

# COMMISSIONER'S GUIDELINE

## CG-SD-001:

### Document lodgement and payment periods

#### Guideline History

Version	Issued	Dates of effect	
		From:	To:
1	29 April 2005	29 April 2005	30 June 2006
2	29 June 2006	1 July 2006	31 December 2007
3	20 February 2008	1 January 2008	Current

#### Purpose

This Guideline details the lodgement and payment periods for stamp duty on dutiable instruments, provides information to assist lodging parties to comply with these requirements and sets out the circumstances where the payment date will be extended.

#### Background

The *Stamp Duty Act* (SDA) requires that where a dutiable instrument is required to be lodged for assessment, then within 60 days after it is first executed (or, if it becomes legally effective without execution, 60 days after it becomes legally effective):

- 1) the instrument must be lodged for assessment;<sup>1</sup> and
- 2) any stamp duty on the dutiable instrument must be paid, unless the notice of assessment specifies a later due date for payment.<sup>2</sup>

This time frame applies regardless of where the dutiable instrument was executed or when it was first received in the Territory.<sup>3</sup>

Similarly, a statement that is required to be lodged under Part 3, Division 8A of the SDA in relation to a relevant acquisition in a land-holding corporation or unit trust scheme must be lodged within 60 days after the date of the relevant acquisition.<sup>4</sup> Any duty arising from the statement is to be paid:

- 1) within 60 days after the occurrence of the relevant acquisition;<sup>5</sup> or
- 2) by a date specified in the notice of assessment.

<sup>1</sup> Section 9(1) of the SDA.

<sup>2</sup> Section 9(5) of the SDA.

<sup>3</sup> Section 9(2) of the SDA.

<sup>4</sup> Section 56K(3) of the SDA.

<sup>5</sup> Section 56M(3) of the SDA.

As a general rule, a notice of assessment will not specify a later date than the 60-day period except in special circumstances. Details of the circumstances in which the payment date will be extended are detailed below.

### Extension of time to pay by specifying a later date in the assessment

As stated above, the Territory Revenue Office (TRO) will generally not specify a date in a notice of assessment later than the 60-day period. However, TRO will extend the 60-day payment period only where:

- 1) the agreement is an eligible conditional agreement (including 'off-the-plan' purchases of residential property);<sup>6</sup> or
- 2) there has been an unreasonable delay by TRO in making an assessment and the lodging party has fulfilled their responsibility to ensure the document and all relevant information is lodged in sufficient time for the Commissioner to issue the assessment within the 60-day period. A Stamp Duty Lodgement Guide has been published detailing the usual information required to assess most classes of documents.

However, where the fault of the delay lies with both the lodging party and TRO, the period for payment will not be extended, but interest and penalty tax may be reduced to reflect the extent that TRO is responsible for the delay.

### Failure to pay on time

Failure to pay the duty within the requisite period (the 60-day period or by the date set out in the notice of assessment) is a tax default which will give rise to a liability for interest and penalty tax.<sup>7</sup> The circumstances of the tax default will determine the level of interest and/or penalty tax payable. For details of these circumstances see Commissioner's Guideline *CG-GEN-002: Interest and penalty tax policy*.

The actions of the taxpayer and/or person lodging on behalf of the taxpayer before and during the assessment process will determine the level of penalty tax, such as whether those persons have lodged as early as possible and have cooperated with TRO in the assessment process or have instead hindered the assessment process.

Where the tax default is 'merely' late payment of the tax set out in the assessment, TRO will generally not impose penalty tax (or more penalty tax than was imposed in the notice of assessment), but interest will still be payable. However, in circumstances where the failure to pay the tax set out in the assessment is of a nature where TRO considers that penalty tax ought to be paid, such as where the person deliberately delays payment, then penalty tax will be imposed under the normal provisions relating to a tax default.

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<sup>6</sup> Refer to Commissioner's Guideline CG-SD-002: *Eligible conditional agreements – extension of time to lodge instrument and pay duty*.

<sup>7</sup> Section 3 (definition of 'tax default') and Part 5 of the *Taxation Administration Act 2007*.

## Practices to assist with meeting the payment period

The following practices will assist taxpayers with complying with the 60-day payment period and to mitigate the amount of interest and penalty tax that would otherwise become payable.

- 1) Lodge the document for assessment as soon as practical after it is first executed (or if it becomes legally effective without execution, as soon as practical after it becomes legally effective).<sup>8</sup> If the original cannot be lodged (for example, because of stamping requirements in another jurisdiction), a copy of the executed document should be lodged. If required, the duty paid on the copy will be shown by authorised stamp to the original when it becomes available.
- 2) Where the original instrument has not been duly stamped or has been destroyed without being duly stamped, or otherwise cannot be produced for stamping, a copy of the original instrument may be stamped as if it were the original.<sup>9</sup>
- 3) Provide all relevant information (as required by section 24 of the *Taxation Administration Act 2007*)<sup>10</sup> to enable a correct assessment to be made – see the Stamp Duty Lodgement Guide for general guidance.
- 4) Comply promptly with any requests for further information or material by TRO.
- 5) Pay a reasonable estimate of the duty in advance of an assessment being issued. Stamp duty calculators are available on TRO's website to assist with calculating the estimate. Where the assessment is reasonable and any underpayment of tax is paid within the timeframe set out in the subsequent assessment, interest and penalty tax may be reduced to nil – see Commissioner's Guideline CG-GEN-002: *Interest and penalty tax*.

**Commissioner's Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from TRO's website.**

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<sup>8</sup> Section 4(1) of the SDA (definition of 'execute').

<sup>9</sup> Section 9C(2) of the SDA.

<sup>10</sup> Refer to Commissioner's Guideline CG-GEN-005: *Requirement for full and true disclosure*.

**Date of effect**

This Guideline takes effect from 1 January 2008



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**COMMISSIONER OF TERRITORY REVENUE**

Date of issue: 20 February 2008

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