

Contents	Page
What this ruling is about	1
Ruling and explanation	3
Date of effect	9
References	9
Attachment 1	10
Attachment 2	12

Public Ruling
Taxation Administration Act:
PENALTY TAX

A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this ruling is about

1. This public ruling sets out the general manner in which the Commissioner will decide whether or not to remit penalty tax and the extent of any remission. However, each case will be considered on its merits, having regard to a taxpayer's conduct and the circumstances surrounding the case. This public ruling does not apply to reassessments of transfer duty and mortgage duty relating to concessions for homes.¹
2. This public ruling applies to the following revenue laws:
 - (a) *Duties Act 2001* (Duties Act)
 - (b) *Payroll Tax Act 1971*, except for payroll liabilities arising before 1 July 2005
 - (c) *Land Tax Act 2010*
 - (d) *Betting Tax 2018*
 - (e) royalty laws, being the royalty provisions of the *Mineral Resources Act 1989* (Mineral Resources Act) and the *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas Act)², except for liabilities for royalty-related amounts arising before 1 October 2020.

¹ See Public Ruling TAA060.3—*Penalty tax—home concessions* for the principles to be applied in these circumstances.

² 'Royalty provisions' means chapter 11 of the Mineral Resources Act, chapter 6 of the Petroleum and Gas Act and any other provision of those Acts to the extent they are administered by the Minister with the Ministerial responsibility for the *Taxation Administration Act 2001*.

TAA060.2.6

3. The *Taxation Administration Act 2001* (the Administration Act) automatically imposes penalty tax at the rate of 75% in the circumstances, and based on the amounts (the shortfall amounts), described in the following table. The taxpayer is liable for penalty tax.³

Circumstances in which penalty tax is imposed	Amount to which penalty tax rate of 75% is applied (the shortfall amount)
1. Commissioner makes a default assessment due to: <ul style="list-style-type: none"> (a) a taxpayer's failure to lodge a document, provide information or make a self assessment as required (b) the Commissioner not being satisfied about the accuracy or completeness of a document lodged, or information given, for the assessment of a taxpayer's liability for tax under a tax law. 	Primary tax ⁴ assessed
2. Commissioner makes a reassessment where the original assessment was a default assessment as outlined in circumstance 1.	Reassessed primary tax
3. The primary tax assessed on a reassessment, other than a reassessment mentioned in circumstance 2, is more than the primary tax assessed on the original assessment or an earlier reassessment. ⁵	Where the primary tax assessed on the last reassessment is more than the primary tax assessed on the original assessment—difference between the two amounts Where the primary tax assessed on the last reassessment is less than the primary tax assessed on the original assessment but more than the primary tax assessed on an earlier reassessment—difference between the primary tax assessed on the last reassessment and the lowest primary tax assessed on an earlier reassessment

4. Penalty tax applies in addition to any unpaid tax interest imposed under the Administration Act⁶ and is an administrative sanction for certain conduct by taxpayers. This sanction acts as an incentive for compliance with the tax laws⁷ and ensures equitable treatment of all taxpayers.

³ See s.58(1) and (2) of the Administration Act.

⁴ Primary tax is a tax, royalty, levy or duty imposed under a revenue law: Schedule 2 Dictionary, Administration Act.

⁵ See s.58(1)(c) of the Administration Act. This section does not apply in relation to a reassessment made by the Commissioner under s.84M of the Duties Act except in certain circumstances: s.84O of the Duties Act.

⁶ See ss.54–57 of the Administration Act and Public Ruling TAA060.1—*Remission of unpaid tax interest*.

⁷ Tax law is a revenue law or the Administration Act: Schedule 2 Dictionary, Administration Act.

