

**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 04-2014 issued on 19/06/14

**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 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.

#### **Further construction work post practical completion**

From time to time, further construction works, such as design modifications, may need to be carried out shortly after the project is completed and the reconciliation form

submitted. These works are generally considered to form part of the initial project construction cost (rather than forming a separate construction project) and the levy payer will be required to contact NT Build to advise of the additional construction cost, so a further reconciliation form can be completed, with the additional levy amount payable immediately.

**Payment of an amount of penalty interest on unpaid levy**

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

**Formula for calculating reconciled levy amount**

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

\* 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:**

Michael Martin OAM  
 Chairperson NT Build

20 October 2021