

CHAPTER 12:

PENALTY TAX AND TAX OFFENCES - SOLUTIONS

QUESTION 12.2

Careless Pty Ltd	Disclosed Taxable Income	Amended Income
	\$15,000	\$22,000
Tax on income @ 30%	4,500.00	6,600.00
Shortfall amount	6,600 - 4,500	2,100.00
Evan	Disclosed Taxable Income	Amended Income
	\$19,000	\$24,000
Tax on income	152.00	1,102.00
Less: Low income tax offset LAMITO	(152.00)	(445.00)
		(255.00)
	0.00	402.00
Medicare Levy	0.00	160.20
	0.00	562.20
Shortfall amount	0 - 562.20	562.20
Kyle	Disclosed Taxable Income	Amended Income
	\$90,000	\$95,000
Tax on income	20,797.00	22,647.00
Less: LAMITO	(1,080.00)	(930.00)
	19,717.00	21,717.00
Medicare Levy	1,800.00	1,900.00
	21,517.00	23,617.00
Less		
Franking tax offsets	0.00	1,500.00
	21,517.00	22,117.00
Shortfall amount	22,117.00- 21,517.00	600.00

QUESTION 12.4

- (a) As the shortfall is less than \$1,000 and has been voluntarily disclosed, the Commissioner would reduce the penalty to nil.
- (b) The base penalty amount is reduced by 20% where a taxpayer makes a voluntary disclosure *after* being informed of a tax audit.
- (c) $25\% \times \$800 = \200.00
- (d) This form of deceit would most likely represent taking steps to hinder the Commissioner and would result in the Base Penalty Amount being increased by 20% (i.e. $25\% + (25\% \times 20\%) = 30\%$. Therefore, $30\% \times \$800 = \240.00).

He may also be prosecuted for falsifying, concealing, destroying or altering records with intent to deceive or obstruct – an offence which carries penalties of up to \$9,000 and/or 12 months imprisonment. He would almost certainly have made a false or misleading statement to a tax officer in doing so and may be prosecuted for that.

QUESTION 12.6

Cheryl	Disclosed Taxable Income	Amended Income
	\$153,000	\$154,500
Tax on income	44,107.00	44,662.00
Medicare Levy 2%	3,060.00	3,090.00
Medicare Levy Surcharge 1.5%	2,295.00	2,317.50
	49,462.00	50,069.50
Shortfall amount	50,069.50 - 49,462.00	607.50
Base Penalty Amount	$\$607.50 \times 25\%$	151.88
Increase for previous offences	$\$151.88 \times 20\%$	30.38
Total Penalty		182.26

QUESTION 12.8

a)		
Toni	Disclosed Taxable Income	Amended Income
	\$82,000	\$82,900
Tax on income	18,197.00	18,489.50
Less: LAMITO	(1,080.00)	(1,080.00)
	17,117.00	17,409.50
Medicare Levy	1,640.00	1,658.00
	18,757.00	19,067.50
Shortfall amount	19,067.50 - 18,757.00	310.50
b) The Commissioner would be unlikely to penalise Toni as the shortfall is quite small.		
c) Toni will be required to pay the shortfall of \$310.50 as well as a Base Penalty Amount of \$77.63 ($\$310.50 \times 25\%$). She will also be subject to the Short Interest Charge on the total amount outstanding.		
d) (i) If Toni is considered to have attempted to conceal the error, she would be liable for an additional 20% of the BPA ($\$77.63 \times 20\% = \15.53).		
(ii) If Toni voluntarily discloses her error after the commencement of audit activity, she will receive a reduction of 20% ($\$77.63 \times 20\% = \15.53).		

QUESTION 12.10

Frank could have obtained professional taxation advice or sought a private tax ruling from the ATO.		
Frank	Disclosed Taxable Income	Amended Income
	\$62,000	\$79,000
Tax on income	11,697.00	17,222.00
Less: SBE Tax offset	(935.76)	(1,000.00)
LAMITO	(1,080.00)	(1,080.00)
	9,681.24	15,142.00
Medicare Levy	1,240.00	1,580.00
	10,921.24	16,722.00
Less Low Income Tax Offset	(70.00)	0.00
	10,851.24	16,722.00
Shortfall amount	16,722.00 - 10,851.24	5,870.76
Penalty not reasonable care 25%		1,467.69
Less 20% reduction of penalty for disclosure		293.54
Penalty		1,174.15

QUESTION 12.12

Len	Disclosed Taxable Income	Amended Income
	\$196,000	\$220,000
Tax on income	61,297.00	72,097.00
Medicare Levy	3,920.00	4,400.00
	65,217.00	76,497.00
Shortfall amount	76,497.00 - 65,217.00	11,280.00
Base Penalty Amount	\$11,280.00 x 25%	2,820.00

QUESTION 12.14

Don	Disclosed Taxable Income	Amended Income
	\$75,000	\$95,000
Tax on income	15,922.00	22,647.00
Less: LAMITO	(1,080.00)	(930.00)
	14,842.00	21,717.00
Medicare Levy	1,500.00	1,900.00
Medicare surcharge		950.00
	16,342.00	24,567.00
Shortfall amount	24,567.00 - 16,342.00	8,225.00
Base Penalty Amount 25%		2,056.25
Less 80% reduction for voluntary disclosure		1,645.00
		411.25