



For financial counsellor use only.

Financial counsellors tip sheet

Proof of record ownership

Proof of record ownership, or PORO, is the process whereby the ATO obtains sufficient evidence / items of proof to be satisfied the person seeking access to a person's ATO-held protected information is that person, or their nominated representative.

Financial counsellors are required to provide sufficient information to evidence their identity when they contact the ATO on behalf of a client.

PORO procedures provide safeguard against unauthorised disclosures and breaches of privacy in relation to client information.

What is the scenario?

1. The client is with you either physically or on the phone (includes speakerphone and conference calls)
2. The client is not with you

1. The client is with you either physically or on the phone (includes speakerphone and conference calls)

We recommend the client speaks first and identifies themselves.

The client will be asked several questions to satisfy PORO requirements (see **The PORO process** below for more information). The PORO process cannot be completed while a third party is present, having a third-party present whilst establishing PORO has a potential privacy risk. This includes being physically present with the client while they are using speakerphone or in a conference call.

Once the client has satisfied PORO, they can grant you authority to speak on their behalf:

- a. for the duration of the call, or
- b. for an enduring period by having you added to the account as an authorised contact (visit ato.gov.au – Update your authorised contact **QC 72370** for ways to add or update your authorised contacts online, by phone or by post)

If you are added to the account as an enduring authorised contact and call on behalf of the client, you will need to satisfy PORO requirements against your personal record.

2. The client is not with you

We will first locate the client's account to confirm you are listed as an authorised contact. If confirmed, you will then be required to establish PORO against your own personal record (see **The PORO process** below for more information).

The PORO process – What can you expect?



Step 1: Identifying the caller/ caller's authorisation

ATO staff will request your full name, then confirm you have authority against the record of enquiry (your client).

If confirmed, the staff member will then locate your record. ATO staff may ask for your full name (plus address or date of birth), tax file number (TFN) or Australian business number (ABN).

Information about TFNs and your privacy

The ATO is lawfully able to ask for a TFN – see more information www.oaic.gov.au. However, a person is not compelled to provide their TFN. If you do provide your TFN, the ATO will note that it was provided, but will not keep a record of it. If a financial counsellor does not provide their personal TFN, they will be asked for other identifying information.

ATO staff are likely to ask for a TFN or ABN, because this is the simplest and fastest way to locate your record.



Step 2: Providing items of proof

ATO staff will then ask you to provide items of proof that relate to you as an individual that can be verified in our systems.

Items of proof may be but are not limited to:

- voice biometric matching/ voice authentication
- details from letters or notices we have issued to you
- information you have provided us such as details from a tax return
- details from accounts you hold with us such as payment or refund amounts
- information related to your interactions with us
- details of your employment, superannuation or investments you hold.

We may also ask to confirm details of identity documents such as your driver's licence, Medicare card or passport.

Voice authentication – A fast and easy way to complete PORO

Voice authentication is a fast and easy way to confirm your identity when you phone us. You just need to save your voiceprint with us. Your voiceprint is unique to you. It is the digital representation of the sound, rhythm, physical characteristics and patterns of your voice. Once you have saved it with us, we confirm your identity by matching the characteristics of your voice to your voiceprint.

Refer to **QC 52543** on ato.gov.au for more information.

Note, this is not a new process. Refer to the ATO website for further information:

- *ATO privacy policy* (**QC 39396**)
- *Primary contact and authorised contacts* (**QC 22292**)

Please note the ATO does adjust Proof of record ownership processes as required to better protect our clients and their sensitive information. This document is current May 2023.



Release from your tax debt

Individuals experiencing serious hardship may apply for release from paying some tax debts. We take into account your individual circumstances when considering your application.

Last updated 11 April 2021

On this page

[Who can apply?](#)

[Which tax debts may be released?](#)

[How is release assessed?](#)

In certain circumstances, we can permanently remove some or all of an individual's tax debt. We call this 'release'.

We can only release you from payment of particular tax debts where paying those debts would leave you not able to provide for yourself, your family or others for whom you are responsible. This includes providing for items such as:

- food
- accommodation
- clothing
- medical treatment
- education

We consider applications for release against the criteria outlined in [Practice Statement Law Administration PS LA 2011/17 \(/law/view/document?DocID=PSR/PS201117/NAT/ATO/00001&PiT=99991231235958\)](#) *Debt relief, waiver and non-pursuit*. We summarise the conditions in [How is release assessed? \(#Howisreleaseassessed\)](#)

Who can apply?

