



# Review of Small Business Taxation Decisions

This Direction is given under section 18B of the *Administrative Appeals Tribunal Act 1975* (AAT Act).

## 1. About this Direction

1.1 This Direction applies to the review of:

- **small business taxation decisions** as defined by the Administrative Appeals Tribunal Regulations 2015 (AAT Regulations);
- any other taxation decisions that the Administrative Appeals Tribunal (AAT) has decided to hear at the same time as a small business taxation decision; and
- any other decision the President has allocated to the AAT's **Small Business Taxation Division** (SBT Division).

1.2 This Direction does not apply to decisions made under the *Tax Agent Services Act 2009* and legislative instruments made under that Act.

1.3 The Tribunal may alter the procedures set out in this Direction to suit individual applications.

1.4 To the extent that another Direction made under section 18B is inconsistent with this Direction, this Direction applies.

1.5 This Direction has effect on and from 1 March 2019.

1.6 In this Direction:

**'Commissioner'** means the decision maker of small business taxation decisions and any representative;

**'us'** or **'we'** means the AAT;

**'you'** means the person or organisation who has applied for review, any person who has been joined as a party to the review and any representative.

## 2. General Practice Direction applies

2.1 To the extent that it is not inconsistent with this Direction, the General Practice Direction applies to the review of decisions to which this Direction applies.

### 3. Contact information and representation

3.1 You must tell us and the Commissioner if:

- your contact details change;
- you obtain a representative; or
- you change your representative.

3.2 The Commissioner must tell us and you if:

- the contact details for their representative change; or
- they decide to use an external legal services provider to represent them in relation to your review. (If this happens you should refer to the Australian Taxation Office's (ATO) policy about assisting small business applicants with the cost of legal representation available on the ATO [website](#).)

### 4. Information gathering in the Small Business Taxation Division

4.1 The SBT Division uses an early case assessment conferencing process to identify the most effective way to progress each application in a timely manner. This flexible approach relies upon you and the Commissioner giving us all relevant information at the earliest opportunity.

4.2 We may ask you or the Commissioner to give us information during early case assessment conferencing, other alternative dispute resolution (ADR), or hearing processes. This may be by providing documents, giving oral evidence or in writing.

4.3 We will advise you if you need to present information or arguments to us in writing in a particular form. Unless otherwise directed, the parties will be expected to provide Statements of Issues, Facts and Contentions in accordance with the [General Practice Direction](#).

4.4 Where oral evidence or documents necessary for your review are to be provided by another person, you may need to ask us to issue a summons to that person.

### 5. Preliminary Information Form

5.1 The Commissioner must complete the AAT's Preliminary Information Form for the purpose of early case assessment conferencing and give it to us within 14 days of receiving notice from us of the application for review.

### 6. Early Case Assessment and Alternative Dispute Resolution (ADR)

6.1 Ordinarily, early case assessment conferencing will be undertaken before other ADR processes. The early case assessment conferencing process clarifies the scope of the review; assists the parties to exchange relevant information; encourages or facilitates early negotiation between the parties; identifies any procedural matters that need to be addressed; and, directs the next steps in the review.

For further information about the AAT, please call us on **1800 228 333** or go to [www.aat.gov.au](http://www.aat.gov.au).

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If a dispute is not finalised during early case assessment conferencing, we may hold another ADR process within the AAT, a directions hearing or hearing.

- 6.2 Our ADR options include: conferences, conciliation, mediation, case appraisal and neutral evaluation.

## **7. Compliance with directions**

- 7.1 You must use your best endeavours to assist the AAT to meet its objectives, including: complying with directions; giving us information; and participating in early case assessment conferencing and other ADR processes.
- 7.2 The Commissioner must use their best endeavours to assist the AAT to make its decision, including complying with directions, giving us information and participating in early case assessment conferencing and other ADR processes.
- 7.3 The consequences for non-compliance with directions are set out at paragraphs 4.61-4.64 of the General Practice Direction and include dismissal of an application.

## **8. Decision**

- 8.1 We will make a decision on your application within 28 days of the last day of a substantive hearing, or the date of receipt of the last submission or piece of evidence in relation to that hearing, whichever is the latest.

**Justice D. G. Thomas**  
**President**

28 February 2019