

ATO Receivables Policy

Part B The Collection of Taxation Debts

24 RELEASE FROM PAYMENT OF SOME TAXATION LIABILITIES

The policy in this chapter is to be followed by Tax Office staff. We have made every effort to ensure it is technically accurate, but in the interests of clarity it has been written in 'plain English' and should not be read or interpreted like legislation. If you feel that something in the chapter is wrong or misleading, please advise the Tax Office.

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24.1 PURPOSE

24.1.1 This chapter deals with release, and a person's right to apply for a release from payment of certain liabilities.

24.2 LEGISLATION

- 24.2.1 From 1 September 2003, Division 340 of Schedule 1 to the *Taxation Administration Act 1953* (TAA) allows the Commissioner to grant an individual or the trustee of the estate of a deceased person, release from certain tax liabilities in whole or in part, if satisfying those liabilities would cause serious hardship.
- 24.2.2 Sections 265 of the *Income Tax Assessment Act 1936* (ITAA 1936) and 133 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA), which had once provided for release decisions to be determined by a Relief Board, have been repealed. The Relief Board has been abolished, along with the Administrative Appeal Tribunal's (AAT) role of investigating and reporting to the Board on certain release applications.
- 24.2.3 Section 265A ITAA 1936, which has not been repealed, provides for the release from income tax of members of the Defence Forces on their death in certain circumstances (and, in these cases, no actual application for release is required). The trustee of the estate of the deceased Defence Force member is released, by force of the section, from the debt that remains after taking into account any tax instalment deductions for the year in which the death occurred. However, the trustee is required to notify the Tax Office of the situation.
- 24.2.4 The release provisions apply in respect of liabilities of the following kinds (releasable liabilities):
- (i) income tax;
 - (ii) a PAYG instalment;
 - (iii) fringe benefits tax;
 - (iv) a fringe benefits tax instalment;
 - (v) Medicare levy;
 - (vi) Medicare levy surcharge;

- (vii) withholding tax (as at section 128B of the ITAA 1936);
- (viii) mining withholding tax (as at section 128V of the ITAA 1936); and
- (ix) penalties and charges associated with the above liabilities, including:
 - additional tax (as at section 93 or 112B or Part VIII of the FBTAA or section 163B or subsection 221YDB(1)(1AAA), (1AA) or (1ABA) or Part VII of the ITAA 1936);
 - administrative penalty in relation to fringe benefits tax or income tax (as at Part 4-25 in Schedule 1 to the TAA) such as failure to lodge penalty relating to lodgment of income tax returns or fringe benefits tax returns;
 - general interest charge (as at section 163AA or 170AA or subsections 204(3), 221AZMAA(1), 221AZP(1), 221YD(3) or 221YDB(3) of the ITAA 1936 or section 45-80 or 45-620 or subsection 45-230(2), 45-232(2), 45-235(2) or 45-235(3) in Schedule 1 to the TAA);
 - interest (as at section 102AAM of the ITAA 1936); and
 - penalty (as at section 163A of the ITAA 1936).

24.2.5 Amounts to which the release provisions **do not apply** are:

- (i) amounts which have been incorrectly refunded or overpaid (for example, incorrect refunds or overpayments arising from administrative errors - also referred to as 'non tax' debts);
- (ii) amounts of tax instalment deductions, prescribed payments, reportable payments or PAYG withholding that have not been remitted or paid to the Commissioner;
- (iii) interest on judgment debts;
- (iv) legal costs;
- (v) provisional tax and quarterly provisional tax and instalments of provisional tax (excluded by subsections section 221YA(2) and 221YA(2A) ITAA 1936);
- (vi) instalments of company tax (excluded by sections section 221AA, section 221AK and section 221AZK ITAA 1936);
- (vii) sales tax;
- (viii) indirect taxes (goods and services tax, wine equalisation tax, luxury car tax);
- (ix) higher education contributions (the *Higher Education Funding Act 1988* has its own hardship provisions);
- (x) student financial supplement scheme (the *Student Assistance Act 1973* has its own hardship provisions);
- (xi) child support payments;
- (xii) court imposed fines and costs, including reparation orders;
- (xiii) director liabilities arising under Division 9 of Part VI, ITAA 1936;
- (xiv) pre-sequestration debts;
- (xv) any debts raised by the superannuation provisions in the:

