

Administration

All provisions relating to the administration of payroll tax are contained in the *Taxation Administration Act* (TAA).

The TAA includes provisions on a broad range of administrative matters including:

- interest and penalty tax;
- record keeping requirements;
- re funds;
- investigative powers; and
- objections and appeals.

Interest and Penalty Tax

Under the TAA, interest and penalty tax is payable on a tax default. A tax default is a failure by a taxpayer to pay the whole or part of the tax that they are liable to pay under a taxation law, such as the PRT Act. This includes not paying tax on time.

Interest comprises two rates, a premium rate (8 per cent) and a prescribed market rate, which is reviewed annually. Current and historical rates (see also the [Appendix](#) on page 56) are published on the [TRO website](#).

Penalty tax is an administrative sanction that is intended to ensure compliance with the taxation laws by requiring taxpayers to pay an amount in addition to tax that is unpaid. It should be noted that penalty tax is payable in addition to interest, but is not payable on any interest or penalty tax that has not been paid.

The amount of penalty tax is set at a default rate of 25 per cent of the amount of tax unpaid. However, this rate will be reduced or increased in the circumstances outlined below.

Penalty tax will be reduced to 10 per cent of the amount of tax unpaid if the Commissioner is satisfied that the taxpayer took reasonable care to comply with the taxation law.

Penalty tax will be increased to 75 per cent of the amount of tax unpaid where the Commissioner is satisfied that:

- i) the tax default arose wholly or partly from the intentional disregard of a taxation law; or
- ii) information relevant to an assessment of tax was deliberately concealed or suppressed or the assessment of the tax liability was hindered in any other way. This includes taking these actions in relation to an investigation of the tax default.

The amount of penalty tax will increase to 95 per cent if the Commissioner is satisfied as to both (i) and (ii) above.

The amount of penalty tax may be reduced by up to 20 per cent of the amount of penalty tax otherwise to be imposed if, the taxpayer cooperates fully with the Commissioner in the conduct of an investigation.

The amount of penalty tax may be reduced by up to 80 per cent of the amount of penalty tax otherwise to be imposed if, before an investigation is commenced, the taxpayer discloses their tax default to the Commissioner such that the disclosure avoids the need for an investigation.

For more detailed information on TRO's penalty policy, refer to [Commissioner's Guideline CG-GEN-002](#).

Record Keeping

Employers must keep the records necessary to determine their payroll tax liability for five years from the date of a transaction or the date the record was first prepared or obtained, unless the Commissioner approves otherwise. The records must be kept accessible to the Commissioner and in English or in a form that is readily translatable into English.

Refunds

If employers believe they have overpaid payroll tax, they are entitled to apply for a refund. Under the TAA the period for refunding overpaid tax is limited to five years from the date the tax was paid. Employers seeking a refund must complete an application form ([F-PRT-012](#)).

Investigation Powers

TRO conducts a very active investigation program targeting employers that vary in size, location and industry. Generally the audit period will cover the current and previous four financial years.

In most cases, investigations begin with contacting the employer by telephone or through the mail. Certain records and documents are requested to enable the investigator to determine if the employer has been complying with the PRT Act. These records and documents may include financial statements, wage books and statements of earnings, contractor details such as invoices, cash payment journals and cheque butts, general ledger and chart of accounts, and fringe benefits tax returns.

At the conclusion of the investigation, the findings of the investigation will be discussed with the employer or his or her representative.

The TAA contains investigative powers that allow an authorised officer to enter non-residential premises at any reasonable time without warrant and, having gained entry, to search, inspect and copy records and documents. A person may also be required, by written notice, to provide information either orally or in writing, to produce records or other items, or attend in person and give evidence.

Objections and Appeals

A person who is dissatisfied with a decision, determination or assessment made by the Commissioner affecting their tax liability may, within a period of 60 days after the issue of the notice of the decision, determination or assessment, lodge an objection in writing with the Commissioner. The statement must be explicit, stating the full grounds of the objection and be accompanied by relevant supporting evidence. The 60 day period may be extended if the Commissioner is satisfied that the taxpayer can demonstrate reasonable cause for failing to lodge an objection by the due date.

A person who is dissatisfied with the decision on an objection may, within 60 days after the date of issue of the notice of decision, appeal to the Taxation and Royalty Appeals Tribunal or Supreme Court against that decision. Decisions of the Tribunal may be appealed to the Supreme Court. See Commissioner's Guideline CG-GEN -003 for more information.

Lodgement of any objection or appeal does not affect the liability to pay any tax.