



Paying the ATO

How individuals and businesses can make a payment to the ATO, and what happens if you don't pay your debt.

How to pay

How to pay us including the easiest ways to pay, other options, details you need and what to do if a payment is missing.

How much you owe

Work out how much you owe the ATO.

Help with paying

If you can't pay on time, there are support options you can access to meet your tax and super obligations.

If you don't pay

Find out what happens if you don't pay your debt.

Interest and penalties

Learn about interest and penalties we charge and interest we pay on early or overpaid amounts.

QC 50294

How much you owe

Work out how much you owe the ATO.

Last updated 21 April 2021

On this page

Individuals and sole traders

Business

If you disagree with your tax assessment

Registered agents

Individuals and sole traders

Online using myGov

Use your myGov account linked to the ATO to check your outstanding balance and when your payment is due.

[Log in or create a myGov account](#)


Income tax

After lodging your tax return you'll receive a notice of assessment confirming:

- how much you owe
- the due date for payment
- your payment reference number (PRN).

You can use our online services accessed through myGov to view your notice of assessment.

See also


- [myGov](#) 
- Why you may receive a tax bill

PAYG instalments

Pay as you go (PAYG) instalments only apply if you earn business or investment income over a certain amount. We'll notify you if you need to start paying PAYG instalments, how often you need to pay and the payment options available.

You can use our online services accessed through myGov to view, lodge, pay, vary and manage all your PAYG instalment obligations.

See also

- PAYG instalments
- [myGov](#) 

Business

If you're running a business, log in to Online services for business to find out what you owe us.

[Online services for business](#)

Find out when you need to lodge and pay:

- due dates for businesses that self-lodge
- due dates for registered agents that lodge for business.

If you can't use Online services for business, you can:

- [check your income tax assessment](#)
- [phone us](#)


Check your income tax assessment

Businesses other than companies receive a notice of assessment from us after they lodge their tax return.

The notice of assessment states:

- how much you owe
- the due date for payment
- your payment reference number (PRN).

Fully self-assessed companies and super funds don't usually receive a notice of assessment.

Sole traders and partners in partnerships can check what income tax they owe through our online services accessed through a [myGov account](#)  linked to the ATO.

PAYG instalments

If you're earning business income, you may be required to pay PAYG instalments. When we write to tell you that you have to pay instalments, we'll let you know how often to pay and the options available.

Phone us

Businesses can find out what tax they owe, and when it's due, by phoning us on **13 28 66** during operating hours.

Contact us immediately if you believe your account balance is incorrect.

Next step

- How to pay

If you disagree with your tax assessment

If you think your tax assessment is incorrect, you can dispute or object to an ATO decision.

Your payment is still due

Even if you're disputing an assessment, you must still pay the outstanding amount by the due date – unless you have a [deferral or 50:50 arrangement](#).

Overdue amounts, disputed or otherwise, incur interest. If the dispute is resolved in your favour we will generally pay you interest on your overpayments.

We may take recovery action for outstanding taxes even if you've requested a review or lodged an objection or appeal.

Seeking a deferral or 50:50 arrangement

You can write to us, explaining your reasons, if you want to defer your tax payment until your dispute has been resolved. If you have a good payment history, we may agree to defer recovery action until the dispute is resolved. However, interest will apply from the due date on any amount that is still payable when the dispute is resolved.

We may be able to offer you a 50:50 arrangement, where you pay at least 50% of the disputed amount plus any other outstanding tax debts. You also agree to provide any information needed to resolve the dispute. In return, you can defer paying the remaining amount until the dispute is resolved.

If your objection is unsuccessful you will only be charged 50% of the interest that accrues on the outstanding amount from the date you made the 50% payment. This concession is increased to 75% if your case is funded as part of the test case litigation program.

See also

- [Correct \(amend\) an income tax return](#)

Registered agents

To find out how much your client owes:

- use [Online services for agents](#)
- phone us on **13 72 86** (fast key code **1 2 5 1**).

Debts on hold



What debts on hold are and how we offset credits and refunds against them.

QC 50298

Debts on hold

What debts on hold are and how we offset credits and refunds against them.

Last updated 17 March 2025

On this page

What is a debt on hold

Reducing or paying your debt on hold

View your debt on hold transactions

Support

Disagree with a debt on hold

What is a debt on hold

A debt on hold is a tax debt we have paused taking actions to collect. We may place a debt on hold if we decide it's not cost effective to collect the debt at the time.

While the debt is on hold:

- it may not appear in your account balance
- we won't contact you to try and collect it (however your debt remains due and legally payable)
- we will use any credits or refunds you're entitled to, to reduce the debt – this is called [offsetting](#).

You may have a debt on hold that is not currently included in your account – even if your current account balance is zero. You can [check if you have a debt on hold](#), including when it was placed on hold.

If your situation changes and we believe it's cost effective to collect your debt on hold, we may take it off hold. This means we will contact you to pay the debt.

Reducing or paying your debt on hold

When a debt is on hold, it may be reduced by offsetting your credits and refunds against it, or if you make a payment.

Offsetting credits or refunds

When debts are on hold, we won't contact you to pay your debt, but we'll use any credits or refunds you have, to reduce it. This is called **offsetting** and it's required by law.

In some cases, we'll use your credit or refund from one account to offset your debt on hold from another account. For example, if you're a business, your GST credit may be used to offset your income tax debt on hold.

You can follow these instructions to **view your debt on hold transactions**, including if it has been offset.

Example: offsetting a tax refund against a debt on hold

In September 2019, Deven lodged a tax return for the 2018–19 financial year, which resulted in a tax debt of \$500.

In 2021 we placed the debt on hold as it wasn't cost effective to collect the debt at that time.

In October 2023, Deven lodged tax returns for the 2019–20 to 2022–23 financial years. This resulted in a \$1,300 credit.

We offset the \$1,300 credit against the \$500 debt on hold. This resulted in a tax refund of \$800 to Deven and the \$500 debt on hold being paid off.

Deven can see that his debt has been offset on his statement of account and in ATO online services.

There are also proposed law changes to **tax debts placed on hold before 1 January 2017** which will give us discretion not to offset.

Paying your debt on hold

We won't contact you to try and collect your debt while it's on hold, but your debt remains due and legally payable. **General interest charge (GIC)** will apply to your debt, however we may remit any GIC that

accrued during the time that your debt on hold was not included in your account balance.

You can pay part or all of your debt on hold at any time.

To start making payments towards your debt and have it included in your account balance, **contact us**. You can also ask us about payment options like payment plans.

View your debt on hold transactions

If we've placed your debt on hold you can follow these instructions to:

- find out when your debt was placed on hold
- if offsetting has occurred.

We have instructions for:

- [Individuals and sole traders](#)
- [Registered tax professionals](#)
- [Businesses](#).

If you need further information about your debt on hold you can **contact us**.