- Superannuation Contributions Tax (Assessment & Collection) Act 1997 [SCT(A& C)A1997]; or
 - Superannuation Contributions Tax (members of Constitutionally Protected Funds) Assessment & Collection Act 1997 [SCT(CP)(A & C)A 1997]; or
 - Termination Payments Tax (Assessment & Collection) Act 1997 [TPT(A & C)A 1997].
- (xvi) debts resulting from overpayments or advances of grants resulting under the *Diesel and Alternative Fuels Grants Scheme Act 1999* (DAFGSA 1999);
- (xvii) debts resulting from overpayments or advances of grants resulting under *Product Grants and Benefits Administration Act 2000* ; and
- (xviii) failure to lodge penalty related to lodgment of activity statements.

24.3 INTRODUCTION

- 24.3.1 Taxpayers have a responsibility to pay their tax liabilities when they fall due for payment. If payment is not made by the due date, the Commissioner will take steps to recover the outstanding debt.
- 24.3.2 Division 340 of Schedule 1 to the TAA provides for a person to be released from paying certain liabilities if payment of the liability will cause serious hardship. A person can apply to the Commissioner for a release from those liabilities and will need to satisfy the Commissioner that payment will cause serious hardship before the Commissioner can decide whether to grant a release.
- 24.3.3 An application for release must be in the form required by the Commissioner. The onus is on the applicant to furnish sufficient information for the Commissioner to be satisfied that a release from liabilities would be appropriate.
- 24.3.4 Applications will be considered in the first instance by the Commissioner. Dissatisfied applicants will be entitled to make an objection and this will be determined by an internal Tax Office review, with further recourse to a merits review by the AAT, sitting as the Small Taxation Claims Tribunal.

24.4 PAYG AND FBT INSTALMENT LIABILITIES

- 24.4.1 Where a person is released (wholly or in part) from instalment liabilities, the instalment liabilities are extinguished, but permanent release from the amounts in question will require further consideration of the full year's assessment against the person's circumstances at that time. This treatment recognises the interaction between the instalment system and the assessment system.
- 24.4.2 Normally, the ultimate assessment for a tax year is offset by a credit for the instalment liabilities. This prevents 'double taxation' by ensuring that the amount the person is required to pay upon assessment is net of the amount collected through the instalment system. The amount due at assessment is often referred to as the 'washup' amount. Ideally, this amount will be small, because the total of the instalments for the income year is intended to reflect the ultimate assessment (as per section 45-5 of Schedule 1 to the TAA).

Example 1

Fergus Jefferson has quarterly PAYG instalments of \$6000. His final year assessment is \$25000.

The 4 instalments are credited against the annual assessment, leaving him with a washup amount of \$1000.

- 24.4.3 Instalment liabilities are not extinguished by the final assessment. Where instalments are unpaid, a person would still face instalment debts, along with the liability for the washup amount.
- 24.4.4 Even where an instalment liability is unpaid, the credit still applies against the assessment. This ensures that the person is not pursued twice for the same amount, through both the instalment and assessment collection systems.

Example 2

After losing a court case with a neighbour, Fergus Jefferson is only able to pay \$2000 against his first 3 quarterly PAYG instalments of \$6000, and nothing against his 4th instalment. His final year assessment is \$25000.

The 4 instalment liabilities total \$24000 and (whether paid or not) are credited against the annual assessment, leaving him with a washup amount of \$1000.

His outstanding tax debts would then total \$19000, comprising \$18000 of instalment liabilities (ie \$4000 + \$4000 + \$4000 + \$6000) and a washup amount of \$1000 (ie \$25000 - 4 x \$6000).

