

Status of this settlement offer: Closed

Does this settlement apply to you?

You can request this settlement if you:

- have entered into an employee savings plan arrangement, and
- have a current disputed liability or entitlement under the **Code of settlement practice**, or
- are able to enter into such a dispute.

These settlement terms apply to participants who were involved in the arrangement and who:

- did not receive a fee for another person's participation in the scheme
- were not involved in the design, preparation, management or implementation of an investment scheme.

Participants who received a fee for getting someone else involved in the scheme or who designed, prepared, managed or implemented the scheme, are required to contact us.

Phone us on **1800 060 062** to discuss the settlement options available to you.

Principal settlement terms

The settlement terms were endorsed by the widely-based settlement panel based on the factors and principles below.

We agreed:

- to one taxing point – either the income tax at the time of contribution made to the trust, or the income tax at the time the units are redeemed, was appropriate as both positions were alternate taxing points within the scheme
- capital gains tax will apply only on any gain on the units attributable to the ownership of the ordinary units
- to reduce the shortfall penalty to either 5% or 10%, depending on their circumstances, in applying penalties for false or misleading statements; the remission was appropriate due to a lack of communication with participants and the participants acting in good faith to try to provide a voluntary disclosure
- interest to be remitted due to delay in providing a response to settlement.

In return, participants agreed to:

- give up the right to continue (or begin) to dispute the liability or entitlement for the arrangement (any objection or appeal currently in process was to be withdrawn)
- pay the amended tax debt by the due date or entering into other agreed payment arrangements.

Managed partnership arrangements

Managed partnership arrangements occur where profits are said to be directed through a purported partnership between an individual(s) and an associated private company. Most of the profits are taxed to the private company at the corporate tax rate, but are accessed by one or more individuals or associated entities without them paying additional tax at their higher marginal tax rate.

See also:

- *TA 2015/4 Accessing business profits through an interposed partnership with a private company partner*

Status of this settlement offer: closed

This settlement offer is available up to 31 December 2016.

Who does this settlement apply to?

This settlement is available on request to participants who have implemented a managed partnership arrangement.

This offer does not apply to:

- any participants or their associates who have provided advice around implementing a managed partnership arrangement
- any taxpayer who has a managed partnership arrangement in place which is currently under audit.

Details of settlement terms

We will complete the following:

- Amend the relevant income tax returns to assess all monies distributed to the managed partnership to the ultimate controlling individual.

- Accept the tax returns of the corporate partner and its share of the reported income of the managed partnership. But treat the distributions received by the corporate partner as a franked dividend paid by the corporate partner to the controlling individual in the years in which the distributions were paid to the managed partnership.
 - This will allow the individual to recognise an entitlement to the franking credits on the tax already paid by the corporate partner.
- Impose a shortfall penalty of 25%, but will agree to remit 80% of the shortfall penalty, effectively resulting in a shortfall penalty of 5%.
- Impose shortfall interest charge (SIC) on any shortfall in prior years.
- Agree to the negotiation of payment plans for up to 12 months on any resulting tax liability.

In return, **participants** will agree to the following terms:

- Give up your right to continue (or begin) to dispute the liability or entitlement with respect of the arrangement.
- Pay the amended tax debt by the due date, or enter into other agreed payment arrangement up to 12 months on any resulting tax liability.

QC 22782

Settlements

We put a high priority on resolving disputes early as part of the ATO's commitment for effective dispute resolutions.

Last updated 14 October 2024

While the ATO does not settle disputes at any cost, the sensible use of settlements is part of our commitment to earlier and more effective dispute resolution.

In 2015–16, we settled 1,362 cases – almost one-third (31%) more than in the previous year. The increased number of settlements can be

attributed entirely to settlements finalised as part of Project DO IT (Declare Overseas Income Today). In all, there were 676 settlements, or about 50% of the total number of cases we settled. Each of these settlements occurred at the earliest stages, with a focus on prevention to avoid unnecessary and ongoing disputes.

Consistent with our focus on earlier dispute resolution, we are settling cases earlier across all market segments. In 2015–16, 95% of settlements occurred prior to litigation, compared to 84% in 2014–15.

Strategies like in-house facilitation have contributed to settlements in the micro business, small business and individual markets, and have resulted in a large reduction in litigation proceeding to the Administrative Review Tribunal (ART). The ART received only 396 applications in 2015–16, down from 533 in 2014–15.