You can apply for release if you are:

- an individual
- the trustee of the estate of a deceased person.

Companies, trusts and partnerships cannot apply to have tax debts released.

If your company, trust or partnership has a tax debt and you are having difficulty paying, you can:

- find information at [Businesses with financial difficulties \(/individuals-and-families/financial-difficulties-and-disasters/support-to-lodge-and-pay/tax-support/tax-support-for-businesses-and-not-for-profits\)](#)
- phone us on **13 11 42** [during operating hours \(/about-ato/contact-us\)](#) (refer to Debt and lodgment enquiries) to discuss your options.

Which tax debts may be released?

The only tax debts that **can** be considered for release are:

- income tax
- PAYG instalments
- fringe benefits tax (FBT)
- FBT instalment
- Medicare levy
- Medicare levy surcharge

- withholding taxes on dividends, interest or royalties
- mining withholding tax
- managed investment trust withholding tax
- some penalties and interest charges associated with these debts.

Not all tax debts can be released. We **cannot** release debts for:

- GST
- PAYG withholding
- excess contribution tax (ECT)
- Division 293 liabilities
- super guarantee charge (SGC)
- director penalty notices.

If there is no part of your tax debt that can be released and you are experiencing serious hardship, you can:

- find information at [Individuals with financial difficulties \(/individuals-and-families/financial-difficulties-and-disasters/support-to-lodge-and-pay/tax-support/tax-support-for-individuals\)](#)
- phone us on **13 11 42** [during operating hours \(/about-ato/contact-us\)](#) (refer to Debt and lodgment enquiries) to discuss your options.

How is release assessed?

We take into account your household's income, expenditure, assets and liabilities to determine serious hardship. We then consider other factors and information provided by you to determine whether it would be appropriate to grant release.

Your application for release and any supporting documents you supply should provide enough information for us to understand your circumstances. This will help us in determining the type of assistance we can provide.

Income and expenditure

We look at your household's fortnightly income and expenditure to determine if you have the ability to pay all or part of your debt. We may then assist you with arranging a suitable payment plan.

Assets and liabilities

We look at your household's assets and liabilities to identify if the sale of particular assets could repay all or part of your tax debt.

Owning assets such as your residential home, motor vehicle, household goods, tools of trade, and savings for necessities may be regarded as normal and reasonable provided they are fair in relation to community standards.

Generally, we would consider purchasing an asset while you are aware of your tax debt to be unreasonable.

Other factors

If we've established that payment of your tax debt would cause you serious hardship, we'll look at other factors within your control that have contributed to your serious hardship.

These factors include:

- how your tax debt arose
- have you disposed of funds or assets without providing for tax debts
- if you have other debts you are not able to pay, and releasing you from your tax debt will not improve your financial hardship
- if hardship is temporary and your circumstances are likely to improve, another solution may be appropriate
- your compliance history
- if you can demonstrate that you have provided for future tax debts.

We will consider other factors contributing to your serious hardship that are outside of your control.

See also:

- [PS LA 2011/17 \(/law/view/document?DocID=PSR/PS201117/NAT/ATO/00001&PiT=99991231235958\)](#) *Debt relief, waiver and non-pursuit*

Before you apply

Before we can consider your application:

- you must lodge all of your outstanding tax returns and activity statements as we need to know the total amount you owe
- you must provide up-to-date contact information as we may need to contact you during the process
- if you have an unresolved dispute with us (for example, you have objected to an income tax assessment) it will need to be finalised first
- if you have an unresolved compensation, damages or insurance claim it will need to be finalised first.

If you need more information before applying, phone us on **13 11 42** during operating hours (/about-ato/contact-us) (refer to Debt and lodgment enquiries).

How to apply for release

Use the [Debt release tool \(/single-page-applications/calculatorsandtools?anchor=DHRT#DHRT/questions\)](#) to determine if you are eligible to apply for release and to access the application form.

QC 27193

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

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.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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[Individuals and families](#) > [Financial difficulties and disasters](#) > ... > [In detail](#)

> Evidence of serious hardship

Evidence of serious hardship

We may ask you to provide recent evidence to support your claim of serious hardship.