- 24.4.5 However, where release from a PAYG or a FBT instalment is granted, the credit against the assessment will be disallowed to the extent of that release. The absence of instalment credits means the amount due at assessment time would be more than a washup amount. Effectively, this means that the liability to pay the amount in the instalment is deferred until assessment time.

Example 3

Continuing from Example 2, suppose Fergus Jefferson were to receive partial release of \$4000 (the unpaid amount) on each of his first 3 quarterly instalments and full release on his 4th instalment.

At assessment time, his washup amount would be \$19000 (ie \$25000 - \$2000 - \$2000 - \$2000 - \$0).

His outstanding tax debts would then total \$19000, comprising no unpaid instalment liabilities and a washup amount of \$19000.

- 24.4.6 The person is then potentially able to apply for release from the overall liability arising from the year's assessment.
- 24.4.7 Where a person is still in a position of hardship at the time the ultimate assessment is issued, permanent release could then be available in respect of the assessed liability, including amounts originally reflected in the released instalment.

Example 4

Continuing from Example 3, Fergus Jefferson faces ongoing hardship and receives full release from his outstanding income tax of \$19000 (ie the washup amount). This would effectively mean that the unpaid instalment amounts had been given permanent release, albeit in the form of assessed income tax.

- 24.4.8 It is not intended to grant permanent release from the amount in the instalment prior to consideration of the full year's assessment against the person's circumstances at that time. Where a person's circumstances have improved by the time the final assessment is issued - such that the year's assessment can then be paid without hardship - then it is expected that the full assessment would be paid. In these circumstances, temporary relief - by removing the liability to pay at the usual instalment date - will have been seen to be sufficient to alleviate hardship.

Example 5

As an alternative to Example 4, suppose Fergus Jefferson wins an appeal on the court case with his neighbour, and no longer faces hardship.

He is now expected to pay his outstanding income tax of \$19000 (ie the washup amount).

When Fergus Jefferson pays this amount, he will have paid a total of \$25000 in tax for the year (ie \$2000 + \$2000 + \$2000 + \$0 + \$19000). The total amount paid for the year will equal that paid under 'normal' circumstances (eg as in Example 1).

The release provisions have provided the temporary relief he needed by releasing him from the obligation to pay the full instalment amounts at the times at which they would normally have been due.

24.5 REVIEWING DECISIONS**Objecting to the Commissioner's decision (internal review)**

- 24.5.1 If a person is dissatisfied with the decision the Commissioner makes on their application, they may object to the decision. Such objections would be made in the usual manner, as set down in Part IVC of the TAA for taxation objections, reviews and appeals. Paragraph 14ZW(1)(c) of Part IVC of the TAA requires such objections to be lodged within 60 days after notice of the decision is served on the person.

AAT review

- 24.5.2 If a person is dissatisfied with the decision the Commissioner makes on their objection, then, under Division 4 of Part IVC of the TAA, they may request the AAT, sitting as the Small Taxation Claims Tribunal, to review the merits of that decision. The *Administrative Appeals Tribunal Act 1975* allows the Small Taxation Claims Tribunal to review hardship release cases, including where the liabilities in question exceed the Small Taxation Claims Tribunal's usual ceiling of \$5000.

Federal Court

- 24.5.3 It should also be noted that Pt IVC of the TAA applies to objections against decisions relating to applications made under section 340-5 in the same manner as any other objections made under Pt IVC. This means that the applicant also has a right to lodge an "appeal" against the decision in the Federal Court.

