

How to Negotiate a Payment Plan with the ATO

The Australian Tax Office (ATO) is becoming more proactive in its debt collection policies given the billions owing in unpaid tax debt.

Often the ATO will enforce action to recover the debt, leaving you in a worse position. The best way forward is to be pro-active and take control of the situation. This can be done by negotiating an ATO Payment Plan.

What is an ATO Payment Plan?

An ATO Payment Plan is a formal agreement between a taxpayer and the ATO. They allow the taxpayer to pay tax debts through instalments. ATO Payment Plans are usually made on the condition that taxpayers are up-to-date with their ATO obligations. Entering a payment plan helps taxpayers avoid collection action and to pay their debts in an affordable way.

Why you should enter an ATO Payment Plan?

If you cannot afford to pay your tax debt, you certainly cannot afford to ignore it. The ATO has a number of aggressive recovery tactics the ATO can use on small business owners who have not paid their tax debt, or negotiated a payment plan. These include:

- Garnishee Notice
- Director Penalty Notice (DPN)
- Statutory Demand

What is a Garnishee Notice?

A Garnishee Notice is a notice sent from the ATO to the taxpayer's bank, or their employer, telling them to pay all monies owed directly to the ATO not the taxpayer. This allows the ATO to claw back outstanding tax debts.

What is a Director Penalty Notice?

A Director Penalty Notice (commonly referred to as a DPN) is a means of making a company Director personally liable for unpaid PAYG withholding and superannuation guarantee payments. .

What is a Statutory Demand?

A Statutory Demand is a written warning from the ATO. It will state that if your debts remain unpaid or if you fail to enter a payment Plan, the ATO may appoint a liquidator to begin winding up the company.

The ATO will use these recovery methods on business owners who have an outstanding tax debt. In fact, the ATO has been responsible for the most number of forced insolvency cases in Australia.

That's why it is important to always submit your lodgements on time and deal with your debt in a timely manner. If you know you aren't able to afford your tax debt, you should explore other options such as an ATO Payment Plan.

Benefits of an ATO Payment Plan

While the ATO has these recovery methods at their disposal, they also offer a saving grace for taxpayers struggling with outstanding tax debts.

An ATO Payment Plan is a way for businesses to pay their debt by instalments. This helps small business owners:

- Manage their cash flow
- Repay their tax debt
- Avoid unnecessary insolvency action
- Keep their business

The ATO has clamped down on non-compliant taxpayers. But at the same time, the ATO wants to help businesses comply as opposed to punish them in their time of need.

Do you qualify for an ATO Payment Plan?

In order to qualify for a Payment Plan, the ATO consider the following criteria:

- The debt must not be in dispute
- The proposal must be in writing and supported by appropriate material outlining how the Payment Plan would be fulfilled
- The Payment Plan must offer all the taxpayers net assets (with limited exceptions)
- The Payment Plan must not show favour to any one creditor, including the ATO. Make sure your Payment Plan is fair to all creditors
- Prove your Payment Plan is in the interests of good management and administrative common sense

Negotiating an ATO Payment Plan for debts less than \$100,000

The simplest way to negotiate an ATO Payment plan is through the ATO Online service which is available 24 hours a day. To use this service, you must have a MyGov Account which is linked to the ATO. You can set up a MyGov account in a few short steps. This service is suitable if you:

- are an individual or sole trader
- have an income tax or Instalment Activity Statement of less than \$100,000

Alternatively, you can phone the ATO automated phone service to organise a late payment or pay by instalments. Individuals can call the ATO on 13 28 65. Businesses can phone 13 72 26.

Be prepared for the phone call by having your Tax File Number (TFN) and your Australian Business Number (ABN) handy. You can also use the [payment plan estimator](#) to work out a payment plan you can afford.

The calculator will help you determine how long it will take to repay the debt and how much interest you'll be charged. Use this information to set up an appropriate repayment plan to suit your circumstances.

ATO Payment Plans for Debts more than \$100,000

If your ATO Debt exceeds \$100,000 you will need to phone the ATO on 13 11 42 to discuss your options. It's likely the ATO will ask for more information about your circumstances in order to negotiate an appropriate repayment plan with you.

There are a number of things you can do to help your cause. These include:

- Acting early. Your debt will grow if you ignore it leaving you with a bigger debt to negotiate
- Taking the first step. Don't hide from your debt or avoid lodging. Be proactive about your situation
- Developing healthy business habits. If non-lodgement or a failure to pay has been an ongoing issue, the ATO will be less likely to agree to a payment plan
- Making an offer they can't refuse. Your proposed Payment Plan will ideally offer a better return to the Commonwealth than what would be obtained by other recovery processes

Interest-free payment plans for activity statement debts

Small businesses with an activity statement debt may be able to pay it off interest-free over 12 months. You need to have a good history of tax lodgements and payments.

Next steps

- Check eligibility (see below)
- Use the [payment plan estimator](#) to work out a suitable payment plan
- Phone the ATO on 13 28 66 to set up the payment plan

Eligibility

You're eligible for an interest-free payment plan if your business:

- has an annual turnover of less than \$2 million (according to the ATO, this threshold has not changed)
- has a recent activity statement debt of \$50,000 or less, which has been overdue for no longer than 12 months
- has a good payment and lodgement compliance history, including:
 - no more than one payment plan default within the last 12 months
 - no outstanding activity statement lodgements

- is unable to obtain finance (such as a loan) through normal business channels
- is able to demonstrate ongoing viability.

How it works

You have to agree to a Payment plan that allows the debt to be paid by direct debit within 12 months. Even if you receive a letter stating that interest will apply, it will be remitted as long as you maintain your Payment Plan.

During the term of the Payment Plan, you must continue to meet all of your other tax payment and lodgement obligations.

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