
Guidelines on statutory rights and obligations of self assessors

The self assessor guidelines represent the published view of the Commissioner of State Revenue (the Commissioner) in relation to the management of the transfer duty self assessor framework.

What this document is about

1. The purpose of this document is to explain the rights and obligations under the *Duties Act 2001* (Duties Act) and the *Taxation Administration Act 2001* (Administration Act) of a self assessor who is required to lodge transaction statements with the Commissioner.
2. This document applies to self assessors for transfer duty registered under:
 - (a) Chapter 12, Part 2 of the Duties Act, on the basis that person is a party to particular instruments or transactions (a party self assessor)
 - (b) Chapter 12, Part 3 of the Duties Act, on the basis that person is an agent for parties to certain dutiable instruments or transactions (an agent self assessor).
3. For this document, 'self assessor' means a party self assessor or an agent self assessor.
4. A reference in this document to an 'instrument' includes a statement in an approved form, which is required by a provision of the Duties Act where a transaction is not effected or evidenced by an instrument; for example, a transfer duty statement required under s.18 of the Duties Act.
5. Information about offences and penalties is provided in *SA4—Guidelines for imposing penalty amounts on self assessors*.

Obligations

Lodgement and payment

6. A self assessor must:
 - (a) lodge a transaction statement, and documents required to accompany the statement, as required by their notice of registration, by the following date:
 - (i) for a party self assessor—30 days after the date on which liability for duty on the instrument or transaction arises¹

¹ Section 455A(2) of the Duties Act

- (ii) for an agent self assessor—the later of
 - A. 30 days after the date on which liability for duty on the instrument or transaction arises
 - or
 - B. 7 days after the self assessor receives all instruments and other documents relating to the instrument or transaction²
 - (b) pay to the Commissioner any duty, assessed interest³ and penalty tax⁴ (collectively, assessed tax) received by the self assessor by the due date—being 14 days after the transaction statement for the instrument or transaction is lodged⁵; or, if the amount is received after the due date, immediately after receiving the amount⁶
 - (c) stamp the instrument or electronic lodgement network (ELN) transaction document⁷ to which the transaction statement relates by endorsing it as required⁸
 - (i) not later than when the assessed tax on the instrument or transaction is paid to the Commissioner⁹—for a party self assessor
 - (ii) not later than when the assessed tax is paid by the self assessor to the Commissioner¹⁰—for an agent self assessor who receives the assessed tax on the instrument or transaction
 - (iii) within one day after the self assessor becomes aware that the assessed tax on the instrument has been paid to the Commissioner¹¹—for another agent self assessor.
7. An agent self assessor is not personally liable for assessed tax payable on an instrument or transaction recorded in a transaction statement unless they are a party to the instrument or transaction.
8. Failure to comply with the requirements outlined in paragraph 6 is an offence.¹² As an alternative to an offence, a penalty may be applied.¹³

² Section 455A(3) of the Duties Act. See s.471E(1)(a) of the Duties Act for when an agent self assessor 'receives' instruments and documents for the purposes of s.455A(3).

³ See s.54(4) of the Administration Act.

⁴ See s.58(1) of the Administration Act.

⁵ Section 30(1)(b) of the Administration Act

⁶ Section 35(b) of the Administration Act

⁷ See definition of 'ELN transaction document' in s.156D of the Duties Act.

⁸ Section 455A(4) of the Duties Act

⁹ Section 455A(1)(b)(i) of the Duties Act

¹⁰ Section 455A(1)(b)(ii)(A) of the Duties Act

¹¹ Section 455A(1)(b)(ii)(B) of the Duties Act

¹² Section 455A(1) of the Duties Act; s.35 of the Administration Act

¹³ Section 488 of the Duties Act

Assessment

9. When a transaction statement is lodged, an assessment is taken to have been made by the Commissioner for the taxpayer (as stated in the statement) for the amount that (based on the information stated in the statement) is the taxpayer's liability for tax.¹⁴
10. The transaction statement is taken to be an assessment notice for each assessment given to the taxpayer on the date of lodgement of the statement.¹⁵ Consequently, the rights of objection and appeal in Part 6 of the Administration Act apply.¹⁶
11. Payments received by the Commissioner are applied against costs, unpaid tax interest (UTI), penalty tax and duty in the order set out in the Administration Act.¹⁷
12. Generally, a self assessor who (under their notice of registration) is required to lodge transaction statements for particular instruments or transactions must not lodge an instrument or ELN transaction document for the transaction of that type for assessment by the Commissioner.¹⁸
13. Subject to paragraph 14, on written application from the self assessor, the Commissioner may make an assessment¹⁹ despite the fact that a taxpayer's liability for tax is required or permitted to be made by self assessment under a revenue law.²⁰ The Commissioner will consider applications on a case-by-case basis.
14. Commissioner assessment will not be contemplated unless there is material uncertainty in the law or the application of the law to the particular facts. This condition will not be satisfied if any of the following criteria apply:
 - (a) a private ruling is available under Public Ruling DA000.1—*Private rulings on unexecuted instruments or proposed transactions*
 - (b) the Commissioner has published relevant material on point
 - (c) the self assessor has not taken all reasonable steps to resolve the material uncertainty themselves, before seeking Commissioner assessment, including obtaining advice from third parties with relevant expertise.
15. The self assessor's application must specify:
 - (a) the material uncertainty in the law or application of the law to the particular facts, supported by any relevant evidence, statutory provisions or case law