In 2015–16, large business settlements declined significantly from 81 in 2014–15 to 27. The relatively large number of settlements in 2014–15 can be attributed to the resolution of some longstanding large business matters. This compares with 34 settlements in 2013–14 and 27 in 2015–16.

Table 1 Stage at which settlements occurred in 2015–2016

Stage	Settlement cases	Total settlements %	ATO position \$m	Settlement position \$m
Pre-audit	742	54	731.3	70
Audit	427	31	1,027.6	67
Objection	132	10	591.5	14
ART	47	3	51.4	1
Court	14	1	55.7	2
Total	1,362	100	2,457.5	1,57

* Some columns may vary from the total due to rounding.

Note: Total includes 676 Project DO IT cases.

Table 1.1 Profile of settlements registered in 2015–16

Market segment	Settlement cases	Total settlements %	ATO position \$m	Set pos \$m
Individuals	308	22.6	109.2	
High wealth individuals	90	6.6	310.6	
Micro enterprises	636	46.7	283.3	
Small-to-medium enterprises	298	21.9	4,14.0	
Large businesses	27	2.0	1,337.1	
Not-for-profits & government	3	0.2	3.3	
Total	1,362	100	2,457.5	1,

* Some columns may vary from the total due to rounding.

Note: Total includes 676 Project DO IT cases.

**As settlements involve amounts that are necessarily uncertain, especially where the settlement is reached at the audit or pre-audit stage (ie before an assessment), pre-settlement position amounts may not reflect actual liabilities. The settled amounts reflect agreed revenue that will be paid now and into the future as opposed to potential prima facie amounts that could be subject to protracted and costly delay through litigation, remain unpaid, and with no certainty of outcome.

Practical guide to the ATO Code of settlement

Practical examples to assist taxpayers and tax officers in considering settlement.

Last updated 14 October 2024

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What is a settlement?

A settlement is an agreement between parties to resolve matters in dispute where one or all parties make concessions on what they consider is the legally correct position.

In this context, a dispute can be about a:

- tax or super liability or entitlement
- tax or super debt
- decision under a tax or super law.

A reference to a disputed 'liability or entitlement' in this context includes:

- tax (including any tax, levy, charge, duty or excise imposed under a law administered by the Commissioner of Taxation)
- penalties (but not penalties imposed by a Court)
- payments (including any offset, grant or benefit under a law administered by the Commissioner of Taxation)
- notional tax on losses
- franking credits and debits
- foreign tax credits
- credits and refunds of indirect taxes
- general interest charge
- shortfall interest charge and interest.

A dispute considered for settlement is one where the taxpayer has (or will have) a right to challenge the Commissioner's decision, although settlement should be potentially considered to resolve a wide range of disputes and disagreements.

If the ATO or the taxpayer decides that the other party has the preferred position and agrees to adopt that position, this is not a settlement.

Example: PAYG withholding settlement

A company withheld PAYG withholding amounts at the resident rate for its current and former employees including non-resident employees. Some of the former employees have now returned to their country of origin while others, still in Australia, are not contactable. The company estimates that a percentage of the employees were non-residents. A settlement is negotiated based on an agreed percentage of former employees who should have had PAYG withheld at the non-resident rate.

Example: Settlement following an alleged 'U-turn'

A taxpayer with a significant online presence has taken a position in respect of its online sales that the ATO does not accept. The

ATO has issued a draft GST ruling followed by a final GST ruling that sets out its view of the law. Soon after the final GST ruling was issued, the taxpayer accepted the ATO view of the law on a go-forward basis. The taxpayer strongly asserts that the ATO has engaged in a 'U-turn'. The ATO does not accept that there has been a 'U-turn' but recognises that the taxpayer's argument has some merit. The ATO and the taxpayer have entered into negotiations with the assistance of a facilitator. Discussions suggest the dispute could be settled on the basis that the ATO view of law be applied to all sales that took place from the first day of the month after the draft GST ruling issued. The ATO and taxpayer agree to enter into a settlement where the taxpayer voluntarily amends its GST liability on the suggested basis and the ATO gives an undertaking that it won't raise any GST assessments in respect of earlier sales.

Example: Third party settlement

Following comments in the media that a newly released investment product may not have the taxation benefits it claimed, the financial institution approached the ATO. The ATO indicated that it did have some concerns about the product. There are currently 3,000 investors. Following discussions between the ATO and the financial institution a test case is run and the decision is consistent with the ATO interpretation. To minimise impacts for taxpayers, a settlement is negotiated on the basis that the institution will pay an amount that is equal to an estimate of the tax liability of the investors. The ATO will not raise amended assessments in respect of those investors.

