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# Passenger Service Levy Compromise Assessment Policy

## 1. Purpose

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Whilst a taxpayer's passenger service levy liability (levy liability) is usually based on the actual number of passenger service transactions carried out, there are circumstances in which levy liability can be otherwise assessed. This policy sets out the circumstances in which the Point to Point Transport Commissioner (the Commissioner) can make a compromise assessment of levy liability.

## 2. Mandatory requirements

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Section 12 of the *Taxation Administration Act 1996* (Tax Act) in conjunction with clause 9(3) of Schedule 4 of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, enables the Commissioner, with the agreement of the taxpayer, to make a compromise assessment in the following circumstances:

- if it is difficult or impractical to determine a person's levy liability without undue delay or expense because of the complexity or uncertainty of the case, or for any other reason
- for the purposes of settling a dispute between the Commissioner and a taxpayer concerning the taxpayer's levy liability (whether or not a previous assessment has been made).

A compromise assessment is to be issued in a form approved by the Commissioner: section 14 of the Administration Act.

### 2.1 When to issue a compromise assessment

The taxpayer's agreement to the levy amount must be obtained before a Notice of Compromise Assessment can be issued, unless the assessment was procured by fraud or a deliberate failure to disclose information. In circumstances of fraud or deliberate failure to disclose, a compromise assessment can be made in the absence of the taxpayer's agreement: section 12(3)(b) of the Administration Act.

A compromise assessment will usually be issued as a reassessment following an objection but can result from an initial assessment.

It would be appropriate to obtain a taxpayer's agreement to issue a compromise assessment if determining the number of actual passenger service transactions for a specific assessment period:

- would cause undue delay or expense because of the complexity or uncertainty of the case
- involves a service provider who is not authorised and has not retained adequate records
- has resulted in a dispute about levy liability that cannot be readily resolved.

A separate Notice of Compromise Assessment is to be issued for each assessment period that requires an assessment by way of compromise.

## 2.2 Authority to consider a compromise assessment

The Manager, Authorisation and Levy Administration will decide if it is appropriate to determine the levy liability for a specified assessment period by way of a compromise assessment if the assessment is:

- the initial assessment for that assessment period
- results from an Objection to an automatically generated initial assessment.

If the option to issue a compromise assessment arises as a result of an Objection to a levy assessment amount that had been manually determined by the Manager Authorisation and Levy Administration, then the Manager Sanctions will determine if it is appropriate to determine the levy liability by way of a compromise assessment.

The Determining Objections to Assessments of Levy Liability Procedure will apply to any reassessment determined by way of a compromise assessment.

The reasons for the decision to seek agreement for a compromise assessment must be documented in the relevant Salesforce account.

## 2.3 Negotiating an agreement with a service provider

A taxpayer is to be contacted by telephone to negotiate an agreement for determining their levy liability by way of a compromise assessment. The process by which a compromise assessment would be made also needs to be outlined as part of this negotiation.

Each step of the negotiation process must be approved by the relevant team Manager prior to the taxpayer being approached. Detailed records of all approvals for proposed levy amounts and subsequent conversations with the taxpayer must be recorded in the relevant Salesforce account.

Once a levy liability for a specific assessment period has been agreed with the taxpayer, the liability agreed, the relevant assessment period and the date the agreement is reached, must be noted. The taxpayer will then receive written confirmation of the agreed levy liability by way of the Notice of Compromise Assessment that is issued for the specific assessment period.

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[Redacted content]

### 2.5 No right of review

A taxpayer cannot lodge an objection in respect to a compromise assessment: section 86(2)(a) of the Tax Act.

## 3. Accountabilities

Functions relating to compromise assessments are generally performed by staff in the Operations branch of the Commission under delegation from the Commissioner.

## 4. Breaches of this policy

TfNSW may commence applicable disciplinary action if a person to whom this Policy applies breaches this Policy (or any of its related Procedures), including termination of employment and if fraudulent, criminal charges.

## 5. Document history

Date & Policy No	Approved by	Amendment Notes
19 April 2018 OP18011	Point to Point Transport Commissioner	Approved
12 October 2018 OP18011	Point to Point Transport Commissioner	Approved for website publication