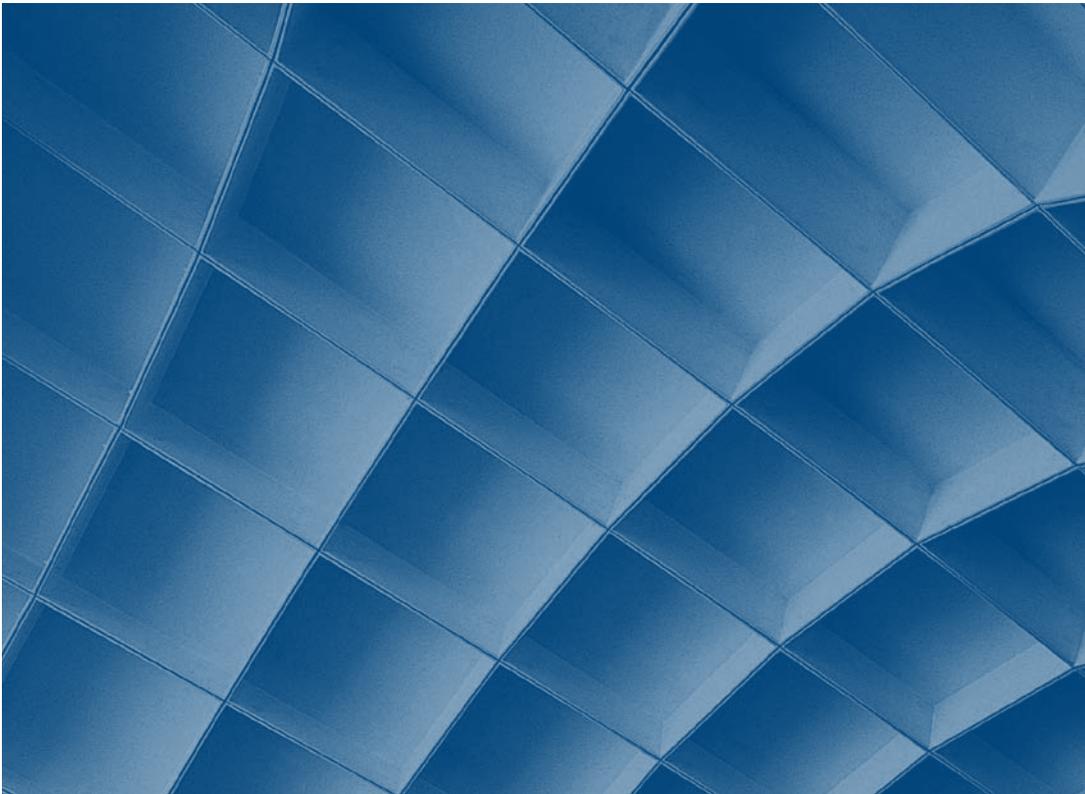




Australian Government
Australian Taxation Office

Taxpayers' charter

Your honesty and complying with the tax laws



OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at January 2007. We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.

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PUBLISHED BY

Australian Taxation Office
Canberra
January 2007

NAT 2550-01.2007
JS 5408

INTRODUCTION

We believe most people are willing to comply with tax laws if they feel they are trusted and treated fairly and get the help they need to understand the law.

We aim to have as many people as possible choosing to comply. We do this by helping people to understand their rights, entitlements and obligations, and by making complying with the tax laws as easy as possible for them.

However, sometimes people do not pay the right amount of tax or meet their tax obligations. This could be because they make a mistake, misunderstand the law or are careless, or it could be because they are intentionally avoiding their tax obligations.

Whatever action we take in these cases, we aim to be fair and to encourage these people to comply voluntarily in the future.

This publication explains how, where the law allows us to, we take the reasons a person has not met their tax obligations into account when we decide what action to take.

The charter is for everyone who deals with us on tax, including superannuation, excise and the other laws we administer.

Throughout this publication, unless we say otherwise, 'tax' means all matters dealt with by the Tax Office.

TREATING YOU AS BEING HONEST IN YOUR TAX AFFAIRS

We presume that you are trying to meet your tax obligations. We accept that you tell us the truth and that the information you provide is complete and accurate, unless we have reason to think otherwise.

We know that people can make mistakes. Unless we find evidence of carelessness, recklessness or intentional disregard of the law, we will continue to believe that you are trying to be honest in your tax affairs even if you make mistakes.

When we find a discrepancy, we take your circumstances into account when deciding what action to take. These include the reasons for the discrepancy and how well you have complied with your tax obligations in the past.

YOUR CIRCUMSTANCES

We take your circumstances into account if they are relevant to a decision and the law allows us to. For example, if you have not followed the law it may have been because you did not understand what you needed to do, rather than because you tried to avoid paying the right amount of tax.

Relevant circumstances may also include how much you know about and understand tax laws and your compliance history.

COMPLIANCE HISTORY

Your compliance history means the way you have complied with your tax obligations in the past.

You have a good compliance history if you have:

- kept adequate records
- tried your best to lodge complete and correct returns, statements and other documents
- lodged your documents on time
- paid your debts by the due date or made arrangements to pay them, and
- no recent history of penalties for tax issues.

