

PS LA 1999/5 (Withdrawn) - Application of penalty tax and interest for trust loss legislation amendments

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! This law administration practice statement is withdrawn from 24 May 2004

! This document has changed over time. This version was published on 24 May 2004



ATO Practice Statement

Law Administration

PS LA 1999/5

This law administration practice statement is withdrawn from 24 May 2004

FOI status: may be released

This Practice Statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by ATO officers unless doing so creates unintended consequences. Where this occurs ATO officers must follow their Business Line's escalation process.

SUBJECT: Application of penalty tax and interest for trust loss legislation amendments

STATEMENT

1. This statement sets out the treatment of requests to amend the 1994/95, 1995/96 and 1996/97 income years ('the relevant years') as a consequence of the enactment in April 1998 of the trust loss legislation.
2. Where, as a consequence of the enactment of the trust loss provisions, a tax shortfall arises for any of the relevant years, the taxpayer will not be liable to pay additional tax by way of penalty because of that shortfall.
3. Where, as a consequence of the enactment of the trust loss provisions, an assessment for any of the relevant income years has been amended to increase the amount of tax payable for that year, the taxpayer will not be liable to pay interest on the increased amount, provided that an application for amendment has been made no later than 31 March 1999.

EXPLANATION

4. The Explanatory Memorandum for the *Taxation Laws Amendment (Trust Loss and Other Deductions) Bill 1997* stated that, if the commencement date of the trust loss measures (9 May 1995) affects the validity of deductions claimed for the relevant income years and tax returns for those years are amended within a reasonable time after the measures become law, the Commissioner will not seek to apply penalties and interest against underpayments of tax.
5. The imposition of penalty tax is not applicable because amendments made for those relevant years are as a result of a change in the law rather than culpable behaviour of the taxpayer or tax agent.
6. In relation to the payment of interest, the Commissioner will exercise his discretion to remit the entire amount of the interest payable provided that the application for amendment has been made no later than 31 March 1999.
7. Any taxpayer who failed to take advantage of the amnesty period will be liable to pay interest to the full extent required by the income tax law unless exceptional circumstances exist (see Taxation Ruling IT 2444). This will mean that interest will

be payable from the day the tax was due and payable on the original assessment until the date the assessment is amended.

8. As the Commissioner announced in Media Release Nat 98/65, follow-up action is proposed in relation to relevant taxpayers who do not take the new law into account within the amnesty period.

subject references: interest; penalty tax; trust loss amendments

legislative references: ITAA 1936 170AA(11)
ITAA 1936 Part VII

related public rulings: IT 2444

file references: NO 99/3871-1

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