24.6 POLICY**Release Application**

- 24.6.1 A person has a right to apply for release and they should be made aware of that right. Where the debt is an eligible debt (paragraph 24.2.4) and it is believed that the application will have a reasonable prospect of success (refer to the subsection entitled 'Release decision – determining serious hardship'), the Tax Office will suggest to the taxpayer that the lodgement of a release application should be considered.
- 24.6.2 A person should apply for release on the form approved by the Commissioner. It is in the person's best interests to provide all relevant information required by the form so that the Commissioner can make a proper decision. Generally, the Commissioner will remit any GIC for late payment (that is attributable to the amounts which are subject to an application for release) which is incurred during the period from the date on which the application is received by the Tax Office and up until 14 days after the applicant is notified of the Commissioner's decision.
- 24.6.3 The Commissioner may require a person to supply further information, or answer questions that would be relevant for the Commissioner's consideration of the person's application for release. Where that additional information is not supplied and/or the application for release is incomplete and, provided there are no reasonable grounds for failing to supply the information (eg the person is sick and others are unable to supply the information on the person's behalf), the application may not be considered and the application form may be returned to the person.
- 24.6.4 If the person wishes the Commissioner to consider the application they should resubmit the returned application form with all the information required. Meanwhile, normal action to recover the debt may be continued.
- 24.6.5 Generally, when considering an application for release the Commissioner requires that income tax and activity statement lodgments are up to date (because it could well be that an assessment would result in a refund that could reduce the debt; or, alternatively, the assessment may result in an additional debt that the Commissioner should consider for release). On receipt of the application for release, the Commissioner will check the lodgments and request any returns and/or statements that are outstanding be lodged. Where the outstanding returns and/or statements are not subsequently lodged and, provided there are no reasonable grounds for failing to lodge, the application for release may not be considered and the application form may be returned to the person.
- 24.6.6 If the person wishes the Commissioner to consider the application they should resubmit the returned application form with all the outstanding lodgments. Meanwhile, normal action to recover the debt may be continued.

- 24.6.7 Where there is a disputed debt, the final liability of the person is not certain and consequential hardship implications can only be speculated. Therefore, the Commissioner will generally not consider an application for release until the dispute is resolved and the application form may be returned to the person.
- 24.6.8 Once the dispute is finalised, if the person wishes the Commissioner to consider the application they should resubmit an application form. Meanwhile, normal action to recover the debt may be continued (refer to the *ATO Receivables Policy* chapter, entitled 'Recovering disputed debts').
- 24.6.9 Unresolved insurance, compensation or damages claims make it impossible to properly evaluate the person's true longer-term position. Therefore, the Commissioner will generally not consider an application for release until the claims are resolved, and the application form may be returned to the person.
- 24.6.10 Once the claim(s) is finalised, if the person wishes the Commissioner to consider the application, they should resubmit an application form. Meanwhile, normal action to recover the debt may be continued.
- 24.6.11 Applications for release may be regarded as warranting a decision to defer recovery during the time in which the application remains undetermined. Accordingly, a person may request and receive a refund in respect of a credit entitlement which pertains to a period after the application for release was made, provided all of their lodgment obligations have been met. In certain circumstances, it may appear that the deferral of recovery action is not appropriate, such as where the facts of the case indicate a risk to recovery or where the application for release is considered to be frivolous or without merit, as per the subsection below entitled 'Applications without merit'.
- 24.6.12 In cases where the person dies after lodgment of an application for release, the application lapses. The trustee of the estate of a deceased person may lodge an application for release if payment of the amount of the releasable liabilities would cause serious hardship for the beneficiaries of the estate of the deceased person.

Release liability

- 24.6.13 In order to determine the amount of releasable liability, the Commissioner might need to determine which of a person's liabilities have been paid. This will require payments to be matched against particular tax liabilities that existed at the time of the payment.
- 24.6.14 It should not be assumed that payments would be applied on a pro-rata basis across outstanding liabilities, as a person would be expected to remit to the Commissioner amounts *collected* on behalf of the Commissioner (eg tax withheld from employees' wages and GST) before paying their own personal liabilities (eg their own PAYG instalments).
- 24.6.15 In order to determine the amount of releasable liability, the Commissioner might also need to decide the amount of interest charge that applies to particular tax liabilities.

Release Decision - Determining Serious Hardship

- 24.6.16 It is recognised that the payment of tax may require a degree of restraint in regard to expenditure on other goods or services. However, payment

of tax at the prescribed rate will not usually create a situation of hardship. In some circumstances, however, financial losses or other adverse factors may limit a person's capacity to pay to such an extent that the impact of payment of the tax will amount to serious hardship.

