

## ATO RECEIVABLES POLICY

### PART F Interest Payable by the Commissioner

# Chapter 84 DELAYED REFUND INTEREST

*The policy in this chapter is to be followed by ATO 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 ATO.*

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

**Key legislation:** *Taxation (Interest on Overpayments and Early Payments) Act 1983*

## PURPOSE

1. This chapter deals with the circumstances which attract delayed refund interest.

## INTRODUCTION

2. The legislation in relation to the payment of delayed refund interest is set out in the *Taxation (Interest on Overpayments and Early Payments) Act 1983* (T(IOEP)A).
3. Interest payable by the Tax Office is:
  - assessable income when it is received (applied, credited or refunded) from the Tax Office (section 15-35 of the *Income Tax Assessment Act 1997*)
  - payable at the base interest rate (within the meaning of the Tax Act)
  - calculated as simple interest, not compound interest (refer to the decision in *Consolidated Fertilizers Ltd v. DCT* (1992) 23 ATR 305)
  - calculated to the nearest cent (0.5 cent increased to nearest cent) and amounts less than 50 cents are not refundable in accordance with Part IIIB of the T(IOEP)A.
4. 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 *Taxation Administration Act 1953* (TAA).
5. Divisions 3 and 3A of Part IIB to the TAA provide that running balance account (RBA) surpluses and credits that arise will usually be offset against an entity's tax liabilities before any remaining balance is refunded.
6. From 1 July 2000, delayed refund interest is payable in relation to an RBA established to account for business activity statement (BAS) amounts if a refund that the Tax Office is required to give is not paid by the RBA interest day. However, delayed refund interest will not be paid where specified information has not been provided (for example, a notification under any of the BAS provisions or a further/fuller goods and services tax (GST) return that the entity is required to give to the Tax Office).

7. The delayed refund interest is payable for the period from the end of the RBA interest day until the end of the day on which the refund takes place.

## POLICY

8. Generally, where allowed by law, the Tax Office will offset any credit, refund, or interest payable to an entity against any other liability of the entity before refunding any remaining balance to the entity. (Refer to Chapter 7 'Allocation of payments and credits' and Chapter 72 'Offsetting of refunds and credits against taxation and other debts').
9. Delayed refund interest can be payable where an RBA surplus arises after the notification of BAS amounts and the Tax Office does not refund the surplus within 14 days after the day the surplus arose. Generally, the RBA surplus does not arise until the credit is allocated to the account. However, the Tax Office has adopted the approach to treat the day of lodgment of the activity statement, early payment claim in respect to fuel tax credits or the fuel tax return, as the day on which the RBA surplus arises.
10. Delayed refund interest can also be payable where, as a result of the remission of penalty, an RBA surplus arises in relation to BAS amounts, and the surplus is not refunded within 14 days after the day that the entity's request for remission was received.
11. Delayed refund interest can also be payable where, after making a voluntary payment towards an anticipated BAS amount, an entity requests the Tax Office refund the corresponding RBA surplus. Delayed refund interest is payable if the refund is not issued within 14 days after the day that the entity's request for the refund was received.
12. The Tax Office is not required to pay delayed refund interest in certain circumstances. The Tax Office will not pay delayed refund interest where there is a need to obtain further information or a notification that affects or may affect the amount that is refunded, that is where:
  - an activity statement is lodged and does not disclose an amount against all labels on the statement where an entity has an expected liability for that period
  - an entity makes an error on the activity statement (for example, arithmetic error) and it is necessary to contact the entity to obtain other information to process the activity statement
  - an entity has not nominated an account at a financial institution into which the refund should be paid, (except where the Commissioner has authorised that the refund payment be made in another way), or
  - an entity has not given the Tax Office a notification that the entity is required to give the Tax Office under any of the BAS provisions (for example, where the entity has outstanding activity statements or where the Tax Office has requested further or fuller GST returns).
13. In the situations outlined above, delayed refund interest will only be payable where the Tax Office does not refund the surplus until after the period ending 14 days after the day when the entity provides the relevant information or return to the Tax Office.
14. However, the Tax Office will pay delayed refund interest where the Tax Office seeks merely to clarify/verify entries on an activity statement, and the refund takes place more than 14 days after the day the RBA surplus arises. Interest will be paid, even if

the BAS amount is adjusted as a result of this checking, on the amount of the eventual refund. For example, where this process results in a reduced amount being refundable, interest would be paid on this reduced amount from the original RBA interest day. In the event that this process results in an increased amount being refundable, interest will be paid on the increased amount if it is refunded more than 14 days after the day the relevant information is received relating to this increased amount. Interest is also payable in this case on the primary amount to be refunded from the original RBA interest day.

## TERMS USED

BAS amount – means any credits or debits arising directly under the BAS provisions.

BAS provisions – means:

- Part VII of the *Fringe Benefits Tax Assessment Act 1986*
- the indirect tax law, and
- Parts 2-5 and 2-10 in Schedule 1 to the TAA.

Entity – means any of the following:

- a company
- a partnership
- a person in a particular capacity of trustee
- a body politic
- a corporation sole
- any other person.

Indirect tax law – means any of the following:

- the GST law
- the wine tax law
- the luxury car tax law, or
- the fuel tax law.

Penalty – includes the general interest charge under section 8AAZF of the TAA and administrative penalties under Part 4-25 of Schedule 1 to the TAA.

RBA – is an account established under section 8AAZC of the TAA.

RBA interest day – for an RBA surplus means the 14th day after the latest of the following days:

- (i) either:
  - if section 12AA of the T(IOEP)A applies - the day on which the surplus arises, or
  - if section 12AB or 12AC applies - the day on which the relevant request is made
- (ii) if, by the day applicable under paragraph (a), the person has not given the Tax Office a notification that is required for the refund under section 8AAZLG of the TAA and that is accurate so far as it relates to the refund - the day on which that notification is given to the Tax Office

- (iii) unless the Tax Officer has given a direction under subsection 8AAZLH(3) of the TAA - the day on which the person nominates a financial institution account for the purposes of that section.

RBA surplus – means a balance on an RBA in favour of the entity, where the primary tax debts allocated to the RBA are less than the payments and credits allocated to that RBA.

The Tax Act – means the *Income Tax Assessment Act 1936* or *Income Tax Assessment Act 1997*.

Voluntary payment – for the purposes of this chapter means a payment that an entity has made in anticipation of a tax liability that will be allocated to their RBA that maintains record of their BAS amounts.

**Chapter 84 - Archived version**

Version 4 – July 2006 (will link to chapter 84 pdf)
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