Individuals and sole traders

Follow these steps:

1. Visit ATO online services.
2. Select the **Tax** drop-down menu.
3. Select **Accounts**.
4. Select **Summary**.
5. Choose the account you want to view.
6. Select the **Filter** drop-down.
7. Update the **from date** to '**01/01/2000**' to show everything on your account.
8. Select **Order date by** to sort from **Oldest** to **Newest**.
9. Select **Filter** to sort and view transactions

10. Scroll through the account onscreen or download a CSV (Excel) file.

- To view the original debt on hold, search 'non-pursuit'.
- To view when a debt has been included in an account balance or offset, search for
 - 're-raise of non-pursuit'
 - 'partial re-raise of non-pursuit'
 - 'Existing debt on hold included in account balance'.

11. The balance of your debt on hold is the original debt on hold amount minus any re-raises or amounts that have been included in the account.

Registered tax professionals

Follow these steps:

1. Visit **Online services for agents**.
2. Select **View client list** (or Favourite clients if you have added the client to your Favourites list).
3. Select a client.
4. Select the **Accounts and payments** drop-down menu.
5. Select **Accounts Summary**.
6. Choose the account you want to view.
7. Select the **Filter** drop-down.
8. Update the **from date** to '**01/01/2000**' to show everything on the account.
9. Select **Order date** by to sort from **Oldest** to **Newest**.
10. Select **Filter** to sort and view transactions.
11. Scroll through the account onscreen or download a CSV (Excel) file.
 - To view the original debt on hold, search 'non-pursuit'.
 - To view when a debt has been included in your account balance or offset, search for
 - 're-raise of non-pursuit'

- 'partial re-raise of non-pursuit'
 - 'Existing debt on hold included in account balance'.
12. The balance of your debt on hold is the original debt on hold amount minus any re-raises or amounts that have been included in the account.

Businesses

Follow these steps:

1. Visit **Businesses and organisations online services**.
2. Select the **Accounts and payments** drop-down menu.
3. Select **Account Summary**.
4. Choose the account you want to view.
5. Select the **Filter** drop-down.
6. Update the **from date** to '**01/01/2000**' to show everything on your account.
7. Select **Order date** by to sort from **Oldest** to **Newest**.
8. Select **Filter** to sort and view transactions.
9. Scroll through the account onscreen or download a CSV (Excel) file.
 - To view the original debt on hold, search 'non-pursuit'.
 - To view when a debt has been included in your account balance or offset, search for
 - 're-raise of non-pursuit'
 - 'partial re-raise of non-pursuit'
 - 'Existing debt on hold included in account balance'.
10. The balance of your debt on hold is the original debt on hold amount minus any re-raises or amounts that have been included in the account.


Support

If you're experiencing financial difficulties and need support, see:

- Tax support for individuals
- Tax support for businesses and not-for-profits.

If you need help, or have questions about your debt on hold, contact your registered tax professional or [contact us](#).

You may also:

- qualify for support from the [National Tax Clinic program](#)  (individuals and small businesses)
- seek assistance from a financial counsellor.

Disagree with a debt on hold

You can't object to our decision to place your debt on hold or take it off hold.

You can object to the relevant assessment or amended assessment that raised the debt if you believe it was incorrectly calculated. To do this you will need to lodge an objection.

Debts placed on hold before 1 January 2017

Proposed law change to give discretion not to offset some debts on hold.

QC 66102

Debts placed on hold before 1 January 2017

Proposed law change to give discretion not to offset some debts on hold.

Published 17 March 2025



On this page

Proposed law change

Included – debts on hold in the proposed measure

Not included – debts on hold not in the proposed measure

Proposed law change

The law requires us to offset debts on hold using any credits or refunds you're entitled to.

Proposed changes to this law were announced in the 2024–25 Budget. These changes will give discretion not to offset in certain circumstances. Proposed changes are expected to affect debts placed on hold before 1 January 2017 for individuals, small businesses, and not-for-profit entities. The measure is not yet law.

You can check when your debt was placed on hold.

Included – debts on hold in the proposed measure

If the measure is passed, we can choose not to offset refunds against debts that were placed on hold before 1 January 2017 and remain on hold. This would only apply to individuals, small businesses, and not-for-profit entities.

Not included – debts on hold not in the proposed measure

The proposed new law will not apply to:

- debts that were placed on hold on or after 1 January 2017
- debts of large businesses, super funds, multinationals and wealthy groups that were placed on hold prior to 1 January 2017.

The law requires us to offset these debts using any credits or refunds to which taxpayers become entitled.

QC 103968

Help with paying

If you can't pay on time, there are support options you can access to meet your tax and super obligations.

Last updated 17 July 2024

If you're experiencing financial difficulties, our support options may help you meet your tax and super obligations.

Payment plans

Find out how to set up a manageable payment plan to pay down your debt.

Managing payments

How to manage your payments, including prepayments and payment transfers.

Compromise of tax debt

Find out what happens in a compromise of tax debt and how to apply for one.

Deferring repayments

Work out if you can defer or amend your compulsory payment or overseas levy.

If you can't lodge or pay on time – Easier to read information

Find out about lodging and paying in a way that is easy to read and uses pictures to explain ideas.

Other languages

Get help with paying in other languages.

QC 50299

Payment plans

How to set up a manageable payment plan to pay the tax you owe.

Last updated 19 March 2025

On this page

What a payment plan is

Who can set up a payment plan

Before setting up a payment plan

Setting up a payment plan

Registered agents

Interest-free payment plans for overdue activity statement amounts

Managing your payment plan

Checking the status of your payment plan

Secured payment plans

What a payment plan is

You need to lodge and pay your tax bills in full and on time to avoid penalties, general interest charges (GIC) and firmer actions. However, if you're experiencing financial difficulties you may be eligible to set up a payment plan.

A payment plan allows you to break down your payment into smaller amounts that are made via instalments and are spread over the shortest possible fixed period of time. When you set up a payment plan, you pay an agreed sum of money weekly, fortnightly or monthly until the balance is cleared.

Tax debts on a payment plan continue to accrue GIC, which compounds daily. Paying your debt in the shortest period of time will help reduce the GIC that you'll pay.

Who can set up a payment plan

Payment plans are available to eligible:

- individuals
- sole traders
- businesses
- registered tax or BAS agents on behalf of their clients.

We consider many factors when you apply to set up a payment plan. Depending on the circumstances, you may not be eligible for a payment plan on the terms you suggest or at all. If you have not been successful in setting up a payment plan online or through our automated phone service, you will need to phone our **lodge and pay enquiry line** during operating hours to discuss your eligibility.

Before setting up a payment plan

Before setting up a payment plan you should consider:

- if you can pay what you owe today – this will reduce how much GIC you pay
- how much you can pay today, and when you'll be able to pay in full.

Use our **online payment plan estimator** to calculate a payment plan you can afford. This tool also helps you work out how quickly you can pay off a tax debt and how much interest you'll be charged. The longer you take to pay off your debt, the more interest you'll pay.

Once you work out a suitable payment scenario based on your circumstances, you can use it as a guide to set up a payment plan to meet your tax debts.

You can't use this estimator for **super guarantee charge** debts. To get help managing your super obligations, you can phone our **lodge and pay enquiry line**.