Last updated 8 March 2021

We can support you in special circumstances if you are unable to provide the following for yourself, your family or dependents:

- food
- accommodation
- clothing
- medical treatment
- education
- other basic necessities.

We call this 'serious hardship', and many situations can contribute to serious hardship, including family tragedy, financial misfortune, mental health challenges or impacts of natural disaster.

See also:

- [Tax support for individuals \(/individuals-and-families/financial-difficulties-and-disasters/support-to-lodge-and-pay/tax-support/tax-support-for-individuals\)](#)

Evidence

We may ask you to provide recent evidence to support your claim of serious hardship. Your evidence should support your current financial circumstances. Any documents you provide should be dated within four weeks of supplying them.

Types of evidence can include the following:

- official eviction notice (not a warning of possible eviction due to rental arrears)
- pending disconnection of essential services, like water, electricity or gas (does not include mobile phone or internet bills)
- notice of impending legal action
- letter from a charitable organisation regarding loss of employment or inability to provide for basic necessities
- bank notice, for example, overdraft call or mortgaged property repossession
- overdue medical bills
- letter from a doctor verifying the inability to earn an income due to illness or caring for a sick family member
- final notice from school regarding payment of mandatory fees
- funeral expenses
- repossession notice of essential items, like a car or motorcycle.

We take many factors into account when assessing your claim for serious hardship. Providing one or more of the documents listed above may not necessarily result in you being granted serious hardship status.

In some cases, these requirements may change, depending on your individual circumstances.

QC 65010

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Australian Government
Australian Taxation Office

Aboriginal and Torres Strait Islander peoples

Aboriginal and Torres Strait Islander peoples

We're committed to supporting Aboriginal and Torres Strait Islander peoples and want to help create a better future.

Last updated 30 June 2021



The ATO respectfully acknowledges the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past, present and future.

At the ATO, we're committed to supporting Aboriginal and Torres Strait Islander peoples and want to help create a better future. You can read about what we're doing in our [Stretch Reconciliation Action Plan \(/about-ato/commitments-and-reporting/our-commitment-to-diversity/reconciliation-action-plan\)](/about-ato/commitments-and-reporting/our-commitment-to-diversity/reconciliation-action-plan).

We want to make tax and super as easy as possible for Aboriginal and Torres Strait Islander peoples, businesses and not-for-profit organisations.

To get help, phone us on the ATO Indigenous helpline **13 10 30** or visit one of our shopfronts. You can also get free help from our trained volunteers at tax time if you're on a low income.

We also provide opportunities for Aboriginal and Torres Strait Islander people to get a job in the ATO or do business with us. Find out more at [Jobs and careers with us \(/about-](/about-)

[ato/careers/entry-level-programs/programs-for-aboriginal-and-torres-strait-islander-peoples](#)).

Find out about:

- [Indigenous helpline and free Tax Help \(/aboriginal-and-torres-strait-islander-peoples/indigenous-helpline-and-free-tax-help\)](#)
- [Tax for individuals \(/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-peoples-and-individual-tax\)](#)
- [Tax for businesses \(/aboriginal-and-torres-strait-islander-peoples/tax-for-businesses\)](#)
- [Not-for-profit organisations \(/aboriginal-and-torres-strait-islander-peoples/not-for-profit-organisations\)](#)
- [Reach Out – Indigenous business support project pilot \(/aboriginal-and-torres-strait-islander-peoples/reach-out-indigenous-business-support-project-pilot\)](#)
- [Super for individuals \(/aboriginal-and-torres-strait-islander-peoples/super-for-individuals\)](#)
- [Super for employers \(/aboriginal-and-torres-strait-islander-peoples/super-for-employers\)](#)
- [Doing business with us \(/aboriginal-and-torres-strait-islander-peoples/doing-business-with-us\)](#)

QC 34344

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Practice Statement Law Administration

PS LA 2011/17

Debt relief, waiver and non-pursuit

 This document has changed over time. View its [history](#).

FOI status: may be released

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This Practice statement is an internal ATO document, and is 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 don't 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.

This Law Administration Practice Statement provides guidance about the:

- Commissioner's discretion to not pursue the recovery of tax debts
-

Commissioner's ability to release individual taxpayers from their obligation to pay certain tax-related liabilities, and

•
Finance Minister's power to waive amounts owing.

1. Overarching principles

The Commissioner has a statutory obligation to pursue the recovery of tax debts. However, a tax debt will not be pursued in certain situations:

• The Commissioner may determine not to pursue a debt considered not economical to pursue (in which case it can be re-raised later).

