

- (b) in any other case, for a penalty equal to twenty-five per cent of the amount of tax payable by the taxpayer for the tax period to which the failure relates.

234. Penalty for making false or misleading statements

(1) This section applies to a person –

- (a) who makes a statement to a revenue officer that is false or misleading in a material particular or omits from a statement made to a revenue officer any matter or thing without which the statement is false or misleading in a material particular; and
 (b) the tax liability of any person computed on the basis of the statement is less than it would have been if the statement had not been false or misleading (the difference being referred to as the “tax shortfall”).

(2) Subject to subsection (3), a person to whom this section applies is liable–

- (a) if the statement or omission was made knowingly or recklessly, for a penalty equal to one hundred per cent of the tax shortfall; or
 (b) in any other case, for a penalty equal to twenty-five per cent of the tax shortfall.

(3) No penalty is payable under subsection (2) if–

- (a) the tax shortfall arose as a result of a taxpayer taking a reasonably arguable position on the application of this Act to the taxpayer's position; or
 (b) the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular.

(4) Nothing in subsection (3) prevents the imposition of interest under section 229 in respect of a tax shortfall if the tax is not paid by the due date.

(5) A reference in this section to a statement made to a revenue officer is a reference to a statement made in writing or orally to an officer acting in the performance of the officer's duties under this Act, and includes a statement made –

- (a) in any application, certificate, declaration, notification, tax return, objection, or other document furnished or lodged under this Act;

(b) in any information required to be furnished under this Act;

(c) in any document furnished to a revenue officer otherwise than pursuant to this Act;

(d) in answer to a question asked of a person by a revenue officer; or

(e) to another person with the knowledge or reasonable expectation that the statement would be passed on to a revenue officer.

235. Imposition of penalty

(1) The liability for penalty shall be calculated separately for each section in this Sub-Part.

(2) If a penalty has been paid under this Sub-Part and the Commissioner-General institutes a prosecution proceeding under Sub-Part III of this Part for the same act or omission, the Commissioner-General shall refund the amount of penalty paid, and the penalty is not payable unless the prosecution is withdrawn.

(3) The Commissioner-General shall make an assessment of any penalty imposed under this Sub-Part and serve a notice of the assessment on the person subject to the penalty, which notice must state the amount of penalty payable and the due date for payment.

(4) A person liable to pay a penalty may apply, in writing, to the Commissioner-General for remission of the penalty payable.

(5) The Commissioner-General may, on an application under subsection (4) or of the Commissioner-General's own motion, remit, in whole or part, any penalty payable by a person.

Sub-Part III - Offences

236. Failure to lodge a tax return or other document

A taxpayer who fails to furnish a tax return or other document as required under this Act commits of an offence and is liable on conviction to a fine not exceeding fifteen thousand dalasis or one per cent of the tax due per day, the aggregate of whichever is the greater.