

Example

Richard has deliberately not included some income in his return. After an ATO audit, he was found to have not included \$50,000 for two consecutive years. Administrative penalty is imposed for the first year at the rate of 75% of the tax avoided. Richard will also be liable to pay GIC in relation to the underpaid tax.

In relation to the second year, the Commissioner decided to prosecute Richard for recklessly making false and misleading statements. Administrative penalty in respect of the shortfall is therefore not payable for the second year. But note that, if convicted, Richard could be ordered by the court (for a first offence) to pay up to double the amount of tax sought to be avoided.

Company officers

An officer of a company, such as a director or secretary, is liable to be prosecuted for a taxation offence committed by the company as if the person had committed the offence, although the Commissioner will usually institute prosecution action against the company rather than the officer.