SELF ASSESSMENT

The federal tax system is based on self assessment. This means you prepare the information you need to claim your entitlements and meet your obligations and report this information to us. Based on this information, you either make or receive a payment.

Self assessment is based on the presumptions that most taxpayers take reasonable care and make an honest attempt to meet their obligations. This includes keeping proper records and providing accurate information in all returns, claims and statements.

However, we have a responsibility to the community to ensure everyone complies with the tax laws. These laws give us time to review information you have given to us. In relation to income tax, for most people we have two years from the date of their assessment; for some others it is four years. Where there is evasion or fraud there is no time limit.

If you give us information and then realise it is wrong, let us know as quickly as possible.

If correcting the mistake means we owe you money we will pay it to you. We will also pay you any interest you are entitled to.

If you come forward to tell us about a mistake which means you owe us money, we will ask you to pay the money and may also charge you interest. However, in most cases we will reduce any penalty that may apply.

In some cases, time limits set by law will not allow us to make adjustments.

CHECKING INFORMATION PROVIDED TO US

We match the information you give us in tax returns and other documents with information we get from other government agencies, employers and financial institutions. We also conduct audits and reviews to verify information.

Sometimes we ask you to provide evidence that supports what you have told us.

COMMUNITY INFORMATION

People sometimes tell us that other members of the community are not meeting their tax obligations. We consider this information, although the law does not allow us to tell the person who provided it about the outcome of any enquiries.

We treat this information, including the identity of the people who provide it, in strict confidence.

IF WE FIND A DISCREPANCY

If we find a discrepancy when we check your information, we give you the chance to explain it. In straightforward cases, if the information is incorrect or you have omitted income that should have been included, we make adjustments.

In other cases, we take your explanation into account when we work out whether the information that you have provided is accurate. We accept that what you tell us is correct – or that you believe it to be correct – unless facts, logic, circumstances, plausibility or our interpretation of the law indicate otherwise.

If we still think that the information you gave us is wrong, we make adjustments. We explain our decision and tell you how you can have the decision reviewed.

🔍 For more information about having our decisions reviewed, see our publication *If you're not satisfied* (NAT 2556). It is available at www.ato.gov.au by searching for '2556' or phone **1300 720 092** to have a copy posted to you.

TAKING REASONABLE CARE

As you are legally responsible for your tax affairs you must keep proper records and take reasonable care in providing us with complete and accurate information.

Taking reasonable care means taking the amount of care that a reasonable person in your circumstances would take to meet their obligations. It means, for example, that you must try your best to lodge a correct tax return or statement.

WHAT WE TAKE INTO ACCOUNT

Factors we normally take into account in deciding whether you have taken reasonable care include:

- personal circumstances (such as age, health and background)
- level of education
- level of understanding of the tax laws, and
- experience with the particular issue.

For a business, other factors that help determine reasonable care include:

- the characteristics of the business, including its size and nature
- the accuracy and completeness of the records kept for the business, and
- whether the business' procedures, practices and systems increase the likelihood of providing us with the correct information.

IF YOU DO NOT TAKE REASONABLE CARE

If you do not take reasonable care, you may understate your tax liability or overstate your entitlements. If this means you owe us money, we will ask you to pay it. We may also charge you interest and a penalty.

IF YOU OBTAIN HELP

You are legally responsible for providing the correct information in your tax return or other tax document, even if you receive help from someone else, such as a registered tax agent.

If you prepare your own income tax return or activity statement using the advice of a tax professional, we normally accept that you have taken reasonable care. We expect you to give the tax professional all the information they need to provide correct advice, and to provide honest answers to any questions they ask.

If a tax agent does not exercise reasonable care in preparing your income tax return or activity statement and you owe us money as a result, we will ask you to pay that money and may also charge you interest and a penalty. This is also the case if you have your business activity statement (BAS) prepared by an authorised BAS preparer.

If you are liable to pay a penalty or interest because of the negligence of a registered tax agent, BAS preparer, barrister or solicitor, they are liable to pay you that amount. If they do not pay it to you, you can sue them and seek to recover it.

- For more information see our publication *Who can help with your tax affairs* (NAT 2555). It is available at www.ato.gov.au by searching for '2555' or phone **1300 720 092** to have a copy posted to you.

IF YOU DO NOT ACT HONESTLY

There are heavy penalties if you deliberately, intentionally or fraudulently disregard your tax obligations. In many cases, you can be prosecuted.

Before we decide that someone has acted dishonestly, we look at all the relevant facts and circumstances. These include the person's conduct and whether they make an admission. For example, if a person opened and operated a bank account in a false name and then did not include the interest they earned on that account on a tax return, we would normally conclude that they had acted dishonestly.

We are firm and fair when we deal with dishonest people and treat them according to the law.

- For more information about penalties that apply in different tax situations, see our website at www.ato.gov.au or contact us.

PENALTIES AND INTEREST CHARGES

If you do not meet your tax obligations, you may have to pay a penalty. You may also have to pay an interest charge if you have not paid the correct amount on time or you have claimed an incorrect entitlement.

