Paying PAYG instalments

Key points

Until the head company of a group is given an instalment rate worked out from its first consolidated income tax return, member entities continue to pay PAYG instalments as if they were not consolidated.

- Member entities can vary their instalments – however, this could have consequences for the head company of the group, and both the head company and subsidiary member should carefully consider the basis on which any variation is made.

When the head company lodges the first consolidated income tax return, the ATO calculates an instalment rate for the head company using information on the return.

- Head companies with a base assessment instalment income of $1 million or less retain the option to pay an instalment amount calculated by the ATO.
- The right to vary PAYG instalments on the basis of projected outcomes continues to be available.

The pay as you go (PAYG) system for paying income tax instalments is modified to ensure the benefits of single entity tax treatment extend to income tax instalments payable by head companies of consolidated groups.

Formation arrangements

Until the first consolidated income tax return is lodged and the head company receives its consolidated instalment rate, member entities continue to pay PAYG instalments as if they were not consolidated.

During the formation period, the head company is entitled to a credit for PAYG instalments payable by a subsidiary member of the group after the joining time of that member. The amount of the credit takes account of the period in which a subsidiary member is actually a member of the group and the extent to which the instalment period falls within the head company's income year.

Any unpaid instalments of members remain the liability of those members.

Note

Instalment income

During the period that member entities continue to pay PAYG instalments, they calculate their instalment income as though they were not members of a consolidated group.

For example, they continue to include income derived from intragroup transactions, even though such income is not assessable to the member entity or the head company. This is because the entity's instalment rate, which was worked out from an assessment for an income year when the entity was not a member of a consolidated group, takes into account intragroup transactions in that income year.

Varying

Entities retain their existing right to vary their instalments. However, this could have consequences for the head company of the group, and both the head company and subsidiary member should carefully consider the basis on which any variation is made.

If any member varies an instalment, the instalments of all members will be considered on a group basis. The head company of the group may be subject to a general interest charge in relation to the instalments payable by the group's members for a particular instalment quarter if the group's instalments for that quarter are less than 85% of one-quarter of the head company's benchmark tax. (Generally, the head company's benchmark tax is its assessed tax reduced by any tax attributable to any net capital gains that are included in its assessable income.)

This means that if any entity varies an instalment, the 'protection' of using the ATO instalment rate or amount is effectively removed for the head company of the group.

Ongoing arrangements

After the head company lodges the group's first consolidated income tax return, the ATO calculates an instalment rate for the group based on the head company's return. The group is then a 'mature group' and the head company pays PAYG instalments on a consolidated basis from the beginning of the instalment quarter in which the ATO issues the rate. The head company receives a separate activity statement to pay these instalments. (For an example of the new *Consolidated activity statement* → C8-2-110.)

The instalment rate is calculated on the same basis as for an unconsolidated company, with one exception: when the adjusted taxable income of the head company is calculated, instead of automatically taking account of the amount of any carry-forward tax loss, the lesser of the following amounts is taken into account:

- the amount of any carry-forward tax loss, and
- the amount of any tax loss deducted in the base year.

If the group's base assessment instalment income is $1 million or less, the ATO also calculates the group's GDP-adjusted notional tax. The head company would have the option of paying an instalment, calculated by the ATO, based on this amount. (Generally, the head company's base assessment instalment income is the gross business and investment income shown in its latest income tax return.)

Note

Availability of options

The *Consolidated activity statement* for the first quarter of an income year shows the payment option or options available to the head company. The head company can use only one option in an income year. Therefore, if the first *Consolidated activity statement* is for a quarter other than the first quarter of the head company's income year, only one option will be available – the option that was used by the head company in previous quarters of that income year.

→ 'Completing the *Consolidated activity statement*', C8-2-110

A head company is able to vary its consolidated instalment based on its estimate of the expected consolidation outcomes for the year. It is liable for a penalty if:

- it uses the *instalment rate x instalment income* method and the varied instalment rate is less than 85% of the head company's benchmark instalment rate for that income year, or
- it uses the GDP-adjusted instalment amount method and the varied amount is based on an estimate that is less than 85% of the head company's benchmark tax.

A head company of a mature group must pay quarterly instalments. These instalments are due on or before 21 days after the end of the instalment quarter.

If there has been a change to the membership of a mature group, the ATO may give the group a new instalment rate or GDP-adjusted instalment amount to reflect the change in membership. The new rate or amount may be lower or higher. The ATO may give a new rate or amount if applying the head company's existing rate to the instalment income of the changed group or paying the existing instalment amount would result in the head company paying instalments that significantly exceed or fall short of its expected tax liability.

Members entering a mature group part-way through a quarter are required to pay an instalment for that quarter. If they are paying using the *instalment rate x instalment income* method, they include only the income prior to entry to the group (income derived from the date of entry onwards is income of the head company).

Members leaving a mature group part-way through a quarter are required to pay an instalment for that quarter. They leave with the instalment rate of the head company and pay an instalment based on their instalment income from the date of exit to the end of the quarter. The leaving member is given its own rate, and if eligible an instalment amount, after it lodges a tax return that covers the period after it exited.

Deregistered companies

Under section 9 of the *Corporations Act 2001* a company is defined as a company registered under that Act. When a company is deregistered by the Australian Securities Investments Commission (ASIC), it ceases to exist as a Corporations Act company and therefore no longer meets the definition of an entity as detailed in the tax law. Accordingly, when a subsidiary member of a consolidated group is deregistered, it can no longer form part of a consolidated group, and the head company is required to notify the ATO that the subsidiary member has left the group on the date it was deregistered. Where an entity leaves a consolidated group because it has been deregistered, the ATO withdraws it from the PAYG instalment system.

More information

→ 'Treatment of PAYG instalments', C8-1

Revision history

Section B3-2 first published (excluding drafts) 2 December 2002 and updated 28 May 2003.

Further revisions are described below.

Date	Amendment	Reason
15.4.10	New section on deregistered companies, p. 3.	For clarification.

Proposed changes to consolidation

Proposed changes to consolidation announced by the Government are not incorporated into the *Consolidation reference manual* until they become law. In the interim, information about such changes can be viewed at:

- **http://assistant.treasurer.gov.au** (Assistant Treasurer's press releases)
- **www.treasury.gov.au** (Treasury papers on refinements to the consolidation regime).