5. The Commissioner may increase the amount of the penalty tax by not more than 20% of the penalty tax imposed (not the shortfall amounts referred to in paragraph 3) if satisfied the taxpayer:
 - (a) failed to advise the Commissioner on becoming aware that an assessment of the taxpayer's liability for tax⁸ was not, or is no longer, correct and the correct liability is more than the amount stated in the assessment
 - (b) hindered or prevented the Commissioner from becoming aware of the nature and extent of the taxpayer's liability for tax.⁹
6. The Commissioner may remit all or part of penalty tax.¹⁰ The Commissioner is obliged to remit penalty tax in certain circumstances relating to prosecution of a taxpayer.¹¹

Ruling and explanation

General principles

7. For the Commissioner to consider a request for a penalty tax remission, the taxpayer must lodge a written request for the remission with the Commissioner, stating the grounds for the request and the general remission category the taxpayer believes their circumstances fall under. (See paragraphs 10 to 13 of this public ruling.) However, this requirement does not prevent the Commissioner from making a decision to remit penalty tax in whole or in part when making a default assessment, where the Commissioner already has sufficient information to determine that remission is appropriate (for example, following the conduct of an investigation).
8. The Commissioner decides whether or not to remit penalty tax on a case-by-case basis, determining what is reasonable in light of all relevant facts and circumstances including:
 - (a) the nature and extent of the taxpayer's culpability
 - (b) the complexity of the matter giving rise to the taxpayer's liability for tax
 - (c) the reasons for the taxpayer's failure to meet their obligations, including:
 - (i) the nature of attempts made by the taxpayer to comply with their obligations
 - (ii) the processes the taxpayer has in place to ensure compliance with the tax laws (such as staff training, regular external audits and sampling)
 - (d) the nature and circumstances of any voluntary disclosure made by the taxpayer concerning the liability
 - (e) the taxpayer's previous failure (if any) to comply with the tax laws or any statutes repealed by a tax law

⁸ Tax is primary tax, assessed interest, penalty tax, royalty civil penalty or royalty fee: Schedule 2 Dictionary, Administration Act.

⁹ Sections 58(3) and 28 of the Administration Act

¹⁰ Section 60 of the Administration Act

¹¹ Section 59 of the Administration Act

- (f) where an investigation has been, or is being conducted, in relation to the taxpayer's liability, the level of cooperation by the taxpayer with the Commissioner.

General remission categories

9. The following general remission categories outline how the Commissioner will generally remit penalty tax in particular cases. The categories are illustrative only, and each taxpayer's circumstances must be considered on their merits. The Commissioner may request evidence establishing that the claimed category applies, such as evidence from third parties. See Attachment 1 for examples of how the categories may apply.

Category 1—Full remission of penalty tax

10. The Commissioner would consider full remission of the penalty tax imposed in the following cases.

- (a) Case A—Circumstances beyond the taxpayer's control

The taxpayer's non-compliance with their obligations, or the need for a tax reassessment, was due to circumstances beyond their control. A taxpayer's mere financial incapacity to pay their liability for tax does not constitute circumstances beyond their control.

- (b) Case B—Reasonable care taken

The taxpayer has taken reasonable care to determine their liability for tax and meet their obligations under the tax laws and has not intentionally disregarded or avoided the tax laws. When determining if a taxpayer took 'reasonable care', the Commissioner considers whether the taxpayer, in appropriate circumstances:

- (i) kept complete and accurate records
- (ii) made diligent efforts to understand and comply with the law
- (iii) sought expert advice on uncertain or complex matters
- (iv) was honest and open in their dealings with the Commissioner
- (v) set in place appropriate processes to ensure compliance with the tax laws.

The above are indicative only. Meeting one or more of these criteria does not necessarily mean that reasonable care has been taken. All the circumstances resulting in a shortfall amount will be considered in determining whether reasonable care has been taken.

Where expert advice was sought, the remission under this category will only apply where the Commissioner is satisfied that all the following conditions have been met.

- (i) The taxpayer provided satisfactory documentary evidence such as the adviser's written confirmation that advice or self assessment services were sought on the matter in question. For example, a general request for advice on issues to be considered when establishing a business will not be specific enough to satisfy the Commissioner that advice was sought on state tax implications of such an establishment.

- (ii) The taxpayer provided sufficient information, which was not misleading or incorrect, to the agent for the agent to accurately provide tax advice or self assess their liability for tax.
- (iii) In the circumstances, it was reasonable for the taxpayer to believe that, in engaging the agent, they had taken all necessary steps to comply with any relevant obligations under the tax law.
- (iv) The advice or service must not have involved the taxpayer entering into an arrangement to which Category 3, paragraph 12 of this public ruling applies.

