TD 2000/D22 - Income tax: Can a taxpayer calculate their Pay As You Go (PAYG) instalment amount for an instalment quarter having regard to their commercial accounting periods if they have changed the day on which their tax period ends under section 27-35 of A New Tax System (Goods and Services Tax Act) 1999 ?

Draft Taxation Determination

Income tax: Can a taxpayer calculate their Pay As You Go (PAYG) instalment amount for an instalment quarter having regard to their commercial accounting periods if they have changed the day on which their tax period ends under section 27-35 of *A New Tax System (Goods and Services Tax Act) 1999*?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office. DTDs should not be relied on; only final Taxation Determinations represent authoritative statements by the Australian Taxation Office.

1. Yes, provided the taxpayer calculates their PAYG instalment income for the instalment quarter over the equivalent tax periods adopted under section 27-35 of *A New Tax System (Goods and Services Tax Act) 1999* (GST Act 1999).

2. Under the PAYG instalment provisions a taxpayer that is required to pay instalments quarterly must pay an amount for each instalment quarter by the 21st day of the month following the end of the quarter (section 45-60 Schedule 1, of the *Taxation Administration Act 1953* (TAA 1953)). For example, for a quarter that ends on 31 March, the instalment is due on 21 April. In determining the instalment payable, a taxpayer will need to calculate their instalment income for the quarter ending 31 March. The instalment payable is calculated by multiplying the taxpayer's instalment income for the period by their instalment rate.

3. For the purposes of the Goods and Services Tax legislation taxpayers may change the day on which their tax period would otherwise end to reflect their commercial accounting practices provided that:

- The day is no more than 7 days earlier or 7 days later than a day on which one of the tax periods that applies to the taxpayer would otherwise end if the days were not changed; and
- The change must be consistent with the commercial accounting period that applies to that taxpayer.

Where the day on which their tax period ends is changed by a taxpayer, the next tax period starts on the day after that day. (see section 27-35 of the GST Act 1999)

4. If a taxpayer has changed the day on which their tax period ends under this provision, they may also calculate their instalment income amount for the instalment quarter over the equivalent tax periods adopted for GST purposes. Choosing to align tax periods with commercial accounting periods does not change the due dates for lodging Business Activity Statements or making payments. The Commissioner will remit in full any failure to notify penalty (section 45-25 of Schedule 1 of the TAA 1953) or general interest charge (section 45-80 of Schedule 1 of the TAA 1953) that arises as a result of a taxpayer calculating their instalment based on tax periods changed in accordance with section 27-35 of the GST Act 1999.

Example

5. Nick operates a trawler. His normal accounting practice is to balance his accounts every Friday. Nick has quarterly tax periods for GST and PAYG Instalment Income. As 31 March falls on Sunday, Nick ends his tax period on Friday 29 March so that he does not have to make a special balance on the Sunday. Nick is required to lodge his Business Activity Statement and any payments on 21 April. Nick would only include instalment income accumulated to 29 March when determining his instalment payable for that quarter. He would not have to pay a penalty for not including instalment income that related to the period 30-31 March provided that the instalment income that accumulates for these days is included in Nick's instalment income for the next instalment quarter.

Your comments

6. We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments by date:	**24 November 2000**
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Commissioner of Taxation
25 October 2000

Previous draft:
Not previously issued in draft form.

Subject references:
- Pay As You Go
- PAYG Instalments

Legislative references:
- ANTS(GST)A99 27-35
- TAA 1953 Schedule 1
- TAA 1953 45-25
- TAA 1953 45-60
- TAA 1953 45-80

ATO references:
NO 2000/0011634
BO
ISSN: 1038-8982