You should also be aware:

- you still need to lodge your obligations and pay any associated liabilities on time
- you must factor in payment of your ongoing obligations, in addition to any payment plan


- if you have multiple overdue tax debts, you will need to pay any other tax debt in full or set up payment plans to avoid defaulting or debt recovery action
- any tax credits and refunds you receive will be used to reduce your tax debt (**offsetting**) – this will not replace the required instalment payment
- you can make additional voluntary payments or pay off the debt at any time.


Setting up a payment plan

There are a few ways to set up a payment plan. Your [registered tax or BAS agent](#) may also be able to set a payment plan up on your behalf.

Online services

If you owe \$200,000 or less, you may be able to set up a payment plan through our online services.

If you are an individual (including a sole trader), you can use **online services**. You will need an active [myGov](#)  account linked to the ATO.

Businesses can use [Online services for business](#)  by selecting **Accounts and payments**, then **payment plans**.

When you set up a payment plan, we will help you save on interest by guiding you to pay what you owe in the shortest time. We will provide you with:

- an upfront amount you need to pay
- suggested instalment amounts that have been manageable for clients with similar circumstances to yours.

You can vary the upfront and instalment amounts above or below the amounts provided, up to certain values.

Self-help phone line

If you owe \$200,000 or less, you may also be able to use our **self-help service for individuals and sole traders** or **automated service for business enquiries**. You will need your Australian business number (ABN) or tax file number (TFN) handy, and the full details of the amount payable.

Contacting us

If you owe more than \$200,000 or are unable to set up a payment plan online, you will need to contact us during operating hours for assistance.

You will need your ABN or TFN handy, and the full details of the amount payable. We will ask for more detail about your circumstances, including:

- why you can't pay by the due date
- your bank details, including current account balances and any lines of credit
- your income, including if it can meet the proposed payment plan
- expenses
- assets.

To prepare for this conversation, you can visit [Moneysmart.gov.au](https://moneysmart.gov.au) and use their [budget planner](#). This can help you understand your financial position so you can make a suitable payment proposal.

We will ask further questions about your circumstances if you have:

- received a warning of **firmer recovery** or **legal actions** in the past 6 months or have progressed with these actions
- defaulted on or cancelled 2 or more payment plans in the past 12 months
- requested additional support due to significant financial hardship.

Registered agents

If you're a registered tax or BAS agent, you can use our **Online services for agents** to view, set up, adjust or cancel a payment plan for your client if they:

- owe \$200,000 or less
- don't already have a payment plan for that debt amount.

You can find out more on **how to set up a payment plan for your client**.

If your client prefers to set up a payment plan using a credit or debit card, they will need to do it themselves through **Online services**.

If your client doesn't meet these requirements, you can phone our registered agent phone line to discuss their options. Use our fast key code guide to get in touch with the right area.

Interest-free payment plans for overdue activity statement amounts

Small businesses that owe activity statement amounts may be able to make interest-free payments over 12 months.

Eligibility

You may be eligible for an interest-free payment plan if your business:

- has an annual turnover of less than \$2 million
- has recent amounts owed from an activity statement of \$50,000 or less that have been overdue for up to 12 months
- has a good payment and lodgment history, including
 - no more than one payment plan default within the last 12 months
 - no outstanding activity statement lodgments
- can't obtain finance (such as a loan) through normal business channels
- can demonstrate ongoing viability.

How it works

You must agree to a payment plan that allows the amounts owed to be paid by direct debit within 12 months. Even if you receive a letter stating that interest will apply, it will be remitted as long as you maintain your payment plan.

While you're paying your bill, you:

- can check your running account balance by logging into the **Online services for business** or phoning our **business enquiry line**
- must meet all of your other payment and lodgment obligations.

Registered tax or BAS agents can check the running account balance by:

- using **Online services for agents** or by referring to the **Online services for agents user guide** for instructions
- phoning our registered agent phone line
- phoning **13 72 86** (Fast Key Code **1 2 5 1**).

If you're already in a payment plan

You can ask us to change your existing payment plan to an interest-free payment plan if you satisfy the eligibility criteria.

If your request is approved, we'll cancel your previous plan. The interest-free period will start from the date you enter into the new plan.

Phone our **business enquiry line** during operating hours to change to an interest-free payment plan if eligible.

Managing your payment plan

Setting up direct debit

The easiest way to stay on top of your payment plan instalments is to set up a direct debit. You can set up direct debit payments at the same time you set up your payment plan – from either a financial institution (bank) account or a credit or debit card.

No card payment fees apply to debit card payments. **Fees** apply to payments made with other cards.

Only the card holder can set up a direct debit payment plan using a credit or debit card. Alternatively, you can pay individual instalments with your credit card or any of the other payment options available for paying the ATO.

Changing how you pay and modifying instalments


You can change how you pay an instalment from direct debit to a different payment method (including, from one credit or debit card and linking it to another card). You can also modify an instalment date or amount or cancel an instalment.

If you make any changes, you will need to do this at least:

- one business day before the instalment date, if the payment method is direct debit via credit or debit card
- 3 business days before the instalment date, if the payment method is direct debit via your bank accounts.

A payment plan can't be modified online if the current plan extends for longer than 24 months or if the changes will extend the plan by longer than 24 months.

You can update your card information and instalment amounts of your payment plan through our online services:

- individuals and sole traders can use **ATO online services**
 - from the menu select **Tax** select **Payments** select **Payment plans**.
- businesses can use [Online services for business](#) 
 - from the menu select **Accounts and payments** select **Payment plans**.

To add a new card:

1. Select **Update** for the relevant plan.
2. Choose **I want to use a new card**.
3. Complete card and contact details, select **Next**.
4. If required, you can modify instalments, select **Next**.
5. Summary of plan will be displayed for your review – select **Submit**.

To update a card:

1. Select **Update** for the relevant plan.
2. Check the card is selected that you want updated.
3. Select **Yes to update this card**.
4. Complete required card updates, select **Next**.
5. If required, you can modify instalments, select **Next**.
6. Summary of plan will be displayed for your review – select **Submit**.


Tax and BAS agents can refer to the [Online services for agents user guide](#) for instructions on how to modify an instalment in Online

services for agents.

Tax and BAS agents can't modify the payment plan or instalment schedule if the payment method is direct debit via credit or debit card. Only the card holder can do this.

Checking the status of your payment plan

Individuals and sole traders can view the status of their payment plan in **ATO online services**. From the **Tax** menu, select **Payment** and then select **Payment Plans** from the next menu.

Businesses can check their payment plan status from the **Accounts and Payments** menu in [Online services for business](#) . For more detail about each payment plan status, select the help icon.

Arrears status

If you missed a scheduled instalment or haven't paid another tax obligation by the due date, you may still have time to pay before your payment plan defaults.

You may receive a letter from us informing you that your accounts are in arrears, and you have an opportunity to catch up before your payment plan defaults. This letter outlines the minimum amount you need to pay now and other actions you need to take to prevent your payment plan from defaulting.

myGov users will receive the letter through their myGov inbox in the first instance. If you have set up a preference to send correspondence to your tax agent, the arrears letter will be sent to them.

Secured payment plans

If we can't reach an agreement with you about paying amounts you owe, we may consider accepting an offer of security where you either:

- request we defer the time of payment of a debt
- seek to pay a debt by instalments.

