



Land Tax Assessment Payment Options – Unintended Underpayments and Late Payments

This Commissioner's practice outlines the circumstances that may satisfy the Commissioner of State Revenue (the Commissioner) that an incorrect payment of land tax was intended to be an amount or instalment due and payable under a particular payment option offered on an assessment notice.

Background

The *Land Tax Assessment Regulations 2003* provide that a taxpayer may discharge a liability to pay an assessed amount by:

- option 1 - making one discounted payment of the amount¹
- option 2 - paying the amount in two equal instalments² or
- option 3 - paying the amount in three equal instalments, including an additional charge.³

A single payment under option 1 (regulation 6) or first instalment under options 2 or 3 (regulations 7(2) or 8(2)) must be paid within 49 days after the date of the assessment notice.

A second instalment under options 2 or 3 (regulations 7(3) or 8(3)) must be paid within 175 days after the date of the assessment notice.

A third instalment under option 3 (regulation 8(4)) must be paid within 240 days after the date of the assessment notice.

Regulation 9 provides that alternative instalment arrangements will automatically apply where the amount paid within 49 days is:

- less than the amount payable under option 1 but more than the first instalment payable under option 2 (regulation 9(1)) or
- less than the first instalment payable under option 2 but more than the first instalment payable under option 3 (regulation 9(2)). In this case, the remaining amount plus an additional charge is payable in two equal instalments (regulations 9(3) and (4)).

Regulation 11 provides that, where the amount paid within 49 days is less than the first instalment payable under option 3, or an instalment is not paid when it is due and payable, then the full amount of unpaid land tax is immediately due and payable.

Regulation 10A(1) defines an *incorrect payment* as a payment to discharge a liability to pay an assessed amount that is not in accordance with regulation 6, 7, 8 or 9 where:

- the Commissioner is satisfied that it is clear from the circumstances in which the payment was made that the payment was intended to be an amount or instalment due and payable under regulations 6, 7(2), 8(2) or (3) or 9(3) (the *relevant provision*) and

¹ Regulation 6.

² Regulation 7.

³ Regulation 8.

- the payment was received by the Commissioner within 7 days after the amount or instalment was due and payable under the relevant provision.

Regulations 10A(2) and (3) provide that, with regard to an incorrect payment:

- if the payment is equal to or more than the amount or instalment due under the relevant provision or
- where the payment is less than the amount or instalment due, if the shortfall is paid immediately in accordance with regulation 10A(4),

the payment is taken to have been made under the relevant provision and regulations 9 and 11 do not apply.

Regulation 10A(4) provides that the Commissioner is to deduct the amount of the incorrect payment from the amount or instalment due, and any shortfall is immediately due and payable by the taxpayer.

Commissioner's Practice

1. It is the responsibility of the taxpayer to provide sufficient information to satisfy the Commissioner that the incorrect payment was intended to be an amount or instalment due and payable under a particular relevant provision.
2. Circumstances that may satisfy the Commissioner include, but are not limited to:
 - 2.1 transposition of numbers in the payment amount
 - 2.2 keystroke error or
 - 2.3 miscalculation of an amount payable where multiple payments are made for an instalment.
3. Where other circumstances that do not fall within paragraph 2 are provided in support of an incorrect payment relating to the payment options, the request will be referred to the relevant Principal Revenue Officer or Assistant Director with a recommendation for determination. If the particular circumstances are accepted, the payment will be deemed to have been made under the relevant provision.
4. Notwithstanding the information provided by the taxpayer with regard to the items listed at paragraph 2 or acceptance of circumstances as referred to in paragraph 3, if a taxpayer fails to make immediate payment of any shortfall, the payment will not be taken to have been made under the relevant provision.
5. For the purposes of regulation 10A(3), the amount of the shortfall will be taken to be paid *immediately* if it is received by the Commissioner within 7 days after being notified by the Commissioner that it is due and payable. Where payment of the shortfall is not received within that period, the incorrect payment will not be taken to have been made under the relevant provision and regulation 9 or 11, as applicable, will apply in respect of the remaining amount of unpaid land tax.
6. Where a payment referred to in regulation 10A(1) is not received by the Commissioner within 7 days after the amount or instalment was due and payable under the relevant provision, penalty tax may apply in accordance with section 27 of the *Taxation Administration Act 2003*. [Commissioner's Practice TAA 20 'Remission of Penalty Tax – for Late Payment'](#) details the circumstances in which penalty tax may be remitted.

Date of Effect

This Commissioner's practice takes effect from 30 October 2015.

Nicki Godecke
COMMISSIONER OF STATE REVENUE

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Commissioner's Practice History

Document	Issued	Dates of effect	
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