

Subject: Treatment of an amount of levy overpaid or an amount of levy (including interest penalty) underpaid

References: *Construction Industry Long Service Leave and Benefits Act:*

Section 32 – Imposition of levy
Section 33 – Amount of levy
Section 34 – Who must pay levy
Section 37 – Cost of construction work
Section 42 – Disclosure of information
Section 45 – Interest payments
Section 46 – Assessment of levy
Section 47 – Recovery of levy
Section 48 – Board's power to extend time for payment etc.
Section 70 – Money of Board
Section 71 – Account keeping etc.
Section 72 – Refund or additional payment

Replaces: Policy number 03-2007 issued on 11/12/07

Policy: As the levy is payable in advance, the initial amount for calculating the levy payable is based on a payer's self-assessment of the estimated total cost of the construction work. Generally, the total cost for the work is determined by the total contract prices for all the construction contracts in relation to the work. In accordance with section 37 of the Act, a "construction contract" has the same meaning as in the *Construction Contracts (Security of Payments) Act*.

If a payer is unable or unwilling to self-assess the levy payable, or the Registrar is does not accept the amount notified, the Board will decide the levy payable in accordance with the Act. For example, in cases where there is no contract price for the work, the Board may need to determine the cost of the construction work for levy calculation purposes.

At the date of practical completion of the project, a reconciliation of the actual total cost of construction will be required.

Refund of an amount of levy overpaid

Where, at the end of the construction project, the reconciled cost of the project results in the actual cost being less than the original estimate, NT Build will refund the overpaid portion of the levy payment.

This includes a full refund where:

- For projects commenced before 7 April 2014, the reconciled total cost of the construction project is determined to be less than \$200,000.00.
- For projects commenced on or after 7 April 2014, the reconciled total cost of the construction project is determined to be less than \$1 million.

Likewise, if a construction project is subsequently cancelled after the levy has been paid the payer may be eligible for either a full or partial refund of the levy payment. In this circumstance NT Build should be advised in writing of the actual cost of the work, if any, quoting the original Invoice number.

Payment of an amount of levy underpaid

Upon reconciliation at the end of the project, if the total cost of construction is more than the amount originally notified to the Board, the payer will be required to pay an additional amount of levy.

If the original estimate of the cost of a construction project was less than the applicable leviable threshold (ie; \$200,000 for projects commenced pre 7/4/14 regardless of completion date or \$1million for projects commenced post 6/4/14 regardless of completion date), no levy payment would have been payable at the commencement of the project.

However, if the actual final cost of the project is ultimately more than the applicable leviable threshold noted above, the project becomes notifiable and the full levy amount is payable immediately.

Unless the Board approves otherwise, were a levy payment under an approved instalment plan is defaulted, the total outstanding balance of the estimated levy amount becomes payable immediately and will be recovered by the Board.

Payment of an amount of interest penalty on unpaid levy

Any amount of interest penalty that has been applied to an unpaid levy payment is payable and will be recovered by the Board.

Formula for calculating reconciled levy amount

$$\begin{array}{r}
 \text{*Total cost of} \\
 \text{construction} \\
 \{ \text{work,} \} \\
 \text{(GST} \\
 \text{inclusive)} \\
 \\
 \text{x} \\
 \\
 \text{Current} \\
 \text{Approved} \\
 \text{levy rate} \\
 \\
 \text{=} \\
 \\
 \text{\#Full Levy} \\
 \text{payment} \\
 \text{due} \\
 \text{(GST} \\
 \text{exempt)} \\
 \\
 \text{-} \\
 \\
 \text{Levy} \\
 \text{amount} \\
 \text{paid to} \\
 \text{date} \\
 \\
 \text{=} \\
 \\
 \text{[negative} \\
 \text{amount] Levy} \\
 \text{refund owed} \\
 \\
 \text{[positive} \\
 \text{amount]} \\
 \text{additional levy} \\
 \text{amount} \\
 \text{payable}
 \end{array}$$

* use actual cost or Board determined amount as appropriate

rounded to the nearest dollar (with 50c to be rounded downwards)

This is intended as a guide only and is not intended to bind the Board to any particular action or decision on the treatment of overpaid or underpaid levy amounts for the purpose of reconciling total cost of construction work.

Date Authorised: 19 June 2014