Example: Change of view not a settlement

A taxpayer has appealed to the Federal Court. During the audit and objection, experienced ATO officers were involved in determining the ATO view of law to the facts. The ATO has engaged Senior Counsel for the litigation who has identified a significant weakness in the ATO view. After consideration, the decision is made to amend the taxpayer's tax return to reverse the previous amendments. This is not a settlement.

Settlement is part of good administration

Settling disputed matters is consistent with good management of the tax system, overall fairness and best use of ATO and other community resources. This has become known as 'the good management rule', which has been endorsed by the courts.

Settlement negotiations

A settlement can occur at any stage. For example, before or after the issue of a position paper in an audit or during the course of an objection or litigation.

Where settlement is sensible and appropriate in relation to a matter, it is unnecessary to go through a formal process of assessment, amendment and objection.

A settlement can occur for one issue, multiple issues or the entire dispute.

It may be that settlement is discussed several times throughout a dispute before a final agreement is reached.

Initiate discussions

Where it appears that settlement could be an option, the ATO or the taxpayer can initiate settlement discussions and make a settlement offer.

Example: ATO initiated

A taxpayer has lodged an objection to the ATO's use of a valuation methodology for an asset. The ATO has sought further advice from an expert valuer who supports the ATO's position but has also identified some weaknesses. As a result, the ATO approaches the taxpayer to discuss a possible settlement.

Example: Taxpayer initiated

During an audit, it was established that a taxpayer had for many years provided their artistic talents to family and friends, sometimes without payment. The taxpayer's activities recently expanded into a full-time business. There is now disagreement about when the taxpayer commenced carrying on a business. The taxpayer's adviser has suggested they would be willing to

discuss a settlement based on a compromised commencement date.

Nature of the dispute will dictate who will be involved

In significant cases, generally more than one ATO officer should be present during settlement negotiations. Some disputes will require the involvement of officers from more than one area of the ATO.

Both parties should have the relevant decision maker present or readily available during negotiations.

In disputes that involve (or potentially involve) significant debts, the ATO officer leading the negotiations should ensure the relevant debt decision maker is aware of any settlement negotiations and involved in discussions and decision-making as necessary.

As a guide, in disputes that:

- potentially could reduce the amount of income tax already paid by a taxpayer, or raise a remission, refund or credit, the leading ATO officer needs to ensure that the relevant Interest Product team member from Client Account Services in Service Delivery is included. This is important as the ATO has no discretionary powers to pay or not pay a credit interest entitlement, although a taxpayer may waive their statutory entitlement to Interest on Overpayment or Delayed Refund Interest
- involve (or potentially involve) significant debts, the ATO officer leading the negotiations needs to ensure that the relevant debt decision maker is aware of any settlement negotiations and involved in discussions and decision-making as necessary.

Equally for debt disputes where an objection or appeal exists or is likely to be received the ATO officer with carriage of the debt negotiations needs to ensure that a relevant tax technical decision maker is appropriately involved.

Example: Multiple areas within ATO

Following an audit, the ATO has agreed to enter settlement negotiations on a multi-issue, multi-year tax dispute that involves income tax and GST issues. To ensure all issues are covered, a

debt officer, an interest product team member, officers with expertise in income tax and GST, and a senior officer who is authorised to settle all aspects of the dispute on behalf of the ATO are involved.

Example: External experts

During an audit, a public company and the ATO have been unable to agree on certain facts. The ATO is relying on the advice of an expert witness. The ATO has asked the company whether it would be willing to present its arguments in respect of the factual position to an independent alternative dispute resolution (ADR) practitioner for a neutral evaluation. While neither party is bound by the evaluation, both parties agree that the evaluation may assist them reach agreement on the facts and then possibly to a settlement. The ATO would ensure that its expert witness is available to discuss the matter with the ADR practitioner.

Future actions

Settlement negotiations can cover further actions for either party.

Example: Future superannuation guarantee compliance

An employment agency that provides workers in a service industry has always considered the workers to be independent contractors and never made required superannuation guarantee (SG) contributions. After the receipt of additional information, it was recognised that the taxpayer acted on a genuine belief that the workers were independent contractors. The workers had been receiving a higher level of remuneration to compensate for not getting super support. An agreement between the agency and the ATO is reached where the agency will correctly treat the workers as employees for SG purposes and will commence making super contributions on a prospective basis commencing on an agreed date.

