

# **Advanced Income Tax Law**

# Chapter 10

## Returns and Assessment

# Lodgment of Returns

Every person must, if required by the Commissioner, lodge an income tax return that must be:

- in the form provided
- lodged in the prescribed manner
- within the specified time
- contain information as required
- signed by the taxpayer

# Lodgment of Returns

A resident individual must lodge an income tax return where any of the following apply:

- Taxable income exceeds \$18,200.
- PAYG tax was withheld from income derived.
- Tax was withheld from interest or dividends under the TFN provisions.
- They became or ceased to be a resident of Australia.
- They were a minor at 30 June deriving unearned income in excess of \$416.
- They were issued with an assessment under the Child Support (Assessment) Act

# Lodgment of Returns

- They carried on a business in Australia.
- They have prior year losses or a loss in the current year.
- They were entitled to a distribution from a trust or had an interest in a partnership.
- They had exempt foreign employment income and \$1 or more of other income.
- They had a Reportable Fringe Benefit amount on their Payment Summary.
- Recipients of the SAPTO and other government allowances or pensions, but subject to income level thresholds.

# Lodgment of Returns

## When?

Generally, income tax returns must be lodged by 31 October following the end of the year of income for individuals, partnerships and trusts.

- unless the taxpayer uses the services of a tax agent.

# Penalties for Late Lodgment of Returns

Taxpayers who fail to lodge an income tax return are liable to pay a General Interest Charge (GIC).

The GIC applies to the late or under payment of a range of taxes, the late lodgement of returns and the late payment of penalties.

The rates at which the GIC is payable in 2019/20 are listed in Chapter 12: Penalty Tax and Tax Offences.

# Penalties for Late Lodgment of Returns

## What if a Taxpayer doesn't Lodge?

The ATO may apply a failure to lodge on time penalty if a taxpayer lodges their tax return late. However, it is the ATO's policy not to apply a penalty if a tax return:

- is lodged voluntarily, and,
- does not result in any tax payable.

The ATO is likely to apply a penalty if the taxpayer has:

- more than one tax return outstanding,
- a poor lodgment history, or,
- not complied with a request to lodge their tax return.



# Self-assessment

A system of full self-assessment applies to companies, superannuation funds, FBT, and GST.

As far as companies are concerned, the tax return submitted is deemed to be an assessment.

# Self-assessment

There is a partial self-assessment system in operation in relation to individual taxpayer's returns.

This means that the ATO works out the taxpayer's refund or tax payable on the basis of the information concerning taxable income and tax offsets supplied in the taxpayer's tax return.

Because the taxpayer has signed the return the information contained in it is taken to be true and correct.

# Types of Assessments

## Original assessments

There is no time limit on the issuance of original assessment notices.

However, if a taxpayer has not received a Notice of Assessment within 12 months of lodging the return they may request that the Commissioner make an assessment.

# Types of Assessments

## Default or Arbitrary Assessments

Where the Commissioner is not satisfied with the information furnished in the return, or has reason to believe that a person who derived taxable income has not furnished a return, an arbitrary or default assessment may be issued.

# Types of Assessments

## Default Assessments

Such assessments are usually issued after an investigation of the taxpayer's affairs and are often determined on a "*betterment basis*".

i.e. the amount of tax assessed is based on the difference between the taxpayer's net assets at the beginning and the end of the investigation period.

# Types of Assessments

## Special assessments

The Commissioner is empowered to issue special assessments where a liability to pay tax arises whether or not a return has been submitted.

Examples of special assessments include:

- assessments issued when persons leave Australia.
- when partnerships are dissolved.
- when companies are liquidated.

# Types of Assessments

## Amended Assessments

“Amendment” is the term the ATO uses for a change made to an income tax assessment.

An assessment can be amended more than once.

The ATO can charge interest on the amount of any increase in tax payable from the original due date to the date of the issue of the amended assessment.

# Types of Assessments

## Amended Assessments

The standard period in which the FCT can amend an assessment for most individual and very small business taxpayers is 2 years from the day on which the ATO gives notice of assessment.

Taxpayers with more complex tax affairs are subject to a 4 year amendment period.



# Amended assessments

## Fraud or evasion

The Commissioner can amend assessments at any time where there has been an avoidance of tax due to fraud or evasion.

i.e. there is no time limit.

# Amended assessments

## How to lodge an amendment

The taxpayer can obtain, complete and lodge a “Request for amendment of individual tax return for individuals” form from the ATO, or alternatively write a letter to the ATO requesting that an amendment be made to their assessment.

In the letter the taxpayer must provide their name, address, phone number, tax file number and information about what they want to amend.

# Notice of Assessment (NOA)

A Notice of Assessment is an itemised account issued by the ATO of the amount of tax liability on a taxpayer's taxable income based on the information provided on that tax return.

