



COMMISSIONER'S PRACTICE TAA 20.0

REMISSION OF PENALTY TAX – LATE PAYMENT

			To
TAA 20.0	1 July 2008	1 July 2008	28 February 2011

This Commissioner's practice outlines how penalty tax imposed as a result of the late payment of duty or tax will be notified and the circumstances in which it will be remitted.

Background

The Taxation Administration Act 2003 ("TAA") provides the administrative framework for a number of taxation Acts administered by the Commissioner, including the Stamp Act 1921, the Pay-roll Tax Assessment Act 2002, the Land Tax Assessment Act 2002, the Debts Tax Assessment Act 2002 and the Duties Act 2008. Matters covered by the TAA include the issue of assessment notices and the imposition of penalty tax.

Liability to tax is set out in each of the relevant taxation Acts. In some instances tax liability is self assessed with the taxpayer remitting returns disclosing liability, in other instances

Official Assessment

Section 15 of the TAA provides that the Commissioner must make an official assessment of tax payable by a person where a person is not required to make a self assessment or where a taxation Act specifically requires the Commissioner to do so. An official assessment may be made on either the Commissioner's or taxpayer's initiative, irrespective of whether the taxpayer is required to make a self assessment.

Reassessment

A reassessment represents an assessment made subsequent to an original assessment. A reassessment may be made on the Commissioner's initiative, on application by the taxpayer, or the Commissioner may be specifically required to undertake a reassessment under a taxation Act (e.g. section 16(1) of the Pay-roll Tax Assessment Act 2002) or pursuant to directions given in review proceedings before the State Administrative Tribunal or Court of Appeal.

Matters relating to time periods for which assessments and reassessments of tax may be made are dealt with in Commissioner's Practice TAA 16.

Issue of Assessment Notice

Section 23(1) of the TAA generally requires that the Commissioner issue an assessment notice when he makes an assessment by way of self assessment, official assessment or reassessment.

Payment Periods

Section 45 of the TAA provides that the due date for payment of tax is established in accordance with the relevant taxation Act. Where the taxation Act does not make provision for the date of payment, the tax is due for payment on the date specified in the assessment notice.

Tax is required to be paid on original (return based) self assessments and original official assessments in accordance with the sections of the taxation Acts respectively set out in appendices 1 and 2.

The due date for payment of a reassessment is the later of:

- the date established in accordance with the relevant taxation Act; or
- 28 days after the date that the assessment notice was issued.

Remission of Penalty Tax – Non Return Based Tax (Original and Reassessments)

2. Where duty payable in respect of a transaction record, instrument or dutiable statement under the Duties Act 2008 or the Stamp Act 1921 or tax payable under the Land Tax Assessment Act 2002 is not paid by the due date:
 - 2.1 A penalty tax assessment notice will be issued if the duty or tax assessed is not paid within seven days after the due date. The seven days is allowed for the Office of State Revenue to process payments received by the due date.
 - 2.2 The penalty tax of 20% of the outstanding amount imposed by section 27 of the TAA will be remitted to 5%.

Further Remission of Penalty Tax

3. Further remission of the late payment penalty tax to nil will only be considered in exceptional circumstances, which may include, but are not limited to where:
 - 3.1 payment of tax is received on the same day as the penalty tax assessment notice was issued, and a check of the taxpayer's

4. Where other circumstances are given in support of a request for further remission of penalty tax that do not fall within paragraph 3, the request must be referred to the relevant Branch Manager with a recommendation for determination.
5. All determinations in respect of requests for further remission of late payment penalties should be supported by a file note giving the reasons for the allowance or refusal.
6. The remission of penalty tax to nil may not remove the occurrence of the transgression for the purposes of determining whether a transgression has occurred in the previous twelve month period.

Other Matters

7. Penalty tax is payable by the date specified in the assessment notice in accordance with section 45(2) of the TAA.
8. If full payment of the tax and penalty tax is not received, or an instalment arrangement or extension of time has not been granted under section 47 of the TAA within seven days after the date specified in the assessment advice, legal action to recover the outstanding amounts will be commenced.

Date of Effect

This Commissioner's practice takes effect from 1 July 2008.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

1 July 2008

Appendix 1

ORIGINAL RETURN BASED ASSESSMENTS – PAYMENT REQUIREMENTS

TAXATION ACT	RETURN	PAYMENT REQUIREMENT	PAYMENT TIME PERIOD	
Pay-roll Tax Assessment Act 2002	Pay-roll tax – monthly return	Section 6	7 days after end of the month	
	Pay-roll tax – quarterly return		7 days after the end of the quarter	
	Pay-roll tax - annual return		21 days after end of the assessment year	
Debits Tax Assessment Act 2002	Debits tax – monthly return	Section 6	14 days after the end of the month	1
Stamp Act 1921	Hire of goods – monthly return			

Appendix 2

ORIGINAL OFFICIAL ASSESSMENT – PAYMENT REQUIREMENTS

TAXATION ACT	DUTIABLE TRANSACTION	PAYMENT REQUIREMENT	PAYMENT TIME PERIOD
Land Tax Assessment Act 2002	Assessment	Section 6	49 days after date of the assessment notice
Duties Act 2008	Generally (unless alternative payment provisions are provided for)	Section 25(1)	1 month after the date of the assessment notice
	Farming land conditional agreement Mining tenement conditional agreement Farming land where completion is subject to a primary production activity	Section 25(1)(a)	12 months after the day on which liability for duty arose
	Off-the plan conditional agreement Subdivision conditional agreement	Section 25(1)(b)	2 years after the day on which liability for duty arose Providing the property is not on sold prior to the transaction record being endorsed for duty
Stamp Act 1921	Generally (unless alternative payment provisions are provided for)	Section 17A(2)	1 month after the date of the assessment notice
	Farming land conditional contract (as defined in s. 9) Mining tenement conditional contract (as defined in s. 11)	Section 17AA(1)	The later of: 12 months after the date on which the contract was first executed; or

Appendix 2

ORIGINAL OFFICIAL ASSESSMENT – PAYMENT REQUIREMENTS

TAXATION ACT	DUTIABLE TRANSACTION	PAYMENT REQUIREMENT	PAYMENT TIME PERIOD	
Stamp Act 1921	Off-the plan conditional contract (as defined in s. 10) Subdivision conditional contract (as defined in s 12)	Section 17AA(2)	The later of: 2 years after the date on which the contract was first executed; or 1 month after the date of the assessment notice	