Our preferred securities are:

- a registered mortgage over freehold property
- an unconditional bank guarantee from an Australian bank.

For more information about a secured payment plan, phone our **lodge and pay enquiry line** during operating hours.

For more information, see *PS LA 2011/14 General debt collection powers and principles*.

QC 69390

Managing payments

How to prevent tax debt, make prepayments and payment transfers, and more.

Last updated 18 October 2024

On this page

[What is a tax debt?](#)

[Tips to prevent a business tax debt](#)

[Budgeting for tax as an individual](#)

[Making prepayments](#)

[Request a payment transfer](#)

What is a tax debt?

When you have tax to pay, it's important that you pay it in full and on time. If you don't pay, we will apply **general interest charge** on your unpaid amounts.

Tips to prevent a business tax debt

Adopting good cash flow habits will help your business so you're always ready to meet your tax obligations and prevent a tax debt.


Media:Free resources to help you get it right
<http://tv.ato.gov.au/ato-tv/media?v=bi9or7ork5i5qc>

Follow our top tips to avoid getting your tax obligations caught up with your cash flow:

- Use digital tools and software to automate and streamline your business operations. Look for tools or software that are designed to meet the needs of businesses like yours. For example, some tools can automatically calculate your live tax position as well as develop reports for GST, so you can spend less time on administration.
- Set aside your GST, Pay as you go (PAYG) withholding and super from your cash flow so you have the funds available when it's time to pay. Setting up another bank account for your tax and super, that's separate to your business bank account, could help you with this.
- Plan ahead by **managing your cash flow**, so you know when you may expect money to come in and go out, and can better budget for income and expenses.
- Keep complete and accurate **business records**. Make sure you update them regularly (for example, every week or month) and remember to back up your digital records regularly too.
- Use a registered tax professional. They can give you advice that's tailored to your circumstances and help you manage your tax and super.

Free resources to help you get it right

It's important to have a good understanding of your payment obligations so you can plan ahead and pay the correct amount at the right time.

You can increase your cash flow knowledge by taking advantage of [Essentials to strengthen your small business](#)  – a learning platform specifically designed for small business. There are lots of free courses, and you can learn at a time that's convenient to you. Our most popular courses include:

- Goods and services tax (GST)
- Cash flow for small business success
- Strategies for improving your cash flow
- Considering your small business viability.

You can also use the [Cash Flow Kit](#)  to build your cash flow skills and knowledge.

For more information, resources and tools to help you get it right, see:

- BAS and GST tips
- Simple checks for super success
- Supporting your small business.

Budgeting for tax as an individual

If you're making money outside of your salary or wage, budgeting for your income tax obligations can help avoid a large tax bill when you lodge your tax return.

Keep the right amount aside to cover tax whenever you receive a payment that hasn't been taxed, such as:

- income as a contractor
- profit from selling shares, property or crypto assets (capital gains tax may apply)
- rental income
- interest and share dividends
- sharing economy payments.

You can use our **income tax estimator** to work out if you're likely to owe tax this income year.

If you have a study loan, you can make **voluntary repayments** (on top of any compulsory repayments) to reduce the balance of your loan.

Making prepayments

You don't need to wait for a bill from us to make a payment. You can make prepayments at any time, and as often as you like, to make it easier for you to manage your tax.

What you need to do:

- find your unique **payment reference number (PRN)**
- choose the amount you want to prepay
- prepay your tax using one of our **payment methods**.

We will hold prepayments you make towards your expected bill unless you, or your agent, request a refund. However, if you already have an existing debt with us, we may use the prepayments to pay that debt.

If you make prepayments towards certain anticipated tax debts more than 14 days before the due date, you may qualify for **interest on early payments**.

Request a payment transfer


A payment transfer is the movement of a payment from one ATO account to another ATO account if a payment has been credited to the wrong account. You can request a partial transfer where a payment should have been made for two different accounts.

You need to provide the following details to request a payment transfer:

- your contact details, including your name and phone number – you must pass proof of identity on the account the payment is being transferred from
- details of the account the payment was made to, including the PRN, account name, tax file number (TFN) or Australian business number (ABN)
- amount of the payment

- payment method – for example, credit card or BPAY
- date of the payment
- payment receipt number (if known)
- tax type – for example income or activity statement
- details of the account that the payment is to be transferred to, including the PRN, account name, TFN or ABN
- details of the amount of the payment to be transferred – you can request a transfer of the whole, or partial amount.

You can request a payment transfer by using:

- **Online Services for individuals and sole traders**, if you're a sole trader
- [Online services for business](#) , if you run a business
- **Online services for agents**, if you're a registered agent.

You can also contact us during our operating hours.

Authorised by the Australian Government, Canberra.

QC 50464

Compromise of tax debt

Find out what happens in a compromise of tax debt and how to apply for one.

Last updated 16 December 2022

On this page

What happens in a compromise and how to apply for one

Limitations of a compromise

Before we consider a compromise

When a compromise will not be accepted

How to apply for a compromise

What happens in a compromise and how to apply for one

A compromise of tax debt is an agreement between us and a taxpayer to:

- accept a lesser amount to satisfy an undisputed tax debt
- not pursue the balance of an undisputed tax debt.

Strict criteria applies for us to agree to a compromise.

Depending on your circumstances, you will pay the agreed amount as a lump sum or by instalments as part of a payment plan.

When you enter into a compromise, you may be required to abandon rights under tax laws. For example, this could include the right to carry forward revenue and capital losses.

Compromise of tax debt is **not** a settlement even though it is often referred to as such. A settlement is when we agree with the client on the amount of a disputed tax liability.

Limitations of a compromise

Tax debts are owed to the Commonwealth. We are responsible for collecting tax debts on behalf of the Commonwealth.

While a compromise involves us agreeing not to pursue the balance of a debt, we are unable to validly discharge the remaining balance.

Before we consider a compromise

Before considering a compromise of tax debt, we first consider the options available to help you meet your tax debt obligations, including to:

- remit penalties and additional charges including interest charges
- enter into payment arrangements

- defer the time for payment
- release you from certain tax debts.

We also consider:

- other options for debt recovery, for example
 - placing debts on hold
 - bankruptcy or liquidation.
- if other parameters have been met, including
 - the tax debt is undisputed
 - the compromise proposal is not for less than your total net assets
 - the compromise will not directly or indirectly impact on the other actions involving you or other parties
 - hardship is not the only reason to support the proposal
 - alternative collection options would not result in a greater return, such as issuing director penalty notices or bankruptcy
 - you do not have a poor compliance history.

When a compromise will not be accepted

We will not consider requests for compromise where:

- the tax debts are subject to dispute
- an application to waive the debt has not been finalised
- an application for release from payment of an income tax or fringe benefits tax debt has not been finalised
- you could lodge a debt agreement under Part IX of the Bankruptcy Act
- within 5 years immediately before the proposal, you have been party to an earlier agreement, bankrupt or party to a Part IX or X arrangement.

How to apply for a compromise

All requests for a compromise of tax debt must be made in writing to the Commissioner of Taxation.

Application forms are available for individuals and businesses.

You can request application forms by:

- writing to us
- phoning our business or individual enquiry line.

