PS LA 2006/6 (Withdrawn) - Written guidelines for the reduction of an employer's superannuation guarantee 'choice shortfall'

Law Administration Practice Statement PS LA 2006/6 was withdrawn with effect from 1 November 2021. It has been replaced by Legislative Instrument SPR 2021/1 (F2021L01453) which provides guidelines the Commissioner must have regard to for the purpose of subsection 19(2E) of the *Superannuation Guarantee (Administration) Act 1992* in deciding the level of reduction to apply to an increase in an employer's individual superannuation guarantee shortfall under subsection 19(2A) of that Act.

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Practice Statement Law Administration

PS LA 2006/6

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This practice statement is issued under the authority of the Commissioner of Taxation and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by tax officers unless doing so creates unintended consequences or where it is considered incorrect. Where this occurs, tax officers must follow their business line's escalation process.

SUBJECT:	**Written guidelines for the reduction of an employer's superannuation guarantee 'choice shortfall'**
PURPOSE:	**To explain the written guidelines that the Commissioner must have regard to in deciding the level of reduction applied to the amount of the increase in an employer's individual superannuation guarantee shortfall under the *Superannuation Guarantee (Administration) Act 1992***

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STATEMENT

1. Subsections 19(2A) and 19(2B) of the *Superannuation Guarantee (Administration) Act 1992* (SGAA)[1] can give rise to an increase in the amount of an employer's individual superannuation guarantee shortfall for a quarter where the employer:

   - makes contributions to a complying superannuation fund or a retirement savings account, and
   - does not comply with the choice of fund requirements.

   In this practice statement, this increase is referred to as the 'choice shortfall'.

2. Under subsection 19(2E), the Commissioner has the discretion to reduce the choice shortfall in full or in part. In making the decision under subsection 19(2E), the Commissioner is required by section 21 to have regard to written guidelines. Under subsection 21(2) these guidelines must be made available for inspection on the internet.

3. The guidelines required under section 21 were made on 9 June 2006 and registered as a legislative instrument[2] on 15 June 2006. This instrument revokes an earlier instrument[3] and provides new guidelines which take into account changes to the choice of fund requirements.

4. The end of the 2006 financial year saw the extension of choice of fund to employees of constitutional corporations who were previously employed under state awards. Also, changes to the licensing rules for complying superannuation funds (other than self managed superannuation funds) has led to many superannuation funds (including both employer funds and employee chosen funds) closing down in the lead up to 30 June 2006. Both changes can affect what is required of employers seeking to comply with the choice of fund requirements. For these reasons the introductory period was extended until 30 June 2007.

Guidelines for introductory period – 1 July 2005 to 30 June 2007

5. The Commissioner regards the period from 1 July 2005 to 30 June 2007 as the introductory period for the choice of fund requirements. During the introductory period, the Commissioner encouraged and assisted employers to understand and become familiar with the choice of fund requirements. The Commissioner recognised that non-compliance by employers with the choice of fund requirements during the introductory period may have been caused by a lack of knowledge and/or business readiness rather than a non-compliant attitude. It is acknowledged that, notwithstanding an employer's best efforts, genuine mistakes and misunderstandings will occur.

6. Therefore, in the introductory period, employers were provided with help and assistance as a first step to improving compliance with the choice of fund

[1] All legislative references in this practice statement are to the SGAA unless otherwise stated.
[2] Legislative Instrument F2006L01821 Written Guidelines for the Reduction of an Increase in an Employer's Individual Superannuation Guarantee Shortfall.
[3] Legislative instrument F2005L02718 was revoked in order to extend the introductory period for a further 12 months. Refer to paragraph 4 of this practice statement.

requirements. Any choice shortfalls were reduced to nil unless there was evidence to show that an employer had intentionally disregarded the choice of fund requirements. Decisions were to be made on a case by case basis taking into account the individual circumstances of the employer and the effort the employer had made to comply.

Guidelines from 1 July 2007

7. The Commissioner adopts a 'business as usual' approach to the administration of the choice of fund requirements from the quarter beginning 1 July 2007.[4] It was considered that by this time, employers will have had sufficient opportunity to understand and comply with the changes introduced. While the Commissioner continues to provide education and assistance to employers to help them comply with the choice of fund requirements, the reduction concessions based solely on the newness of and changes to the choice of fund requirements are no longer considered to be appropriate. In keeping with this firmer approach, the introductory policy of reducing the choice shortfall to nil (in the absence of intentional disregard) no longer applies.