Examples of cases that do not involve reasonable care:

- (i) The taxpayer did not know about the tax law.
- (ii) The Commissioner considers that the matter involved the taxpayer entering into an arrangement to which Category 3, paragraph 12 of this public ruling applies, whether based on professional advice or not.
- (iii) The taxpayer:
 - did not act in a genuine and honest manner
 - provided false or misleading information to the Commissioner
 - did not provide all relevant facts to the Commissioner
 - made a frivolous claim for a tax exemption or concession.
- (iv) On discovering the failure to comply with a tax law obligation, the taxpayer did not advise the Commissioner in writing of the failure in the time specified by the tax laws¹² or, where no legislative timeframe is specified, within a reasonable time.

Category 2—Remission of penalty tax to 25%

11. The Commissioner would consider partial remission of the penalty tax imposed so that the taxpayer is liable only for 25% of the shortfall amount in the following cases.

(a) Case A—Reassessment of exemptions or concessions

A reassessment of tax under one of the following provisions of the Duties Act in relation to an exemption or concession obtained by a taxpayer that is later excluded on a reassessment because they failed to comply with conditions but did not intentionally disregard the tax laws.¹³

- (i) Transfer duty concessions and exemptions for superannuation fund mergers, splits, variations or reconstitutions—s.156
- (ii) Refunds of mortgage duty paid interstate before an advance is made—s.290A

¹² For example, see s.28 of the Administration Act.

¹³ This public ruling does not apply to home concessions. See Public Ruling TAA060.3—*Penalty tax—home concessions* for the principles to be applied in these circumstances.

- (iii) Mortgage duty exemption for mortgages over certain advances made to primary producer cooperatives—s.292
- (iv) Vehicle registration duty exemption for motor vehicles used by primary producers—s.394
- (v) Transfer duty, vehicle registration duty and landholder duty exemptions for corporate reconstructions—s.412
- (vi) Various duty exemptions for exempt institutions—s.419

However, where circumstances fall within both Category 1 and Category 2, Case A, the Commissioner would consider remitting penalty tax in full, as outlined for Category 1.

- (b) Case B—Carelessness, recklessness or no reasonable care

The taxpayer either:

- (i) failed to comply with their obligations under the tax laws due to carelessness or recklessness

or

- (ii) did not take reasonable care to determine their liability for tax and meet their obligations under the tax laws.

For this category to apply, it is not necessary to establish that the taxpayer acted dishonestly or with intentional disregard of their tax law obligations—this is addressed in the next category. Ignorance of the tax law will suffice.

The concept of recklessness has been held to apply where ‘the person’s conduct shows disregard of, or indifference to, consequences foreseeable by a reasonable person’.¹⁴

Category 3—No remission of penalty tax

12. This category applies to the exclusion of the other categories. That is, if particular circumstances fall under an earlier category and this category, then this category will apply. The Commissioner would usually not consider remitting any penalty tax in the following cases.

- (a) Case A—Deliberate tax default or intentional disregard of tax obligations

A person has either:

- (i) committed a deliberate tax default in the form of fraud or evasion of tax, or by knowingly misleading the Commissioner, or causing the Commissioner to be misled, about the taxpayer’s liability for tax¹⁵

or

- (ii) intentionally disregarded their obligations under the tax laws.

¹⁴ *Hart v Commissioner of Taxation* (2003) 131 FCR 203, at [43]

¹⁵ Section 22(3) of the Administration Act

Without limiting paragraph (i) above, a person may be considered to knowingly mislead the Commissioner, or cause the Commissioner to be misled, by deliberately omitting information when providing information to the Commissioner.

The concept of intentional disregard has been held to require, among other things:

...an understanding by the taxpayer of the effect of the relevant legislation or regulations, an appreciation by the taxpayer of how that legislation or regulation applies to the circumstances of the taxpayer, and finally, deliberate conduct of the taxpayer to flout the [legislation or regulations].¹⁶

(b) **Case B—Avoidance arrangements**

This sub-category will apply where the Commissioner is satisfied that a person entered into an arrangement to avoid tax, including where an avoidance provision in a tax law applies.¹⁷

13. Attachment 2 summarises the general remission categories in paragraphs 10 to 12, and additional remissions for voluntary or similar disclosures referred to in paragraphs 21 to 25 of this public ruling.