Example: Future superannuation regulatory compliance

An ATO auditor reported that a self-managed super fund had a number of serious regulatory contraventions by its trustees over a 9 year period. The contraventions related to loans made by the fund to related parties. After the audit, the ATO issued a notice of non-compliance, and a significant proportion of the loans were repaid to the fund. The parties agreed to settle their dispute on the fund's complying status. Under the terms of the settlement, the ATO issued a notice of compliance to the fund and reinstated its original income tax assessments and agreed not to take any further action on the issues covered by its audit of the fund. The fund's trustees undertook to secure full repayment of the loans plus interest by the related parties, agreed to be disqualified, roll over all benefits to an APRA regulated fund and wind up the fund.

Example: Future income treatment

A taxpayer operates in an industry where the ATO has identified certain industry averages. The taxpayer is within those industry averages. In one year, the taxpayer lodged a tax return where the ratio of certain expenditure substantially differed from the average. During the audit the taxpayer advised that having reviewed their accounting records they had incorrectly categorised certain expenditure. The taxpayer asked whether the ATO would agree to finalise the audit based on an amendment to the assessment that took into account the correct categorisation of expenditure and a full remission of administrative penalty. The ATO agreed to this position if the taxpayer gave an undertaking that, if there were no material changes to how they operate their business, they would lodge future tax returns for the next 2 years within the industry average. The taxpayer and the ATO entered into a settlement agreement on this basis.

The ATO cannot guarantee in a settlement freedom from prosecution, however, the ATO can agree not to allocate resources to investigate a taxpayer's disclosure for the purposes of prosecuting a taxpayer for a criminal offence or to refer the taxpayer for criminal investigation by another law enforcement agency.

Resolution of matter

Negotiations should encompass how the resolution of the matter will be given effect. The Settlement deed should specify the method or timing by the taxpayer to pay the settled liability and obligations of the ATO.

Settlement negotiations that result in an unpaid liability should include a payment arrangement in accordance with the requirements in Law Administration Practice Statement PS LA 2011/14: *General debt collection powers and principles*.

Example: Not commencing future dispute action

As part of negotiating a settlement for an objection both parties agreed that the taxpayer would withdraw their objection and not commence any future dispute action – including Administrative Decision Judicial Review action or Freedom of Information requests on the matter in dispute.

Example: Issuing amended assessments within agreed time frame and payment arrangement

During settlement negotiations on an objection, the taxpayer has asked the ATO to commit to issuing amended assessments within an agreed timeframe to give effect to the settlement position. The ATO officer also discusses payment arrangements for the agreed debt. Both matters are incorporated into the settlement deed.

Multiple taxpayers likely to be in dispute

In some situations, a taxpayer may not yet be in dispute with the ATO. This usually occurs where there is an arrangement or scheme where a number of taxpayers were participants. These cases can still be subject to settlement.

Example: Widely based settlement position

The ATO has identified a tax arrangement involving a significant number of unrelated taxpayers. To optimise the benefits of a settlement, a small number of participants to the arrangement are reviewed and a widely based settlement position is developed. This settlement position will then be offered to the

remaining participants to the arrangement who may or may not be in dispute.

Example: Third party settlement

The ATO has identified an issue with the net income of a managed fund which could ultimately impact 20,000 beneficiaries. Although the trustee may not directly be in dispute, the beneficiaries would be likely to be in dispute once their assessments were adjusted. The ATO negotiates a settlement with the trustee as a practical resolution and to avoid unnecessary and costly disputes.

Example: Third party settlement

The ATO has identified a number of taxpayers who had incorrectly calculated their assessable income from a particular investment. In all cases, they lodged using a tax agent who was using the same commercial software. The software supplier investigated their product and identified that it had led to a calculation error. Concerned about the commercial damage they'd suffer if the ATO amended the tax returns, the supplier asked the ATO to accept a payment from them rather than raise amended assessments on the taxpayers. As there could be substantial administrative savings for all parties, the ATO negotiates a settlement with the supplier.

Statements made during negotiations

All settlement and ADR processes are conducted in a confidential and on a 'without prejudice' basis (also known as 'settlement negotiation privilege').

'Without prejudice' privilege can apply to protect negotiation discussions from being put in evidence. The general rule is that communications between the parties that are genuinely aimed at settlement or early resolution, whether oral or in writing, cannot be put in evidence without the consent of both parties in the event of those negotiations for settlement being unsuccessful.

The rationale for the rule is to protect statements that have been made for the purpose of furthering negotiations and resolving the dispute out of court from being brought before the courts as admission on questions of liability.