8. All decisions on reduction of the choice shortfall will be made on a case by case basis in keeping with the principles of the taxpayers' charter and compliance model. Genuine attempts to comply will be treated differently to situations where an employer does not make an effort to comply.

9. The following table provides a guide to the case officer in making a decision on the initial level of reduction.[5] These reduction levels are a starting point before taking into account additional factors, such as those set out in paragraphs 13 and 15 of this practice statement.

Behaviour of the employer	**Level of reduction**	**Choice shortfall**
Intentional disregard An employer knowingly decides not to comply with their choice of fund requirements	0%	100%
Recklessness An employer's actions demonstrate gross carelessness showing indifference to their choice of fund requirements	25%	75%
Failure to take reasonable care An employer fails to exercise the care that a reasonable, ordinary person would exercise to fulfil the employer's choice of fund requirements	75%	25%
Reasonable care taken An employer in all respects made a genuine effort to meet their choice of fund requirements	100%	0%

[4] The exception to this approach is for the first 12 months of new employers that commence operation. Refer to paragraph 23 of this practice statement.

[5] If the choice shortfall for an employee for a quarter or notice period is greater than $500, the choice shortfall is first capped to $500 before applying the reduction levels in the table. See paragraph 36 of this practice statement.

10. The terms 'intentional disregard', 'recklessness' and 'reasonable care' are existing terms in taxation and other contexts and their meanings are well established.[6]

11. The amount of the choice shortfall remaining after considering the levels of reduction in the table in paragraph 9 of this practice statement will be maintained or varied, depending on the presence in a particular case of the factors listed in paragraphs 13 and 15 of this practice statement.

Factors that will increase or decrease the choice shortfall after applying the initial level of reduction

12. After making a decision on the initial level of reduction the case officer will determine whether that level of choice shortfall should be maintained or varied (that is, to increase or decrease the choice shortfall). This decision also needs to be made on a case by case basis.

13. Factors which are relevant in considering a decrease in the choice shortfall (from the levels in the table in paragraph 9 of this practice statement) include:

- the employer made a full and voluntary disclosure,[7] bringing to the attention of the Commissioner their failure to meet the choice of fund requirements, before the Commissioner informed the employer that compliance activities were to commence – 80%
- the employer voluntarily and fully disclosed any choice shortfall to the Commissioner after the Commissioner advised that compliance activities were to commence – 20%
- the employer failed to exercise reasonable care but the errors made were inadvertent errors only – 20%
- the employer otherwise has a good compliance history (a whole of client perspective should be taken) – 20%
- the employer has resolved any compliance issues and is now meeting the choice of fund requirements – 20%
- the employer's failure to comply with the choice of fund requirements was due to circumstances beyond the employer's control such as sudden illness of key personnel, fire, flood or other events and the employer has since taken steps to mitigate the effect of those circumstances – 20%, and
- the employer co-operated fully with tax officers – 20%.

14. The amount of the choice shortfall remaining after applying the initial reduction levels in the table in paragraph 9 of this practice statement will be reduced by the relevant percentage for each of the above factors present (other factors may justify different reductions) to a minimum of nil.

15. Factors which are relevant in considering an increase in the choice shortfall (from the levels in the table in paragraph 9 of this practice statement) include:

- the employer took steps to prevent or obstruct the Commissioner from finding out about the employer's failure to satisfy the choice of fund requirements, and

[6] The terms 'intentional disregard', 'recklessness' and 'reasonable care' are explained in detail in Miscellaneous Taxation Ruling MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard.

[7] The term 'voluntary disclosure' is explained in detail in Miscellaneous Taxation Ruling MT 2012/3 *Administrative penalties: voluntary disclosures*.

- the employer was liable for the choice shortfall in the previous notice period (or would have been but for a reduction of the choice shortfall).

16. The amount of the choice shortfall remaining after applying the initial reduction levels in the table in paragraph 9 of this practice statement will be increased by 20% for each of the above factors present (other factors may justify different increases) but not to an amount greater than the original amount before applying the reduction levels.

17. For the sake of clarity, any decreases or increases from the amount determined after applying the initial reduction levels can be combined to reach one simple percentage. This combined decrease or increase is then applied (to the amount determined after applying the initial reduction levels) in order to determine the remaining amount of the choice shortfall.

18. Where a tax officer finds the remaining amount of the choice shortfall is less than $25 the choice shortfall will be reduced to nil, provided the employer has not intentionally disregarded their obligations.