Higher penalty tax if section 58(3) applies

14. Where the Commissioner decides to increase the amount of penalty tax because of circumstances referred to in s.58(3) of the Administration Act¹⁸, the increase will be applied to the amount of penalty tax payable after the Commissioner has applied the general remission categories to the shortfall amount but before any additional remission for voluntary or similar disclosures under paragraphs 21 to 25.
15. Attachment 2 does not take into account any increase in penalty tax to be applied under s.58(3) of the Administration Act.

Additional remission for voluntary or similar disclosures

16. Voluntary disclosure occurs where a taxpayer informs the Commissioner in writing that they have failed to comply with a tax law obligation and provides sufficient information to allow the Commissioner to correctly determine their liability for tax. Voluntary disclosure involves willingness by the taxpayer to admit their liability for tax, pay all outstanding tax and comply with all tax obligations as soon as possible.
17. A taxpayer can make a voluntary disclosure even though they are giving notice to the Commissioner, as required by the tax laws, of events or circumstances relating to a concession or exemption they had previously obtained.
18. A voluntary disclosure does not include a disclosure of information that is false, misleading or incomplete, or conduct involving delay, resistance or the hindrance of an investigation. Also, a voluntary disclosure does not include the disclosure of frivolous claims for tax concessions.

¹⁶ *Price Street Professional Centre Pty Ltd v Federal Commissioner of Taxation* 2007 ATC 4320 at [43]

¹⁷ For example, ss.14(1)(c), 38, 60(2)(b), 81A(1)(d), 92(1A) and (3), 93(3B), 93A(4), 108(2), 170(1), 172(2), 190, 191(b), 193(b), 195(b), 197(1)(b), 224(b), 262(1A), 273(3), 412(4)(a) and Chapter 11 of the Duties Act; s.13L and s.13LA and Part 2, Division 7 of the *Payroll Tax Act 1971*; and s.137(6) of the Administration Act

¹⁸ See paragraph 5 of this public ruling.

19. Voluntary disclosures assist the Commissioner to identify outstanding tax law liabilities. Accordingly, to encourage voluntary disclosures, penalty tax would usually be remitted to a greater extent in these cases than in cases where no voluntary disclosure has been made.
20. Paragraphs 21 to 25 outline the approach the Commissioner will generally adopt when considering additional remission of penalty tax due to a voluntary or similar disclosure being made. However, the extent of this additional remission will depend on the circumstances and the nature and extent of disclosure in any given case.
21. The Commissioner would usually remit the penalty tax as follows:
 - (a) If voluntary disclosure is made before the taxpayer is notified of an investigation under Part 7 of the Administration Act (an investigation) and before they receive a prompt¹⁹ from the Commissioner to comply with an obligation under a tax law (a prompt)—the calculated penalty tax²⁰ will be remitted in full.
 - (b) If voluntary disclosure is made before the taxpayer is notified of an investigation and within 30 days after they receive a prompt—the calculated penalty tax will be remitted in full.
 - (c) If voluntary disclosure is made before the taxpayer is notified of an investigation but 30 days or more after they receive a prompt:
 - (i) where a taxpayer's circumstances fall within Category 2, Case A in paragraph 11 of this public ruling—the calculated penalty tax will be reduced by 60%
 - (ii) otherwise—the calculated penalty tax will be reduced by 80%.
 - (d) If disclosure is made immediately after the taxpayer is notified of an investigation—the calculated penalty tax will be reduced by 20%.
22. Disclosure will be taken to have been made immediately after the taxpayer is advised that they are under investigation if they respond in the appropriate manner in the timeframe outlined in the letter from the Commissioner advising of the investigation, or any longer period subsequently approved by the Commissioner in writing.
23. Where the Commissioner remits part of the penalty tax for this type of disclosure, the reduction will be applied to the amount of penalty tax payable after the Commissioner has applied the general remission categories and any increase in the penalty tax under s.58(3) of the Administration Act.
24. Examples of how the Commissioner will generally apply an additional remission of penalty tax in circumstances involving voluntary or similar disclosures are provided in Attachment 1.
25. Even though the Commissioner may exercise the further remissions for voluntary disclosure outlined under paragraph 21, the Commissioner may make a lesser or no further remission for the voluntary disclosure if, on balance, the taxpayer's behaviour concerning their failure to meet their obligations for the transaction, and in the course of all their dealings with the

¹⁹ For the purposes of this ruling, a communication will constitute a prompt when expressly identified as such in the communication from the Commissioner to the taxpayer.