'Without prejudice' privilege has a number of exceptions and exclusions but the main rule to remember is that the privilege is limited to negotiations for the settlement or dispute resolution.

To ensure there's no confusion during settlement negotiations, parties must understand that all discussions are 'without prejudice' and that no binding agreement exists until a settlement deed is executed. That is, signed and dated by all parties.

Although statements made during negotiations are on a 'without prejudice' basis, this does not extend to objective facts that may be established during the course of negotiations that can be proved by direct evidence.

Settlement considerations

The considerations for settlement should be assessed as a whole before making a decision on whether or not to settle a dispute.

Each case must be considered on its merits having regard to the facts and issues in dispute, any advice from relevant experts and the individual circumstances of the case.

The ATO decision to settle, or not, must reflect a fair, effective and efficient use of resources in resolving dispute matters, balancing competing considerations and applying discretion in achieving a sensible settlement decision.

Relative strength of the parties position

The relative strength of the party's position involves an evaluation of the evidence, the application of the law to the facts and the quantum of the tax in dispute and the possible litigation outcome.

Costs versus benefits

The ATO must consider the costs and benefits of continuing the dispute and make an objective assessment. Considerations include:

- the internal and external ATO legal costs
- the cost and risk in collecting the liability (including a taxpayer's ability to pay)
- the financial position of the taxpayer and related entities

- the effective and efficient use of resources.

If the costs of continuing the dispute exceed the benefits, then settlement is likely a preferable option.

Future compliance

When considering a settlement involving concessions on past liabilities, the ATO will apply the 'good management rule' where it will achieve compliance by the taxpayer, group of taxpayers, or a section of the public, for current and future years, in a cost-effective way.

Example: All factors considered

A taxpayer rejected a settlement offer made by the ATO at objection. The dispute is now before the Federal Court and the taxpayer now concedes that their position is unsustainable. The taxpayer has approached the ATO to settle based on a previous ATO offer with immediate payment of the tax and both parties to bear their own costs. In considering whether to settle, the ATO decision maker must consider the likely outcome of the litigation, the costs of continuing the dispute and the immediate payment of the full amount of the tax liability, and the additional costs already incurred because of the taxpayer's actions.

Example: Cost versus benefit and Strength of position

A self-managed super fund sold a commercial premise. The premise had been held for many years and substantial improvements had been made which had to be taken into account to correctly calculate the cost base. The documentary evidence of the improvements had been lost due to a fire. The taxpayer has made an estimate of the cost of the improvements, but the ATO auditor considers this estimate to be too high. While a valuer could be engaged to provide a professional estimate of the cost of the improvements, the fees that would be charged could exceed half of the tax in dispute. In this situation, it would be appropriate for the ATO and the taxpayer to negotiate a settlement rather than incur the professional fees of a valuer.

Example: Strength of position

A company did not remit PAYG withholding or pay super for its employees, and director penalty liability has been imposed on the sole director of the company. The director has raised a valid defence which the ATO considers has a real prospect of success. The director has offered to make a partial payment that reflects the likelihood of success. The ATO may be willing to consider a settlement in this situation but will not accept a lesser payment towards the employees' super entitlements. However, a settlement offer where payment received is applied disproportionately towards the employee super entitlements and a lesser proportion is applied towards the PAYG withholding debt, may be accepted.

Example: Future compliance and Cost v benefit

A company, when under the control of its founder, had a poor approach to maintaining accounting records and understated assessable income for many years. The founder has been ill for the last 18 months and unable to manage the company which is now controlled by his son. Prior to being contacted by the ATO, the son took action to improve the quality of business records and meet the company's tax obligations. The ATO proposes to raise amended assessments which, according to the son, would require the company to appoint a liquidator. He indicated he will object to any amended assessments raised and argue that the amended assessment is based on unsound estimates, and ignore the limited records that his father prepared. The founder's health is such that he can no longer give intelligible responses to questions. The ATO negotiates a settlement where some amended assessments will be raised but not all that could be. The company agrees to continue to improve its accounting and record keeping system.

Example: Strength of position and Cost versus benefit

The taxpayer was engaged in business as a sole trader and the business has failed. The only asset of value is the family home which is mortgaged to a relative. The taxpayer has offered to borrow a further amount from the relative if the ATO will accept a single payment that is substantially less than the tax debt as the final payment. The ATO has sought advice from counsel with bankruptcy expertise who advised that the security over the

home held by the relative is probably effective against other creditors. The ATO could seek to have the taxpayer bankrupted and indemnify the trustee in bankruptcy for the costs in seeking to have the mortgage treated as a preference debt. However, counsel advises that this is unlikely to succeed. Accepting that there would be selling costs and professional fees paid to the trustee in bankruptcy and that most of the proceeds are likely to be paid to the relative as mortgagor; the ATO may consider that it's in the interest of good administration to negotiate a settlement.