19. During the introductory period the Commissioner will reduce the choice shortfall to nil in voluntary disclosure cases without requiring the employer to provide evidence to support the reduction (subject to paragraph 52 of this practice statement).

Approved clearing house

20. The SGAA was amended by the *Tax Laws Amendment (2010 Measures No. 1) Act 2010* to include the introduction of an approved clearing house.[8] Effective from 1 July 2010 an eligible employer may use an approved clearing house to make their superannuation guarantee contributions on behalf of their employees to satisfy their choice of fund obligations.[9]

21. The Explanatory Memorandum to the Tax Laws Amendment (2010 Measures No. 1) Bill 2010 explains that an eligible employer has fewer than 20 employees.

22. Employers who elect to use the approved clearing house[10] are also subject to the approach specified by the remission guidelines which apply from 1 July 2007.

New employers

23. The Commissioner's approach to the administration of the choice of fund requirements for the introductory period will extend to the first year of the operation of new employers. This concession will only apply to an employer whose principals have not previously been employers or held a position that was responsible for discharging the responsibilities of an employer.

Other matters

24. While the law requires a decision to be made in respect of the choice shortfall of each employee, where it is evident that the circumstances are similar in relation to a particular group of employees, the case officer will apply the same

[8] Approved clearing house has the meaning given by subsection 79A(3).
[9] Refer to paragraph 28 of this practice statement.
[10] Approved clearing house is also referred to as the Small Business Superannuation Clearing House administered by Medicare Australia.

level of reduction to the choice shortfall in relation to each employee in the group.

25. The Commissioner will give written notice of the decision made under subsection 19(2E) to the employer who is liable to pay the choice shortfall. This written notice will contain the reasons why the particular decision was made (irrespective of the level of reduction).

26. The Commissioner's power to reduce the choice shortfall does not extend to any individual superannuation guarantee shortfalls which arise where the employer fails to make sufficient superannuation contributions to reduce to nil the employer's charge percentage under subsection 19(2).

EXPLANATION

General requirements

27. From 1 July 2005, employers who make superannuation contributions to reduce their superannuation guarantee charge percentage under the SGAA are required to satisfy the choice of fund requirements.[11] Those requirements include:

- providing their eligible employees[12] with the right to choose which complying superannuation fund or retirement savings account will receive their superannuation guarantee contributions;[13]
- implementing an employee's choice of fund no later than two months after receiving a valid employee choice;[14] and
- making contributions to an eligible choice fund[15] (the 'employer fund') for an employee in the event that there is no chosen fund for the employee.[16]

Utilising an approved clearing house

28. From 1 July 2010, eligible employers[17] who make superannuation contributions to reduce their superannuation guarantee charge percentage under the SGAA also satisfy the choice of fund requirements if:

- the contribution to a fund is made through an approved clearing house
- the employee has given the employer written notice choosing a fund, and
- the employer has passed the written notice to the approved clearing house within 21 days of receiving it from the employee (and before or

[11] The *Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004* inserted Part 3A into the SGAA. Part 3A sets out the choice of fund requirements.
[12] Not all employees who are eligible to receive superannuation guarantee contributions must be offered choice. For example, an employer contribution made under an Australian workplace agreement for the benefit of an employee already meets the choice of fund requirements.
[13] Employers can fulfil this requirement by giving those employees a *Standard choice form*. Section 32N sets out when an employer is required to give a *Standard choice form* to an employee.
[14] Subsection 32F(2).
[15] Eligible choice funds include complying superannuation funds, complying superannuation schemes and retirement savings accounts.
[16] Subsection 32C(2).
[17] Refer to paragraph 21 of this practice statement.

at the time of the contribution) and the approved clearing house accepts the information.[18]

29. Where a contribution made by an employer through an approved clearing house is not made in accordance with the above requirements, the contribution can also comply with the choice of fund requirements provided it is made in accordance with the existing rules which are detailed in paragraph 27 of this practice statement.

30. Contributions made by an employer through an approved clearing house result in the contribution being made on the employer's behalf by the approved clearing house as the employer's agent.[19]

Imposition and reduction of choice shortfall

31. Where an employer makes superannuation guarantee contributions for an employee that do not satisfy the choice of fund requirements, the employer will have a choice shortfall for the employee for the quarter. The choice shortfall is calculated in accordance with subsection 19(2A) where the contributions are made to a fund other than a defined benefit superannuation scheme. Subsection 19(2B) applies to determine the choice shortfall where the contributions are made to a defined benefit superannuation scheme.