²⁰ Calculated penalty tax means the amount of penalty tax worked out after applying the general principles for remission and applying s.58(3) where appropriate.

Commissioner in general, makes remission pursuant to those paragraphs inappropriate in the Commissioner's view.

Other remission circumstances

26. In some cases, a taxpayer may pay tax in error to another state or territory²¹ and subsequently remedy this by paying the tax to the Commissioner. The Commissioner may remit a related penalty tax liability in these circumstances. Factors considered by the Commissioner when deciding whether to remit penalty tax on this basis and, if penalty tax is remitted, the extent of the remission, include the following:
- (a) the nature of the tax paid incorrectly to the other state or territory
 - (b) whether the tax was paid to the other state or territory on or before the due date for payment of the liability for tax in Queensland
 - (c) whether the tax paid to the other state or territory was equal to the actual liability for tax payable in Queensland.

Date of effect

27. This public ruling takes effect from 1 October 2020.

Mark Jackson
 Commissioner of State Revenue
 Date of issue: 1 October 2020

References

Public Ruling	Issued	Dates of effect	
		From	To
TAA060.2.6	1 October 2020	1 October 2020	Current
TAA060.2.5	9 March 2020	9 March 2020	30 September 2020
TAA060.2.4	1 February 2016	1 February 2016	8 March 2020
TAA060.2.3	30 June 2011	1 July 2011	31 January 2016
TAA060.2.2	3 July 2009	30 June 2009	30 June 2011
TAA060.2.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Revenue Ruling TA 2.3	16 June 2008	16 June 2008	23 February 2009

²¹ For clarification, the payment of tax in error to another state or territory does not include a payment of royalty to a person other than the State, instead of to the State.

Attachment 1

Examples of application of general remission categories and additional remission for voluntary or similar disclosures

As penalty tax is imposed under the Administration Act on primary tax payable under more than one revenue law, the examples provided below are revenue-generic. The examples refer to a taxable arrangement, a term used to refer to a transaction or event that, when effected, would give rise to a shortfall amount as indicated in paragraph 3 of this public ruling.

Category 1, Case A—Circumstances beyond taxpayer's control

1. The taxpayer suffers a traumatic or significant event outside their control (e.g. ill health or destruction of records by a natural disaster) that prevents them from meeting their tax law obligations.

Category 1, Case B—Reasonable care taken

2. A taxpayer takes reasonable care to establish computer systems that assist in calculating primary tax but, due to a system programming error, the primary tax payable for a taxable arrangement is calculated incorrectly.
3. A taxpayer enters into a taxable arrangement and, at that time, seeks advice from their agent (such as a solicitor or accountant) on the state tax implications arising from the arrangement. The taxpayer provides complete and accurate information regarding the arrangement to the agent for this purpose. The advice received by the taxpayer was that a liability for tax would not arise as a result of the arrangement. A liability for tax for the taxable arrangement was subsequently discovered during an investigation by the Commissioner. On the Commissioner's request, the taxpayer produces a letter of engagement from the agent and other documentary evidence to support their claim that relevant advice was received. Based on the evidence provided, the Commissioner is satisfied that it was reasonable, in the circumstances, for the taxpayer to rely on the advice received.

Category 2, Case A—Reassessments of certain exemptions and concessions

4. After obtaining a certain concession or exemption from primary tax, a taxpayer's circumstances change, triggering a reassessment under a provision specified in Category 2, Case A, in paragraph 11 of this public ruling.

Category 2, Case B—Carelessness or recklessness, with no reasonable care taken

5. A taxpayer enters into a taxable arrangement without knowing or endeavouring to find out whether or not a liability for tax arose as a result of the arrangement. The taxpayer did not seek advice or information from anyone on whether or not a liability for tax would be, or had been, triggered. The liability for tax was subsequently discovered during an investigation.