Example: Strength of position and Cost versus benefit

The taxpayer has an income tax dispute and has permanently left Australia with a taxation debt. The taxpayer holds assets in the foreign country that could potentially pay the whole debt. The taxpayer wants to settle their dispute by making a single and final payment for a significant proportion of the debt. The ATO has sought the advice of an international law firm that has advised the debt may not be recognised or collectable under the laws of that country. Given this advice, the ATO commences settlement negotiations with the taxpayer.

Example: Strength of position

A property development company sold properties to an adult child of one of its directors for a consideration that the ATO views to be substantially below market value. The company's position is that it was a forced sale, and the consideration was market value. The ATO views its argument is the strong one. The company's solicitor has approached the ATO and advised the company believes that if the dispute is litigated, there is a 60% probability the court will decide in favour of the ATO. The ATO takes this into account, along with internal views as to the prospects of success and the relative strength of the legal arguments of both parties before proceeding to settlement negotiations.

Settlement should generally not be considered where:

- there is a contentious point of the law which requires clarification – in such cases it may be appropriate to fund the litigation under the test case litigation program

- it's in the public interest to litigate
- the behaviour is such that there's a need to send a strong message to the community – behaviour such as persistent, ongoing and expanding non-compliance; or blatant non-compliance about which the community would expect the ATO to take action.

Example: Test case

A taxpayer is the beneficiary of a trust, and the trustee has taken a tax position that provides the taxpayer with a substantial tax benefit. While the ATO doesn't accept the position, the ATO is aware that this position has been taken by many trustees and has the strong support of some members of the tax profession. It is identified that clarification of the law is in the community interest and test case funding will be considered. It would not be appropriate for the ATO to negotiate a settlement in this situation.

Example: Behaviour

During an audit, the ATO identified that an individual who was the director of a company had prepared false invoices that were used to claim input tax credits. The ATO is taking action to recover the input tax credits. The Commonwealth Director of Public Prosecution is also prosecuting the individual for several related fraud offences. An associate of the taxpayer approached the ATO and offered to make a single payment towards the tax debts if the ATO will make the necessary amendments, such that there is no further tax liability. While a settlement would probably lead to a greater recovery of the tax debt than any other option, the settlement may weaken the criminal prosecution. Accordingly, a settlement in this situation should not be considered.

Example: Behaviour but still appropriate to settle

The taxpayer has a history of 'phoenix' companies, and a taxation liability has recently been raised. The Commonwealth Director of Public Prosecution has advised the ATO that although there are grounds to prosecute the taxpayer, they've formed the opinion that it isn't in the public interest to do so. This is because the taxpayer was severely injured in a motor vehicle accident. The

taxpayer is seeking to settle the tax dispute by making a small payment which will leave some capacity to pay for their ongoing medical care. While ordinarily the ATO would be reluctant to consider a settlement with a serial 'phoenix' operator, due to the taxpayer's severe injuries the phoenix behaviour will not recur and it would be appropriate for the ATO to enter into settlement discussions.

Settlement decision

The settlement decision should be seen to be an appropriate application of the Code of settlement principles on the facts and circumstances of the matters in dispute. The decision should be documented and evidenced so that it would satisfy an objective review.

Settlements can only be approved by an ATO officer who has the delegation or authorisation to conclude settlements. All Senior Executive Service (SES) officers have the delegation to settle taxation and super disputes. In some areas other ATO officers are authorised to make a settlement decision.

In some ATO business areas, settlement panels provide advice to ATO officers on reasonable parameters for settlement negotiations and decisions.

For cases where external counsel has been engaged it's expected the advice of counsel would be obtained on the merits of the Commissioner's position and the reasonableness of the proposed settlement.

Example: Advice of external counsel

The ATO had not been able to resolve a tax dispute that the taxpayer appealed to the Federal Court. Evidence filed by the taxpayer in some aspects strengthens the ATO's case, and in other aspects casts doubt as to whether the ATO's position is tenable. Following discussions between the ATO's external counsel and that of the taxpayer, the ATO's counsel has advised there is scope to settle the matter. The final decision to accept or reject a settlement offer is that of the responsible

ATO SES officer who will give due consideration to the advice of the ATO's counsel.