32. The choice shortfall is established within the same framework as the existing superannuation guarantee shortfall provisions contained in Part 3 and forms part of the superannuation guarantee charge (SGC).[20]

33. An employer who does not satisfy their superannuation guarantee requirements is required to self assess the shortfall and pay that amount to the Commissioner.[21] Alternatively, if the Commissioner is of the opinion that the employer is liable for any element of the SGC (including the choice shortfall), the Commissioner may make an assessment of the employer's SGC (a default assessment).[22]

34. Subsection 19A(1) places a limit on the amount of an employer's choice shortfall for an employee for a quarter. Subsection 19A(2) places this limit on the amount of an employer's choice shortfall for an employee for a notice period. An employer's notice period for an employee operates on a quarter-by-quarter basis, each quarter being either within a particular notice period or not.[23] A notice period, therefore, consists of one or more whole quarters.[24]

35. If the choice shortfall exceeds $500 for a quarter or a notice period, the shortfall is taken to be $500 for that quarter or notice period. Once an employer reaches the $500 limit for an employee for a notice period,

[18] Subsection 32C(2B).
[19] Subsection 79A(2).
[20] Nominal interest and administration components are added to the total of the employer's individual superannuation guarantee shortfalls for the quarter to comprise the superannuation guarantee charge.
[21] The choice of fund provisions use the legislative framework in the SGAA for lodging the superannuation guarantee statement and paying the superannuation guarantee charge where an employer does not reduce their charge percentage to nil.
[22] Section 36. The ATO policy on making default assessments under section 36 is contained in PS LA 2007/10 Making default assessments: section 36 of the *Superannuation Guarantee (Administration) Act 1992*.
[23] The Commissioner regards notice periods as consisting of multiple whole quarters, and will give notice to employers that the relevant notice period for an employee will end on the last day of the quarter in which the notice is provided. This is the case notwithstanding the approach taken in subsection 19A(4). This approach will simplify and ease the cost of compliance.
[24] Further confirmation is contained in paragraph 1.59 of the Explanatory Memorandum to the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2003.

subsection 19A(3) ensures the employer will not have a choice shortfall for that employee in any subsequent quarter in the notice period.

36. The Commissioner has the discretion under subsection 19(2E) to reduce the choice shortfall in whole or in part in respect of each employee. If the choice shortfall is more than $500 for an employee for a quarter or quarters in a notice period, the choice shortfall is first capped to $500 and is then subject to the application of subsection 19(2E). Where an employer has a choice shortfall of $500 for an employee in an earlier quarter or quarters of a notice period, the employer will not have a further choice shortfall for that employee in a later quarter within the same notice period.

37. Any decision by the Commissioner about the appropriate level of reduction for a quarter or a notice period must be based on all the information available to the Commissioner at the time the decision is made, either during or after the end of a notice period. This may include, where appropriate, a review of a decision made about an earlier quarter in the same notice period.

38. Unlike the choice shortfall which results from a failure by an employer to comply with the choice of fund requirements, the Commissioner *does not* have any discretion to reduce the individual superannuation guarantee shortfall which results when an employer does not make sufficient superannuation contributions to reduce their charge percentage to nil.[25]

39. If the Commissioner decides to reduce the choice shortfall in full or in part, the nominal interest component of the SGC which relates to the choice shortfall will be reduced accordingly. The administration component of the SGC will continue to apply where the employer has a shortfall[26] for that employee under the SGAA.[27]

40. In cases where the choice shortfall is not reduced to nil, any remaining choice shortfall (since it forms part of the individual superannuation guarantee shortfall for the employee) is collected by the Commissioner and distributed for the benefit of the affected employee.[28]

The framework for the reduction of the choice shortfall

41. The Commissioner recognises the issues faced by employers seeking for the first time to meet the choice of fund requirements. Accordingly, in the introductory period, the Commissioner's approach to improving compliance with the choice of fund requirements will be based on help and education rather than penalties. However, where an employer has a choice shortfall in two successive notice periods within the introductory period (after being given the opportunity to become familiar with their obligations in the earlier notice period), this may indicate that the employer is making no attempt to comply or has recklessly or intentionally failed to comply with their obligations. Where this is the case, any choice shortfall for the later notice period will not attract the standard level of reduction applied during the introductory period.