• The Commissioner will not pursue a debt that is irrecoverable at law.

• The Commissioner may permanently release particular liabilities in the case of serious hardship.

• The Finance Minister may waive amounts owing to the Commonwealth.

In making this decision, you must follow the principles set out in this Practice Statement and the law. The relevant facts and circumstances of each case must be considered.

A. NOT PURSUING A TAX DEBT ON THE BASIS THAT IT IS EITHER NOT ECONOMICAL TO PURSUE OR NOT LEGALLY RECOVERABLE

2. When can you make a decision to not pursue a debt?

The Commissioner will generally not pursue a debt if they are satisfied that the debt is:

• not economical to pursue, or

• irrecoverable at law. [1]

If a decision is made to not pursue a debt on the basis that it is uneconomical to pursue, the debt can be re-raised on a client's account at a future time. A debt that is irrecoverable at law is effectively extinguished.

3. Determining that a debt is not economical to pursue

Relevant considerations in determining whether a debt is not economical to pursue include:

- whether the anticipated cost of future recovery is likely to exceed the amount of the debt
- the age of the debt
- the type of debt involved; for example, a superannuation guarantee charge may be more likely to be pursued because its collection directly affects the superannuation entitlements of employees
- whether the taxpayer cannot be located; the debt may be re-raised when the taxpayer is located
- the asset position of the taxpayer
- whether a levy under a writ/warrant of execution has been unsuccessful and it is not possible or intended to pursue bankruptcy action
- whether a company has ceased to trade
- advice from a trustee or administrator of a deceased estate that the estate has insufficient assets to satisfy the debt.

None of the factors in section 3 of this Practice Statement are definitive on their own. All considerations relevant to a taxpayer's circumstances should be considered.

We may decide to pursue a debt, even though it may not be economical to do so, if there are public interest considerations that support recovery action. An example of this may be where a taxpayer has a significant history of non-compliance.

4. Determining that a debt is not legally recoverable

Situations where we consider a debt to be effectively extinguished include where the debt:

- cannot be recovered by action in a court
- forms part of the pre-sequestration debt of a discharged bankrupt
- represents the balance after a trustee in bankruptcy or a liquidator has advised that either no dividend will be paid or the final dividend has been paid. In recognition that there may be a time delay in receiving this advice, where
 - it is advised that there will be a nil dividend or where an approximate dividend cannot be quantified, the total debt can be treated as irrecoverable at law from when the proof of debt is lodged
 -

the approximate dividend expected has been advised, the balance can be treated as irrecoverable at law from when the proof of debt is lodged [2]

- represents the balance outstanding after the debtor has discharged all obligations under a debt agreement pursuant to Parts IX or X of the *Bankruptcy Act 1966* [3]

- represents the balance outstanding following the termination of a scheme of arrangement which has been sanctioned by a court

- represents the balance outstanding following the finalisation of a deed of arrangement that has been approved by creditors pursuant to Part 5.3A of the *Corporations Act 2001*

- represents the balance of a debt we have agreed not to pursue under a deed of compromise or settlement *after* the debtor has complied with all the terms of the deed

- has been released as described as follows in Part B of this Practice Statement or waived by the Finance Minister.

B. PERMANENT RELEASE OF AN INDIVIDUAL FROM THE PAYMENT OF PARTICULAR LIABILITIES ON THE BASIS OF SERIOUS HARDSHIP

5. Application of the release provisions

The law [4] allows for an individual to be partially or fully released from particular liabilities if we consider that payment would result in serious hardship. [5] The provision also applies to the trustee of a deceased estate where the dependants of the deceased individual would suffer serious hardship if the trustee paid the liability.

The particular liabilities for which release may be granted include [6] :

- income tax

- pay as you go instalments

- fringe benefits tax or a fringe benefits tax instalment

- medicare levy or medicare levy (fringe benefits) surcharge

- withholding taxes on dividends, interest or royalties

- mining withholding tax

- managed investment trust withholding tax

- some penalties and interest charges associated with these debts.

Where we have previously determined that a liability will not be pursued [7], we may still consider whether that liability should be released on the basis of serious hardship.