Example: Settlement panel

A taxpayer has made a settlement offer to the ATO audit officer. The proposal has been taken to an ATO settlement panel for consideration. The panel doesn't agree that the settlement amount is appropriate and gives the audit officer parameters for which a settlement could be agreed to. The officer is authorised to make a settlement decision within those parameters to achieve the settlement.

Example: Authorised officer


During conciliation, the Administrative Review Tribunal member has recommended that the parties consider a settlement. The ATO officer in charge of the case (Executive Level 1) is authorised to negotiate a settlement to a certain amount (see note). The ATO officer has commenced negotiation with the taxpayer representative, but to achieve a settlement, the amount agreed to would exceed their authorisation. The ATO officer has contacted the authorised Executive Level 2 officer by phone to seek their approval to settle at a higher amount. The EL2 officer will be the decision maker in this case.

Note: maximum amount of tax (including interest and penalties) that can be remitted.

Responsibilities

Acting in good faith means parties must cooperate in a reasonable way to achieve settlement. In some instances, this would require a party to disclose material information to another which, in the absence of a good faith obligation, it would not be required to do.

In addition, the strict secrecy requirements of tax and super laws mean the ATO will not disclose the terms of any settlement agreement to third parties, unless authorised by law or by the taxpayer.

Actions by ATO officers will be consistent with the [APS Code of Conduct](#)  and will ensure the application of the guidance and mutual obligations in the [Taxpayers' Charter](#).

Example: Settlement negotiation has stalled

A settlement negotiation has stalled with some distance still between the position of the ATO and the taxpayer. The ATO negotiators need to explain they need to amend relevant assessments and issue penalty notices. To avoid the perception they are threatening the taxpayers, the ATO officers ensure from the outset that the taxpayer is aware of the timeframes they must meet.

Example: Potential prosecution

Prior to entering into settlement negotiations, the ATO had referred the matter for consideration of potential prosecution. The ATO officer makes the taxpayer aware of this during the negotiations. The ATO negotiators become aware that prosecution won't proceed. The taxpayer is informed of this decision.

Example: Funding a test case

The ATO is funding a test case on a particular issue. A company with the same issue wants to settle their dispute so they can proceed to sell the business. It becomes obvious during settlement negotiations that the company is unaware there is a test case which may have application to their matter. The company is likely to be sold prior to the resolution of the test case. The ATO officer includes a mechanism in the settlement deed to amend the taxpayer's assessment if the court finds against the ATO's position.

Settlement deed

Settlements must be finalised by the parties signing a written agreement which sets out the terms of their agreement. The agreement must represent the final agreed position between the parties (including any payment or future obligations including methods and timing).

The form of the agreement that will be appropriate to evidence a particular settlement may vary. For example, in simpler matters an

exchange of correspondence or a simple agreement may be appropriate to evidence a settlement. A simple agreement may include an agreement made between the parties under section 103 of the *Administrative Review Tribunal Act 2024*.

Model deeds

Model deeds are available for use in preparing a settlement agreement. Input from the ATO legal officers should be sought if any significant changes to the standard clauses are anticipated.

Varying a settlement agreement

Settlements represent an agreement by both parties to a dispute to a mutually negotiated position, following a considered assessment by each party of the risks and potential benefits of continuing the dispute. For this reason, the ATO doesn't believe that settlements should be undone lightly or without good reason. However, the ATO agrees that, in the interests of fair and reasonable administration, some settlements can and should be varied (reopened) in limited and exceptional circumstances.

Taxpayers may seek to reopen a settled case where the ATO **subsequently changes its view of the law** on which the settlement was based, in a way that would have achieved a better outcome for the taxpayer, subject to the following conditions:

- a settlement resolves only one matter in dispute (and not multiple issues such as 'global' settlements)
- the taxpayer requests that the settlement be varied
- the timeframe for the relevant amendment period has not ended
- the settlement was concluded after 1 December 2009 (the public release of the Inspector General of Taxation Review into aspects of the ATO's settlement of active compliance activities).

Prior to reopening a settlement, ATO officers must seek advice from the ATO settlement policy team in Objections and Review.

Background

The basic duty of the Commissioner is to administer tax law, but in exercising that duty the Commissioner must also provide for

reasonable and sensible administration and good management of the tax system. For example, the Full Federal Court held in *Grofam Pty Ltd v Federal Commissioner of Taxation* 97 ATC 4656 at 4665; (1997) 36 ATR 493 at 503:

The Commissioner's power to settle or compromise proceedings to which he is a party derives from section 8 of the Act [ITAA 1936] which provides that the Commissioner shall have the general administration of the Act.

