



## COMMISSIONER'S PRACTICE TAA - 4.0

### REMISSION OF PENALTY TAX FOR LATE PAYMENT - COMMISSIONER'S ASSESSMENTS

#### Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
TAA 4.0	1 July 2003	1 July 2003	30 June 2004

#### Background

The *Stamp Act 1921* ("Stamp Act"), *Land Tax Assessment Act 2002* ("LTAA") and *Taxation Administration Act 2003* ("TAA") require tax to be paid as follows:

- Section 17A(2) of the Stamp Act provides that stamp duty is payable within one month after the date of an assessment notice;
- Section 6 of the LTAA specifies that land tax is payable on an original assessment within 49 days after the date of the assessment notice;
- Section 45 of the TAA requires tax that is payable as a result of a reassessment to be paid within 30 days after the date of the assessment notice.

Section 27 of the TAA provides that if the assessed amount is not paid by the due date, the taxpayer is liable to pay penalty tax equal to 20% of the amount outstanding on the due date.

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

Division 3 of Part 3 of the TAA does not specify a date for the payment of penalty tax. Penalty tax is therefore payable by the date specified in the penalty tax assessment notice in accordance with section 45(2) of the TAA.

This Commissioner's Practice outlines how penalty tax incurred as a result of the late payment of a stamp duty or land tax assessment will be assessed and remitted.

## Commissioner's Practice

### Circumstances where no remission is to occur

1. Where an assessment of tax was made in circumstances that involved an attempt to evade tax, mislead the Commissioner or where false or misleading information has been provided, the penalty tax of 20% for late payment is not to be remitted.

### Remission prior to penalty tax assessment being made

2. Where stamp duty or land tax is not paid by the due date, the penalty tax of 20% of the outstanding amount automatically imposed by section 27 of the TAA is to be remitted to 5%.
3. A penalty tax assessment notice is to be issued if the stamp duty or land tax assessed is not paid within 7 days after the due date. The 7 days is allowed for the Office of State Revenue to process payments received by the due date.

### Further remission of 5% penalty tax

4. Further remission of the 5% late payment penalty to nil will only be considered in exceptional circumstances, which may include, but are not limited to:
  - 4.1 Payment of tax is received on the same day as the penalty tax assessment notice was issued, and a check of the taxpayer's history shows a good payment record;
  - 4.2 Genuine financial difficulties caused payment to be delayed by up to 7 days of the date of the penalty tax assessment notice and a check of the taxpayer's history shows a good payment record;
  - 4.3 Payment is made within 7 days of the penalty tax assessment notice issuing and the taxpayer was overseas, away on holiday, sick, hospitalised etcetera and a check of the taxpayer's history shows a good payment record;
  - 4.4 Late payment of tax was caused by postal system delays (eg. Christmas/Easter), payment is made within 7 days of the penalty tax assessment notice being issued and a check of the taxpayer's history shows a good payment record;
  - 4.5 The taxpayer is recently deceased and assets of the Estate are frozen due to probate;
  - 4.6 Where the lodging party has misappropriated client funds held on trust for the payment of a stamp duty assessment;
  - 4.7 Payment was inadvertently directed to the wrong Authority (eg. Australian Taxation Office, Department of Land Administration or another State or Territory revenue office).

5. Where other circumstances are given in support of requests for the further remission of penalty tax that do not fall within paragraph 4, the request must be referred to the Manager Assessments with a recommendation for determination.
6. All determinations of requests for further remission of late payment penalties should be supported by a file note giving reasons for the allowance or refusal.

Other matters

7. The payment date specified in the penalty tax assessment notice is to be 21 days after the issue date of the notice.
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 7 days after the specified due date in the penalty tax assessment notice, legal action to recover the outstanding amounts is to be commenced as soon as possible.

**Date of Effect**

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

Bill Sullivan  
COMMISSIONER OF STATE REVENUE

1 July 2003