

# Revenue Ruling

Commissioner of State Revenue, Tasmania



PUB-GEN-2021-1 · Effective 1 January 2021

## Interest and Penalty Tax

### Preamble

This ruling applies to the [Duties Act 2001](#), the [Land Tax Act 2000](#), the [Gaming Control Act 1993 \(Part 9\)](#) and the [Payroll Tax Act 2008](#). The legislative reference is the [Taxation Administration Act 1997](#).

1. This revenue ruling replaces three existing rulings:
  - [PUB-GEN-2014-6 - Interest and Penalty Tax](#);
  - [PTA036 \(version 2\) - Payroll Tax Interest and Penalty Tax](#); and
  - [PUB-GEN-2017-2 - Penalty Tax on Duty Instruments processed by TRO Agents](#).

Those previous rulings apply to assessments and reassessments made prior to the effective date of this current ruling.

2. Interest and penalty tax provisions play an integral role in tax administration. This ruling sets out:
  - i) how interest and penalty tax are applied under the [Taxation Administration Act 1997](#) (TAA); and
  - ii) how and when the Commissioner of State Revenue (the Commissioner) will apply the various discretions for interest and penalty tax under the TAA.
3. The TAA does not apply to the [First Home Owner Grant Act 2000](#) because that Act is not a taxation law and has its own administrative interest and penalty provisions. The Commissioner's application of those provisions is outlined in [Revenue Ruling PUB-FG-2024-1](#).

### Structure of this ruling

This ruling is made up of the following sections read as a whole:

- summary of the interest and penalty tax legislation (pp 1 - 3);
- interpretation of legislation, including Commissioner's discretions (pp 3 - 7);
- table summarising the Commissioner's application of interest and penalty tax (p 8);
- flow chart describing how interest and penalty tax decisions are determined (p 9);
- definitions of terms used in this revenue ruling (pp 10 - 12); and
- information about the application of this ruling (p 12).

### Legislation

4. Interest and penalty tax provisions are contained in Part 5 of the TAA. This section of the ruling provides a summary of those provisions.

#### [Interest on tax defaults \(section 34 of the TAA\)](#)

5. If a tax default occurs, the taxpayer is liable to pay interest on the amount of tax unpaid calculated on a daily basis from the end of the last day for payment until the day it is paid.
6. Interest is payable in respect of a tax default that consists of a failure to pay penalty tax, but is not payable in respect of a tax default that consists of a failure to pay interest.

#### Imposition of interest where duty assessment delayed ([section 34A of the TAA](#))

7. If in the opinion of the Commissioner the actions of the taxpayer or the taxpayer's representative unnecessarily delay the making of a duty assessment, the Commissioner may impose interest from the end of the last day for payment until the day on which the duty is paid.

#### Interest rate ([section 35 of the TAA](#))

8. The interest rate is the sum of the market rate component and the premium rate component.
9. The market rate component is the Bank Accepted Bill rate<sup>1</sup> or a rate the Minister specifies by order published in the Tasmanian Government Gazette. For the [current and historical market rates of interest](#) go to [sro.tas.gov.au/resources/rates-of-interest](http://sro.tas.gov.au/resources/rates-of-interest).
10. The premium rate component is 8.00 per cent or a rate the Minister specifies by order published in the Tasmanian Government Gazette. For the [current and historical market rates of interest](#) go to [sro.tas.gov.au/resources/rates-of-interest](http://sro.tas.gov.au/resources/rates-of-interest).

#### Minimum amount of interest ([section 36 of the TAA](#))

11. Interest in respect of a tax default is not payable until the amount of that interest exceeds \$20.

#### Interest rate prevails over other interest ([section 37 of the TAA](#))

12. If judgment is given by, or entered in, a court for an amount of unpaid tax or an amount that includes an amount of unpaid tax, the interest rate payable under the TAA continues to apply to the exclusion of any other interest rate until the tax is paid.

#### Remission of interest ([section 38 of the TAA](#))

13. The Commissioner, in any circumstances the Commissioner considers appropriate, may remit interest payable by a taxpayer by any amount.
14. If the Commissioner remits any interest, he or she may, at any time, reimpose all or part of the interest in any circumstances that the Commissioner considers appropriate.

