



Office of State Revenue
NSW TREASURY

ISO 9001-Quality Certified

Revenue Ruling No. PT 1

Pay-roll Tax Collections - Remission or Reduction of Statutory Penalties

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
PT 1	9th September 1989	09 / 09 / 85	31 / 12 / 96	Obsolete

Preamble

- 1 This ruling provides new guidelines for the exercise of the Chief Commissioner's discretion to remit or reduce the statutory penalties imposed by the Pay-Roll Tax Act 1971. These guidelines replace all previous instructions on the subject and are to be applied from 9 September 1985.

Ruling

Failure to lodge a return

- 2 Where any employer fails or neglects to furnish any return as required, the Chief Commissioner may cause an assessment to be made of the amount of tax which, in his judgment, should be paid.
- 3 The Chief Commissioner's discretion to reduce the additional tax in accordance with sec. 18(5) of the Act, will be exercised as follows:
 - Penalty for first offence - 50% of the tax assessed
 - Subsequent offences within a two year period:
 - Penalty for second offence - 75% of the tax assessed
 - Penalty for third offence -100% of the tax assessed
 - Penalty for fourth offence -200% of the tax assessed

The above penalties are in lieu of any additional tax payable under sec.36(1)(a).

Late lodgment of returns

RETURNS ARE DUE BY 7TH OF EVERY MONTH FOR THE PRECEDING MONTH OTHER THAN FOR THE JUNE RETURN WHICH IS DUE BY JULY 21

- 4 Where a taxpayer lodges a return late, but before the issue of an assessment in accordance with sec.18, additional tax of 10% per annum will be charged under sec.36(1)(a).

Incorrect Returns

- 5 Where an employer lodges an incorrect return, sec. 36(1)(b) imposes a penalty by way of additional tax of double the amount of the difference between the pay-roll tax properly payable and the payroll tax payable on the basis of the return lodged.

- 6 The Chief Commissioner's discretion under sec.36(2) may be exercised so as to reduce the "penalty" imposed to:
- Basic penalty - 50% of the further tax subject to the addition, depending upon the seriousness of the offence, of the penalties detailed in para.7 below.
- 7 To enable the extent of penalty remission to be determined officers are required to comment specifically and separately in their reports on any of the following factors, which depending upon their seriousness, may lead to an increase in the levels of penalty recommended in para.6 above:
- (a) Deliberate attempts have been taken, either before or after commencement of official inquiries, to conceal omitted wages - 10% to 50%;
 - (b) The concealment of wages has involved the corruption of employees or collusion - 10% to 50%;
 - (c) There has been a previous offence by or on behalf of the taxpayer - 10% to 100%;
 - (d) The degree of co-operation has been less than "reasonable" or such as to cause excessive delay in the completion of official enquiries and/or there has been positive obstruction - 10% to 50%.

Late payment of tax

- 8 Section 22 of the Act imposes penal tax of up to 100% for late payment of tax and penalties. The Chief Commissioner's discretion under sec. 22(2) should be exercised so that penal tax will accrue on pay-roll, further or additional tax, not paid by the original date for payment, as follows:
- If paid within 14 days - 10% per annum
 - If not paid within 14 days - 20% per annum (subject to the maximum of 100%)

Reduction of penalty

- 9 It is acknowledged, however, that from time to time there will be cases where the particular circumstances warrant special consideration for the reduction of penalty. These cases should be seen as limited and exceptional, falling within the following circumstances -
- (i) the offence was occasioned by carelessness of a less serious nature and there were other mitigating factors which excuse that carelessness to a large extent;
 - (ii) ignorance of the law - but only where the taxpayer could not be reasonably expected to have knowledge of the law;
 - (iii) where the taxpayer has made a genuine and excusable mistake in interpretation of the law;
 - (iv) where it can be demonstrated that the imposition of the penalty would amount to a "ruinous imposition" having regard to the taxpayer's net assets and potential earning capacity;
 - (v) other circumstances which were outside the taxpayer's control.

10 Penalties are imposed to gain compliance with the provisions of the Act and all requests by taxpayers for reduction of penalties are to be in writing. It is expected that there will be very few cases warranting the reduction of imposed penalties.

A D Clyne,
Chief Commissioner of Pay-Roll Tax.
9th September 1989