Australian Government
Australian Taxation Office

Practice Statement Law Administration

PS LA 2014/3

SUBJECT:	**Simplifying transfer pricing record keeping**
PURPOSE:	**To provide ATO personnel with guidance on the application of the options under** *Simplifying Transfer Pricing Record Keeping*

This law administration practice statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1.

ATO personnel, including non ongoing staff and relevant contractors, must comply with this law administration practice statement, unless doing so creates unintended consequences or is considered incorrect.

Where this occurs, ATO personnel must follow their business line's escalation process.

Taxpayers can rely on this law administration practice statement to provide them with protection from interest and penalties in the way explained below. 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 law administration 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.

SCOPE

1. This practice statement provides guidance for ATO personnel to follow when reviewing cross border conditions between entities (CBCBE) for the purposes of Subdivisions 815-B and 815-C of the *Income Tax Assessment Act 1997* (ITAA 1997) and where entities with these conditions have applied the online guidance *Simplifying Transfer Pricing Record Keeping* options.

BACKGROUND

2. For income tax years commencing on or after 29 June 2013, Australia's modernised transfer pricing rules apply to CBCBE, including Subdivision 284-E of Schedule 1 to the TAA 1953 which deals with transfer pricing documentation.

3. Subdivision 284-E does not mandate the preparation or keeping of documentation. However, the consequence of not meeting the requirements in section 284-255 is that, there is a presumption that the entity does not have a reasonably arguable position. As a direct result, a higher base penalty amount will apply.

4. Documentation that meets all of the requirements of Subdivision 284-E may impose an administrative burden on an entity that is disproportionate to their risk of not complying with the transfer pricing rules. The ATO has developed some simplified transfer pricing record keeping options so that certain eligible businesses can opt to minimise their record keeping costs.

5. An online guidance product has been published which outlines the options that an entity can elect to apply. Where an entity has taken up one or more of the options, the Commissioner has provided assurance in the online

guidance *Simplifying Transfer Pricing Record Keeping* that compliance resources will not be allocated to examine the transfer pricing records relevant to those options(s).

STATEMENT

6. This practice statement must be followed by tax officers when considering undertaking compliance action with respect to CBCBE subject to the transfer pricing provisions (Subdivisions 815-B and 815-C of the ITAA 1997).

7. In accordance with the assurance given in the online guidance *Simplifying Transfer Pricing Record Keeping,* if an entity has elected to apply a simplification record keeping option(s), then tax officers are not to review the records that relate to the relevant CBCBE's of that entity beyond conducting a check to confirm an entity's eligibility.

8. ATO personnel can ascertain whether an entity has elected to apply one of the simplified record keeping options by checking whether code 7 is shown on the entity's International Dealings Schedule (see paragraphs 12 to 13 of this practice statement).

9. This assurance applies for three consecutive income years, the first of which commences on or after 29 June 2013.

10. ATO personnel should refer to the online guidance for details as to the relevant options, the eligibility requirements and their conditions of operation.

EXPLANATION

11. *Simplifying Transfer Pricing Record Keeping* by providing options to apply to CBCBE does not limit or waive the operation of the law, but acknowledges that by choosing to apply and disclose a simplified option the entity has demonstrated a willingness to comply.

International Dealings Schedule

12. Entities other than individuals are required to complete and lodge an International Dealings Schedule with their annual income tax return where they have over $2 million of related party dealings. They must also disclose the value of those transactions and answer questions about the nature of the transactions, the pricing methodology selected and the percentage of dealings supported with documentation.

13. If the entity has applied one or more of the *Simplified Transfer Pricing Record Keeping* options, they should have notified their election by selecting code 7 for the 'percentage of dealings with documentation code' within the relevant label(s). This code will be unavailable for the 2014 year.

Date of Issue: 17 December 2014

Date of Effect: 1 July 2013

Subject References:
Documentation & records
International finance
transfer pricing

Legislative References:
ITAA 1997 Subdiv 815-B
ITAA 1997 Subdiv 815-C
ITAA 1997 Subdiv 815-D
TAA 1953 Sch 1 Subdiv 284-E
TAA 1953 Sch 1 284-255

Related Rulings/Determinations:
TR 2014/8

Other References
Simplifying Transfer Pricing Record Keeping

ATO references:
File 1-52IVB0G

Authorised by:
Michael Jenkins

Other Business Lines consulted   PG&I, TCN