#### Penalty tax in respect of certain tax defaults ([section 39 of the TAA](#))

15. If a tax default occurs, the taxpayer is liable to pay penalty tax in addition to the amount of tax unpaid. Penalty tax is not payable in respect of unpaid interest or unpaid penalty tax.

#### Amount of penalty tax ([section 40 of the TAA](#))

16. The amount of penalty tax payable is 25 per cent of the amount of tax unpaid.
17. The Commissioner may increase the penalty tax payable to 75 per cent of the amount of tax unpaid if satisfied that the tax default was caused wholly or partly by the intentional disregard by the taxpayer (or a person acting on behalf of the taxpayer) of a taxation law.
18. The Commissioner may determine that a penalty tax is not payable if satisfied that:
  - a) the taxpayer or a person acting on behalf of the taxpayer took reasonable care to comply with the taxation law; or
  - b) the tax default occurred solely because of circumstances not amounting to financial incapacity that are beyond the control of the taxpayer or a person acting on behalf of the taxpayer.

#### Reduction in penalty tax for disclosure ([section 41 of the TAA](#))

19. The amount of penalty tax is to be reduced by 80 per cent if, before the Commissioner informs the taxpayer that an investigation is to be carried out, the taxpayer discloses to the Commissioner, in writing, sufficient information to enable the nature and extent of the tax default to be determined.

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<sup>1</sup> The Bank Accepted Bill rate is the yield rate for 90-day Bank Accepted Bills published by the Reserve Bank for the month of May in the preceding financial year.

20. The amount of penalty tax is to be reduced by 20 per cent if, after the Commissioner informs the taxpayer that an investigation is to be carried out and before it is completed, the taxpayer discloses to the Commissioner, in writing, information that identifies the precise nature and extent of the tax default without the need for further investigation by the Commissioner.

[Increase in penalty tax for concealment \(section 42 of the TAA\)](#)

21. The amount of penalty tax is to be increased by 20 per cent if, after the Commissioner has informed the taxpayer that an investigation is to be carried out and before the investigation is completed, the taxpayer took steps to prevent or hinder the Commissioner from becoming aware of the nature and extent of the tax default in whole or part.
22. Steps to hinder the Commissioner are considered to have occurred if the taxpayer:
- (a) deliberately damages or destroys records required to be kept under the taxation law to which the investigation relates; or
  - (b) without reasonable excuse, refuses or fails to comply with a requirement made by the Commissioner; or
  - (c) hinders or obstructs an Authorised Officer performing functions or exercising powers under Part 9 of the TAA.

[Minimum amount of penalty tax \(section 43 of the TAA\)](#)

23. Penalty tax is not to be imposed if the amount of the penalty tax is less than \$20.

[Time for payment of penalty tax \(section 44 of the TAA\)](#)

24. A taxpayer is to pay penalty tax within the period specified for that purpose in a notice of assessment of the tax liability of the taxpayer.
25. Interest may be applied to penalty tax where it is not paid by the due date specified in a notice.

[Remission of penalty tax \(section 45 of the TAA\)](#)

26. The Commissioner, in any circumstances the Commissioner considers appropriate, may remit penalty tax by any amount.
27. If the Commissioner remits any penalty tax under section 45 of the TAA, he or she may, at any time, reimpose all or part of the penalty tax in any circumstances that the Commissioner considers appropriate.

### **Commissioner's interpretation and discretions**

28. The function of the components of interest and penalty tax can be summarised as:
- *Market interest* - to ensure that the State is not put at a disadvantage as a result of not receiving tax by the due date.
  - *Premium interest* - to encourage prompt payment of outstanding amounts once a tax default is identified, or from the time it reasonably should have been identified.
  - *Penalty tax* - imposed at a level commensurate to the taxpayer's behaviour in relation to the cause of the tax default, the identification of the tax default and, where relevant, their co-operation before or during an investigation.
29. When a tax default occurs, initially interest at the combined market and premium rates is imposed, and penalty tax is imposed at the rate of 25 per cent of the amount of unpaid tax.

