



**COMMISSIONER'S PRACTICE
TAA 2.0**

- a. where the taxpayer does not lodge an instrument (as defined in the TAA Glossary) in accordance with a taxation Act;
- b. where a contravention of a taxation Act occurs and, as a result, the taxpayer:
 - (i) avoids or delays the payment of tax; or
 - (ii) avoids or delays the submission of information required for the assessment of tax;
- c. where there is a material misstatement or omission in an instrument submitted to the Commissioner by or for the taxpayer under a taxation Act;
- d. where the taxpayer fails to provide information as required under a taxation Act or (intentionally or unintentionally) provides information that is incorrect, incomplete or misleading;
- e. where the taxpayer makes an underestimation to avoid, delay or reduce the payment of tax;
- f. where the taxpayer fails to pay (or underpays) tax for which the taxpayer is liable.

Section 26(2) of the TAA authorises the Commissioner to assess an amount of penalty tax where reasonable grounds exist for suspecting that a taxpayer is liable to penalty tax.

Section 26(3) of the TAA provides that the amount of penalty tax payable is equal to 100% of the primary tax liability.

Section 29 of the TAA provides the Commissioner with the power to remit penalty tax wholly or in part.

“Instrument” is defined in the TAA Glossary to include a return. This Commissioner’s Practice adopts the TAA definition.

This Commissioner’s Practice outlines how penalty tax payable under section 26 will be remitted in circumstances where pay-roll tax, debits tax, rental business duty and special tax return liabilities have not been declared by a taxpayer.

Commissioner’s Practice

Remission of penalty tax

1. Penalty tax will be remitted on the basis of a separate rate for each financial year for which tax was not declared, with the penalty tax percentage increasing in severity according to the degree of lateness.

2. Where registration is effected due to voluntary disclosure by the

7. Where the Commissioner is of the opinion that a taxpayer has declared a liability because it was apparent that an investigation was imminent, the amount of penalty tax will be calculated under the "involuntary" category specified in paragraph 5, unless paragraph 6 applies, in which case the "evasion" category applies.
8. Except where the Commissioner is of the opinion that an employer deliberately failed to register for pay-roll tax, penalty tax will be remitted under the "voluntary" category specified in paragraph 5 where an individual employer's wages are below the relevant threshold and the employer is required to register for grouping reasons only.

- 11.4 the Commissioner determines that a tax liability exists in Western Australia and the Commissioner is satisfied that the tax has been fully paid in another jurisdiction in error.
12. All determinations of requests for further remission of penalty tax should be supported by a file note giving reasons for the allowance or refusal.

Date of Effect

This Commissioner's Practice takes effect from 1 July 2003.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

1 July 2003