

## About the Taxation Administration Act

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# We administer a range of state taxes under the *Taxation Administration Act 1997*.

The [\*Taxation Administration Act 1997\*](#) (TAA) makes provision for the administration and enforcement of Victoria's taxation laws and the reciprocal enforcement of recognised laws. The TAA includes these taxation laws:

- land tax (which includes vacant residential land tax and the absentee owner surcharge)
- payroll tax
- commercial and industrial property tax
- windfall gains tax
- duty charged on certain transactions (such as a transfer of land)
- gambling taxes
- commercial passenger vehicle service levy
- congestion levy
- growth areas infrastructure contribution
- short stay levy.

The TAA sets out the framework for assessing, investigating, reviewing and enforcing Victorian taxes. It also details the powers, rights and obligations of both customers and the Commissioner of State Revenue. This page summarises the matters covered by the TAA:

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## [Assessments and reassessments](#)

[We assess your tax liability based on information available to us. This information may have come from:](#)

- [you or your representative](#)
- [another person or agency from which we have sought particular details](#)
- other sources that provide information to us.

If we are not liable to make an exact assessment, we can make an estimated (default) assessment. For example, we may issue a default assessment if you do not submit a full and accurate return by the due date.

Sometimes, we issue a compromise assessment if it is difficult or impracticable to determine your tax liability without undue delay or expense. A compromise assessment is a binding agreement between you and us for the amount of tax payable. Compromise assessments can only be reassessed if you agree or where we find that there has been fraud or a deliberate failure to disclose information. As you have agreed to the compromise, you cannot object to it or have it reviewed by the Victorian Civil and Administrative Tribunal (VCAT) or a court.

If you use Duties Online to complete a transaction (whether or not there is a payment), this is considered a deemed assessment. You can object to a deemed assessment, or have it reviewed by VCAT or the Supreme Court in accordance with the TAA.

We can also make reassessments of a tax liability when:

- you give us new information affecting the amount of tax you have been assessed for
- an investigation reveals additional liabilities.

We cannot reassess a tax liability more than 5 years after the issue of the initial assessment, unless:

- the reassessment is to adjust tax to give effect to a decision on an objection, review or appeal
- facts and circumstances affecting the tax liability were not disclosed to us when the initial assessment was made
- a particular taxation law allows a reassessment outside the 5-year period.

## Returns and special tax return arrangements

For some taxes, duties and levies liability we calculate liability based on details that you have provided to us in a return.

The following is a list of statements, certificates, applications, reports or other records that are returns for the purposes of section 3(1) of the TAA.

- [Casino tax](#) (section 14 of the *Gambling Taxation Act 2023*)
- [Commercial passenger vehicle service levy](#) (section 241 of the *Commercial Passenger Vehicle Industry Act 2017*)
- [Congestion levy annual return](#) (section 31 of the *Congestion Levy Act 2005*)
- [Insurance Duty](#) (section 190 of the *Duties Act 2000*)
- [Keno tax](#) (section 23 of the *Gambling Taxation Act 2023* for keno tax from 1 July 2023)
- [Keno tax](#) (section 6A.4A.10 of the *Gambling Regulation Act 2003* for keno tax before 1 July 2023)
- [Landholder acquisition statement](#) (Section 83 of the *Duties Act 2000*)
- [Livestock duty sale of cattle](#) (section 241 of the *Duties Act 2000*)
- [Livestock duty sale of sheep and goats](#) (section 244 of the *Duties Act 2000*)
- [Livestock duty sale of pigs](#) (section 246 of the *Duties Act 2000*)
- [Livestock duty one-off payment](#) (where someone is not registered to lodge a monthly return, but is required to lodge a statement for livestock duty payment)
- [Payroll tax](#) (section 87 of the *Payroll Tax Act 2007*)
- [Transport accident charges](#) (section 212(a) of the *Duties Act 2000*)
- [Wagering and betting tax](#) (sections 39 and 51 of the *Gambling Taxation Act 2023* for wagering and betting tax from 1 July 2023)
- [Wagering and betting tax](#) (sections 4.6A.10 and 4.6A.21 of the *Gambling Regulation Act 2003* for wagering and betting tax before 1 July 2023).
- [Short stay levy](#) (section 18 of the *Short Stay Levy Act 2024*)

Special tax return arrangements exist for the lodging and payment of tax for specific types of customers, class of customers and agents that act on behalf of these customers.

