# Interim Assessments of Transfer Duty or Landholder Duty

This Commissioner's practice outlines when the Commissioner will

- x make an interim assessment of transfer or landholder duty and
- x endorse transaction records following an interim transfer duty assessment.

# Background

# Interim assessments

Under section 16A(1) of the Taxation Administration Act 2003 ('TAA'), the Commissioner may make an interim assessment of a portion of tax when authorised by a taxation Act to do so.

Under the Duties Act 2008 ('Duties Act'), the Commissioner may make an interim assessment of transfer duty , foreign transfer duty , landholder duty or foreign landholder duty if -8.217

- (e) any information held by a regulatory authority in the State, another Australian jurisdiction or an overseas jurisdiction and
- (f) any publicly available information.

The Commissioner can not make a reassessment in relation to an interim assessment unless specifically required to do so because an objection is allowed wholly or in part or a direction is given in the course of review proceedings .<sup>4</sup>

Objection to interim assessment f

A memorial cannot be lodged until the land has been transferred to the taxpayer under the transaction and the taxpayer has consented to it being lodged. <sup>11</sup>

The Commissioner must wit hdraw a memorial on payment of the tax secured by the charge. <sup>12</sup> The Commissioner may withdraw a memorial at any time whether or not the relevant tax has been paid.<sup>13</sup>

## Penalty tax

Under section 26 of the TAA, a taxpayer is liable for penalty tax equal to their primary liability if they do not lodge an instrument in accordance with a taxation Act. <sup>14</sup> This amount may be remitted under section 29 of the TAA in accordance with Commissioner's Practice <u>TAA 18</u> 'Remission of Penalty Tax, Late or Non -Lodgment of Returns, Transaction Records, Acquisition Statements, Instruments and Dutiable Statements'.

#### Commissioner's Practice

#### When an interim assessment may be made

1. The Commissioner may make an interim assessment if satisfied the matter involves c65itesded.cs)@rntptes6a@tptaf5&ega(y)8v28u2at(s)rptaf5&ega(s)rptaf5&ega(s)rptaf5&ega(s)rptaf5&ega(s)rptaf5&ega(s)

- 10.2 registering the land in the taxpayer's name is a condition of its financing arrangements and the taxpayer's solvency would be compromised if the financing arrangements are withdrawn.
- 11. The request for transaction records to be endorsed must be accompanied by supporting information, including any relevant evidence from third parties and
  - 11.1 the taxpayer's consent to a memorial being lodged, including details of which titles they may be regist ered against or
  - 11.2 if the taxpayer does not consent to a memorial being lodged, the reasons why they they do not consent and what detriment? They will of are expected to suffer it hey are unable to register the transfer. In these cases, the taxpayer may suggest an alternative security arrangement for the Commissioner to consider.
- 12. The Commissioner may require further information such as details of the taxpayer's financial position.

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complete assessment. For example, the Commissioner would usually consent to registration of the transfer of a minor interest or a mortgage to allow the taxpayer to obtain finance.

19. If the Commissioner has lodged a memorial on land following an interim assessment and the land is sold to another person, consent to register the land in the new purchaser's name will not be given until the complete assessment is paid in full.

## Late lodgment penalty tax

20. Penalty tax for late lodgment of a transaction record, acquisition statement or agoiR413 (46 0 T4-7.2