It also contains other details that are not part of the assessment, such as the amount of credit for tax already paid (e.g. PAYG tax instalments paid) through the income year.

# Notice of Assessment (NOA)

It may also contain other details that are not part of the assessment such as:

- any other outstanding tax debts.
- child support debts.
- HELP repayments
- Family Tax Benefit (FTB) debts or Centrelink debts.

These may reduce any refund entitlement.

# Notice of Assessment Format



Australian Government  
Australian Taxation Office

MR CREDIT TAXPAYER  
PO BOX 1  
PERTH WA 6000

Tax period ending	30 June 2020
Tax file number	111 111 111
Date of issue	25 November 2020
Our reference (quoted when using e-tax)	710 001 604 1865

Internet: [www.ato.gov.au](http://www.ato.gov.au) Phone enquiries: 13 28 61

## Notice of assessment

*Income Tax Assessment Act 1936 and Income Tax Assessment Act 1997*

Description	Debits \$	Credits \$
<i>Your taxable income is \$75,781.00</i>		
Tax on your taxable or net income	16,175.83	
Less non-refundable tax offsets		3,153.00
Less refundable tax offsets		17.00
Assessed tax payable	13,005.83	
Less PAYG credits and other entitlements		17,694.00
Result of this notice		4,643.18 CR

**!** The result of this notice has been applied to your Income Tax Account  
Please see your Statement of Account for *total amounts payable / refundable* on your Income Tax Account.

Raelene Vivian  
Deputy Commissioner of Taxation

Please keep this notice for future reference

Please see the reverse of this page for important information about your assessment

# Notice of Assessment Format

## Notice of assessment (cont.) – detailed information

*Income Tax Assessment Act 1936 and Income Tax Assessment Act 1997*

This section details amounts listed on the front page of this notice:

Description	Debits \$	Credits \$
<b>Non-refundable tax offsets total of \$3,153.00:</b>		
Dependent (Invalid and Invalid Carer tax offset)		1,320.00
Remote area (zone) or overseas forces offset		1,833.00
<b>Refundable tax offsets total of \$17.00:</b>		
Franking credit offset		17.00
<b>PAYG credits and other entitlements total of \$17,694.00:</b>		
Pay as you go (PAYG) withholding (eg tax deducted by your employer or bank)		17,694.00

# Statement of Account

The statement of account is designed to keep taxpayers up-to-date with their tax account.

It provides a summary of payments and transactions made during the statement period and shows any amounts the taxpayer needs to pay or refunds due to them.

# Statement of Account

## Who will receive a Statement of Account?

A taxpayer will only receive a Statement of Account with their income tax Notice of Assessment (NOA) or Notice of Amended Assessment (NOAA) if they:

- incur a penalty or general interest charge as part of the assessment process,
- are due to receive credit interest amounts as part of the assessment process,
- have any credits offset to other debts - either other tax debts or debts with other government agencies,
- have other amounts payable/refundable on their account included in the opening balance, or,
- have lodged returns for multiple financial years on the same day.

A taxpayer may also receive a Statement of Account at other times throughout the year, especially if they have an outstanding balance on their account.



# Statement of Account Format



**Australian Government**  
**Australian Taxation Office**



MR CREDIT TAXPAYER  
PO BOX 1  
PERTH WA 6000

Tax period ending	23 Oct 20 to 21 Nov 20
Tax file number	111 111 111
Date of issue	25 November 2020
Statement number	1
Our reference	771222456089

Account enquiries: 13 28 61  
Internet: [www.ato.gov.au](http://www.ato.gov.au)

**Income Tax Account Statement of Account**

Account balance as at 21 November 2020	\$0.00
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This statement has been issued to provide notification of the transactions processed to your account up to 21 NOV 20

 Your refund of \$4,643.18 CR (ATO 222 222 222 222) has been forwarded to your nominated financial institution

Raelene Vivian  
Deputy Commissioner of Taxation

Please see over for important information about your statement

Sample only

Tax file number:		Statement number: 1	
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**Transaction list - Income Tax Account**  
This statement shows transactions for the period 23 October 2020 to 21 November 2020 (inclusive)

Process date	Effective date	Description of transaction	Debit \$	Credit \$	Balance \$
23 Oct 20		OPENING BALANCE			0.00

