

# Penalty Policy for Assessments of Parking Tax Due



**BULLETIN 005**

## *TransLink Tax Bulletin*

Issued by the South Coast British Columbia Transportation Authority ("TransLink")  
under the South Coast British Columbia Transportation Authority Act

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This bulletin provides specific information about the application of penalties to Parking Tax.

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## **Overview**

Under the *South Coast British Columbia Transportation Authority (SCBCTA) Act*, TransLink is responsible for the administration, enforcement and collection of the tax on sales of commercial parking rights. All Parking Tax collected must be remitted to TransLink on a regular basis.

To ensure that all Parking Tax due is paid or remitted to TransLink, a number of compliance initiatives are employed. Where it is found that tax has not been collected, paid, or remitted as required under the *SCBCTA Act*, TransLink may issue an assessment for the tax due.

In addition to assessing the taxpayer for the amount of Parking Tax which should have been paid or remitted but was not, TransLink may also impose interest and a penalty. The Parking Tax Regulations have established provisions to charge interest on all assessments. A penalty is also imposed where the facts indicate that the taxpayer had knowledge of the liability, was previously advised of the proper tax application, or consciously decided not to pay or remit the tax.

## Definitions

### TAX ASSESSMENT

A notice from Parking Tax Services of the amount of tax owed to TransLink. This notice represents Parking Tax that should have been remitted or paid to TransLink but was not, as well as any penalty or interest charges imposed.

### AUDIT

A formal examination of an individual's or business' financial records or accounts to ensure that Parking Tax has been remitted or paid as required under the *SCBCTA Act*.

## No Penalty

### INADVERTENT NON-COMPLIANCE

No penalty is imposed on most first assessments where there is no previous history of the taxpayer having been assessed for the same error, or no indication that the taxpayer was aware of the Parking Tax liability.

The following are examples of tax assessments where a penalty would not be imposed.

- The assessment arises from a first audit or inspection of a business. There are no indications of intent to avoid tax, and the vendor has no previous history of non-compliance. For example, a registered vendor has recorded the Parking Tax collected on an invoice, but inadvertently posted the Parking Tax to a revenue account.
- The assessment is issued to an individual for Parking Tax that should have been collected and remitted on a single parking rights sale, and there is no evidence of willful evasion of tax.

## 10% Penalty

### KNOWLEDGE OF THE LIABILITY

A 10% penalty will be applied on first assessments where the facts indicate that the taxpayer was aware of the Parking Tax liability, but failed to remit or pay the tax.

The following are examples of circumstances which would result in a 10% penalty on a first assessment.

- Recurring misposting of Parking Tax collected to a revenue account.
- Failure to remit the full amount of the Parking Tax due as indicated on the Parking Tax Return form. Because the tax due is indicated on the form, the seller has consciously decided not to remit the full amount due.
- Failure to remit Parking Tax collected or payable which is accumulated in the business' records (e.g. the general ledger account, sales journal or other form of accounting record).

### **REPEAT NON-COMPLIANCE**

A 10% penalty applies to assessments where the taxpayer was previously advised of the noncompliance (e.g. underpayment or late filing of the Parking Tax Return), and as a result of a subsequent audit or assessment, is assessed again for noncompliance.

For example:

- Tax return and payment are submitted after the due date by a business that has already been advised of a previous late filing within the 12-month rotating period.
- Tax return is not paid in full by the due date by a business that has already been advised of a previous underpayment of their return.
- Tax remittance or payment procedures are not corrected after a first assessment.

## **25% Penalty**

### **FALSE OR DECEPTIVE STATEMENT**

A 25% penalty applies if the facts show that the taxpayer knew of the liability and makes a conscious or willful decision not to pay the Parking Tax. For example:

- A seller who consistently improperly exempt purchasers from Parking Tax, when tax should have been applied on the sale of parking rights, despite a previous warning and a 10% penalty.
- Tax on parking rights sales has been set up in the tax liability account, but, despite a previous penalty, the vendor has not reported and remitted the Parking Tax which is overdue.

## **100% Penalty – Tax Collected But Not Remitted**

### **FUNDS HELD IN TRUST FOR TRANSLINK**

Parking Tax collected are deemed to be funds held in trust for TransLink. A 100% penalty applies where a person has wilfully failed to remit tax collected for TransLink.

The following are examples of situations where a 100% penalty applies.

- A vendor, not registered to sell parking rights under the *SCBCTA Act*, has consistently collected Parking Tax and wilfully not reported and remitted the tax collected.
- A vendor, registered to sell parking rights under *SCBCTA Act*, has consistently collected Parking Tax and wilfully not reported and remitted the tax collected, or consciously understated the tax which has been collected.

## **Warning Letters**

A warning letter is issued to all vendors who receive an assessment on which no penalty is imposed. The warning letter advises the vendor of the correct application of tax and warns of the penalties for repeat non-compliance. For more information on the penalties for repeat non-compliance, please see the section above, *Repeat Non-Compliance*.

A warning letter previously addressed to a senior officer of a company who, by the time of the second assessment, is no longer with the company, is still valid. In such a situation, the company is liable for a 10% penalty if the same type of error is found during a subsequent audit.

A warning letter issued as a result of an audit of one division of a company applies to the whole company. Therefore, if a subsequent audit of another division of the same company results in an assessment for the same type of error as in the first audit, the 10% penalty will apply.

A warning letter only applies to the legal entity that it has been issued to. Therefore, if a business becomes a new legal entity, any warning letter issued as a result of a previous audit will not apply to the new business, even if the new business retains the original management staff. A new legal entity is formed when, for example, a business incorporates or its existing assets and operations are purchased by another company.

If an amalgamation between two companies occurs, a warning letter issued to either of the original companies would apply to the amalgamated company.

## **Voluntary Disclosure of Tax Liabilities**

### **INTEREST BUT NO PENALTIES**

A vendor who makes a voluntary disclosure of a Parking Tax liability will not be subject to penalty or prosecution provided the following conditions are met:

- vendor makes a voluntary disclosure of the Parking Tax due;
- vendor remits the overdue amount plus interest; and
- vendor has not been contacted by TransLink for audit, inspection, or tax collection purposes prior to making this disclosure.

A disclosure made by a company after TransLink has been in contact with an associated corporation for audit, inspection, or tax collection purposes may not qualify as a voluntary disclosure. The disclosure will be accepted without penalty only where the facts indicate that enforcement action with respect to the associated corporation did not lead to the disclosure.

### **Need More Information?**

Telephone:

**(778) 375-7829** Mon–Fri 8:00am to 4:00pm

E-mail:

**parkingtax@translink.ca**

Website:

**translink.ca/parkingtax**

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation. Any conflict or inconsistency between applicable legislation and this bulletin will be resolved by referring to applicable legislation. Access to the *South Coast British Columbia Transportation Authority Act* and Regulations are available on our website at **translink.ca/parkingtax**.

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