

ATO RECEIVABLES POLICY

PART F Interest Payable by the Commissioner

Chapter 82 INTEREST ON EARLY PAYMENTS

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.

Date of effect: 24 July 2008 (This version replaces the 2006 version.)

Key legislation: Part IIA of the *Taxation (Interest on Overpayments and Early Payments) Act 1983*

PURPOSE

1. This chapter deals with payments of certain tax liabilities that attract interest on early payments.

INTRODUCTION

2. The entitlement to interest on early payments is set out under Part IIA of the *Taxation (Interest on Overpayments and Early Payments) Act 1983* (T(IOEP)A).

Specifically, paragraph 8A(1)(a) of the T(IOEP)A provides that interest on early payments is payable provided the payment is made more than 14 days before the due date for payment of the tax, debt, interest, amount or instalment concerned (and provided the payment is made in relation to the above mentioned liabilities pertaining to the 1993-94 and later income years).

Interest is only payable in relation to a payment of, or a payment on account of:

- income tax (this includes the Medicare levy and the Medicare levy surcharge)
- shortfall interest charge under Division 280 of Schedule 1 to the *Taxation Administration Act 1953* (TAA)
- higher education contribution (HEC) assessment debt
- compulsory repayment amount
- student financial supplementary scheme (FS) assessment debt
- interest under section 102AAM of the *Income Tax Assessment Act 1936* (ITAA 1936)
- late lodgment penalty under section 163A of the ITAA 1936
- general interest charge for late lodgment under sections 163B of the ITAA 1936, or

- general interest charge applied in relation to debit amended assessments under section 170AA of the ITAA 1936.
3. Debts which are not directly paid but are reduced by the crediting or applying of an amount do not attract early payment interest (subsections 8A(2) and (3)). The crediting or applying of amounts that do not attract interest include:
 - credit for instalments payable under the pay as you go (PAYG) instalment regime
 - credit for amounts withheld from payments under the PAYG withholding regime
 - an overpayment of other tax liabilities
 - an RBA surplus, and
 - any other credit entitlement arising under a taxation law.
 4. Early payment interest is not payable on:
 - any component of the payment that exceeds the amount due, and
 - an amount for any period during which that amount also attracts interest under Part IIIA of the T(IOEP)A.
 5. The interest on early payments is payable for the period:
 - if the person is not a full self-assessment taxpayer – from the beginning of the later of the following days:
 - (a) the day on which the payment is made
 - (b) the day on which the notice notifying the tax, debt, interest or instalment concerned is issued, and
 - if the person is a full self-assessment taxpayer – from the beginning of the day on which the payment is made

until the earlier of the appropriate due date for payment or, in circumstances where the early payment is refunded before the due date, when the refund takes place.
 6. Interest is payable at the base interest rate. Interest is calculated as simple interest, not compound interest (refer to the decision in *Consolidated Fertilizers Ltd* (1992) 23 ATR 305).
 7. Interest paid under the T(IOEP)A is assessable income under section 15-35 of the *Income Tax Assessment Act 1997* when it is received (applied, credited or refunded).
 8. Interest is calculated to the nearest cent (0.5 cent increased to nearest cent) and amounts less than 50 cents are not payable in accordance with Part IIIB of the T(IOEP)A.
 9. Generally, if an amount of interest has been paid to a non-resident, 10% of the interest is to be withheld under [section 12-245](#) of the TAA.
 10. Generally, the Commissioner is required under Division 3 of Part IIB of the TAA to apply an amount of interest payable to a taxpayer against any amount due to the Commonwealth directly arising under a taxation law, including any such amount not yet payable.

POLICY

11. Under the T(IOEP)A interest may be payable on a payment made early. Interest can be claimed where a payment is directly made:
 - for an amount listed under paragraph 8A(1)(a) of the T(IOEP)A (for example tax assessed under the ITAA 1936)
 - more than 14 days before the due date, and
 - in relation to the 1993-94 and subsequent income years.
12. Claims for interest on early payments should be made either in a written request to the Tax Office by the taxpayer/tax agent or calculated and claimed in the next income tax return.
13. Interest on early payments can only be paid after the due date for payment of the tax paid early and only after that tax amount has been established.
14. If the payment is for more than the value of the debt, interest can only be paid up to the value of the debt and not on the full payment.
15. The Tax Office will provide written details to a taxpayer of the amount of early payment interest when the interest is paid. If the interest has been offset against any outstanding taxation debts, the taxpayer will also be advised in writing as to the nature and date of the offset.

TERMS USED

Compulsory repayment amount – means amounts that are treated under Subdivision 154-D of the *Higher Education Support Act 2003* as if they were income tax.

FS assessment debt – means amounts that are treated under subsection 12ZN(1) of the *Student and Youth Assistance Act 1973* as if they were income tax.

Full self-assessment taxpayer – is defined under subsection 6(1) of the ITAA 1936. It includes companies (including corporate unit trusts and public trading trusts), superannuation funds, approved deposit funds and pooled superannuation trusts. The term 'full self-assessment taxpayer' applies to the 2000-01 and later income years.

HEC assessment debt – means amounts that are treated under subsection 106U(1) of the *Higher Education Funding Act 1988* as if they were income tax.

Chapter 82 - Archived version

Version 4 – July 2006 (will link to chapter 82 pdf)
--