TD 2012/2A1 - Addendum - Income tax: when is the shortfall interest charge incurred for the purposes of paragraph 25-5(1)(c) of the Income Tax Assessment Act 1997 ?

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Addendum

Taxation Determination

Income tax: when is the shortfall interest charge incurred for the purposes of paragraph 25 5(1)(c) of the *Income Tax Assessment Act 1997*?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 2012/2 to reflect amendments made by the:

- *Treasury Laws Amendment (Tax Incentives and Integrity) Act 2025* – these changes deny claims for deductions for general interest change and shortfall interest charge
- *Future Made in Australia (Production Tax Credits and Other Measures) Act 2025* – the changes extend the impostion of shortfall interest charge to overclaimed tax offsets refunds.

TD 2012/2 is amended as follows:

1. Title

Omit the wording of the title; substitute:

> **Income tax: when is the shortfall interest charge incurred for the purposes of former paragraph 25-5(1)(c) of the *Income Tax Assessment Act 1997*?**

2. Table of Contents

Insert Table of Contents:

Table of Contents **Paragraph**

3. Paragraph 1

(a) After 'incurred for the purposes of', insert 'former'.

(b) Omit footnote 1.

4. Paragraph 2

(a) After 'payable under an amended', insert 'income tax'.

(b) After the paragraph, insert new paragraphs 2A and 2B:

> 2A. All further legislative references in this Determination are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.
>
> 2B. As a result of the *Treasury Laws Amendment (Tax Incentives and Integrity) Act 2025*, paragraph 25-1(c) was repealed. These amendments deny claims for deductions for GIC and SIC and apply in relation to assessments for income years starting on or after 1 July 2025. This Determination continues to apply to deductions for SIC incurred in relation to earlier income years, where a deduction remains available.

5. Paragraph 3

Omit the wording of the paragraph; substitute:

> *Little Co self-assesses its taxable income for the 2006–07 year of income which results in tax payable of $300,000. The income tax liability under this deemed assessment is due and payable on 1 December 2007.*

6. Paragraph 4

(a) Omit '*the Commissioner gave*'; substitute '*the Commissioner gives*'.

(b) Omit all instances of '*Little Co Pty Ltd*'; substitute '*Little Co*'.

(c) After '*1 December 2007 to 30 September 2009.*', insert new footnote 1A:

> [1A] The SIC calculation started on the day income tax was due to be paid under the first assessment (1 December 2007) and is calculated up until the day before (30 September 2009) the Commissioner gives the taxpayer the notice of amended assessment. See section 280-100 of Schedule 1 to the *Taxation Administration Act 1953*.

7. Paragraph 5

Omit the wording of paragraph 5; substitute:

> *Sally is given a notice of assessment for the 2007–08 year of income with a due and payable date of 21 November 2008. On 15 June 2009, the Commissioner gives Sally a notice of amended assessment which increases her income tax liability for the 2007–08 year of income. Sally also receives a notice of her liability to pay SIC on the shortfall amount. The SIC liability is calculated for each day in the period 21 November 2008 to 14 June 2009 and has a due and payable date in July 2009. Sally incurs the SIC liability in the 2008–09 year of income. She is entitled to deduct the total SIC liability in the 2008–09 year of income, notwithstanding that it is payable, and paid in the next year.*

8. Paragraph 6

(a) Omit the wording of the paragraph; subititute:

On 15 May 2021, the Commissioner gives Manu Co a notice of amended assessment for the 2014–15 year of income. The amendment is to give effect to the transfer pricing provisions in subsection 815-115(1), therefore the standard period for amendment (either 2 or 4 years as appropriate) does not apply, and the Commissioner is permitted to make the amendment within 7 years after the day an original notice of assessment was given to Manu Co.[1B]

(b) After '*given to Manu Co.*', insert new footnote 1B:

[1B] See section 815-150 of the ITAA 1997 and section 170A of the *Income Tax Assessment Act 1936* (ITAA 1936).

9. Paragraph 7

Omit the wording of the paragraph; substitute:

Manu Co is a 30 June balancer and is liable to SIC on the shortfall amount for each day in the period 1 December 2015 to 14 May 2021. The total SIC liability is incurred in the 2020–21 year of income and is therefore deductible in that year.

10. Paragaph 8

Omit the wording of the paragraph; substitute:

This Determination applies to years of income commencing both before and after its date of issue.

11. Paragraph 9

Omit 'Paragraph 25-5(1)(c)'; substitute 'Former paragraph 25-5(1)(c)'.

12. Paragraph 13

(a) Omit the wording of the paragraph; substitute:

The source of a taxpayer's liability to pay SIC is found in Division 280 of Schedule 1 to the *Taxation Administration Act 1953* (TAA). A liability for SIC arises on an additional amount of income tax[8], excess exploration credit tax[8A], petroleum resource rent tax (PRRT)[9], excess non-concessional contributions tax[10], Division 293 tax[10A], Division 296 tax[10B], diverted profits tax[10C], Laminaria and Corallina decommissioning levy[10D], Australian IIR/UTPR tax and Australian DMT tax[10E], and excessive tax offset refunds[10F] that a taxpayer is liable to pay because the Commissioner amends their relevant tax assessment for a year of income.

(b) After 'excess exploration credit tax', insert new footnote 8A:

[8A] Subsection 280-101(1) of Schedule 1 to the TAA.

(c) After 'Division 293 tax', insert new footnote 10A:

[10A] Subsection 280-102B(1) of Schedule 1 to the TAA.

(d) After ‘Division 296 tax’, insert new footnote 10B:

[10B] Subsection 280-102BA(1) of Schedule 1 to the TAA.

(e) After ‘diverted profits tax’, insert new footnote 10C:

[10C] Subsection 280-102C(1) of Schedule 1 to the TAA.

(f) After ‘decommissioning levy’, insert new footnote 10D:

[10D] Subsection 280-102D(1) of Schedule 1 to the TAA.

(g) After ‘Australian DMT tax’, insert new footnote 10E:

[10E] Subsection 280-102E(1) of Schedule 1 to the TAA.

(h) After ‘excessive tax offset refunds’, insert new footnote 10F:

[10F] Subsection 280-102F(1) of Schedule 1 to the TAA.

13. Paragraphs 16 and 21

Omit ‘of the ITAA 1997’.

14. Paragraph 20

In footnote 14, omit ‘STS’; substitute ‘simplified tax system’.

15. Paragraph 22

Omit the heading; substitute ‘***Income years preceding the application of SIC – income tax and petroleum resource rent tax***’.

16. Paragraph 26

Omit ‘Division 7A of the ITAA 1936’; Substitute ‘Division 7A of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936)’.

This Addendum applies to the changes to the deductibility of shortfall interest charge in relation to assessments for income years starting on or after 1 July 2025. The extension of shortfall interest charge means that it is now imposed on overpaid tax offset refunds and applies to amended assessments made on and after 1 April 2025.

Commissioner of Taxation
22 July 2026

ATO references

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