[Section 40\(2\) and \(3\)](#) of the TAA then provide that the Commissioner may:

- increase the rate of penalty tax to 75 per cent if satisfied that the tax default was caused wholly or partly by intentional disregard by the taxpayer or a person acting on behalf of the taxpayer of a taxation law; or
- determine that penalty tax is not payable if satisfied that:

- the taxpayer or a person acting on behalf of the taxpayer took reasonable care to comply with the taxation law; or
- the tax default occurred solely because of circumstances beyond the control of the taxpayer (not amounting to financial incapacity) or a person acting on behalf of the taxpayer.

The base rates of penalty tax applied under the TAA therefore depend upon the cause of the tax default, and the outcomes are summarised in the following table:

Circumstance	Penalty tax
Reasonable care or circumstances outside of taxpayer's control	0 per cent
Negligence/Recklessness (standard rate)	25 per cent
Intentional disregard of a taxation law	75 per cent

30. The 25 and 75 per cent base rates of penalty tax can be decreased if the taxpayer makes a full disclosure before or after the commencement of an investigation, or can be increased if the taxpayer hinders the Commissioner's investigation.
31. The 25 and 75 per cent base rates of penalty tax will be reduced under [section 41](#) of the TAA if the taxpayer makes a full disclosure which enables the Commissioner to determine the nature and extent of the tax default. The reduction in the rate of penalty tax is intended to provide an incentive to taxpayers to disclose full details of tax defaults and co-operate with the Commissioner in establishing the exact amount of tax outstanding.
  - a) The rate of penalty tax is reduced by 80 per cent if the taxpayer makes a disclosure before the Commissioner informs the taxpayer that an investigation relating to the taxpayer is to be carried out. This would result in the base rate penalty tax of 25 per cent being reduced to 5 per cent, or the base rate of 75 per cent being reduced to 15 per cent. The penalty tax reduction for a disclosure before being informed of an investigation is an incentive for taxpayers to voluntarily provide information to the Commissioner.
  - b) The rate of penalty tax is reduced by 20 per cent if the taxpayer makes a full disclosure after the Commissioner informs the taxpayer that an investigation relating to the taxpayer is to be carried out but before the investigation is completed. This would result in the base rate penalty tax of 25 per cent being reduced to 20 per cent, or the base rate of 75 per cent being reduced to 60 per cent. The reduction in penalty tax for a full disclosure after the taxpayer is informed that an investigation is to be carried out provides an incentive for taxpayers to actively co-operate with investigations. This reduces the time and effort required by investigators to complete an investigation.
32. A full disclosure after the taxpayer is informed that an investigation is to be carried out occurs when a taxpayer actively assists an investigation by obtaining, compiling and providing the information necessary to determine the nature and extent of a tax default. A taxpayer's response to being informed that an investigation is to be carried out will not be a disclosure that attracts a penalty reduction if the taxpayer does no more than respond to requests for information and allow investigators access to books and records.
33. The base penalty tax rates will be increased by 20 per cent under [section 42](#) of the TAA if the taxpayer takes steps to prevent or hinder the Commissioner from becoming aware of the nature and extent of the tax default. That means a base penalty rate of 25 per cent would be increased to 30 per cent, and a base penalty rate of 75 per cent would be increased to 90 per cent.
34. Accordingly, penalty tax may be applied at a base rate, or where applicable, decreased if the taxpayer makes a disclosure, or increased if they hinder the Commissioner's investigation. A summary of penalty tax that can be applied is summarised at the top of the next page.