6. Release application process

Taxpayers are to apply for release by using the form and instructions provided on ato.gov.au. [8]. An application for release will not be determined unless:

- all relevant information has been provided to us
- income tax and activity statement lodgments are up to date
- there are no outstanding amendment requests or unresolved tax disputes
- any outstanding insurance, compensation or damages claims have been finalised.

If a taxpayer discloses that they have an outstanding insurance, compensation or damages claim, we should ask them for more information about it before making any decision.

7. Recovery of debts pending the outcome of a release application

The decision to continue recovery action of an amount for which the taxpayer has sought release must be based on the risk management principles outlined in Law Administration Practice Statement PS LA 2011/6 *Risk management in the enforcement of lodgment obligations and debt collection activities*.

This decision must be made on a case-by-case basis, applying the principles of PS LA 2011/6 to the facts of the case.

Generally, recovery action will be deferred unless the claim is considered frivolous, is not considered to have merit or there is a serious risk to recovery. General interest charge (GIC) continues to accrue until the application is determined.

8. Definition of serious hardship

'Serious hardship' is given its ordinary meaning.

We consider serious hardship to exist where the payment of a tax liability would result in a person being left without the means to afford basics such as food, clothing, medical supplies, accommodation or reasonable education.

We have tests to apply in helping you decide whether serious hardship exists. The object of the tests is to determine whether the consequences of paying the tax would be so burdensome that the person would be deprived of what are considered necessities according to normal community standards.

These tests are:

- the income/outgoings test
- the assets/liabilities test
- other relevant factors.

9. Income/outgoings test

The purpose of the income/outgoings test is to assess a taxpayer's capacity to meet their tax liability from their current income. We take into account household income and expenditure, along with the taxpayer's ability to provide the necessities for family members or others for whom they have responsibility. In addition, the following are relevant considerations:

- the taxpayer's capacity to pay in a reasonable timeframe on the basis of their income and outgoings
- scope for the taxpayer to increase their income
- whether all expenditure could be considered reasonable and consideration of any discretionary components
- whether the taxpayer has made attempts to defer or reschedule other financial commitments.

10. Assets/liabilities tests

The purpose of the asset/liabilities test is to assess a taxpayer's equity in, or access to, assets which may be indicative of their capacity to pay. Consideration is given to any property owned wholly or jointly by the taxpayer and their partner, privately or within a business structure.

There are several types of assets which are regarded as normal and reasonable possessions. These would not be expected to be surrendered in order to pay a tax debt, provided they are of a reasonable nature and include:

- ownership of, or interest in, a residential property which is the taxpayer's home
- a motor vehicle
- furniture and household goods
- tools of trade
- cash on hand or bank balances sufficient to meet immediate day-to-day living expenses
- funds put aside by aged persons to cover funeral expenses.

All other significant assets need to be scrutinised to determine capacity to pay (either by sale or used as security for a loan). These assets include other real estate, multiple or luxury motor vehicles or boats, life insurance or annuity entitlements, shares and other investments, and collections for trading, investment or hobby purposes.

11. Other relevant factors

We are not bound to grant release even if a taxpayer can demonstrate serious hardship may be caused by payment of their liability. However, we are obliged to act reasonably and not arbitrarily.

When deciding whether release should be granted, you should take into consideration the facts of the case and have regard to the taxpayer's particular circumstances.

Examples of the factors we may consider in arriving at a decision include:

- release would not alleviate hardship, such as where the person has other liabilities or creditors
- whether it was reasonable for the taxpayer to acquire assets ahead of meeting their tax liabilities
- whether a taxpayer has made plans to address their tax liabilities prior to disposing of funds or assets
- whether a taxpayer has paid other debts (either business or private) in preference to their tax debt
-

- whether the taxpayer has pursued debts owed to them or provided reasons as to why they have not
- whether serious hardship is likely only to be short term ^[9]
- whether there was an event that led to a change in the taxpayer's compliance
- the taxpayer's past compliance history, including lodgment of returns, payment of tax debts and the outcome of any audit or enforcement activity taken to enforce compliance
- whether the taxpayer has made plans to pay future debts
- how the taxpayer has structured their affairs and whether they have placed themselves in a position of hardship (for example, placing all assets in trusts or related entities over which they have control)

The above factors are not intended to be an exhaustive list of relevant factors but rather are examples of the types of considerations it would be appropriate to have regard to in exercising this discretion.