You need to complete the relevant application form by answering all questions carefully, completely and accurately. Then return it to:

The Commissioner of Taxation

PO Box 1129

PENRITH NSW 2740

When lodging an application for a compromise, be mindful that you are essentially admitting that:

- you are insolvent
- you may have been insolvent for some time, but now do not see this situation improving
- in some cases, you may have paid out other creditors to our detriment (potentially an act of bankruptcy under the *Bankruptcy Act 1966*).

You can get more details in *PS LA 2011/3 Compromise of undisputed tax-related liabilities and other amounts payable to the Commissioner*.

QC 71102

If you don't pay

Find out what happens if you don't pay your debt.

Last updated 11 October 2024

On this page

What happens if you don't pay
General interest charge
Offsetting your credit or refund
External debt collection agencies
When we take firmer action
When we take legal action

What happens if you don't pay

When you owe tax which you can't pay by the due date, contact us **before** the due date so we can help you while it's still manageable.

We're committed to:

- listening to your situation
- helping you get back on track
- providing tools and services to **help with paying**.

If you don't pay your debts on time, we will:

- apply [general interest charge](#) on your unpaid amounts
- contact you soon after the due date by one of the following methods
 - SMS
 - messages in myGov
 - letter
 - phone
- use any future refunds or credits to repay the amounts you owe.

We may take [firmer action](#) if you:

- refuse to engage with us to address your debt
- continue to ignore SMS and letter reminders
- repeatedly default on agreed payment plans.

Make sure you lodge your business activity statements and tax returns on time to avoid a penalty for lodging late.

General interest charge

If you don't pay on time, we will automatically add a **general interest charge (GIC)** to what you owe. Your debt will grow each day your debt remains unpaid.

Interest calculates on a daily compounding basis on the amount overdue and is added to your account periodically.

We revise GIC interest rates quarterly.

You can request a remission of some, or all, of your interest. We may remit the interest if you have extenuating circumstances which caused your delay in payment.

Offsetting your credit or refund

If you have a debt with us, including a **debt on hold**, we're required by law to use any credits or refunds you become entitled to, to pay off the debt. This is what we call offsetting.

There are limited circumstances in which we have the discretion not to offset. You can find out more in *PS LA 2011/21 Offsetting of refunds and credits against taxation and other debts*.

In some cases:

- we can also use credits you receive from other government agencies to pay off your debts
- we are required to pay your refund to other government agencies you have debt with; for example, if you have an overdue child support payment, part or all of your refund payment may be paid to Services Australia.

Once all your debts are paid, we'll refund any remaining credit to you.

You can check to see if offsetting has occurred on your statement of account or in ATO online services.

External debt collection agencies

If you have an overdue debt and don't respond to our request to pay, we may send you a pre-referral warning letter. If you don't respond to the letter or engage with us to pay your debt, you will be referred to the external debt collection agency.

External debt collection agency contact details

Agency information	Phone
From 29 January 2024 debt cases may be actioned by an external debt collection agency – recoveriescorp .	Individuals – 1300 323 495 Registered tax professionals – 1300 352 593

If your debt has been referred to recoveriescorp they will contact you to request payment by phone call, email, SMS or letter. If you're not sure whether it's really them, do not reply. You should phone them using the numbers listed to verify the contact.

If you have a registered tax professional they may be contacted on your behalf.

If you're still unsure, you can view our tips on how to **verify or report suspected tax related scams**.

When we take firmer action

We're committed to supporting taxpayers who want to do the right thing and preventing those who don't pay from gaining an unfair financial advantage. We use firmer action when people:

- are refusing to engage with us
- continue to ignore SMS and letter reminders
- repeatedly default on agreed payment plans
- don't have the capacity to pay and don't take steps to resolve their situation
- have been subject to an audit where we detected deliberate avoidance and payment avoidance continues

- appear to be engaging in phoenix activities; this involves using liquidation to avoid financial obligations (without risking assets) and with the intention of resuming business operations through a new entity.

You can avoid firmer actions by paying in full and on time or setting up a payment plan.

Garnishee notice

We can issue a garnishee notice to a person or business that holds money for you or may hold money for you in the future. This requires them to pay your money directly to us to reduce your debt. We'll send a copy of the notice to you.

For individuals, we may issue a garnishee notice to:

- your employer or contractor
- banks, financial institutions and building societies where you have accounts
- people who owe money to you from the sale of real estate, such as purchasers, real estate agents and solicitors.

For businesses, we may issue a garnishee notice to:

- your financial institution
- trade debtors
- suppliers of merchant card facilities.

Director penalty notice

As a company director, you become personally liable for your company's unpaid amounts of:

- pay as you go withholding
- goods and services tax
- super guarantee charge.

These amounts that you are personally liable for are called director penalties. We can recover the penalty amounts from you once we issue you a director penalty notice (DPN).

We may issue DPNs to directors of multiple companies, capturing the total value of unpaid tax and super across all related entities.

We can recover the amounts of the director penalty by:

- issuing garnishee notices
- offsetting any of your tax credits against the director penalties
- initiating legal recovery proceedings against you.

Direction to pay super guarantee charge (SGC)

We can issue employers with a direction to pay outstanding SGC (or estimates of SGC) within a specified period.

When an employer receives a direction to pay, they must ensure that they pay the full amount specified in the direction. A failure to comply with the direction is a criminal offence and can result in penalties or imprisonment.

Disclosure of business tax debt

If you have overdue tax debts and meet certain criteria, you may have your tax debt reported to registered credit reporting bureaus (CRBs). If you meet the reporting eligibility criteria, we will send a **Notice of intent to disclose** that advises you of the relevant action to take.

If you're already engaged with us to manage your tax debts, the debts will not be reported to CRBs.

When we take legal action

In some cases, we may take legal action to recover outstanding tax and super debts. The action we take depends on whether the debt is owed by an individual (or sole trader), partnership, trust, superannuation fund or company.

Claim or summons

If you don't work with us to address your debt, we may file a claim or summons with the relevant court of your state or territory. Once the court recognises the debt owed, we may execute on the judgment debt in several ways, including by filing and serving a [bankruptcy notice](#).


If the court imposes judgment debt interest, this amount is not tax deductible.

Bankruptcy notice

If you receive a bankruptcy notice, you need to pay your debt or make a payment plan with us within 21 days. If you're unable to do this, we may file a creditor's petition to make you bankrupt.

Bankruptcy is a legal declaration that a person is unable to pay their debts. When a person becomes bankrupt, the bankruptcy trustee takes possession of nearly all their assets and sells them to pay the person's debts.

We won't seek to bankrupt you if it is clear you're able to pay your debt in a reasonable time. If you're facing bankruptcy action, but believe you can pay your debts, you should provide us with clear evidence of your ability to pay.

You can go into bankruptcy voluntarily by filing a debtor's petition with the [Australian Financial Security Authority](#) .

Creditor's petition

A creditor's petition is essentially an application to the Federal Court or Federal Magistrates Court for a sequestration order to declare you bankrupt.

Anyone you owe money to, including us, can file a creditor's petition if you have committed an 'act of bankruptcy' (such as failing to comply with a bankruptcy notice) within the preceding 6 months.