## Summary of penalty tax applications

Standard of cooperation	Cause of the tax default		
	Reasonable care / Beyond control	Negligence / Recklessness	Intentional disregard
Full disclosure before investigation (-80 per cent)	0 per cent	5 per cent	15 per cent
Full disclosure during investigation (-20 per cent)	0 per cent	20 per cent	60 per cent
Neither disclosure nor concealment (standard rate)	0 per cent	25 per cent	75 per cent
Concealment during investigation (+20 per cent)	0 per cent	30 per cent	90 per cent

### Remission of Penalty Tax ([section 45](#) of the TAA)

35. The Commissioner has an unrestricted discretion to remit all or part of any penalty tax imposed in whatever circumstances the Commissioner considers appropriate.
36. The Commissioner's discretion under [section 45](#) may be used to determine that no penalty tax is payable where:
  - the taxpayer makes an unprompted disclosure prior to being informed by the Commissioner that an investigation relating to the taxpayer is to be carried out; or
  - the State Revenue Office substantially contributed to the cause of the tax default.
37. Where a tax default was caused by intentional disregard, but the taxpayer makes an unprompted disclosure, the Commissioner will remit penalty tax from 15 per cent to 10 per cent. This remission will not occur if the disclosure was prompted by contact initiated by the State Revenue Office.
38. The Commissioner may reimpose all or part of the penalty tax previously remitted if a tax default is not paid by a date advised by the Commissioner in an overdue or final notice.

### Remission of Interest ([section 38](#) of the TAA)

39. The Commissioner has an unrestricted discretion to remit interest by any amount in whatever circumstances the Commissioner considers appropriate.
40. As the purpose of the market rate of interest is to ensure the State is not put at a disadvantage as a result of not receiving tax by the due date, it will be remitted only in exceptional circumstances.
41. The market rate of interest may be fully remitted if the SRO has substantially contributed to the cause of the tax default. For example, remission of the market rate may be appropriate if the SRO has been unable to provide a taxpayer with a decision in a timely manner or has provided advice which has been shown subsequently to be incorrect and which substantially led to a tax default.
42. All or part of the premium rate of interest may be remitted where:
  - a) the market rate component of interest is partially or fully remitted;
  - b) the tax default is due to unforeseen circumstances beyond the control of the taxpayer;
  - c) the SRO substantially contributed to the cause of the tax default; or
  - d) the taxpayer:
    - i) did not intentionally disregard a taxation law; and
    - ii) was not aware that a tax liability existed; and
    - iii) made a full disclosure of the tax default.

43. Although the premium rate of interest is generally applied in circumstances where a taxpayer does not make a full disclosure, the Commissioner will remit premium interest and replace it with a 5 per cent penalty tax if:
- i) the liability or tax default was identified by an unprompted disclosure; and
  - ii) the taxpayer did not intentionally disregard a taxation law; and
  - iii) the tax default does not relate to payroll tax or insurance duty; and
  - iv) a full disclosure of the tax default was not made.

The remission of premium interest (and replacement by a 5 per cent penalty tax) in this circumstance avoids premium interest accumulating to an amount which exceeds 5 per cent of the tax default.

44. If a taxpayer fails to pay an assessment for which the Commissioner has replaced the premium component of interest for a 5 per cent penalty tax by the due date, the market and premium rates of interest will apply from the day after the due date of payment of the assessment.

#### Overpayments of tax

45. If, at the time a tax default is identified, there is an overpayment of tax by the taxpayer in relation to another tax liability, the overpayment can generally be offset against the tax default (whether within the same or another tax line). The offsetting of an overpayment against an underpayment of tax must not extend beyond the statutory time limit under any relevant refund provision.

#### Failure to pay a notice of assessment

46. Failure to pay a notice of assessment by the due date will generally not result in the imposition of penalty tax or additional penalty tax, but will generally result in the imposition of interest at the market and premium rates.

#### Taxpayer's culpability when taxpayer's representative has contributed to a tax default

47. If a taxpayer authorises a person to act as their representative or agent in the conduct of their taxation affairs, the Commissioner will consider any action of the taxpayer's representative to be an action of the taxpayer.
48. The taxpayer will remain responsible for a tax default which arose from the action or failure of their representative and the liability for interest and penalty tax remains with the taxpayer.