Variation

The taxpayer claims that, at the time the taxable arrangement was entered into, they sought professional advice from a solicitor on the state tax ramifications of the arrangement. However, when requested to do so by the Commissioner, the taxpayer was unable or unwilling to produce evidence of advice having been sought.

6. As for example 3, but during the investigation, the Commissioner discovers that the advice received by the taxpayer was based on incomplete information they provided to the agent. The

taxpayer's failure to provide all relevant information to the agent was inadvertent rather than deliberate.

Category 3, Case A—Deliberate tax default or intentional disregard of tax obligations

7. A taxpayer obtains an exemption from primary tax under a tax law on the basis that the conditions for the exemption had been satisfied. In fact, the taxpayer knew that the exemption conditions had not been satisfied.
8. An exempt institution obtains an exemption from primary tax for a taxable arrangement, after advising the Commissioner that conditions subsequent for the exemption would be satisfied. The taxpayer never intended to satisfy the conditions subsequent and did not do so.
9. A taxpayer enters into a taxable arrangement knowing tax applied. However, the taxpayer chooses to ignore that a liability for tax exists and fails to lodge the relevant documents or returns with the Commissioner.

Category 3, Case B—Avoidance arrangements

10. As for example 3, but during the investigation, the Commissioner finds sufficient evidence that the advice received by the taxpayer was for the taxable arrangement to be entered into as part of an arrangement to avoid tax.

Voluntary or similar disclosure examples

Voluntary disclosure before an investigation or before a prompt

11. A company employs a new accountant, who discovers that the previous accountant had erroneously calculated primary tax for a taxable arrangement for an incorrect, lower amount and notifies the Commissioner accordingly. The voluntary disclosure is made before the notification of an investigation or receiving a prompt from the Commissioner.
12. After obtaining an exemption or concession specified in paragraph 11 (Category 2, Case A) in this public ruling, the taxpayer's circumstances change, triggering the need for reassessment of the relevant liability for tax. The taxpayer notifies the Commissioner of the change in circumstances within the time specified under the tax law for notification.

Voluntary disclosure before an investigation and within 30 days of Commissioner's prompt

13. As for example 5, but before the taxpayer is notified of an investigation and within the timeframe of 30 days after they receive a prompt from the Commissioner, the taxpayer voluntarily discloses to the Commissioner that they have failed to comply with the tax obligation. The taxpayer provides sufficient information to the Commissioner to correctly determine the liability for tax. All outstanding tax liability and tax obligations are met as soon as possible

Disclosure immediately after an investigation

14. As for example 5, but within the timeframe specified in the written notification from the Commissioner that an investigation has commenced in relation to the taxable arrangement, the taxpayer writes to the Commissioner, providing all documentation and information necessary to enable the Commissioner to assess the liability for tax relating to the arrangement. (Provision by the Commissioner of further time for disclosure, when notifying a taxpayer of commencement of an investigation, does not result in the waiver of any disclosure obligation already imposed on the taxpayer by a tax law.)

Attachment 2

Penalty tax guideline summary

This attachment summarises the guidelines in Attachment 1 and further remissions referred to in paragraphs 21 to 25 in this public ruling. Percentages in this table are percentages of the shortfall amounts referred to in paragraph 3 of this ruling. That is, the percentages shown in this table reflect the rate at which penalty tax is applied, after all relevant remissions have been made. The percentages shown do not take into account any increase in penalty tax to be applied under s.58(3) of the Administration Act referred to in paragraph 14.

Category	Behaviour	Notification before notice of investigation and before prompt (%)	Notification before notice of investigation and within 30 days after prompt (%)	Notification before notice of investigation but more than 30 days after prompt (%)	Disclosure immediately ²² after being notified of an investigation (%)	No notification, or voluntary or similar disclosure (%)
1	Circumstances beyond control or reasonable care taken	0	0	0	0	0
2	Reassessments of certain exemptions and concessions (where Category 3 does not apply)	0	0	Case A – 10 Other cases – 5	20	25
3	Deliberate tax default or intentional disregard or certain avoidance arrangements	0	0	15	60	75

²² See paragraph 22 of this public ruling for an explanation of when disclosure will be taken to have been made immediately after the taxpayer is notified of commencement of an investigation.