¹⁴ Section 14A(a), (b) and (c) of the Administration Act

¹⁵ Section 14A(d) and (e) of the Administration Act

¹⁶ For more information regarding a taxpayer's objection and appeal rights, refer to Public Ruling TAA000.1.

¹⁷ Section 42 of the Administration Act

¹⁸ Sections 447 and 454 of the Duties Act

¹⁹ Note that applications for Commissioner assessment will not be entertained unless a liability for duty has arisen. See Public Ruling DA000.1 in which the Commissioner will provide a private ruling on unexecuted instruments or proposed transactions.

²⁰ Section 11(2) of the Administration Act

- (b) the steps the self assessor has taken to seek to resolve the relevant uncertainty before seeking Commissioner assessment, including but not limited to:
 - (i) consideration of the availability of private ruling
 - (ii) any Commissioner-published material considered, and the reasons why it was not considered to resolve the relevant uncertainty
 - (iii) research undertaken.
- 16. The self assessor's application must also include all instruments and other documents in relation to the transaction for which Commissioner assessment is sought, to which a relevant lodgement requirement would apply if Chapter 12A²¹ of the Duties Act did not apply.
- 17. A decision by the Commissioner to not make an assessment is a non-reviewable decision.²²

Stamping requirements—instruments and ELN transaction documents

- 18. An instrument or ELN transaction document is properly stamped if it is stamped in accordance with s.455A(1)(b) of the Duties Act.²³
- 19. The self assessor must stamp the instrument or ELN transaction document to which a transaction statement relates by endorsing it as follows²⁴:
 - (a) for an instrument or ELN transaction document for which duty is imposed
 - (i) a reference to the Act's short title (i.e. *Duties Act 2001*)
 - (ii) the self assessor's client number
 - (iii) the transaction number²⁵ for the instrument or ELN transaction document
 - (iv) the amount of any assessed tax (broken into components of duty, assessed interest and penalty tax) paid on the instrument or ELN transaction document
 - (v) the date the endorsement is made
 - (vi) the signature of the individual completing the endorsement where applicable²⁶
 - (vii) other matters stated in the self assessor's notice of registration
 - (b) for any other instrument—in the way stated in the self assessor's notice of registration.

²¹ Chapter 12A of the Duties Act—Provisions for parties to self assessable instruments or transactions

²² Section 11(3) of the Administration Act

²³ Section 491(1) and (1A) of the Duties Act. For when a self assessor is taken to have stamped an ELN transaction document, see s.455A(7) of the Duties Act.

²⁴ Section 455A(4) of the Duties Act

²⁵ See definition of 'transaction number' in Schedule 6 of the Duties Act.

²⁶ Sub-paragraph (vi) does not apply to an ELN transaction document—see s.455A(5) of the Duties Act.

20. A self assessor must not endorse an instrument unless:
- (a) the assessed tax has been paid to the Commissioner²⁷—for a party self assessor
 - (b) the assessed tax has either been received by the self assessor or paid to the Commissioner²⁸—for an agent self assessor.
21. The stamping of an instrument by a self assessor in circumstances other than those outlined in paragraph 20 is an offence.²⁹ As an alternative to an offence, a penalty may be applied.³⁰
22. A self assessor must not endorse an ELN transaction document for an ELN transfer³¹ or ELN lodgement³² on the basis that s.22(2) of the Duties Act applies to the ELN transfer or ELN lodgement unless the duty amount for the agreement for the transfer of dutiable property has been:
- (a) paid to the Commissioner³³—for a party self assessor
 - (b) received by the self assessor or paid to the Commissioner³⁴—for an agent self assessor.
23. A self assessor must not endorse an ELN transaction document for an ELN transfer on the basis that s.22(2A) of the Duties Act applies to the ELN transfer unless a payment commitment³⁵ has been made for the relevant transfer agreement.³⁶
24. The stamping of an instrument by a self assessor in circumstances other than those outlined in paragraphs 22 and 23 is an offence. However, a self assessor does not commit an offence where they endorse an ELN transaction document for an ELN transfer or ELN lodgement and either:
- (a) the ELN transfer becomes an incomplete ELN transfer as defined in Chapter 2, Part 15 of the Duties Act³⁷—for an ELN transfer
- or
- (b) the ELN lodgement becomes an incomplete ELN lodgement as defined in Chapter 2, Part 15 of the Duties Act³⁸—for an ELN lodgement.
25. As an alternative to an offence, a penalty may be applied.³⁹

²⁷ Section 480(1)(a) of the Duties Act

²⁸ Section 480(2) of the Duties Act

²⁹ Section 480 of the Duties Act

³⁰ Section 488 of the Duties Act

³¹ See definition of 'ELN transfer' in s.156D of the Duties Act.