#### Late registrations outside of the current financial year

49. The Commissioner will generally accept annual returns for late registrations (payroll tax and insurance duty) for periods outside of the current financial year. Monthly returns will generally be required for return periods within the current financial year.
50. If an employer should have been registered in a prior financial year, the Commissioner will impose a 5 per cent penalty on the tax that should have been paid in that prior financial year, and interest will not be applied in that financial year. However, interest at the market and premium rates will accrue from the beginning of the financial year after the relevant prior financial year up until the date of payment.
51. Penalty tax and interest will be applied in the same manner for each financial year prior to the current financial year in which the employer should have been registered.
52. The above (paragraphs 50-52) apply where there has been an unprompted disclosure and the entity registers in Tasmania as a payroll tax employer, or registers to pay insurance duty, separately from an action resulting from an enquiry or investigation conducted by the Commissioner or an authorised officer.

### Payment arrangements

53. Where a taxpayer enters into an arrangement with the Commissioner to pay an overdue tax liability via a number of instalments, interest at the market and premium rates will be applied on a daily basis on the balance of the unpaid tax liability.

### Instruments endorsed by Tasmanian Revenue Online (TRO) agents

54. Penalty tax will not be imposed on a tax default for instruments self-endorsed by TRO agents provided that:
  - i) the tax default was not caused by intentional disregard of a taxation law; and
  - ii) the Commissioner has not been prevented from establishing the nature and extent of the tax default due to hindrance or concealment.
55. Penalty tax will apply in accordance with this ruling if the above requirements are not satisfied.
56. Interest will be imposed on all tax defaults in accordance with this ruling.

### Commissioner's application of interest and penalty tax

57. Taking into account the statutory imposition of interest and penalty tax, as well as the discretionary reductions identified in this ruling, the Commissioner has identified 17 broad circumstances under which interest and penalty may be applied.

The circumstances are summarised in the **table** and **flowchart** on pages 8 and 9 respectively.

## Interest and Penalty Tax

[Go here for the rates of interest.](#)

Circumstance	Taxpayer behaviour	Penalty Tax percentage	Market interest	Premium interest
<b>Assessment issued</b>	1. Assessment issued for the correct amount of tax prior to the tax default occurring.	0 <sup>1</sup>	Yes	Yes
<b>Reasonable care or circumstances beyond the control of the taxpayer</b>	2. Reasonable care or circumstances beyond the control of the taxpayer.	0	Yes	No
	3. Taxpayer relied upon advice from the SRO, or the default was caused or prolonged by the SRO.	0	No	No <sup>2</sup>
<b>Unprompted disclosure</b>	4. Tax default caused by an intentional disregard of a taxation law.	10	Yes	Yes
	5. The default relates to payroll tax or insurance duty and no intentional disregard.	0	Yes	Yes <sup>3</sup>
	6. Full disclosure not made; no intentional disregard.	5	Yes	No <sup>4</sup>
	7. Full disclosure is made; no intentional disregard.	0	Yes	No
<b>SRO identified default ... no investigation conducted</b>	8. Intentional disregard of a taxation law and the taxpayer did not make a disclosure.	75	Yes	Yes
	9. Intentional disregard of a taxation law but the taxpayer did make a full disclosure.	15	Yes	Yes
	10. No intentional disregard of a taxation law and the taxpayer did not make a full disclosure.	25	Yes	Yes
	11. No intentional disregard of a taxation law and the taxpayer did make a full disclosure.	5 <sup>5</sup>	Yes	No
<b>SRO identified default ... investigation conducted</b>	12. Intentional disregard of a taxation law and the taxpayer hindered the investigation.	90	Yes	Yes
	13. Intentional disregard of a taxation law and no disclosure made during the investigation.	75	Yes	Yes
	14. Intentional disregard of a taxation law but a full disclosure is made during the investigation.	60	Yes	Yes
	15. No intentional disregard of a taxation law but the taxpayer hindered the investigation.	30	Yes	Yes
	16. No intentional disregard of a taxation law and no full disclosure made during the investigation.	25	Yes	Yes
	17. No intentional disregard and the taxpayer made a full disclosure during the investigation.	20 <sup>5</sup>	Yes	No

<sup>1</sup> The Commissioner may reimpose all or part of penalty tax previously remitted if a tax default is not paid by a date advised by the Commissioner on an overdue or final notice.

