

# ***IT 2043 - Remission under section 226(3) of additional tax imposed by section 226(2) of the income tax assessment act***



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TAXATION RULING NO. IT 2043

REMISSION UNDER SECTION 226(3) OF ADDITIONAL TAX  
IMPOSED BY SECTION 226(2) OF THE INCOME TAX ASSESSMENT  
ACT

F.O.I. EMBARGO: May be released

REF H.O. REF: 14 J196/5 P4 F354 DATE OF EFFECT: 14.02.83

B.O. REF: Syd - 27/B1/AF 2898 of 17 March 1983  
Melb - VJ192/101 of 7 December 1982

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1104389	ADDITIONAL (PENALTY) TAX : REMISSION OF REMISSION OF ADDITIONAL (PENALTY) TAX	226(2)  226(3)

OTHER RULINGS ON TOPIC IT 2012, 2028

PREAMBLE Questions have arisen as to, first, the calculation of the per annum component of the basic penalty where payment of all or part of the tax avoided is made prior to the date of preparation of the relevant assessment form and, secondly, whether a further aggravating factor should be added to those listed on page 3 of Taxation Ruling No. IT 2012 to cover any other circumstances which add to the taxpayer's culpability.

RULING 2. The ruling contained in IT 2012 should be amended to incorporate the following additional rulings.

(a) Calculation of Per Annum Component of Basic Penalty

3. As the per annum component of the basic penalty is intended to reflect the length of time a taxpayer has had the use of moneys properly payable to the revenue, the fact that a taxpayer has paid all or some of the tax avoided prior to the date of preparation of the relevant assessment form should be taken into account in the calculation of this penalty component.

(b) Aggravating Factors affecting Culpability Component of Basic Penalty

4. To the aggravating factors listed on page 3 of Taxation Ruling No. IT 2012, a further paragraph should be added, viz.

"(f) There are other factors not covered by (a) to (e) which add to the taxpayer's degree of culpability - 10% to 50%."

5. This general paragraph has been added to enable authorising officers to take into account any other factors not

already covered but which obviously affect the degree of seriousness of the offence. Examples of such factors would include -

- . taxpayer is a tax agent or tax adviser;
- . taxpayer has advised or encouraged others in the practice of tax evasion.

COMMISSIONER OF TAXATION  
9 June 1983