12. Decision as to whether to grant release

The outcome of the tests outlined in this Practice Statement will usually enable a decision to be made as to whether serious hardship exists and the extent, if at all, to which release should be granted. You may decide not to grant a release, to grant a partial release or to grant a full release. Release from the full amount of the liability would not generally be appropriate where partial release is sufficient to avoid serious hardship.

Release cannot be granted from judgment interest and associated legal costs. However, if you allow a full release of the liability relating to the judgment, we will not pursue the judgment interest or the costs. If partial release is allowed, we will not pursue the corresponding proportion of the judgment interest or costs.

If a decision is made not to fully grant release from the payment of GIC, the taxpayer can apply for remission pursuant to the general remission guidelines. ^[10]

A taxpayer who is dissatisfied with a decision not to grant release in full is entitled to lodge an objection against the decision. If they are dissatisfied with the result of the objection decision, they may seek further review by the Administrative Appeals Tribunal. We will pay any lodgment fees related to such a review. The taxpayer may also appeal to the Federal Court.

A taxpayer may reapply for release if their circumstances change or they have new material to submit.

C. THE FINANCE MINISTER'S POWER TO PERMANENTLY WAIVE DEBTS

13. Exercise of the Finance Minister's power to waive tax debts

Section 63 of the *Public Governance, Performance and Accountability Act 2013* provides that the Finance Minister may waive amounts owing to the Commonwealth.

A waiver permanently extinguishes a debt owed to the Commonwealth. The Commonwealth cannot pursue the debt at a later date if the financial circumstances of the person or organisation which received the waiver improve.

The Commissioner does not have the power to grant a waiver.

The waiver power is generally a remedy of last resort. Waiver will only be granted once all other available options have been considered and determined to be inappropriate to address the specific circumstances of the matter.

14. Waiver application process

Information about waiver, including the application process is available on the Department of Finance (DoF) website. Generally, the DoF will notify and consult with us before briefing the Minister or relevant delegate on the request. The information we provide is used to assist the Minister in progressing a waiver application.

Information that we provide to the DoF to progress a waiver application may include:

- details of the debt and any other relevant information in relation to the debt, such as how the debt arose, action taken to recover the debt, whether there is any dispute in relation to the debt, offers of payment and our decision in relation to those offers
- specific details of the Commonwealth's role, if any, that may have directly contributed to the taxpayer's situation
- any history/background to the case, including any available information on the taxpayer's assets, income, future income earning capacity, other debts, health and family circumstances
- any other information relevant to the decision maker's consideration.

A recommendation, either supporting or not supporting the application and the reasons for adopting that stance, will also be provided. The recommendation will consider the merits of a person or organisation having a debt waived that the Commonwealth has a legal right to recover.

A copy of the information and recommendation you provide to the DoF is given to the taxpayer for comment before making a decision.

15. Determine if another viable remedy is available

If you determine that there may be an alternative solution to alleviate the taxpayer's circumstances, you will need to discuss this with them and ask if they wish to withdraw the waiver application. Alternative solutions include, but are not limited to:

- release on the basis of serious hardship
- a decision that the debt is not economical to pursue
- entering the taxpayer into a payment arrangement
- a decision to compromise undisputed tax-related liabilities and other amounts payable to the Commissioner
- remission of GIC, if applicable.

16. When a recommendation for waiver may be supported

A recommendation to waive may have regard to some of the following circumstances including, but not limited to, where:

- the taxpayer has no other debt management options
- the law as it applies to the applicant's circumstances results in an outcome that is inequitable
- the taxpayer meets the requirement for serious hardship but the debt in the waiver application falls outside of the liabilities that can be released under section 340-10 of Schedule 1 to the TAA
- the taxpayer's debt arose due to actions of the Commonwealth
- the taxpayer provides a service that is beneficial to the broader community.

17. When a recommendation for waiver may not be supported

There are some circumstances where the debt would be unlikely to be waived including, but not limited to, where:

- an alternative viable remedy is available
-

- the taxpayer's debts have been established by a judicial decision of a court; for example, judgment debts
- the taxpayer's debts owed to the Commonwealth will be paid on to third parties; for example, superannuation guarantee charge debts
- the taxpayer's debts have arisen through deliberate fraudulent or other illegal actions
- requests are submitted by companies on the grounds of financial hardship [11]
- an amount owing to the Commonwealth is not certain or ascertainable
- the taxpayer's financial situation and the merits of them being allowed to retain money that the Commonwealth has a legal right to recover.