42. After the introductory period, the Commissioner will take a firmer approach with employers who fail to exercise reasonable care or who recklessly approach or intentionally disregard their choice obligations. Genuine efforts to

[25] See *Jarra Hills Pty Ltd v. Federal Commissioner of Taxation* (1997) 97 ATC 2132; 37 ATR 1022, *Kancroft Pty Ltd (acting as Trustee for Robertson Family Trust) and Commissioner of Taxation* [2004] AATA 591 and *Williams and Commissioner of Taxation* [2005] AATA 113.

[26] This could arise where the employer does not make sufficient superannuation contributions and/or makes contributions which do not comply with the choice of fund requirements.

[27] Section 32.

[28] Part 8 sets out the framework for the payment of shortfall components for the benefit of employees.

comply with the choice of fund requirements will be treated differently to situations where an employer makes no effort to comply. The degree of an employer's efforts to comply with the choice of fund requirements will be determined based on the circumstances of each particular case.

Reasonable care

43. If an employer has a choice shortfall but has otherwise exercised reasonable care in fulfilling their choice obligations, the choice shortfall will be reduced to nil. The reasonable care test requires an employer to exercise the level of care a reasonable person in the employer's circumstances would have taken to fulfil the employer's obligations. Reasonable care requires an employer to make a genuine effort to comply with the choice of fund requirements. For example, an earnest effort to follow the guidelines provided within the online publication '*Choice of super fund – meeting your obligations'* would indicate that the employer has taken reasonable care to fulfil their choice obligations. Whether an employer has exercised reasonable care will depend on all the facts of each case.

44. If an employer makes a genuine effort to follow the information contained in advice given by the Commissioner or a statement in an Australian Taxation Office publication regarding the choice of fund requirements the employer will have exercised reasonable care.

45. It is reasonable to expect that mistakes and errors will occasionally be made by employers making a genuine effort to comply with their choice obligations. Where an employer shows a good overall level of compliance with the choice of fund requirements, the employer will be taken to have exercised reasonable care regardless of immaterial or inadvertent errors.

Recklessness

46. If an employer has a choice shortfall as a result of recklessness in approaching their choice of fund obligations, the choice shortfall will be initially reduced by 25%. Recklessness involves something more than mere inadvertent or careless error. An employer will have behaved recklessly if their conduct clearly shows disregard of, or indifference to, consequences or risks that are reasonably foreseeable as being a likely result of the employer's actions. It involves the running of what a reasonable person would regard as an unjustifiable risk.

Intentional disregard

47. If an employer intentionally disregards their choice of fund requirements, the choice shortfall will initially be maintained in full. Intentional disregard is more than just disregard for the consequences or reckless disregard. The facts must show that an employer consciously decided to disregard their choice obligations of which the employer was aware. A finding that the employer intentionally disregarded their choice obligations may be determined on the basis of direct evidence (such as an admission) or may be inferred from the surrounding circumstances.

Voluntary disclosure

48. The Commissioner may audit an employer to determine whether they have been complying with the choice of fund requirements for a particular period.

Where the employer, on their own initiative, brings to the attention of the Commissioner their failure to comply with a particular choice of fund requirement, the choice shortfall of the employer will be reduced (subject to paragraph 52 of this practice statement).

49. One method of making a voluntary disclosure is for an employer to self assess the amount of any choice shortfall. Where an employer makes a full self assessment of a choice shortfall, the Commissioner will accept this as a voluntary disclosure.

50. Employers who make a full and voluntary disclosure *before* they have been informed of compliance activity will receive a greater reduction than employers who make a full and voluntary disclosure *after* being so informed. This approach is consistent with the approach taken by the Commissioner for other taxation and superannuation obligations.

51. Employers who demonstrate a willingness to voluntarily declare a choice shortfall should be treated differently to those employers who display resistant or disengaging behaviour and who are only detected through compliance activity. This is a fundamental principle of the compliance model.

52. Where repeated voluntary disclosures by an employer indicate that the employer is attempting to abuse the voluntary disclosure concession, no reduction for voluntary disclosure will apply.

Compliance history

53. In accordance with the compliance model, the Commissioner will take into account an employer's compliance history both generally and in relation to the choice of fund requirements in deciding the level of reduction to be applied to the employer's choice shortfall amount. An employer with a history of non-compliance will not be entitled to the same level of reduction as an employer whose compliance has previously been good.

54. Compliance history with the choice of fund requirements will be considered on the basis of each notice period. Evidence of a poor compliance history in one notice period will be taken into account in making any decision in subsequent notice periods. An employer will be considered to have a history of non-compliance for a particular notice period, even if the Commissioner reduced to nil all of the employer's choice shortfalls in relation to the notice period.