- 24.6.17 The term 'serious hardship' is not defined at law and must be given its ordinary meaning. The Commissioner determines whether serious hardship exists by applying several tests which are designed to ascertain whether payment of the tax would produce unduly burdensome consequences for the person such that they would be deprived of necessities according to normal community standards.
- 24.6.18 Thus, serious hardship would be seen to exist where payment of a tax liability would result in the person being left without the means to achieve reasonable acquisitions of food, clothing, medical supplies, accommodation, education for children and other basic requirements. On the other hand, elements of hardship may be regarded as marginal or minor - rather than serious - if the consequences of payment of tax are seen, for example, as limitation of social activities or entertainment, or loss of access to goods or services of a more luxurious nature or standard.
- 24.6.19 As a first step in considering an application for release, the Commissioner must determine the person or persons to be included in his assessment of hardship factors. The assessment of hardship is not limited only to the person's present circumstances; it may also consider the future prospect of an inability to provide food, clothing, etc for family members or others for whom the person has responsibility.
- 24.6.20 Conversely, although a person's immediate situation may suggest inability to meet the combined total of the tax debt and family expenditures, that factor will not indicate hardship if the income or asset positions of other members of the family are such as to suggest that the person cannot reasonably be regarded as responsible for all relevant outgoings. For example, the separate earnings, allowances or benefits received by other family members will be relevant to an assessment of the person's overall financial circumstances.
- 24.6.21 Subject to the general considerations above, the steps by which the Commissioner evaluates the merits of individual cases can be addressed in three segments:
- Income/Outgoings Tests
 - Assets/Liabilities Tests
 - Other Factors

Income/Outgoings Tests

- 24.6.22 The tests under this heading are concerned with quantifying the person's capacity to meet the tax liability from his or her current income. The tests in sequence are:
- (i) What is the person's capacity to pay, as measured by the income and outgoings stated in the application or supporting documents, ie, what net income remains after deducting total outgoings from total income?

- (ii) Does the Commissioner accept that the income and outgoings stated are accurate and that the outgoings are necessary, or is there scope to increase the net income available or to reduce outgoings to meet the tax debt without serious detriment to living standards?
- (iii) If there is a margin by which available income exceeds reasonable outgoings, is it sufficient to allow the liability to be met within an acceptable time frame?

24.6.23 In relation to the second test, above, the appearance of claims that a person incurs above-average expenditure on food, clothing or services, a high level of private travel or entertainment expenses, or payments for leisure goods such as caravans, boats, higher-priced motor vehicles, etc would usually lead the Commissioner to a conclusion that capacity to pay exists. Within this test, the Commissioner also seeks to determine whether there are optional expenditures which could be reduced or deferred to improve capacity to pay the tax debt.

24.6.24 For the purposes of the third test, the Commissioner generally takes a two to three year payment span as an initial yardstick. Capacity to pay at a limited rate which would not see the debt cleared in two to three years would be a factor indicating that granting of partial release may be appropriate.

Assets/Liabilities Tests

24.6.25 The tests within this segment are concerned primarily with determining whether the person's equity in assets is indicative of capacity to pay the tax debt. As a secondary consideration, the Commissioner may also need to address whether the acquisition of assets has unreasonably been put ahead of meeting tax liabilities.

24.6.26 There are several types of assets which the Commissioner would generally regard as normal and reasonable possessions, and which would not be expected to be surrendered or sold to meet revenue debts. Subject to the proviso that values are modest rather than extravagant, those assets include:

- ownership of, or equity in, a residential property which is the person's home
- motor vehicle
- furniture and household goods
- tools of trade
- cash on hand or bank balance, etc, sufficient to meet outgoings for necessities or other reasonable expenditures, eg, funds put aside by aged persons to cover funeral expenses.