# Statement of Account Format

Tax file number:			Statement number: 1		
Transaction list - Income Tax Account					
This statement shows transactions for the period 23 October 2020 to 21 November 2020 (inclusive)					
Process date	Effective date	Description of transaction	Debit \$	Credit \$	Balance \$
23 Oct 20		OPENING BALANCE			0.00
12 Nov 20		Tax return Individuals - Income Tax - Individual for the period from 01 Jul 19 to 30 Jun 20		4,643.18	4,643.18 CR
17 Nov 20	17 Nov 20	Interest on overpayment for Income Tax - Individual for the period from 01 Jul 19 to 30 Jun 20		12.33	4,655.51 CR
18 Nov 20	23 Nov 20	EFT refund for Income Tax - Individual for the period from 01 Jul 19 to 30 Jun 20	4,655.51		0.00
21 Nov 20		CLOSING BALANCE			0.00

<b>Net year to date amounts</b>		
The following information is provided to assist reconciliation of accounts and preparation of your tax return(s) and includes amounts reported and processed as at the statement date.		
<b>Amounts applicable to:</b>	<b>Last financial year balance \$</b>	<b>Current financial year balance \$</b>
Income Tax - Individual	4,655.51 CR	0.00

## Net year to date amount notes:

Total net deductible interest expense is tax deductible in the year that it is incurred and needs to be included in your income tax return.

Total net assessable interest income is assessable income in the year that it is applied and needs to be included in your income tax return.

# Reviews and Audits

## Reviews

The ATO may conduct a review to check for any errors and help the taxpayer correct these. The ATO also use reviews to collect information about industries and activities.

If the ATO finds evidence during a review that the taxpayer has not met their tax obligations, it may decide to conduct an audit. The ATO will tell the taxpayer if it intends to do this.

## Audits

A tax audit is a systematic examination of a taxpayer's income tax affairs by the ATO to determine whether or not the taxpayer has fully complied with the tax laws.

# Post Assessment Audits

The goal of the ATO's Compliance Program is to detect tax shortfalls (i.e. tax that should have been paid but wasn't)

The Compliance Program includes the following types of audits:

- Research audits
- Primary audits
- Business audits
- Complex audits
- Special audits



# Post Assessment Audits

## Research audits

Research audits are designed to determine levels of compliance in particular industries or activities.

## Primary audits

Primary audits cover employees, pensioners and investors and include:

- desk audits
- income matching
- substantiation audits

# Post Assessment Audits

## Business audits

A business audit involves examination of the taxpayer's business operations, records, accounting systems and other relevant matters.

Special attention is given to sales, purchases, trading stock, bank accounts, debtors & creditors, substantiation of business expenses, and journal and ledger entries.

Business audits are often conducted at the taxpayer's business premises during normal business hours.

# Post Assessment Audits

## Complex audits

Complex audits focus upon strategic issues, both domestic and international, such as management fees, royalties, intra-company loans, transfer pricing arrangements and double taxation treaties involving Australia's largest corporate groups, companies and trusts with complex business and financial arrangements.

# Post Assessment Audits

## Special audits

Special audits involve enforcement activity directed to the follow-up of serious fraud cases.



# Negotiated Settlements

In some circumstances where there is a need for good management of the taxation system, overall fairness and the best use of ATO and other community resources a negotiated settlement may occur.

However, the ATO will usually not compromise, negotiate or make concessions in matters where its view of the law is firm.

# Negotiated Settlements

A negotiated settlement is considered appropriate where the cost of litigation is considered likely to outweigh any possible benefits, a case is problematic in its outcome, or where the settlement will achieve compliance by the taxpayer for the current and/or future years in the most cost effective way.

All negotiated settlements are evidenced by a written agreement between the taxpayer and the ATO and represent the final agreed position between both parties.

# Taxation Ruling System

There are 6 types of Rulings for income tax purposes:

- Oral Rulings
- Public Rulings
- Private Rulings
- Product Rulings
- Class Rulings
- Tax Determinations

# Taxation Ruling System

## Oral rulings

Taxpayers who have simple tax affairs and a simple tax inquiry can apply to the Commissioner for an oral ruling which is legally binding upon the Commissioner.

The application may be made either in person or via telephone.

# Taxation Ruling System

## Public rulings

A public ruling is a ruling that applies to tax law generally and may be in the form of:

- official rulings and determinations.
- ATO publications including information booklets, return form guides, and the annual *Individual Tax Return Instructions*.
- speeches of senior ATO officers and media releases.