The court cited with approval an earlier observation by Spender J in *Precision Pools Pty Ltd v Commissioner of Taxation* (1992) 37 FCR 554 at 567; 92 ATC 4549 at 4558; (1992) 24 ATR 43 at 54:

That administration has to be bona fide and for the purposes of the Act, but it is a grant of a wide power and would encompass, for instance, the power to compromise proceedings in which he was a party or to make agreements or arrangements concerning the efficient management of a dispute in which he was involved.

It is clear that, once there is a dispute between the parties, it is open to the parties and at times highly desirable, to resolve the dispute by means of settlement. For instance, in *Grofam Pty Ltd v Federal Commissioner of Taxation* 97 ATC 4656 at 4665; (1997) 36 ATR 493 at 503 the Full Federal Court urged the parties to consider a commercial settlement:

Perhaps further discussion between the parties and their legal advisers will result in a sensible adjustment of the matters... The alternative is probably further protracted litigation with its consequent delay and expense. We realise that the Commissioner is mindful of the important public duty which he has in administering the Act. Nevertheless, if this were a commercial dispute, there would be much to be said for the view that a further attempt at settlement should be made, perhaps with the aid of an appropriate mediator. We see no reason associated with the Commissioner's powers and duties which should dissuade him from that course if he thought it otherwise an appropriate one for him to follow.

In formulating what has been called the 'good management rule', the courts have recognised that it is open to the Commissioner to make sensible decisions having regard to the best use of the limited

resources available. The Commissioner is not obliged to relentlessly pursue every last tax dollar where that would clearly be uneconomic or where the outcome is at best problematic. This is reinforced by *Public Governance, Performance and Accountability Act 2013*, which imposes an obligation on the Commissioner to manage the affairs of the ATO in a way that promotes the efficient, effective and ethical use of Commonwealth resources.

The good management rule has broad application, extending beyond individual cases. For example, there may be occasions where the Commissioner might consider it to be in the overall interests of the administration of the tax laws not to pursue retrospective audit and assessing action in return for acceptance by a section of the public or group of taxpayers of the Commissioner's position for current and future years. An example of that type of action by a revenue authority can be found in *Inland Revenue Commissioners v National Federation of Self-Employed and Small Businesses Ltd* [1982] AC 617 (the Fleet Street Casuals Case). That case involved a special arrangement to improve tax compliance amongst a group of 6,000 employees and included a concession not to undertake retrospective investigations.

QC 42816

Independent Assurance of Settlements Program

We ensure our settlements are fair and reasonable by working with taxpayers to resolve disputes as early as possible.

Last updated 24 June 2024

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We work with taxpayers to resolve disputes as early as possible. As part of good administration, we regard settlement as an important mechanism for resolving disputes.

The Independent Assurance of Settlements (IAS) program, implemented in 2016, reviews and advises on our largest and most significant settlements. This is to provide the Australian community with confidence that our settlements and settlement processes are fair and reasonable. To date, 84 settlements have been reviewed through the program.

Settlements selected for review

The program involves 5 former Federal Court judges who provide a view on whether the settlements are fair and reasonable. Settlements selected for review include those involving:

- multi-national enterprises
- those arising from Corporate Tax Avoidance Taskforce
- operations income tax or indirect tax (GST, excise).


The criteria for a settlement to be automatically selected for review are where the:

- pre-settlement position is greater than \$50 million
- settlement amount is greater than \$20 million
- variance is greater than \$20 million.

Any other case considered significant (for example, potential reputational significance or media interest) will be approved for review by a Deputy Commissioner.

During the 2021–22 year, the assurers reviewed 15 settlements and found that all provided a fair and reasonable outcome for the Australian community.

Australian National Audit Office report findings

In the 2017 report, [The Australian Taxation Office's Use of Settlements](#)  by the Australian National Audit Office (ANAO), the IAS program was found to be contributing to the ATO's improvement of its

enterprise approach to settlements, with the ATO having the highest level of reporting around settlements compared to other national revenue authorities internationally.

The findings of the ANAO report also indicate that the ATO's use of settlements is effective and positive. It found the IAS program gave valuable assurance that settlements entered into with large businesses and multinational enterprises resulted in fair and reasonable outcomes for the Australian community.

The ANAO also noted in their review that the ATO had the highest level of transparency and public reporting around settlements compared to other national revenue authorities.

QC 57334

Our commitment to you

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If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

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