Review rights

55. There is no specific legislative provision which gives an employer the right to object to or seek a review of a decision made by the Commissioner under subsection 19(2E).[29] In the absence of such a right, an employer seeking to have their choice shortfall reduced under subsection 19(2E) should request the reduction as part of an objection against the assessment of the SGC (of which the choice shortfall forms a part).[30] If the employer is dissatisfied with the Commissioner's objection decision, the employer may seek to have the decision reviewed by the Administrative Appeals Tribunal or appeal the decision to the Federal Court.

[29] The employer may be entitled to an informal review in accordance with Chief Executive Instruction (CEI) *Respecting clients' rights of review CEI*.

[30] Section 42 states that an employer who is dissatisfied with an assessment may object in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Amendment history

Date of amendment	Part	Comment
6 May 2020	Throughout	Updated contact details and CEI title.
9 October 2012	Footnote 7	Draft MT 2011/D3 updated to final MT 2012/3.
	Footnote 22	Inserted reference to PS LA 2007/10.
6 September 2012	Contact details	Updated.
30 March 2012	Contact details	Updated.
28 October 2011	Footnote 6 & 7	Footnote 6 to ensure that MT 2008/1 is cited correctly. Footnote 7 now refers to MT 2011/D3 as MT 2008/3 has been withdrawn.
20 June 2011	Various	Minor updates to wording to align practice statement with the corporate style guide.
25 August 2010	Various	Updates made to take into account the introduction of the approved clearing house (also referred to as the Small Business Superannuation Clearing House administered by Medicare Australia) for eligible employers from 1 July 2010. Minor updates to wording to align practice statement with the corporate style guide.

Subject references	administration component Australian Workplace Agreement choice of fund requirements eligible choice fund Individual superannuation guarantee shortfall nominal interest component notice period standard choice form superannuation guarantee charge
Legislative references	SGAA 1992 SGAA 1992 19(2) SGAA 1992 19(2A) SGAA 1992 19(2B) SGAA 1992 19(2E) SGAA 1992 19A(1) SGAA 1992 19A(2) SGAA 1992 19A(3) SGAA 1992 19A(4) SGAA 1992 21 SGAA 1992 21(2) SGAA 1992 32 SGAA 1992 Pt 3 SGAA 1992 Pt 3A SGAA 1992 32C(2) SGAA 1992 32C(2B) SGAA 1992 32F(2) SGAA 1992 32N SGAA 1992 36 SGAA 1992 42 SGAA 1992 Pt 8 SGAA 1992 79A(2) SGAA 1992 79A(3) TAA 1953 Pt IVC Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004 Tax Laws Amendment (2010 Measures No. 1) Act 2010
Related public rulings	Miscellaneous Taxation Ruling MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard Miscellaneous Taxation Ruling MT 2012/3 Administrative penalties: voluntary disclosures
Related practice statements	Law Administration Practice Statement PS LA 2000/9 Remission of penalties under the new tax system Law Administration Practice Statement PS LA 2002/8 Administration of penalties under the new tax system Law Administration Practice Statement PS LA 2003/11 Remission of penalty for failure to withhold as required by Division 12 in Schedule 1 to the *Taxation Administration Act 1953* Law Administration Practice Statement PS LA 2005/2 Penalty for failure to keep or retain records Law Administration Practice Statement PS LA 2006/2 Administration of shortfall penalty for false or misleading statement

	Law Administration Practice Statement PS LA 2007/10 Making default assessments: section 36 of the *Superannuation Guarantee (Administration) Act 1992* Respecting clients' rights of review CEI (link available internally only)
Case references	*Jarra Hills Pty Ltd v. Federal Commissioner of Taxation* (1997) 97 ATC 2132, 37 ATR 1022 *Kancroft Pty Ltd (acting as Trustee for Robertson Family Trust) and Commissioner of Taxation* [2004] AATA 591 *Williams and Commissioner of Taxation* [2005] AATA 113
Other references	Explanatory Memorandum to the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2003 Explanatory Memorandum to the Tax Laws Amendment (2010 Measures No. 1) Bill 2010 Legislative Instrument: Superannuation Guarantee (Administration) Act 1992 - Written Guidelines for the Reduction of an Increase in an Employer's Individual Superannuation Guarantee Shortfall (F2006L01821) Legislative Instrument (revoked): Written Guidelines for the Reduction of an Increase in an Employer's Individual Superannuation Guarantee Shortfall under the *Superannuation Guarantee (Administration) Act 1992* (F2005L02718)
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