



## COMMISSIONER'S PRACTICE TAA 17.0

### REMISSION OF PENALTY TAX - LATE OR NON-LODGE- MENT OF LAND RICH DUTIABLE STATEMENTS

#### Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
TAA 17.0	5 October 2004	5 October 2004	3 May 2010

This Commissioner's practice provides information on how penalties will be remitted upon the late or non-lodgement of dutiable statements relating to land rich companies and corporations.

#### Background

Part IIIBA of the *Stamp Act 1921* ("Stamp Act") relates to "land rich" companies and corporations. Section 76AB of the Stamp Act provides that a person may request the Commissioner to determine whether a dutiable statement is required to be lodged under section 76AG, 76AN, 76AT or 76ATG in respect of an acquisition, within 2 months of making the acquisition. The request can only be made by the person who may be required to lodge the statement.

Where a person makes a request for a determination under section 76AB(1), the Commissioner may require that person to provide further information for the Commissioner to make the determination. Section 76AB(5) provides that when a person required to provide this information does not do so within the period specified by the Commissioner, and the Commissioner does not have sufficient information to make the requested determination, the Commissioner is no longer required to make the determination and any requirement to lodge a dutiable statement under section 76AG, 76AN, 76AT or 76ATG is revived.

Section 26(1)(b) of the *Taxation Administration Act 2003* ("TAA") creates a liability to pay penalty tax where a taxpayer does not lodge an instrument, (including a dutiable statement) as required by section 17B of the Stamp Act.

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.

Commissioner's Practice TAA 1.2 outlines how penalty tax payable as a result of the late lodgement or non-lodgement of instruments and dutiable statements will be remitted.

### **Commissioner's Practice**

1. Notwithstanding Commissioner's Practice TAA 1.2, no remission of penalty tax will occur where the Commissioner determines that Part IIIBA applies and a taxpayer has failed to:
  - 1.1 lodge a statement under section 76AG, 76AN, 76AT or 76ATG of the Stamp Act;
  - 1.2 lodge a request for determination under section 76AB of the Stamp Act; or
  - 1.3 provide information requested by the Commissioner under section 76AB(4) in the specified time period which results in section 76AB(5) coming into operation.
2. Where penalty tax is payable in accordance with this Commissioner's practice, the remission of penalty tax may only be considered in exceptional circumstances upon written submission by the taxpayer. Each submission will be reviewed on a case by case basis by the Assistant Commissioner (Legislation, Training and Review).

### **Date of Effect**

This Commissioner's practice takes effect from 5 October 2004.

Bill Sullivan  
COMMISSIONER OF STATE REVENUE

5 October 2004