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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 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, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

- Part 5 of the *Taxation Administration Act 2001* (the Administration Act) applies to the following revenue laws:
 - Duties Act 2001*¹
 - Payroll Tax Act 1971*, with the exception of payroll tax liabilities arising before 1 July 2005²
 - Land Tax Act 1915*, with the exception of land tax liabilities arising before 30 June 2009³.
- Section 54 of the Administration Act deals with the imposition of unpaid tax interest (UTI). It provides that a taxpayer must pay interest on the amount of primary tax⁴ payable by the taxpayer and unpaid from time to time commencing on the start date (as determined under s.54(4) of the Administration Act).

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

² Sections 3 and 6(4) and (5) of the Administration Act and s.104(2) and 3(c) of the *Payroll Tax Act 1971*

³ Sections 3 and 6(6) and (7) of the Administration Act and s.72(2) of the *Land Tax Act 1915*

⁴ Defined in Schedule 2 of the Administration Act

3. 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 of a lodgement or information requirement.
4. UTI is imposed:
 - (a) to encourage payment of tax on time and
 - (b) to compensate the State for the period that tax has been unpaid.
5. Section 60 allows the Commissioner to remit the whole or part of UTI.
6. This Public Ruling sets out the circumstances where the Commissioner will exercise the discretion to remit UTI.

Ruling and explanation

7. Given the reasons for imposing UTI, the Commissioner will only exercise the discretion to remit all or part of UTI in exceptional circumstances.
8. Examples of exceptional circumstances are:
 - (a) Matters or events occurred outside the control of the person. Examples of matters or events outside a person's control include death, serious illness or natural disasters directly affecting the person whose tax liability it is.
 - (b) An extension of time has been granted by the Commissioner for a lodgment or information requirement under Public Ruling TAA151.1—*Circumstances where the Commissioner will extend the date for complying with an information or lodgement requirement*.
 - (c) Where the Commissioner is required to make a reassessment of transfer duty or mortgage duty under ss.153 or 291(4) of the *Duties Act 2001*, as the case may be, resulting in a partial loss of the concession for home, first home or home mortgage. Any UTI accrued in respect of the period between the start date and the date of disposal will be remitted.

However, this example does not extend to reassessments of transfer or mortgage duty under ss.154 or 291(3) of the *Duties Act 2001*, as the case may be, resulting in the total loss of the concession for home, first home or home mortgage. In these cases, UTI will accrue from the start date for reassessments, as stated in s.54(4) of the Administration Act.
 - (d) The imposition of UTI was due to the Commissioner's error.
9. Any application for the remission of UTI must be in writing, setting out full details of the facts and circumstances.

Date of effect

10. This Public Ruling takes effect from 30 June 2009.

David Smith
Commissioner of State Revenue
Date of Issue 3 July 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
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