<sup>2</sup> Where a default is prolonged by the SRO, the interest remission only relates to the period the assessment was delayed by the SRO.

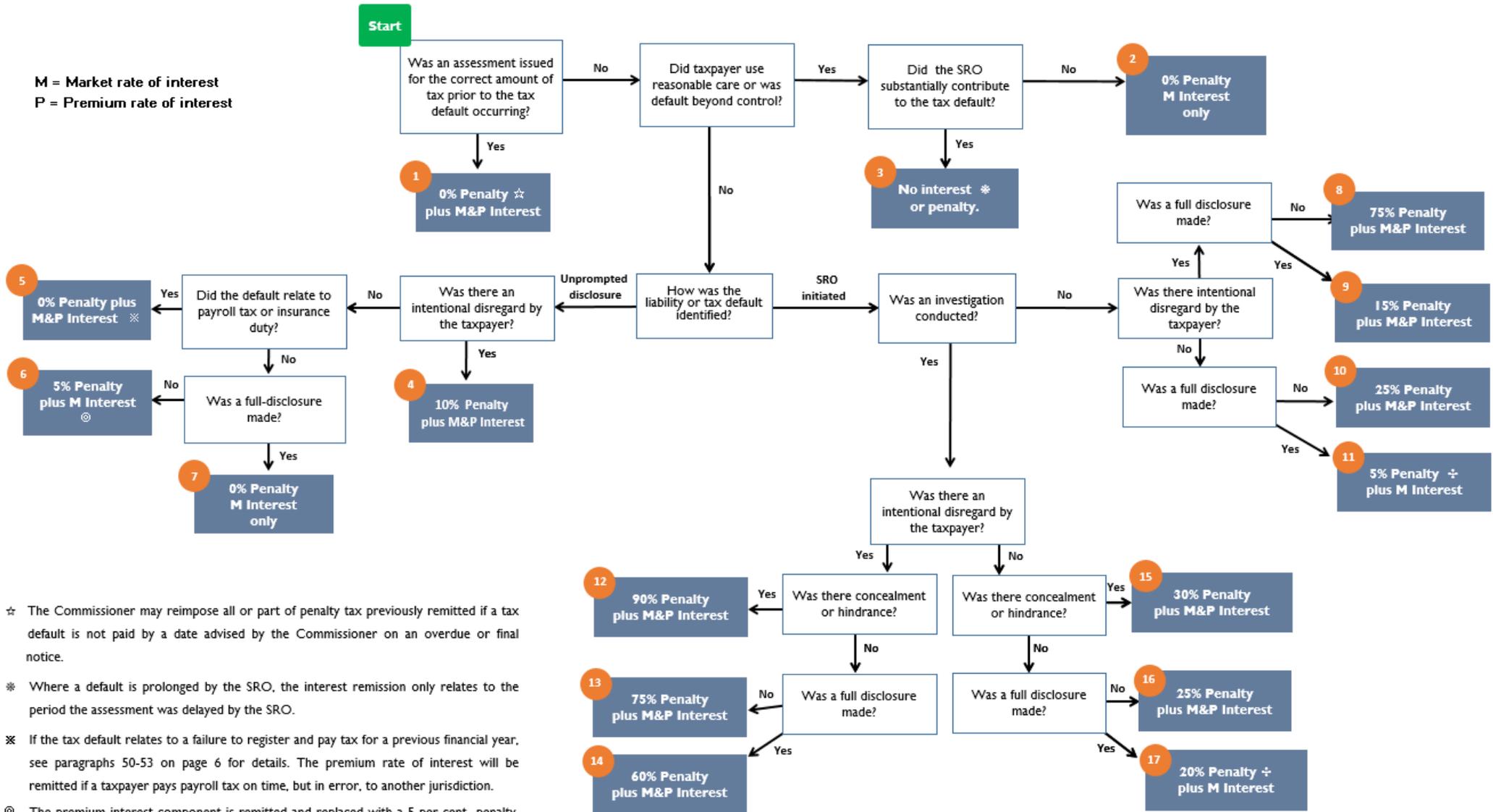
<sup>3</sup> If the tax default relates to a failure to register and pay tax for a previous financial year, see paragraphs 50-53 on page 6 for details. The premium rate of interest will be remitted if a taxpayer pays payroll tax on time, but in error, to another jurisdiction.