24.6.27 Other assets such as caravans (except where a caravan serves as the person's residence), holiday homes, luxury motor vehicles, boats, substantial life assurance or annuity entitlements, shares and other investments will generally be regarded by the Commissioner as indicating capacity to pay, through either disposal or use as security for borrowings, without involving serious hardship.

24.6.28 As a general proposition, the Commissioner would also seek to reach conclusions as to whether assets have been valued realistically, and

liabilities are accurately recorded. Where doubts arise in relation to these aspects, the Commissioner may seek clarification of the basis of valuation, or of other information. However, certified valuations from professional valuers will not normally be required.

- 24.6.29 In relation to liabilities, the Commissioner's evaluation of the circumstances of the person may in some cases require consideration of whether deferment or rescheduling of commitments is a viable option. Where a person's asset position indicates untapped borrowing capacity, the likely quantum of repayments arising will, in turn, have a bearing on the outcome of the income/outgoings tests discussed earlier.

Other Factors

- 24.6.30 Apart from the financial factors discussed in preceding paragraphs, various additional factors may require consideration during the Commissioner's evaluation of cases. Some could have a bearing on the Commissioner's decision while others, though offered as grounds warranting release, are not relevant to the Commissioner's decision.
- 24.6.31 If the Commissioner decides that payment of a releasable liability will cause serious hardship, he then moves to a second decision making process to decide whether or not to grant a release. Even if serious hardship is established, the Commissioner is not bound to grant release (*Corlette v Mackenzie* 96 ATC 4502; 32 ATR 667). Nevertheless, it is clear that the Commissioner is obliged to act reasonably and responsibly, and should not act arbitrarily or capriciously. Examples of situations in which the Commissioner may decide against granting release, even though implications of serious hardship may be drawn, are:
- (a) where it appears that the person has, questionably or otherwise, disposed of funds or assets without making proper provision to meet tax liabilities;
 - (b) where the granting of release would not result in reduction of hardship, such as, where the person has other liabilities/creditors and release from the tax debt will not relieve hardship;
 - (c) where the person has used available funds to discharge debts due to other *private* creditors in preference to debts due to the Commissioner;
 - (d) where the person has used available funds to discharge debts due to other *business* creditors where those payments are not considered reasonable to maintain the viability of the business and could be considered as unfair preference payments to the detriment of the Commissioner;
 - (e) where the person, for less than adequate reasons, has failed to pursue debts due to him or her, or to seek possible contributions from insurers, persons with joint responsibilities for debts, etc;
 - (f) where serious hardship is associated with a single event or short term outcome, such as might be encountered in the more speculative or seasonal business undertakings, the effects of which can be expected to abate within a short term, ie, on the longer view any hardship will be less than serious;

- (g) where the person has a poor compliance history; and
- (h) where the person is unable to demonstrate that they have made provision for future debts.

The Commissioner's Decisions

- 24.6.32 The tests and procedures outlined above usually enable the Commissioner to determine whether or not he can be satisfied that serious hardship is likely and the extent, if at all, to which he should grant release. The Commissioner may decide not to grant a release, or to grant a partial release, or he may decide to grant a full release. Release from the full amount of the liability would not generally be appropriate where partial release is sufficient to avert hardship. If the Commissioner decides payment will not cause serious hardship, then he cannot grant release.
- 24.6.33 The Commissioner may take such action as is necessary to give effect to a decision to grant release of a releasable liability.
- 24.6.34 Where a person is released (wholly or in part) from liabilities arising from an assessment, that release will be final, subject to the overriding power of the Commissioner to amend assessments. Granting release under these hardship provisions does not limit the power of the Commissioner to amend an assessment in accordance with any provision of the ITAA 1936 or FBTAA (eg where a deduction was disallowed following a tax audit).

Partial Release - Allocation of Credit

- 24.6.35 Where partial release is granted the Commissioner will determine the allocation of the release credit. Generally, it will first be applied to the releasable liability with the earliest due date.

General Interest Charge (GIC)

- 24.6.36 As stated, the Commissioner will remit any GIC for late payment attributable to the amounts subject to an application for release which is incurred during the period from the date on which the application is received by the Tax Office and up until 14 days after the applicant is notified of the Commissioner's decision.

