



Queensland Government – Late Payment Policy

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1. Purpose

On 24 June 2013, Cabinet approved implementation of the *Late Payment Policy*, where government will pay penalty interest to small business for all bills on contracts up to \$1 million paid greater than 30 calendar days on a correctly rendered undisputed tax invoice. Suppliers will be required to provide notice of late payment. The election commitment is published in the *Queensland Small Business Strategy and Action Plan 2013-15* on 16 May 2013.

2. Authority

This policy is derived from Cabinet decision No 579.

3. Application

This policy applies to all Queensland Government Departments.

4. Policy statement – Late Payment Policy

4.1. Contracted Payments

All eligible contracted payments must be paid within thirty (30) calendar days on correctly rendered undisputed tax invoices from 1 July 2013.

4.1.1. Correctly rendered, undisputed tax invoices

The following details outline the requirements of a correctly rendered, undisputed tax invoice:

- A tax invoice is defined in the A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth).
- A correctly rendered tax invoice implies that goods and services have been supplied to an acceptable standard in conjunction with the particulars of the contract in accordance with financial management requirements.
- If a tax invoice is in dispute, the date the tax invoice becomes subject to the 30 calendar day payment rule is the date that the tax invoice becomes undisputed by both the department and supplier.
- An undisputed tax invoice is a tax invoice where there are no outstanding issues in relation to the supply of goods and services.

4.1.2. Contracts

The elements that must be present for a legally enforceable contract are:

- Intention to create legal relations;
- Genuine consent;
- Consideration;
- Capacity; and
- Legality.

If the value of a contract is not known, for example if goods and services are procured under a standing offer, it is assumed for the purposes of this policy that the value of the contract is less than \$1 million.

4.2. Interest penalty to small business

For bills dated 1 July 2013 and thereafter; where payments to small business on eligible contracts up to \$1 million (GST inclusive) are not made within 30 calendar days on correctly rendered undisputed tax invoices, departments are required to pay interest penalty to small business for the number of days the bill remains unpaid between the payment date and calculation date.

4.2.1. Small business

A small business is defined as an entity that employs less than 20 employees in accordance with the Australian Bureau of Statistics definition of a small business utilised by the Department of Tourism, Major Events, Small Business and the Commonwealth Games.

Small businesses must self identify at the time of claim and complete a declaration to confirm they are a small business in accordance with the particulars of a small business as defined by the Australian Bureau of Statistics.

4.2.2. Interest penalty

Penalty interest will be paid at the Unpaid Tax Interest and Penalty rate published by the Office of State Revenue in accordance with Section 54 of the Taxation Administration Act 2001 (Queensland).

Interest penalty will not be paid where the amount of interest penalty is less than \$20. Interest penalty is a financial supply and therefore GST free for taxation purposes.

4.2.3. Calculation of interest penalty

The following is an example of how the calculation of interest penalty may be applied:

- A department has received a correctly rendered invoice for value of \$200,000 on a procurement contract and payment is made 35 days after the tax invoice (calculation date).
- The supplier issued the correctly rendered tax invoice.
- Payment was 5 days late.
- The UTI rate of interest is 10.82%.
- Interest penalty is calculated on a daily rate (UTI x Principal x (days paid late / 365)).
- Interest penalty in this example is \$296.44 ($\$200,000 \times 0.1082 \times (5/365)$).

4.3. Notice and claim requirements

Small business is required to provide notice of late payment and make a claim for interest penalty. Departments will assess these claims in a timely manner and pay penalty interest where departmental payment performance is the cause of late payment.

4.3.1. Claim and payment of interest penalty

A small business is required to submit a claim for payment of interest penalty and these must be actioned by departments as soon as practicable after the notice of late payment has been received. Where departments assess that a small business is not entitled to penalty interest they will provide notification to the small business explaining the reasons why the claim is not valid.

Claims will be made at www.business.qld.gov.au/late-payment.

4.3.2. Standard Queensland Government exemptions from the payment of late penalty interest

The following payment exemptions have been approved as standard for Queensland Government in relation to the payment of late penalty interest:

- Payments to non-small business suppliers;
- Payments on contracts with payment terms of greater than 30 days;
- Payments due during compulsory Christmas and New-Year closure periods;
- Payments not able to be made due to an event that makes approval and processing of payments not possible (for example a natural disaster).

4.3.3. Department specific exemptions from the payment of late penalty interest and reporting requirements

All Chief Executive Officers are required to approve department specific payment exemptions from the Late Payment Policy and authorise their publication along with the reason for exemption.

Department specific exemptions must be published centrally on the website hosting the claim form for ease of access by our small business suppliers.

All departments are to record details of the total amount of interest penalty paid to small business and the total percentage of late payments made on a quarterly basis on the Queensland Government open data site.

4.3.4. False claims and applications

Where it is determined that a false application or claim for late payment has been made, in addition to ordinary contractual arrangements, departments may undertake the following:

- Refuse the application;
- Recover the payment made under the Late Payment Policy from the supplier, including the department off-setting payments made to the small business against future payments.

4.3.5. Red tape

Departments are to ensure that their interface with the business sector does not impose unnecessary red tape on small business.

Where there are issues in the quality of paperwork submitted by small business to departments and these bills are in dispute, departments should endeavour to resolve issues without requirement for issue of credit notes and tax invoice reissues.

5. Responsibilities

Chief Executive Officers have the responsibility to approve:

- Department specific exemptions to this policy, including reasons for such exemptions.

6. Delegations

There are no delegation requirements under this policy.

7. Complaints and appeals

Departments are to establish a complaints and appeals process to handle any issues associated with late payments to small business and ensure that complaints are finalised in a timely manner.

8. Reporting requirements

The following information is required to be reported and published on the Queensland Government open data site by each department on a quarterly basis:

- total amount of interest penalty paid to small business and the total percentage of late payments made on a quarterly basis.

9. Approval

Approved by Andrew Garner, **Director-General**, Department of Science, Information Technology, Innovation and the Arts on 9 July 2013.

Attachment 1: Contacts

Policy Lead

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Attachment 2: Definitions

Terms	Definitions
Small Business	A small business is defined as an entity that employs less than 20 employees in accordance with the Australian Bureau of Statistics.
Correctly Rendered Tax Invoice	A correctly rendered tax invoice implies that goods and services have been supplied to an acceptable standard in conjunction with the particulars of the contract in accordance with financial management requirements.
Red tape	Red tape is excessive regulation or rigid conformity to formal rules that is considered redundant or bureaucratic and hinders or prevents action or decision-making.
Calculation Date	The calculation date is 30 days from the tax invoice date, unless the tax invoice is in dispute. If the tax invoice is in dispute the calculation date will become the date the rendered tax invoice becomes undisputed by both the Department and supplier. If the Department deems that the invoice has been received from the supplier in an unreasonable timeframe this invoice should be treated as in dispute.
Payment Date	Date payment issued by Agency.
Unpaid Tax Interest and Penalty rate	If tax is not paid by its due date or delayed because of a failure to lodge documents, interest will accrue until the entire tax and interest is paid in full.

Attachment 3: References

- Queensland Small Business Strategy and Action Plan 2013-15

(<http://www.dtesb.qld.gov.au/small-business/queensland-small-business-strategy-and-action-plan-2013-2015>)

- Queensland Government Open Data Site

(<https://data.qld.gov.au/>)

- Unpaid Tax Interest and Penalty rate published by the Office of State Revenue

(<https://www.osr.qld.gov.au/legislation-rulings/general/uti-penalty.shtml>)