18. If the taxpayer is dissatisfied

Before a decision is made, the taxpayer is given an opportunity to comment on our submission. For procedural fairness, we are required to provide a complete copy of the submission to the taxpayer at the same time it is sent to the DoF.

19. Recovery of debts pending the outcome of a waiver application

The decision to continue recovery action of an amount for which the taxpayer has sought waiver must be based on the risk management principles outlined in PS LA 2011/6. This decision must be made on a case-by-case basis applying these principles to the facts of the case.

20. More information

For more information, see:

- Chief Executive Instruction *Respecting clients' rights of review CEI* (link available internally only)
- *PS LA 2011/6 Risk management in the enforcement of lodgment obligations and debt collection activities*
- *PS LA 2011/12 Remission of General Interest Charge*
- *PS LA 2011/18 Enforcement measures used for the collection and recovery of tax-related liabilities and other amounts*

PS LA 2011/20 Payment and credit allocation

Release from your tax debt

Waiver of Debt

Amendment history

Date of amendment	Part	Comment
29 September 2022	Section 1	Update to 2nd dot point
26 May 2022	Section 11	Multiple changes made to dot points
	Various	Updates made throughout Practice Statement to correct minor typographical and aesthetic issues, and to update hyperlinks
15 October 2020	Section 13	Update Public Governance, Performance and Accountability Act 2014 to Public Governance, Performance and Accountability Act 2013
6 May 2020	Other references	Updated Chief Executive Instruction (CEI) title.
13 February 2020	Title	'Write-off' replaced by 'non-pursuit'
31 October 2019	All	Updated for currency. No change in policy
	B. The Finance Minister's power to permanently waive debts	Content added to provide more guidance on what would formulate a recommendation to waive or deny a waiver.
14 February 2019	Section 10	Corrected the year of the Act
29 August 2016	All	Updated to new LAPS style and template

3 July 2014	Paragraphs 3, 48, 63, 64 and 69; legislative references	Updated references to <i>Financial Management and Accountability Act 1997</i> with relevant provisions in <i>Public Governance, Performance and Accountability Act 2013</i> and <i>Public Governance, Performance and Accountability Rule 2014</i> .
7 March 2014	Various	Minor revisions to meet Style guide requirements and to improve readability including: formatting changes, new headings; revised text placement; legislative references.
	Paragraph 2	Added in requirements regarding Taxpayers' Charter and CM PS 2007/01.
	Paragraph 3 Terms used	New terms: Releasable liabilities; tax debt; tax-related liability. Revised term: Waiver.
	Paragraph 7	Included excess contributions tax in the list of liabilities to which the release provisions do not apply.
	Paragraph 53	Added additional example where debt that is irrecoverable at law can be re-raised.
	Paragraph 54	New information added to explain the circumstance when debt may be considered uneconomical to pursue
	Paragraph 56	Added additional factor that should be taken into account when considering non pursuit of amounts of revenue because they are uneconomical to pursue.
	Original Paragraph 72	Deleted following advice from ASIC.
	Paragraph 73	Revised to reflect current work practice.

Date of Issue: 29 August 2016

Date of Effect: 14 April 2011

[1]

Rule 11 of the *Public Governance, Performance and Accountability Rule 2014*.

[2]

A debt that is irrecoverable at law may be re-raised in very limited circumstances, for example, to absorb a dividend paid in an insolvency administration after the balance of the debt was determined to be irrecoverable.

[3]

In these circumstances, the amount of the balance will generally be treated as uneconomical to pursue from the time of lodging the proof of debt and treated as irrecoverable at law once the administration is concluded.

[4]

Section 340-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

[5]

The provision is considered to extend to an individual who has incurred personal liability in their capacity as a trustee of a trust or a self-managed superannuation fund in respect to an eligible liability.

[6]

Refer section 340-10 of Schedule 1 to the TAA.

[7]

For example, where the liability is subject to administrative arrangements such as being written off as not economical to pursue, a due date has been deferred or a payment arrangement is in place.

[8]

See <https://www.ato.gov.au/General/Support-to-lodge-and-pay/In-detail/Release-from-your-tax-debt>.

[9]

'Short term' is to be determined on a case-by-case basis.

[10]

Law Administration Practice Statement PS LA 2011/12 *Remission of General Interest Charge*.