Judgment Interest and Costs

- 24.6.37 While the Commissioner is not able to grant a release for judgment interest or associated legal costs, it is expected that judgment interest/costs will be written off if full release is granted. If only partial release is granted or other tax liabilities that are not releasable are owing, then it may be appropriate to only write off the judgment interest/costs applicable to that part of the released debt.

Applications without Merit

- 24.6.38 In cases where the Commissioner is of the view that the application for release is without merit or has been lodged to take advantage of the prospect of a remission of GIC, then the matter is to be referred to the relevant decision-maker with a request for an urgent determination. In these cases, action to recover the debt may be continued (*McGuire v. DFC of T 88 ATC 4990; 20 ATR 87*) and the person advised accordingly. In these circumstances the GIC will not generally be remitted.

Disputed Release Decisions

- 24.6.39 Where a person disputes the release decision of the Commissioner (either by objection or by appeal), any GIC for late payment attributable to the amounts subject to the disputed release decision which is incurred during the period from the date on which the applicant was notified of the original release decision and up until 14 days after they are notified of the determination of the dispute, will be remitted in full.
- 24.6.40 Generally, where a release decision is being disputed, and the Commissioner is of the opinion that the dispute is without merit, then collection action to recover the releasable liability may be commenced. In these circumstances the GIC will not generally be remitted.

Credit Entitlements

- 24.6.41 Credit entitlements pertaining to the period after the application is received will be refunded to the taxpayer rather than offset against a releasable debt, up until the release decision is made or a dispute against the decision is determined. However, credit entitlements pertaining to this period will be offset against a releasable debt in these circumstances where the application is considered frivolous or based on an assessment of risk the refund should not be given (eg it is contrived or clearly an application without merit).

Disputed debts subject to Release Applications

- 24.6.42 Where a debt is subject to dispute (objection, appeal or reference to the AAT on a substantive matter), then the full remission of additional charges and/or GIC and write off of judgment interest will only apply from the latter of the date of the determination of the relevant dispute, or the date on which the application for release is received by the Tax Office.

Further Release Applications

- 24.6.43 A person's circumstances - including their tax liabilities - can change quite rapidly. Accordingly, a person is not prevented from applying merely because they have previously been unsuccessful or partially successful in seeking release, including release for the same liabilities. This applies even where a person has unsuccessfully objected to a decision or undertaken further appeals. However, it would be unusual for the Commissioner to consider another application lodged within six months of a previous application. The Commissioner will make exceptions in circumstances like the following:
- There are changes to the applicant's circumstances compared to those set out in the original application
 - The applicant has fresh material to submit which is likely to materially affect the Commissioner's original finding
 - The applicant shows that the reasons provided by the Commissioner for his decision were either misconstrued or inaccurate.

24.7 TERMS USED

- 24.7.1. Applications without merit are applications for release, release objections or release appeals that:

- have been lodged to delay recovery proceedings;
- disclose considerable assets or that the person's alleged inability to pay should be questioned;
- are second or subsequent applications where there is no change to the person's circumstances.

24.7.2 Disputed debt is a term used for convenience to describe a tax-related liability, which is the subject of an objection, a review or an appeal. Disputed debt also includes any other disputed component of an assessment such as GIC which is imposed in the assessment as an incorrect return penalty (Section 170AA of the ITAA1936) and should not be confused with GIC imposed for late payment.

24.7.3 Releasable Liabilities are liabilities to which the release provisions apply.

24.7.4 'Release' - the relevant provisions provide for the 'release' of persons from paying all or part of their taxation liabilities in certain circumstances. The term 'relief' is not used in the provisions. This term is a colloquial expression used in the Tax Office in this context having the same meaning as 'release'.

24.7.5 Release appeals are requests for a merits review of the release objection decision that is made to the AAT sitting as the Small Taxation Claims Tribunal.

24.7.6 Release objections are objections to the release decisions of the Commissioner.