PENALTIES

If the law allows us to, we take your circumstances into account when considering any penalties. Whether you are charged a penalty or not, you will still be asked to pay any understated tax or overclaimed entitlement – called the shortfall amount – and you may also have to pay interest.

Usually, there are different base penalty rates depending on the reasons for the discrepancy. We may increase or decrease the base penalty amount depending on the circumstances of the case.

If you or your agent fails to take reasonable care the base penalty amount is generally 25% of the shortfall amount.

The penalty increases to 50% of the shortfall amount if your behaviour is considered to be reckless. By reckless, we mean that you have run what a reasonable person would regard as an unjustifiable risk – you disregard or are indifferent to what is likely to happen as a result of your actions.

The penalty increases to 75% of the shortfall amount if you have intentionally disregarded the law – that is, where facts show that you consciously decided to disregard clear tax obligations.

For example, a person might leave some interest income out of their tax return. If this was because they did not take reasonable care preparing the return, they would normally be penalised 25% of the shortfall. However, if they left out the income intentionally, they would normally be penalised 75% of the shortfall amount.

INTEREST CHARGES

The law imposes interest charges to:

- act as an incentive for taxpayers to pay their liabilities by the due date
- ensure that taxpayers who do not meet their obligations do not get an unfair advantage over those who do, and
- compensate the community for not having use of the money when it should have originally been paid.

General interest charge

General interest charge (GIC) can apply to any amount that is not paid or is paid late.

The GIC rate is the 90-day bank accepted bill rate published by the Reserve Bank, plus seven percentage points. It is updated quarterly.

GIC compounds each day – that is, GIC is added to the amount you owe each day and included in calculating GIC in future. The longer it takes to pay an overdue amount, the bigger the interest charge will be.

Shortfall interest charge

Shortfall interest charge (SIC) applies to shortfall amounts arising from amendments to income tax returns for 2004–05 and later income tax years (GIC applies to earlier years and other taxes).

SIC applies from the day the tax debt was due for payment, or would have been due for payment if the shortfall was correctly reported, until the day before we issue an amended notice of assessment.

Like GIC, SIC is based on the 90-day bank accepted bill rate, but plus three percentage points rather than seven. It also compounds each day.

SIC is lower than GIC because taxpayers are usually unaware of the tax shortfall at the time they lodge the return or statement.

REMISSION OF PENALTIES AND INTEREST CHARGES

The tax laws allow us to remit (take away) all or part of penalties and interest charges. If we can see from the information we have that remission would be fair and reasonable, we will do this without a request from you. You may also ask us to remit penalties and interest.

We consider requests for remission under established guidelines, taking into account the circumstances of the case and your compliance history.

For more information, you should contact the person or area of the Tax Office you have been dealing with.

In many cases, you can ask us to review a penalty by lodging an objection. If we disallow the objection, you can have that decision reviewed by the Administrative Appeals Tribunal or you can appeal to the Federal Court.

- There is more information about objections and reviews on our website at **www.ato.gov.au** under 'Objections, amendments and reviews' or see our publication *If you're not satisfied* (NAT 2556). It is available on our website by searching for '2556' or phone **1300 720 092** to have a copy posted to you.

PROSECUTION

We may prosecute in more serious cases or for repeated breaches of the tax laws.

These breaches include making false or misleading statements, failing to lodge returns or statements, and keeping incorrect or false records with an intention to deceive or mislead a tax officer.

Giving false or misleading information is a serious offence.

We also prosecute under the criminal code for the most serious offences. For example, obtaining a financial advantage from the Commonwealth by deception carries a maximum term of 10 years imprisonment and heavy financial penalties.

Officers of corporations, including company directors, may be prosecuted for offences committed by a corporation.

The courts can impose fines or prison sentences and, in some cases, both.

We consider cases carefully before taking prosecution action, and make decisions based on our prosecution policy.

- 🔍 If you would like information about our prosecution policy, search our legal database [law.ato.gov.au](https://www.law.ato.gov.au) for 'prosecution policy', or contact us.

MORE INFORMATION

For more information about the taxpayers' charter, visit www.ato.gov.au and search for 'charter'. To have a copy posted to you, phone **1300 720 092** and tell us the NAT number of the publication you want from the list below.

TAXPAYERS' CHARTER PUBLICATIONS

- *Taxpayers' charter – what you need to know* (NAT 2548)
- *Taxpayers' charter – expanded version* (NAT 2547)
- *Treating you fairly and reasonably* (NAT 2549)
- *Your honesty and complying with the tax laws* (NAT 2550)
- *Your privacy and the confidentiality of your tax affairs* (NAT 2552)
- *Getting advice from the Tax Office* (NAT 2553)
- *Accessing information under the Freedom of Information Act* (NAT 2554)
- *Who can help with your tax affairs* (NAT 2555)
- *If you're not satisfied* (NAT 2556)
- *If you're subject to enquiry or audit* (NAT 2558)
- *Fair use of our access and information gathering powers* (NAT 2559)