If the sequestration order is made, you will become bankrupt and a trustee appointed to manage your estate. This usually involves the sale of the bulk of your assets to pay your creditors, including us.

The court will not issue the order if you can demonstrate you're able to immediately pay all your debts.

Statutory demand

We can issue a statutory demand for payment to a company that has not paid its debts. This requires the company to pay the entire debt or enter into a payment plan with us within 21 days.

If a company doesn't comply with the statutory demand, we may use the non-payment as evidence that the company is insolvent and apply

to the Federal Court to wind up the company.

Wind-up action

When a court orders a company to wind up, an appointed official liquidator sells the company's assets and distributes the resulting funds to the company's creditors.

We'll take action to wind up a company if:

- it has failed to pay its debts
- we have not been able to negotiate a suitable payment plan.

These circumstances may indicate that the company is insolvent and there could be a risk to us (and possibly to other creditors) that the debt will not be paid.

Disclosure of business tax debts [>](#)

Learn when we may report your business debt information to a credit reporting bureau (CRB) and how to register as a CRB.

Director penalty regime [>](#)

How a director must ensure their company complies with tax and super obligations to avoid personal liability.

QC 50300

Disclosure of business tax debts

Learn when we may report your business debt information to a credit reporting bureau (CRB) and how to register as a CRB.

Last updated 15 January 2025

On this page

Criteria for reporting business tax debts

Engaging with us to manage your debt

Notice of intent to disclose

Legislation

Your privacy

Registering as a CRB

Criteria for reporting business tax debts

If your business meets certain criteria, we may disclose your debt information to credit reporting bureaus (CRBs) (also known as credit reporting agencies).

We will not report your debt information to CRBs if you're already engaged with us to manage your tax debts.

We may report your business tax debt if you meet the following criteria:

- You have an Australian business number (ABN) and are not an excluded entity.
- You have one or more tax debts and at least \$100,000 is overdue by more than 90 days.
- You are not engaging with us to manage your tax debt.
- You don't have an active complaint with the Inspector-General of Taxation Ombudsman (IGTO) about our intent to report your tax debt information.

An excluded entity is either a:

- deductible gift recipient
- complying superannuation fund
- registered charity
- government entity.

We may decide not to report your tax debt information if you are experiencing [exceptional circumstances](#).

Engaging with us to manage your debt

If you are effectively engaging with the ATO to manage your debt, we will not report it, even if it is \$100,000 or more.

Effectively engaging with us means that you have:

- a payment plan and you are complying with the terms of the arrangement
- applied for release from the tax debt
- an active objection against a taxation decision to which the tax debt relates
- an active review with the Administrative Review Tribunal (ART) or an active appeal to the Court
- an active review with the ART of a reviewable decision which may affect the amount of a non-complying superannuation fund's tax debt with the relevant regulator
- an active complaint with the IGTO in relation to the tax debt.

Exceptional circumstances

You may be able to temporarily prevent the disclosure of your tax debt information if you are experiencing **exceptional circumstances outside of your control**.

Exceptional circumstances may be, but are not limited to:

- family tragedy
- serious illness
- impacts of natural disasters.

These are assessed on a case-by-case basis as they will impact clients in different ways.

We're committed to helping businesses with your tax and super obligations in difficult times. Contact us as early as possible and we'll work with you to find the best solution.

Cash flow issues or financial hardship are not generally considered exceptional circumstances. However, if these circumstances are preventing you from managing your tax debt, **contact us**.

Notice of intent to disclose

We will send a written notice (letter) if we plan to disclose your business's tax debt.

The notice will tell you:

- about our intent to report your tax debt information to CRBs
- that you meet the criteria for reporting
- the information we intend to report to the CRBs
- what steps you can take to avoid your tax debt information being reported
- that you have 28 days from receiving the notice to take the necessary action.

Contact us immediately to discuss your situation if:

- you believe we've made a mistake with your debt balance
- you disagree with our decision to disclose your debt balance to CRBs.

Phone the Disclosure of business tax debts enquiries line on **1300 303 570** between 9:00 am and 6:00 pm, Monday to Friday.

We will work with you to check and manage your tax debts and obligations.


If you're worried you won't be able to pay on time, or you've already missed a due date, we have **options available to support you**.

Legislation

The disclosure of overdue business tax debts legislation will:

- support businesses to make more informed decisions because overdue tax debts will be more visible
- encourage taxpayers to engage with us to manage their tax debts and avoid having them disclosed
- reduce unfair financial advantage of businesses that do not pay their tax on time.

The relevant legislation includes:

- Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Act 2019 – Disclosure of business tax debts
- [Taxation Administration \(Tax Debt Information Disclosure\) Declaration 2019](#) .

Your privacy

We only report your business tax debt information to CRBs that:


- are registered with us
- have signed a Deed of Agreement, agreeing to ATO standards on policies, practices and procedures.

Details that will be reported to CRBs include:

- your ABN
- legal name, business name
- the type of entity you are
- the amount of your overdue tax debt.

Your tax debt information will be removed from a CRB's credit report when you no longer meet the criteria. This occurs when you pay your debt in full or effectively engage with us to manage the debt.

Your credit score and credit reports

Find out how to check your credit reporting record through the [Office of the Australian Information Commissioner](#) .

Learn more about credit scores and credit reports at [Moneysmart](#) .

Registered CRBs that have signed a Deed of Agreement with the ATO


Credit reporting bureau (CRB)	ABN
Access Intell Pty Ltd	16 628 252 880
Alares Systems Pty Ltd	60 612 673 953

CreditorWatch Pty Ltd	80 144 644 244
Equifax Australia Information Services and Solutions Pty Ltd	26 000 602 862
illion Australia Pty Ltd	95 006 399 677

Registering as a CRB

For information on how to register and apply, prospective CRBs may phone the Disclosure of business tax debts enquiries line on **1300 303 570** between 9:00 am and 6:00 pm, Monday to Friday.

You can express an interest to register at any time if you meet the following criteria:

- Your business is a registered credit reporting bureau whose primary purpose is to inform the market of unpaid debts of businesses.
- Your business is registered on the [Australian Business Register](#) . You will be required to provide an Australian business number (ABN) and registered entity name, and if applicable an Australian company number (ACN) and registered business name.
- You can provide a description of the corporate structure, including parent and subsidiary entities, partnerships and joint ventures and advise how tax debt information will be used within its corporate structure.
- Your business is solvent in accordance with subsection 95(1) of the *Corporations Act 2001*.
- Your business is fully compliant with their Australian taxation obligations, including being up to date with relevant lodgments and payment of tax liabilities and superannuation.
- You can provide information on office holders and responsible persons such as directors and company secretary. Individuals may be required to provide additional information to allow probity checks to be completed.

Once we receive your expression of interest, we will ask for more information to review your application. We assess applications every September to December and will inform you of the assessment outcome by the end of the calendar year.

QC 66118

Director penalties

How a director must ensure their company complies with tax and super obligations to avoid personal liability.

