

# ***PS LA 2002/4 - Service of documents***

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! This document has changed over time. This version was published on *7 August 2017*



This Law Administration Practice Statement provides guidelines on accepting service of documents.

*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.*

### 1. What this practice statement is about

This practice statement advises:

- who may accept service of documents
- what needs to be done when accepting service, and
- what needs to be done after accepting service.

### 2. Who can accept service of documents?

The following outlines who can accept service in different situations. You should note that if an address for service is not included in the documents, you should refuse to accept service in every instance.

#### ***Taxation or AOD appeals***

You cannot accept service of these matters, as the Federal Court Rules 2011 state that only the AGS can accept service. The originating documents must be served at the offices of the AGS in the State or Territory in which the application was filed.

#### ***Documents being served on Commissioners and Deputy Commissioners***

The following is the order of preference in regard to who should accept service of documents served on Commissioners and Deputy Commissioners:

1. An officer from General Counsel or the Review and Dispute Resolution (RDR) business line.
2. In sites with no General Counsel or RDR presence, a nominated team leader in the relevant business line.
3. If the relevant business line cannot be identified, any EL 2 in that site.
4. Any ATO staff member.

#### ***Documents being served on named ATO staff members***

Before you accept service of documents in behalf of an individual staff member:

- you will need the consent of that staff member, and
- the documents being served must relate to the named staff members ATO duties

If the documents relate to a private matter you must refuse service.

### 3. What do I need to do when accepting service?

When accepting service of any documents you must do the following:

- Record the time and date of service on the front of the document.
- Prepare a file note ensuring that reference is made to the time of service, whether or not conduct money (see below) was offered, and if so, whether it was accepted or refused.
- If asked by the person serving the document, sign an acknowledgment of receipt of the document and provide your name.

It is preferable that conduct money is not accepted. However, if you do, you should follow the instructions in FMPI 2014/07/01 *Managing public money: Collecting and receiving money*.

#### 4. What do I need to do after accepting service?

##### ***Documents served on Commissioners and Deputy Commissioners***

The documents should immediately be forwarded to the nearest General Counsel unit. If not in the same site, immediately scan and email the documents to the General Counsel unit at [GeneralCounselRequests@ato.gov.au](mailto:GeneralCounselRequests@ato.gov.au). The originals should be then sent by internal mail to the closest General Counsel Unit (see Attachment).

##### ***Documents served on named ATO staff members***

You must ensure that the documents are given to the person named within a short time frame, for example,

24 hours. Failure to do so may have serious legal consequences.

#### 5. More information

For more information, see:

- Contact [General Counsel](#)
- [FMPI 2014/07/01](#) *Managing public money: Collecting and receiving money*

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## ATTACHMENT 1

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