[11]

This is because the companies, rather than the individuals involved, are liable for the debts.

Related Practice Statements:

[PS LA 2011/6](#)
[PS LA 2011/12](#)
[PS LA 2011/18](#)
[PS LA 2011/20](#)

Other References:

[Respecting clients' rights of review CEI](#)
[Release from your tax debt](#)
[Information for applicants - waiver of debt](#)

Legislative References:

[TAA 1953 Sch 1 340-5](#)
[TAA 1953 Sch 1 340-10](#)
[Bankruptcy Act 1966 Pt IX](#)
[Bankruptcy Act 1966 Pt X](#)
[Corporations Act 2001 Pt 5.3A](#)
PGPA Rule 2014 11
[PGPA 63](#)

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Section **Operational Policy, Assurance and Law**

PS LA 2011/17 history

Date:	Version:
14 April 2011	<u>Original statement</u>
7 March 2014	<u>Updated statement</u>
3 July 2014	<u>Updated statement</u>
29 August 2016	<u>Updated statement</u>
14 February 2019	<u>Updated statement</u>
31 October 2019	<u>Updated statement</u>

	13 February 2020	<u>Updated statement</u>
	6 May 2020	<u>Updated statement</u>
	15 October 2020	<u>Updated statement</u>
	26 May 2022	<u>Updated statement</u>
You are here	29 September 2022	<u>Updated statement</u>

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[Individuals and families](#) > [Financial difficulties and disasters](#) > ... > [Tax and super support in difficult times](#)
> How we can support you with tax

How we can support you with tax

Support during difficult times for individuals, small businesses, tax professionals, or people from diverse backgrounds.

Last updated 4 September 2023

On this page

[Difficulties paying or lodging on time](#)

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Difficulties paying or lodging on time

It's important to lodge and pay in full and on time. It gives you certainty of your tax and super position, which means you'll have a greater understanding of what you need to do and when to ask for help.

If you need help, depending on your circumstances, we may be able to:

- set up a [payment plan \(/individuals-and-families/paying-the-ato/help-with-paying/payment-plans\)](/individuals-and-families/paying-the-ato/help-with-paying/payment-plans) – you may be able to do this using our [online services \(/online-services\)](/online-services)

- defer a compulsory repayment – for example, Higher Education Loan Program
- defer your lodgment – if you use a registered tax or BAS agent to lodge on your behalf, you may have a different due date
- in special circumstances, release you from paying some taxes if this would cause serious hardship.

If you're experiencing financial difficulties, you should [contact us \(/about-ato/contact-us\)](#) or speak with a tax professional before your lodgments and payments are due to discuss the support options available.

Find out about [support to lodge and pay \(/individuals-and-families/financial-difficulties-and-disasters/support-to-lodge-and-pay\)](#) and how we can [help you with paying \(/individuals-and-families/paying-the-ato/help-with-paying\)](#).

Support for small businesses

If your tax circumstances have changed, you can:

- find out [when and how to report and pay GST \(/businesses-and-organisations/gst-excise-and-indirect-taxes/gst/lodging-your-bas-or-annual-gst-return/options-for-reporting-and-paying-gst\)](#)
- [vary your PAYG instalments \(/businesses-and-organisations/income-deductions-and-concessions/payg-instalments/how-to-vary-your-payg-instalments\)](#).

For help paying super guarantee, see [Employers affected by disasters \(/businesses-and-organisations/super-for-employers/misssed-and-late-super-guarantee-payments/employers-affected-by-disasters\)](#).

For a range of tools and services to make it easier for you to get your tax and superannuation right, see [Supporting your small business \(/businesses-and-organisations/starting-registering-or-closing-a-business/starting-your-own-business/supporting-your-small-business\)](#).

Support for tax professionals

We understand you sometimes need additional help and assistance in managing your clients' and your own tax obligations.

We can provide [support for your practice \(/tax-and-super-professionals/for-tax-professionals/support-and-communication/support-for-your-practice\)](#) and your clients during difficult times.

Support for people with diverse needs

We understand tax and super can be difficult in ordinary times. We offer a range of support for people with diverse and differing needs, including:

- [People with disability \(/people-with-disability\)](#)
- [Aboriginal and Torres Strait Islander peoples \(/aboriginal-and-torres-strait-islander-peoples\)](#)
- information in [other languages \(/other-languages\)](#).

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