³² See definition of 'ELN lodgement' in s.156D of the Duties Act.

³³ Section 480A(1)(a) of the Duties Act

³⁴ Section 480A(1)(b) of the Duties Act

³⁵ Section 156N of the Duties Act

³⁶ Section 480A(2) of the Duties Act

³⁷ Section 480A(3)(b)(i) of the Duties Act

³⁸ Section 480A(3)(b)(ii) of the Duties Act

³⁹ Section 488 of the Duties Act

26. When a person (the endorser) who is a self assessor—or an officer or employee of a self assessor—endorses an instrument or ELN transaction document⁴⁰:
- (a) they must not incorrectly state the self assessor's client number or transaction number on the instrument or ELN transaction document
 - (b) they must not incorrectly state the amount of duty, assessed interest or penalty tax paid on the instrument or ELN transaction document
 - (c) the endorsement must not contain other information that they know, or should reasonably know, is false or misleading in a material particular
 - (d) they must not obscure all or part of the endorsement or otherwise make all or part of the endorsement illegible.
27. Failure to comply with the requirements set out in paragraph 26 is an offence.⁴¹ As an alternative to an offence, a penalty may be applied.⁴²
28. The endorser does not commit an offence under paragraph 26(b) in relation to an endorsement made on an ELN transaction document for an ELN transfer only because:
- (a) the endorsement was made on the basis that s.22(2A) of the Duties Act applied to the ELN transfer
- and
- (b) when the endorsement was made the commitment amount⁴³ for the payment had not been paid to the Commissioner.⁴⁴

Unpaid tax interest (UTI)

Imposition

29. UTI is simple interest, which accrues at the prescribed rate⁴⁵ on any amount of duty that is paid late or underpaid, including due to late lodgement of information necessary to assess liability.⁴⁶
30. The person or persons liable for the unpaid duty amount will also be liable for any UTI that will accrue on that amount.
31. UTI that has accrued when a transaction statement is lodged must be included in the statement (and will therefore be assessed interest).⁴⁷

⁴⁰ Section 481A of the Duties Act

⁴¹ Section 481A of the Duties Act

⁴² Section 488 of the Duties Act

⁴³ Section 156N(1)(b) of the Duties Act

⁴⁴ Section 481A(3) of the Duties Act

⁴⁵ Section 8(1) of the Taxation Administration Regulation 2012. The current rate is available from www.qld.gov.au/qro.

⁴⁶ See s.54 of the Administration Act.

⁴⁷ Section 54(4) of the Administration Act

Remission

32. The Commissioner may remit all or part of UTI.⁴⁸
33. A self assessor may remit all or part of UTI only if expressly authorised to do so by their notice of registration.⁴⁹

Penalty tax*Imposition*

34. Penalty tax is imposed on the making of a reassessment in certain circumstances.⁵⁰
35. A self assessor can make a reassessment only if expressly authorised to do so by their notice of registration, and if they are satisfied the duty imposed under a self assessment is not correct.⁵¹
36. Any penalty tax payable in relation to an instrument or transaction recorded in a transaction statement must be included in the statement.

Remission

37. The Commissioner may remit all or part of penalty tax.⁵²
38. A self assessor may remit all or part of penalty tax only if expressly authorised to do so by their notice of registration.⁵³

Service of notices

39. In the event that the Commissioner determines there is an additional amount payable (whether for duty, UTI or penalty tax) on a self assessment, the Commissioner may issue a reassessment or otherwise demand payment of the amount, together with a request to lodge the relevant instrument.
40. Where the self assessment was included in a transaction statement lodged by an agent self assessor, the reassessment or demand in paragraph 39 will issue to the parties to the instrument or transaction via the self assessor.

Mark Jackson
Commissioner of State Revenue
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⁴⁸ Section 60(1) of the Administration Act

⁴⁹ Sections 445(2)(i) and 452(2)(i) of the Duties Act

⁵⁰ Section 58 of the Administration Act

⁵¹ Section 456 of the Duties Act and s.24 of the Administration Act

⁵² Section 60(1) of the Administration Act

⁵³ Sections 445(2)(i) and 452(2)(i) of the Duties Act