<sup>4</sup> The premium interest component is remitted and replaced with a 5 per cent penalty, see paragraph 44 on page 6.

<sup>5</sup> The penalty tax may be remitted if the default is identified by a TRO agent audit activity undertaken by the Commissioner, see paragraphs 55-57 on page 7.

## Interest and Penalty Tax decision flowchart

**M = Market rate of interest**  
**P = Premium rate of interest**



☆ The Commissioner may reimpose all or part of penalty tax previously remitted if a tax default is not paid by a date advised by the Commissioner on an overdue or final notice.

\* Where a default is prolonged by the SRO, the interest remission only relates to the period the assessment was delayed by the SRO.

✘ If the tax default relates to a failure to register and pay tax for a previous financial year, see paragraphs 50-53 on page 6 for details. The premium rate of interest will be remitted if a taxpayer pays payroll tax on time, but in error, to another jurisdiction.

⊙ The premium interest component is remitted and replaced with a 5 per cent penalty, see paragraph 44 on page 6.

† Penalty tax may be remitted where the default is identified as part of a TRO agent activity, see paragraph 55-57 on page 7.

## Definition of terms used in this revenue ruling

### Circumstances beyond the control of the taxpayer

58. Circumstances beyond the control of the taxpayer or their representative occur if the taxpayer or their representative took reasonable steps to avoid or mitigate the tax default including contacting the SRO before the due date for payment.
59. Circumstances beyond the control of the taxpayer include, but are not limited to, the following:
  - a) postal or delivery delays but not where the taxpayer could arrange for an alternative means of delivery because the taxpayer is aware of the likelihood of a delay;
  - b) fires, flood or other natural disasters;
  - c) key personnel not being available due to sudden resignation, illness or death; and
  - d) computer failures including third party systems such as Electronic Funds Transfer systems.
60. The relative size of a taxpayer's office (or the taxpayer's representative's office) and its ability to operate when there is an unexpected staff absence will be taken into account in regard to whether there were circumstances beyond the taxpayer's (or their representative's) control.
61. Financial incapacity is not considered to be circumstances outside of the taxpayer's control.

### Disclosure

62. A disclosure is a letter, email or other written communication received from a taxpayer or taxpayer's representative which contains information which, while incomplete, indicates that a tax liability may exist.
63. A disclosure will generally require the Commissioner to make additional enquiries with the taxpayer or another person or source of information in regard to material facts in order to determine the nature and extent of a tax default and to assess the correct tax payable.

### Full disclosure

64. A full disclosure is a letter, email or other written communication received from a taxpayer or taxpayer's representative which provides sufficient information to enable the Commissioner to determine the nature and extent of the tax default and assess the correct tax payable without requiring the Commissioner to undertake further investigation.
65. A full disclosure may still have occurred notwithstanding that the Commissioner may have made additional contact with the taxpayer or another person or source of information in regard to administrative or non-material matters before making the assessment (for example, to have an application or approved form completed).

### Hindrance

66. Hindrance of an investigation means an act or omission by a taxpayer, occurring during the course of an investigation, which hinders the Commissioner from finding the existence, nature or extent of a tax default.
67. A taxpayer takes steps to prevent or hinder the Commissioner if the taxpayer:
  - a) deliberately damages or destroys records required to be kept under the taxation law to which the investigation relates; or
  - b) without reasonable excuse, refuses or fails to comply with a requirement made by the Commissioner under Part 9 for the purposes of determining the taxpayer's tax liability; or
  - c) hinders or obstructs an authorised officer performing functions or exercising powers under that Part for that purpose.

