

Practice Direction for the Procedure of Taxation of Costs

Key Points

- This Practice Direction applies to any application for the taxation of costs lodged with the Tribunal on or after 20 April 2015.

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The Practice Direction for the Procedure of Taxation of Costs provides the Tribunal with a formal process by which it can handle the taxation of costs. An application can be made to the Tribunal by either party for costs to be taxed in situations where an agreement cannot be made on the amount of costs.

The key points of this Practice Direction are as follows:

- The Tribunal may order that a party to a proceeding pay the costs incurred by another party through the process of taxation.
- Costs that are assessed by the Tribunal are assessed on a party/party basis. These costs can include witness expenses, disbursements and professional costs. Professional costs should be assessed as set out in the *Federal Court Rules 2011* (Cth).
- If costs are to be disputed, a disputed itemised bill must be lodged with the Tribunal and a copy must be served on the other party.
- Parties are then notified of the Taxing Officer for the matter and may lodge a short written summary of any objections.
- Objections must include the ground of the objection and the amount (if any) the party is prepared to pay. This objection summary must also be provided to the party who lodged the itemised bill.

The Procedure

Following the lodging of the itemised bill, the Taxation Officer provides a written estimate of costs likely to be payable. Should the parties disagree, a written notification of the parties disagreement to the estimate must be provided to Tribunal within 10 days of receipt of the estimate. If parties agree on the written estimate, the Taxation Officer will issue a Certificate of Taxation for the amount of the estimate. If they do not agree, the Tribunal will notify the parties of a time and date for a conference to occur.

If no agreement is made at the conference, notice that Taxation is required must be given to the Taxation Officer within 10 working days of the conference. At this stage, the parties will proceed to Taxation. The Taxation Officer will notify the parties, in writing, of the date and time of the taxation. Following the completion of Taxation, the Taxation Officer will issue a Certification of Taxation.

Parties should be aware that no written reasons for the Taxation amount will be provided automatically. However, either or both of the parties can request written reasons be provided. This request must be made within 28 days of the Taxation.



Impact

There is an obligation for parties to follow the rules set out in the *Federal Court Rules 2011* and only charge what is deemed as reasonable and proper. If costs are disputed between the parties, the procedure of this Practice Direction should be followed to achieve a process that results in costs being resolved at the earliest possible opportunity. The Practice Direction formalises the informal procedure that is already being followed by the Tribunal.

For more information on this article, please contact:

Brett Ablong
Partner
T: +61 (0) 8 9265 6001
M: 0400 263 807
brett.ablong@hbalegal.com

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