



## COMMISSIONER'S PRACTICE TAA 16.0

### CERTAIN REASSESSMENT TIME LIMITS

#### Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
TAA 16.0	23 December 2003	23 December 2003	30 June 2008

This Commissioner's practice outlines matters relating to the time periods for which assessments and reassessments of pay-roll tax, return based stamp duty, debits tax or land tax will be made when the Commissioner issues an assessment.

#### Background

Section 15 of the *Taxation Administration Act 2003* ("TAA") sets out the circumstances where the Commissioner must make an assessment of tax.

Section 16 of the TAA provides that the Commissioner may make a reassessment on his or her own initiative if it appears a previous assessment is or may be incorrect for any reason, or on the application of the taxpayer.

Assessments or reassessments may be based on records covering the current year and the previous five financial years, however, there is no time limit on the Commissioner making an assessment or reassessment if there are reasonable grounds to suspect the assessment was based on false or misleading information or tax evasion has occurred.

An example of an assessment is the lodgement of a return resulting in an assessment of tax. A reassessment is an adjustment made to that return resulting in a reassessment of tax.

Division 3 of Part 3 of the TAA provides for the imposition of penalty tax. The rates of penalty tax specified in the legislation are remitted in accordance with various Commissioner's practices.

For the purposes of this Commissioner's practice, "current year" is determined as the financial year during which information is disclosed, that is, when:

- information (including that made by way of voluntary disclosure) is received by the Commissioner; or
- the Commissioner commences an investigation/enquiry in relation to the conduct of an investigation (commencement of an investigation/enquiry is deemed to be the date an officer first contacts the taxpayer or their representative).

For example, an audit commenced in February 2003 for which an assessment is subsequently issued in August 2003 will have a current year of 2002/03 for the purpose of this Commissioner's practice.

### Commissioner's Practice

1. Assessments or reassessments may be generated where a taxpayer has made a voluntary disclosure and/or the Commissioner has identified a tax liability. These assessments or reassessments include current and/or past financial periods.
2. Such assessments or reassessments may result in the application of penalty tax.

### Pay-roll tax, stamp duty and debits tax

3. In all cases, assessments or reassessments of pay-roll tax, stamp duty and debits tax may be generated as a result of a voluntary disclosure from a taxpayer and/or the Commissioner identifying a variation to a tax liability. The Commissioner may derive information to enable an assessment or reassessment covering the current year and the previous five financial years for pay-roll tax and five years from the date of the original assessment for stamp duty and debits tax, from the following sources:
  - 3.1 investigation/audit process;
  - 3.2 disclosure from the taxpayer;
  - 3.3 other State or Federal jurisdictions.
4. An assessment or reassessment of pay-roll tax may be made covering liabilities for as many prior years as it is possible where there is evidence that a taxpayer has:
  - 4.1 claimed an income tax deduction on the basis that the tax has been paid to the Office of State Revenue, but that payment has not been made;
  - 4.2 been previously advised of a liability for a particular class of payment, receipt, withdrawal or transaction but has continued to omit to disclose amounts owing in this respect from returns;

- 4.3 failed to register or declare the correct amount of tax when, in the opinion of the Commissioner, he should have been aware of the liability.
5. Where an assessment or reassessment relates to the Pay-roll Tax Amnesty on Contractor Payments announced by the Commissioner on 25 November 2002 and which expired on 30 June 2003, the period of assessment or reassessment will be limited to the period 1 July 1999 to 30 June 2003.
6. Where a taxpayer who has previously been investigated in relation to a particular issue which the Commissioner determined was not subject to a tax liability, is then subject to a further investigation in relation to the same issue, the Commissioner will not retrospectively reassess the taxpayer in relation to that issue where all of the factors listed in paragraphs 6.1 to 6.3 occur:
  - 6.1 the previous investigation has been completed and a written report exists in the Department's records which includes a determination made concerning that issue;
  - 6.2 the current circumstances surrounding the determination of that issue are essentially the same as when the previous determination was made;
  - 6.3 the Commissioner is satisfied that the information supplied to the investigator to enable the initial determination to be made was complete and that the taxpayer did not withhold information at that time that may have changed the earlier determination had that information been available at the time of the investigation.

### Land tax

#### Where assessment notice previously issued

7. Where a taxpayer has previously received an assessment notice, but has not advised of a correction to the taxable status of the land owner, or of additional land which has been omitted from the assessment, a reassessment will be issued for the current year, together with the lesser of:
  - 7.1 the previous five years of assessment;
  - 7.2 the years of assessment from and including the year when the liability first arose;
  - 7.3 the two years of assessment prior to the year in which the taxpayer first received an assessment notice.

#### Where assessment notice not previously issued

8. Where an assessment notice has not been issued to a taxpayer in any year from the time land owned by the taxpayer first became taxable, an assessment notice will be issued for the current year and the previous assessment year.

#### Expired exemption

9. Where an owner of land who was in receipt of an exemption from land tax in a previous year does not comply with a request to advise the Office of State Revenue of any change in circumstances which would invalidate the exemption, a retrospective assessment will be issued for the current year together with the lesser of:
  - 9.1 the two previous assessment years;
  - 9.2 the years of assessment from and including the financial year from which the exemption was no longer applicable.

#### Evasion of land tax

10. Where the Commissioner has reasonable grounds for suspecting that an evasion of tax has occurred, or a previous assessment was issued on the basis of false or misleading information, an assessment or reassessment will be issued for the current year together with the years of assessment from and including the year the liability arose.

#### **Date of Effect**

This Commissioner's practice takes effect from 23 December 2003.

Bill Sullivan  
COMMISSIONER OF STATE REVENUE

23 December 2003