



CIRCULAR 8

DUTIES ACT 2008 TAXATION ADMINISTRATION ACT 2003 AMNESTY ON LATE LODGMENT PENALTY TAX – CONDITIONAL AGREEMENTS

The *Duties Act 2008* ('Duties Act') was amended from 1 March 2011 to require **all** dutiable transactions executed on or after that date to be lodged within two months from the date of execution. Such lodgments must be made either with the Commissioner of State Revenue or by using the Office of State Revenue's electronic self assessment system, Revenue Online ('ROL').

To coincide with the legislative amendments, extensive customer education sessions were held to assist taxpayers and their agents to understand the legislative changes.

Nonetheless, it has come to the Commissioner's attention that some taxpayers or their agents have misunderstood the new lodgment requirements in relation to conditional agreements and have not lodged some instruments in the requisite two month lodgment period.

This misunderstanding has resulted, or may result, in the application of late lodgment penalty tax in some instances.

The Commissioner has announced that in order to assist the taxpaying community to adjust to the new lodgment regime, he will for a limited time remit in full any late lodgment penalty tax on the grounds of exceptional circumstances. The amnesty will only apply where:

- the transaction was executed on or after 1 March 2011 and up to 31 May 2011; and
- the transaction is subject to transfer duty under Chapter 2 Part 5 Division 6 of the Duties Act applying to Conditional Agreements; and
- the application or lodgment of the instrument under the amnesty is received by the Office of State Revenue ('OSR') by no later than 31 July 2011.

All other applications for the remission of late lodgment penalty tax will be considered in accordance with Commissioner's Practice TAA 18 'Remission of Penalty Tax, Late or Non-Lodgment of Returns, Transaction Records, Acquisition Statements, Instruments and Dutiable Statements'.

APPLICATION FOR REMISSION OF PENALTY TAX

The amnesty will only apply where the relevant written application for remission of the late lodgment penalty tax or lodgment of the instrument is received by OSR by no later than 31 July 2011.

Instruments Not Yet Lodged	Type of Application Required
The instrument has not yet been lodged, either with OSR or using ROL.	The instrument is required to be lodged <u>with OSR</u> (not via ROL) for assessment on or before 31 July 2011.

Instruments Lodged Using Revenue Online	Type of Application Required
The instrument has been lodged using ROL and no Certificate of Duty has been issued.	The original instrument is required to be transferred from ROL to OSR on or before 31 July 2011 for assessment along with the documents supporting that transaction.
The instrument has been lodged using ROL, a Certificate of Duty issued and the relevant monthly return containing the assessed duty remains unpaid.	The Certificate of Duty must be voided and the original instrument transferred from ROL to OSR for assessment on or before 31 July 2011 along with the documents supporting that transaction.
The instrument has been lodged using ROL, a Certificate of Duty issued and the relevant monthly return containing the assessed duty paid.	<p>A written application is required to be submitted to OSR on or before 31 July 2011.</p> <p>The original duty endorsed instrument is required to be submitted for reassessment at the time of application.</p> <p>Where the Transfer of Land has been lodged with Landgate the application should include the Landgate document number if known.</p>

Applicants should note, instruments transferred from ROL to OSR will not be eligible for the benefit of payment of duty at settlement offered to instruments assessed under a Special Tax Return Arrangement by a ROL user.

Instruments Lodged With OSR	Type of Application Required
The instrument has been lodged with OSR on or before 31 July 2011 and a Notice of Assessment has not yet issued.	No application is required to be made.

Instruments Lodged With OSR	Type of Application Required
<p>The transfer duty and late lodgment penalty tax have been paid and the instrument duty endorsed by OSR.</p>	<p>A written application is required to be submitted to OSR on or before 31 July 2011.</p> <p>The original duty endorsed instrument is required to be submitted for reassessment at the time of application.</p> <p>Where the Transfer of Land has been lodged with Landgate the application should include the Landgate document number if known.</p>
<p>A Notice of Assessment including the late lodgment penalty tax has been issued by OSR and the assessed tax remains unpaid.</p>	<p>A written application is required to be submitted to OSR on or before 31 July 2011.</p> <p>Applicants are requested to include the relevant OSR Bundle ID number in their application.</p>

Applications for remission of penalty tax received after 31 July 2011 will not be eligible for the amnesty, however any such application will be considered in accordance with Commissioner's Practice TAA 18 'Remission of Penalty Tax, Late or Non-Lodgment of Returns, Transaction Records, Acquisition Statements, Instruments and Dutiable Statements'.

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