An example of this is where someone registers to use our electronic lodgement system, Duties Online, to submit dutiable transactions on behalf of their clients. They enter into a notice of a special tax return arrangement with us and we grant approval for them to use Duties Online in accordance with the terms and conditions of the notice. For the purposes of this arrangement, they are treated as the agent of the taxpayer(s).

## Record keeping and providing information to us

You must keep records of all tax-related matters so that your tax liabilities can be properly assessed.

These records, and any additional records specifically required by us, must be kept for 5 years unless we expressly permit them to be destroyed earlier. If the records are not in English, they must be kept in a form that allows them to be readily converted or translated. We may ask you to provide these records when we conduct an audit or investigation.

It is a criminal offence to:

- fail to keep proper accessible records and necessary additional records for 5 years
- include a false or misleading detail in tax records

- wilfully damage or destroy tax records.

You may need to provide certain information or documents to enable us to assess the correct amount of tax to be paid. For example, you might have to submit a deed or certificate to claim an exemption. Under the TAA, it is an offence to fail or refuse to lodge a document, statement or return as required.

## Notification requirements

You are obliged to tell us about certain events or transactions that may affect your tax liability. These notification requirements apply to companies and trustees as well as individuals. For example, a trustee will be liable for penalty tax where they fail to notify us when they become a trustee of land, or acquire further land, in Victoria.

## Secrecy provisions

We cannot disclose the information we obtain under or in relation to the administration or execution of a taxation law except under the secrecy provisions of the TAA.

The TAA secrecy provisions state that information obtained under or in relation to the administration of a tax law may be disclosed, for example:

- with your consent, or at the request of a person you have authorised to act on your behalf
- in connection with the administration or execution of a taxation law, the *First Home Owner Grant* and *Homebuyer Schemes Act 2000*, or the *Unclaimed Money Act 2008*
- to an authorised recipient including, but not limited to, the Victorian Ombudsman, Victorian WorkCover Authority, Victoria Police, Legal Services Commissioner or Board, and various Commonwealth agencies, such as the Australian Securities and Investments Commission, Australian Federal Police, Centrelink, and the Foreign Investment Review Board. We are also able to share information with the Australian Taxation Office and other state and territory revenue offices
- when the information is of a general nature and is not likely to identify a particular taxpayer. This includes data such as aggregated amounts of revenue collected from the various state taxes and levies, as well as our key performance indicators.

The secrecy provisions in the TAA also bind any persons or agencies that receive information from us. It is a criminal offence to disclose any information disclosed by us under our secrecy laws, unless:

- the recipient has our consent to do so, and
- the disclosure is made to enforce a law or to protect the public revenue.

## Paying tax

The TAA contains provisions to help us ensure everyone pays their taxes. We can extend your payment time or arrange for you to pay by instalments. We consider:

- your capacity to pay and whether you will be able pay the full amount due within a reasonable timeframe
- your payment history
- your reasons for not paying the full amount by the due date, including any action you have taken to deal with these circumstances
- any steps you are taking to ensure your future taxation obligations are met on time.

If necessary, the Commissioner will take legal action to recover unpaid tax. This may include collecting your unpaid tax from third parties, such as people who owe you money or hold money on your behalf.

## Investigation powers

We use investigative powers within the TAA to obtain information from customers, their representatives and other sources holding relevant details.

Section 73 of the TAA provides powers to require documents, information and other evidence. We use these powers to obtain information from customers, and from third parties to determine a person's tax liability. Third parties may include other government departments and agencies, utility companies, councils and banks.

Section 76 of the TAA permits us to enter, inspect and search premises where we believe there are documents or things that are relevant to the administration or execution of a tax law.

We may enter your premises at any reasonable time, but this requires your written consent. An officer must produce their identity card at the request of the occupier. They may search, inspect and make copies of or extracts from documents kept at the premises. The officer may also seize any document or thing if they have reason to believe or suspect it is necessary to do so to prevent it from being concealed, lost, destroyed or altered.