Last updated 29 January 2025

On this page

[What is a director penalty](#)

[Becoming a company director](#)

[Once you become a director](#)

[A director penalty is a parallel liability](#)

[If you are no longer a director](#)

[How we recover director penalties](#)

[Remittance of the director penalty](#)

What is a director penalty

As a company director you are responsible for ensuring that the company's tax and superannuation obligations are reported and paid on time. If your company does not pay certain liabilities by the due date, we can recover these amounts from you personally as a current or former company director.

This means you will become personally liable for your company's unpaid amounts of:

- pay as you go withholding (PAYG withholding)
- goods and services tax (GST)
- super guarantee charge (SGC).

These amounts that you are personally liable for are called 'director penalties'. We can recover the penalty amounts from you once we issue you a [director penalty notice](#).

Becoming a company director

Before you become a company director, check if the company has any unpaid or unreported PAYG withholding, GST or SGC liabilities. Once you are appointed as a company director you become personally liable for any unpaid amounts.

As a new director you can avoid becoming liable for director penalties that were **due before** your appointment. That is if within **30 days of your appointment**, you ensure the company does one of the following:

- pays their debts in full for PAYG withholding, net GST from 1 April 2020 (including luxury car tax (LCT) and wine equalisation tax (WET) amounts) and SGC from 1 April 2012
- appoints an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appoints a small business restructuring practitioner under section 453B of that Act
- begins to be wound up (within the meaning of the *Corporations Act 2001*).

Even if you resign as a company director within the 30-day period, you will still be liable for the company's unpaid PAYG withholding, net GST or SGC liabilities that were due before your appointment.

Example: appointment of a new director


Kevin and Ashley are directors of XYZ Pty Ltd. During the January to March quarter of the 2023–24 income year, the company withholds tax from employees' wages but fails to pay PAYG withholding. When the company does not pay by the due date of 28 April 2024, Kevin and Ashley both became personally liable for a penalty amount equal to the unpaid amounts.

On 2 June 2024, Michael becomes a director of the company. Michael has 30 days from the date of his appointment to ensure that the company:

- pays the amount
- appoints a voluntary administrator
- appoints a small business restructuring practitioner, or
- is put into liquidation.

If Michael fails to ensure the company does at least one of the above within 30 days of the date of his appointment, he too will become liable for the unpaid PAYG withholding.

Director ID

You will need a [director identification number](#)  (director ID) if you're a director of a company, registered Australian body, registered foreign company or Aboriginal and Torres Strait Islander corporation.

Once you become a director

Once you become a director, you are responsible for ensuring the company meets its **PAYG withholding**, net GST and **super guarantee** obligations in full by the due date.

If these obligations are not met, you become personally liable for [director penalties](#). This is unless you take steps to ensure the company lodges and pays its:

- PAYG withholding by the due date
- net GST (as well as LCT and WET amounts) by the due date, and
- super guarantee (SG) to employees' super funds by the due date. If that doesn't occur, the company must lodge a **superannuation guarantee charge (SGC) statement** and pay the resulting SGC liability.

A director penalty is a parallel liability

If the company has more than one director, the amounts owed are likely to be the same for all directors.

This is because the company liability (what the company owes) and the director penalty liability are [parallel in nature](#).

When we recover director penalties we may do so equally from all the directors, depending on each director's circumstances.

If you are no longer a director

If you resign as a director of the company, you remain liable for [director penalties](#) for liabilities of the company that:

- were due before the date of your resignation
- fell due after your resignation if
 - for PAYG withholding and net GST (including LCT and WET), the first withholding event in the reporting period occurred before your resignation
 - for SGC liabilities, the date the charge became payable.

If you resigned as a director before:

- the first withholding event in that period for **PAYG withholding** and **net GST**, you will also be liable for any unpaid liabilities for reporting periods that started while you were a director
- the date the **SGC** became payable, you will also be liable for any unpaid liabilities for reporting periods that started while you were a director.

As former director of a company you also remain liable for some debts that occurred after the company is deregistered.

Example: resigning as director within 30 days of appointment

On 2 June 2024, Gabrielle becomes a director of 123 Pty Ltd. The company owes \$20,000 in PAYG withholding and \$30,000 in net GST. To avoid becoming personally liable for penalty amounts equal to the above liabilities, Gabrielle has 30 days starting on the day of her appointment to do **one** of the required actions:

- cause the company to pay the debt
- appoint an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*

- appoint a small business restructuring practitioner under section 453B of that Act, or
- have a liquidator appointed to wind up the company.

On 13 June 2024, Gabrielle resigns from being a director of the company.

By 1 July 2024, the company has not paid the above amounts, nor entered into administration, restructuring or liquidation.

Gabrielle is liable for the \$20,000 PAYG withholding and \$30,000 net GST.

Although Gabrielle resigns as director of the company within 30 days of appointment, she does not cause the company to do one of the 4 required actions within those 30 days. As a result, she incurs a director penalty at the end of that 30th day.

How we recover director penalties

Director penalty notices

We will issue you with a director penalty notice (DPN) to recover director penalties. The DPN is a notice we must give you that allows us to recover the company's unpaid amounts.

The notice outlines the unpaid amounts and [remission options](#) available to you.

We can recover the amounts of the director penalty by:

- issuing a **garnishee notice**
- offsetting any of your tax credits against the director penalties
- initiating legal recovery proceedings against you to recover the director penalty.

If you are a current director, when we give you the DPN, we will use the address you registered with Australian Securities & Investment Commission (ASIC). Otherwise, we will use the address last known to us. It is important you keep your address updated.

The date we post (or leave the DPN at the address registered with ASIC) is the date the notice is **given** to you.

How a parallel liability works

Once DPNs have issued, we may commence or recommence recovery action from each director personally, because these penalties are a parallel liability.

To recover the debt, we can pursue either:

- the company
- the directors.

This means that any payment or credit applied to the company's account or to a director's account to reduce the penalty will reduce the director penalty amount for the other directors and the company's corresponding liability for the same reporting period.

Example: issuing parallel liabilities

Kerry and Claire are directors of ABC Pty Ltd, that is required to pay PAYG withholding on a quarterly basis. For the January to March quarter in the 2023–24 income year, the company withholds \$4,000 PAYG from payments made to its employees and directors.

If ABC Pty Ltd does not pay its PAYG withholding liability, we will issue Kerry and Claire DPNs. We will then seek to recover the amount of the director penalty (\$4,000) from either Kerry or Claire, or both.

If Kerry pays \$1,000 against her director penalty liability, both the liability of the company and Claire's director penalty will be reduced by \$1,000 as they are parallel liabilities. Alternatively, if the company pays \$1,000 against its liability, both Kerry and Claire's director penalty will be reduced by \$1,000 as they are parallel liabilities.

Remittance of the director penalty

PAYG withholding and net GST

Remission of a director penalty is possible, but it depends on when the PAYG withholding and net GST payable was reported to us.

Liabilities reported within 3 months of the due date

If the unpaid amount of PAYG withholding or net GST is reported **within 3 months** of the due date (or, in the case of new directors, within 3 months of the date of their appointment), the penalty can be remitted by ensuring the company does one of the following:

- pays the debt in full
- appoints an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appoints a small business restructuring practitioner under section 453B of that Act
- begins to wind up the company (within the meaning of the *Corporations Act 2001*).

