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Public Ruling Taxation Administration Act: REMISSION OF UNPAID TAX INTEREST

A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this ruling is about

1. This public ruling provides guidance on matters that may be relevant when the Commissioner decides whether or not to exercise the discretion to remit unpaid tax interest (UTI).
2. Part 5 of the *Taxation Administration Act 2001* (Administration Act) applies to the following revenue laws:
 - (a) *Duties Act 2001*¹
 - (b) *Payroll Tax Act 1971*, except for payroll tax liabilities arising before 1 July 2005²
 - (c) *Land Tax Act 2010*³
 - (d) the repealed *Land Tax Act 1915*, except for land tax liabilities arising before 30 June 2009⁴
 - (e) *Betting Tax Act 2018*⁵
 - (f) royalty laws, being the royalty provisions⁶ of the *Mineral Resources Act 1989* (Mineral Resources Act) and the *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas Act), except for liabilities for royalty-related amounts arising before 1 October 2020.⁷

¹ Sections 3 and 6(1) of the Administration Act

² Sections 3 and 6(2) and (3) of the Administration Act and s.104(2) and (3)(c) of the *Payroll Tax Act 1971*

³ Sections 3 and 6(4) of the Administration Act

⁴ Section 167 of the Administration Act and s.72(2) of the *Land Tax Act 1915*

⁵ Sections 3 and 6(5) of the Administration Act

⁶ 'Royalty provisions' means chapter 11 of the Mineral Resources Act, chapter 6 of the Petroleum and Gas Act and any other provision of those Acts to the extent they are administered by the Minister with Ministerial responsibility for the Administration Act.

⁷ Sections 3 and 6(6) – (9) of the Administration Act and s.887(2)(c) of the Mineral Resources Act and s.1020(2)(c) of the Petroleum and Gas Act

3. Section 54 of the Administration Act deals with the imposition of UTI. It provides that a taxpayer must pay interest on the amount of primary tax⁸ payable by the taxpayer and unpaid from time to time commencing on the start date (as determined under s.54(5) of the Administration Act).
4. UTI applies whenever there is a delay in the payment of tax. The delays may result from:
 - (a) failure to pay the tax on time
 - (b) actions that defer the making of an assessment and therefore the payment of tax; for example, non-compliance with a lodgement or information requirement.
5. UTI is imposed to:
 - (a) encourage payment of tax on time
 - (b) compensate the state for the period the tax has been unpaid.
6. The rate of UTI is prescribed under s.54(2) of the Administration Act.⁹
7. The Commissioner may remit UTI in part or in full.¹⁰

Ruling and explanation

8. Having regard to the reasons UTI is imposed, the Commissioner decides whether or not to remit UTI based on all the relevant facts and circumstances of each particular case.

Relevant matters for remitting UTI

9. In deciding whether to remit UTI, the Commissioner will consider:
 - (a) the circumstances that caused the delay in the payment of the relevant taxation liability and the actions taken by the taxpayer to mitigate those circumstances
 - (b) the actions taken by the taxpayer to inform themselves and comply with their obligations (noting that ignorance of the law and its associated obligations will generally not support remission of UTI)
 - (c) the extent that the circumstances giving rise to the imposition of UTI were within the control of the taxpayer
 - (d) whether (and to what extent) the circumstances giving rise to the imposition of UTI were due to an error or unreasonable delay by the Commissioner¹¹
 - (e) whether the remission of UTI in particular circumstances would provide an unfair advantage to the taxpayer over other taxpayers in similar circumstances

⁸ Defined in Schedule 2 of the Administration Act

⁹ The rate for unpaid tax interest under the Administration Act is prescribed by s.8 of the Taxation Administration Regulation 2012.

¹⁰ Section 60 of the Administration Act

¹¹ Other than for a self-assessment taken to have been made by the Commissioner under ss.14(b) or 14A(b) of the Administration Act

- (f) whether an extension of time has been granted by the Commissioner for a lodgement or information requirement under Public Ruling *TAA151.1—Circumstances where the Commissioner will extend the date for complying with an information or lodgement requirement*
- (g) whether the taxpayer has paid tax in error to another state or territory¹² and subsequently remedied this by paying the tax to the Commissioner. Factors considered by the Commissioner when deciding whether to remit UTI on this basis and, if UTI is remitted, the extent of the remission include the following:
 - (i) the nature of the tax paid incorrectly to the other state or territory
 - (ii) whether the tax was paid to the other state or territory on or before the due date for payment of the liability for tax in Queensland
 - (iii) whether the tax paid to the other state or territory was equal to the actual liability for tax payable in Queensland
- (h) any other circumstance where the Commissioner is satisfied that remission of UTI is warranted.

Requests for remission

10. Applications for the remission of UTI should be in writing, with full details of the facts and circumstances. However, the Commissioner can decide to remit UTI in whole or in part when making an assessment or reassessment if there is sufficient information to determine that remission is appropriate (for example, following an investigation).

Date of effect

11. This public ruling takes effect from 1 October 2020.

Mark Jackson
Commissioner of State Revenue
Date of issue: 1 October 2020

¹² For clarification, the payment of tax in error to another state or territory does not include a payment of royalty to a person other than the State, instead of the State.

References

Public Ruling	Issued	Dates of effect	
		From	To
TAA060.1.8	1 October 2020	1 October 2020	1 September 2022
TAA060.1.7	27 September 2018	1 October 2018	30 September 2020
TAA060.1.6	6 April 2017	6 April 2017	30 September 2018
TAA060.1.5	25 June 2014	25 June 2014	5 April 2017
TAA060.1.4	16 August 2013	16 August 2013	24 June 2014
TAA060.1.3	30 June 2010	30 June 2010	15 August 2013
TAA060.1.2	3 July 2009	30 June 2009	29 June 2010
TAA060.1.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Revenue Ruling TA 1.2	1 July 2005	1 July 2005	23 February 2009