TR 95/4W - Fringe benefits tax: guidelines for the remission of penalty taxes arising from audit action

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This document has changed over time. This is a consolidated version of the ruling which was published on *10 August 2011*

Generated on: 22 November 2026, 06:01:29 AM

Notice of Withdrawal

Taxation Ruling

Fringe benefits tax: guidelines for the remission of penalty taxes arising from audit action

Taxation Ruling TR 95/4 is withdrawn with effect from today.

1. TR 95/4 sets out guidelines for the remission of additional tax under subsection 117(3) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) arising from audit action, where an employer is liable for additional tax because:

- there has been a false or misleading statement (section 115 of the FBTAA); or
- the employer has failed to furnish a return (section 114 of the FBTAA).

2. TR 95/4 also provides guidance for the remission of penalty for unpaid tax imposed by the former section 93 of the FBTAA, where an amount of fringe benefits tax arising out of audit action remains unpaid after the time when it became due and payable. This section continued to apply to amounts of unpaid tax to 30 June 1999.

3. TR 95/4 discusses the penalty provisions contained in Part VIII of the FBTAA. This Part does not apply to a return or information relating to the year of tax starting on 1 April 2001 or a later year of tax. From that date, Part 4-25 of Schedule 1 to the *Taxation Administration Act 1953* (TAA) applies.

4. The guidelines for the remission of penalty for making a false or misleading statement are contained in Law Administration Practice Statements PS LA 2006/2 and PS LA 2002/8. PS LA 2006/2 applies to statements made on or after 1 April 2004 in so far as they relate to fringe benefits tax matters for the year commencing 1 April 2001 and later years. PS LA 2002/8 applies to statements made before 1 April 2004 in so far as they relate to fringe benefits tax matters for the year commencing 1 April 2001 and later years.

5. The policy in relation to application and remission of lodgment penalties is currently explained in Law Administration Practice Statement PS LA 2011/19 *Administration of penalties for failing to lodge documents on time*. The policy outlined in this practice statement applies to obligations that commence on or after 14 April 2011. For obligations that existed prior to this date, the policy was

outlined in Chapter 98 of *ATO Receivables Policy* (which is now archived).

6. TR 95/4 is no longer current and is withdrawn.

Commissioner of Taxation
[date of issue]

ATO references
NO: 1-24B60HO
ISSN: 1039-0731
ATOlaw topic: Fringe Benefits Tax ~~ Penalties