### Instrument

68. An instrument includes a written document and a written statement.

### Intentional disregard of a taxation law

69. Intentional disregard of a taxation law means a deliberate act or omission by the taxpayer which causes a tax default.
70. Intentional disregard of a taxation law may be determined based on direct evidence of a taxpayer's intention (for example, an admission by the taxpayer) or may be inferred from other evidence of the taxpayer's conduct.
71. Examples of conduct which may demonstrate intentional disregard of a taxation law include but are not limited to:
  - a) knowingly making false or misleading records or statements;
  - b) knowingly concealing relevant facts about a tax liability;
  - c) ignoring advice, a guideline or a Revenue Ruling of which the taxpayer is aware;
  - d) repeatedly failing to respond, in a timely manner, to SRO requests; or
  - e) repeating a tax default on a similar or closely related matter.

### Investigation

72. Investigation means an investigation under Part 9 of the TAA. In general, a taxpayer will be informed that an investigation has commenced at the time a Notice under [section 65](#) of the TAA is issued to them.

### Reasonable care

73. The standard of reasonable care requires taxpayers to keep complete and accurate records, make diligent efforts to understand and comply with the law, seek expert advice on uncertain or complex matters and be honest in their dealings with the SRO.
74. Reasonable care can be defined as the level at which a taxpayer would have been considered to have given appropriate and serious attention to complying with the obligations imposed under a taxation law.
75. Being unaware of a tax liability or obligation does not constitute reasonable care.
76. Issues the Commissioner will take into account when determining whether a person has taken reasonable care include, but are not limited to, whether the taxpayer has:
  - a) maintained appropriate records and proper recording systems;
  - b) contacted the SRO before the due date where they are having difficulty identifying or understanding their state taxation obligations;
  - c) applied any relevant Revenue Rulings in good faith; and
  - d) acted in good faith in applying any independent tax advice received.

### Tax

77. Tax is defined in [section 3](#) of the TAA to mean a tax, levy, duty and any other amount payable under a taxation law. Tax also includes interest and penalty tax under Part 5 of the TAA.

### Taxation law

78. A taxation law is defined in [section 4](#) of the TAA to include the:
  - a) [Debits Duties Act 2001](#);
  - b) [Duties Act 2001](#);
  - c) [Land Tax Act 2000](#);
  - d) [Land Tax Rating Act 2000](#);
  - e) [Payroll Tax Act 2008](#);
  - f) [Pay-roll Tax Act 1971](#); and the
  - g) [Taxation Administration Act 1997](#).

### Tax default

79. A tax default means a failure by a taxpayer to pay the whole or part of tax that the taxpayer is liable to pay (see [section 3](#) of the TAA).

### Taxpayer

80. A taxpayer means a person who:
- (a) is assessed as liable to pay an amount of tax; or
  - (b) has paid an amount as tax; or
  - (c) is liable or may be liable to pay tax.

### Unprompted disclosure

81. Unprompted disclosure is contact with the Commissioner by a taxpayer or a taxpayer's representative, which is made in writing and is unsolicited by the Commissioner or by any person within the State Revenue Office.
82. The Commissioner will generally not accept that a disclosure is an "unprompted disclosure" if it is made by a member of a payroll tax group if another member of that group has been notified of an investigation (where that disclosure relates to the issue being investigated).
83. An unsolicited payment of a taxation liability or lodgement of documents liable to tax after the due date for payment will generally be considered an unprompted disclosure, but only in circumstances where an investigation into that liability had not commenced.

### Application of this Ruling

84. This Ruling applies to assessments and reassessments on and after 1 January 2021.
85. *Rulings do not have the force of law.* Each decision made by the Commissioner of State Revenue is made on the merits of each individual case having regard to any relevant Ruling.

### More information

For more information about this ruling, please contact the SRO's Legislation, Communication & Review section by emailing [revenuereview@treasury.tas.gov.au](mailto:revenuereview@treasury.tas.gov.au) or calling (03) 6166 4400.

For all [Revenue Rulings](#) go to [sro.tas.gov.au/resources/rulings](http://sro.tas.gov.au/resources/rulings).

All Rulings must be read subject to Revenue Ruling [Explanation and Status of Revenue Rulings](#), available at [sro.tas.gov.au/resources/rulings](http://sro.tas.gov.au/resources/rulings).



JC Root  
**Commissioner of State Revenue**

1 January 2021