Liabilities reported 3 months after the due date

If the unpaid amount of PAYG withholding or net GST:

- is reported **more than 3 months** after the due date (or, in the case of new directors, 3 months or more after the date of their appointment), the only way to remit the director penalty is to pay the debt in full
- **remains unreported after 3 months**, the corresponding director penalty can only be remitted by payment in full.

Example: remittance of director penalty amounts for PAYG withholding and GST

Kerry and Claire are directors of ABC Pty Ltd, that is required to pay PAYG withholding on a quarterly basis. For the January to March quarter in the 2023–24 income year, the company withholds \$4,000 from payments made to its employees and directors. It also fails to report or pay \$2,000 in GST collected.

The company does not report or pay the above amounts within 3 months of the due date of liability.

Kerry and Claire each receive DPNs. The only way their director penalties can now be remitted is by Kerry or Claire making sure that the amounts are paid in full within 21 days of the date the notices are given to them.

Kerry and Claire place the company into administration. However, Kerry and Claire's director penalty amounts are still payable by **either one or both** to the equivalent amount of \$6,000 (\$4,000 + \$2,000).

SGC amounts

For super guarantee charge (SGC), remission of the director penalty depends on when we have been notified about SGC amounts.

If the unpaid amount of the SGC is **reported by the due date** for the SGC statement, the penalty can be remitted by ensuring the company does **one** of the following:

- paying the debt
- appointing an administrator under section 436A, 436B or 436C of the *Corporations Act 2001*
- appointing a small business restructuring practitioner under section 453B of that Act
- beginning to wind up the company (within the meaning of the *Corporations Act 2001*).

The only way to remit the amount is to pay the debt in full if:

- the unpaid amount of the SGC obligation is reported **after the due date**
- any part of the liability remains unreported.

Example: remittance of SGC liability

Kerry and Claire are directors of ABC Pty Ltd. The company incurs a SGC liability as it fails to remit employees' superannuation to a complying super fund by the due date. It also fails to report the unpaid amounts to the ATO by the due date for the SGC statement.

Kerry and Claire each receive DPNs. The only way their director penalties can now be remitted is by Kerry or Claire causing the amounts to be paid in full within 21 days of the date the notices

were given to them. This is because the company did not report or pay the SGC amounts by the due date for the SGC statement.

Once we give you a director penalty notice

Once we give you a DPN, you have 21 days to either:

- pay the corresponding penalty amounts in full
- engage with us and negotiate a payment plan for the company debt
 - we may still offset your personal credits against this debt.

If neither of the above happens, we may recommence action against you to recover the director penalty amounts.

Example: failing to report and pay within 3 months

Kerry and Claire are directors of ABC Pty Ltd that is required to pay PAYG withholding on a quarterly basis. For the January to March quarter in the 2023–24 income year, the company withholds \$4,000 from payments made to its employees and directors. It also collects net GST of \$10,000 for the same period.

The company does not report or pay the amounts withheld within 3 months of the due date of the liability.

Kerry and Claire each receive DPNs. The only way their director penalties can now be remitted is by Kerry or Claire causing the amounts to be paid in full within 21 days of the date the notices are given to them.

Estimates

If the company fails to report PAYG withholding, net GST or SGC obligations by the due date, we may make a reasonable estimate of the unpaid and overdue amounts.

The director penalty provisions apply to these estimated liabilities.

The estimate is due and payable by the company on the day we give the company the estimate notice.

The estimated amounts of PAYG withholding, net GST or SGC are treated as an unreported amounts.

Example: ATO estimate of unpaid PAYG withholding

Kerry and Claire are directors of ABC Pty Ltd, which is required to pay PAYG withholding on a quarterly basis. For the January to March quarter in the 2019–20 income year, the company withheld from payments made to its employees and directors but failed to report or pay this to the ATO by the due date of 28 April 2020.

On 21 August 2020, the ATO estimated the unpaid amount of PAYG withholding for the January to March quarter and gave the company written notice of the estimate that same day. At the end of this day, both Kerry and Claire are both personally liable for a director penalty amount equal to the unpaid amount of the estimate.

A DPN based on the estimated amount of PAYG withholding was issued on 21 September 2020.

As the unpaid amount was not reported within 3 months of the due date of the liability, the director penalty can only be remitted by the company or directors paying the amount of the estimate.

Example: ATO estimate of unpaid GST

Kerry and Claire are directors of ABC Pty Ltd, that collects GST on sales on a monthly basis. The company is required to report and pay GST collected during the month of April 2024 by 21 May 2024 but fails to do so.

On 21 September 2024, we estimate the unpaid amount of GST for April 2024 and give written notice of the estimate to the company that same day. At the end of this day, both Kerry and Claire are both personally liable for a director penalty amount equal to the unpaid amount of the estimate.

A DPN based on the estimated amount of GST is issued on 21 October 2024.

As the unpaid amount was not reported within 3 months of the due date of the liability, the director penalty can only be remitted

by the company or directors paying the amount of the estimate.

Defence to a director penalty notice

The director penalty regime outlines circumstances in which a director is not liable for director penalties. You can ask us to consider a defence you may have to your director penalty before any legal recovery proceedings begin.

You will have a defence and not be liable for a director penalty if:

- you did not take part (and it would have been unreasonable to expect you to take part) in the management of the company during the relevant period because of illness or other acceptable reason
- you took all reasonable steps, unless there were no reasonable steps you could have taken, to ensure that **one** of the following happened
 - the company paid the amount outstanding
 - an administrator was appointed to the company
 - a small business restructuring practitioner was appointed to the company
 - the directors began winding up the company (within the meaning of the *Corporations Act 2001*)
- in the case of an unpaid SGC liability, the company treated the *Superannuation Guarantee (Administration) Act 1992* as applying in a way that could be reasonably argued, was in accordance with the law, and took reasonable care in applying that Act.

The courts have:

- held that these defences must be proved for the entire period the director was under the obligation
- also ruled that, as a director, it is not a defence if you relied on others (including fellow directors and professional advisors) to ensure your obligation was met
- ruled that the natural meaning is that the combined defences must cover the whole of the period between the breach of the obligation on the due date, and the expiry of the notice (*Canty v Deputy*

Commissioner of Taxation [2005] NSWCA 84). See also *DCT v George* [2002] NSWCA 33).

A director's non-participation in the management of the company will usually involve a breach of the duty, **whether the director is aware of this or not** (*DCT v Lesley Frances Robertson* [2009] NSWSC 597).

A DPN defence needs to be submitted to the Commissioner in writing, clearly articulating what defence you are seeking to rely on. It should provide all the necessary information and supporting documentation to substantiate the defence.

Once you have completed your application, you can either:

- ask your tax agent to lodge the application through Online services for agents
- mail it to

**Attention: Debt Case Leadership
AUSTRALIAN TAXATION OFFICE
PO BOX 327
ALBURY NSW 2640**

As a company director, you must ensure your company complies with its tax and super obligations. Failure to do so will result in a personal liability.

QC 44005

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year

before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

Copyright notice

© Australian Taxation Office for the Commonwealth of Australia

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).