# Taxation Ruling System

## Private rulings

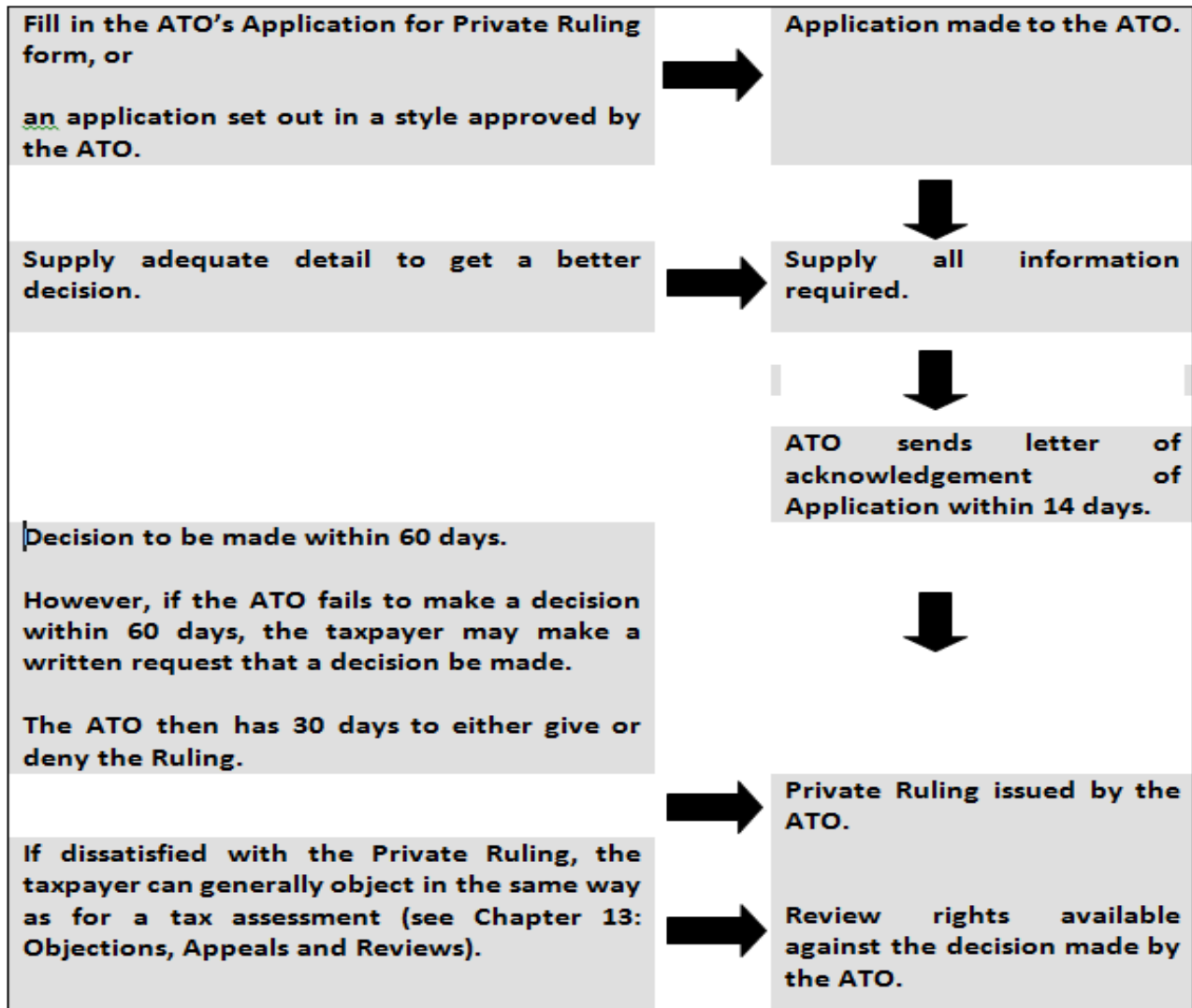
A private ruling is a ruling that relates to a particular taxpayer's tax affairs.

Private rulings are binding on the ATO when they affect the taxpayer's final tax liability.

Taxpayers are expected to follow private rulings when completing their income tax returns.

# Taxation Ruling System

## Private ruling application process



# Taxation Ruling System

## Product rulings

A product ruling is a type of legally binding Public Ruling that relates to publicly marked investment schemes.



# Taxation Ruling System

## Class rulings

A Class Ruling is a ruling that provides legally binding advice in relation to a specific class of persons in relation to a particular scheme.

# Taxation Ruling System

## Tax Determinations

Tax Determinations are a type of Ruling regarding a very specific point of tax law.

# ATO's Access to Information

## Rights of access

ATO officers have the right of full and free access to all buildings, places, books, documents, papers etc. for the purposes of obtaining tax related information.

ATO officers cannot remove original documents, but have the right to make copies or extracts.

Advance warning does not have to be provided by the ATO to the person from whom information is sought.

# ATO's Access to Information

## Power to obtain information

The Commissioner is empowered to request, by notice in writing, that the taxpayer or any other person:

- provide all required information,
- produce all documents as required,
- attend and give evidence concerning income or assessment of the taxpayer under investigation.

# Freedom of Information and Privacy

Taxpayers have the right to view their tax files.

The ATO cannot release a taxpayer's information to a third party unless the law allows or compels it to do so.