A search warrant may also be obtained from a magistrate.

## Interest

Where a tax default occurs, you may be liable to pay interest on the amount of tax that is unpaid. Interest may also be charged for a failure to pay penalty tax.

Interest is not imposed on any unpaid interest or if the amount of the interest calculated on a tax default is less than \$20. Under the TAA, interest consists of 2 components: a market rate component and a premium rate component which is fixed at 8% per annum.

The purpose of imposing interest at the market rate is to reimburse the Victorian Government for the costs or loss of revenue incurred because of the late payment of the tax.

The market rate of interest is established by referencing the Bank Accepted Bills rate, unless the Minister has gazetted an order for a different rate to be used. The market rate is adjusted annually on 1 July.

The premium rate of interest is usually charged for late payment tax defaults and instalment payments not paid by the due date of a payment plan.

We may remit interest partly or in full.

## Penalty tax

Penalty tax is charged for a:

- tax default — a late payment, an underpayment or a failure to pay any of the tax due
- notification default — not notifying us of an error or omission, or a particular event or transaction when this is required.

The TAA provides a fixed penalty scale and allows for a penalty to be adjusted up and down the scale. The level of penalty reflects the level of culpability (the seriousness of the wrongdoing) involved in the default.

The starting point for penalty decisions is 25% of the amount of the primary tax default. This penalty may be increased, reduced or remitted in full, depending on the circumstances:

- A reduced penalty tax rate applies for disclosures made before or during an investigation.
- No penalty applies if we find that you took reasonable care to comply with the law, or that the default occurred solely because of circumstances beyond your control.
- The rate of penalty tax will be increased to 50% if there is evidence of recklessness as to the taxation law.
- The rate of penalty tax will be increased to 75% if there is evidence of an intentional disregard of the taxation law.
- Penalty tax will be further increased by 20% if the customer hinders or conceals information during an investigation.

Serious breaches of tax obligations can result in criminal prosecutions. It is an offence under the TAA to:

- evade or attempt to evade tax
- knowingly give false or misleading information
- deliberately omit information from a statement so that the statement is false or misleading
- falsify or conceal the identity or address of a taxpayer or another relevant person.

The Commissioner has issued a revenue ruling [on interest and penalty tax](#) to help explain the operation of the penalty and interest provisions. It sets out the principles which the Commissioner applies when exercising his discretion on matters of penalty tax.

## Refunds

The TAA provides a process for making refund applications. You have 5 years from the date of the overpayment in which to apply for a refund.

Claims for a refund must use the approved form. Depending on your circumstances you should complete and submit [GEN-Form-01](#) or [Duties-Form-63](#). You can apply for a payroll tax refund via Payroll Tax (PTX) Express.

Before we issue a refund, the overpayment may be applied to meet other liabilities you have with us. However, we will not apply an overpayment against other liabilities if the overpayment relates to a:

- contribution paid under Part 9B of the [Planning and Environment Act 1987](#)
- liability arising under the [Back to Work Act 2015](#)
- liability arising under Part 11 of the [Commercial Passenger Vehicle Industry Act 2017](#), or
- refund of an amount paid or a liability arising under Part 2, 3 or 4 of the [Gambling Taxation Act 2023](#) other than to the extent of allowing the application of a refund of an amount paid under that Part against a liability arising under that Part.

If we refuse to pay or offset some of or the entire amount claimed, or have not made a decision within 3 months, you have the right to bring proceedings to recover the amount overpaid.

Proceedings must begin within 3 months of the date of the refund decision, or the date on which a refund decision was due.


We will not issue a refund to you if the tax paid was recovered from another person unless you undertake to reimburse them with 90 days of receiving the refund. You must notify us in writing within 7 days of the end of this period that you have reimbursed the Penalties apply if you fail to do this.

Refer to our [ruling on refunds](#) for more guidance.

## Objections and appeals

You can lodge a [formal objection](#) if you don't agree with our tax assessment. If you are dissatisfied with the outcome of the objection, you can ask us to [refer your matter to VCAT or treat your objection as an appeal to the Supreme Court](#).

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