


***TD 2003/D19 - Income tax: Simplified Tax System:
can an entity that has notified the Commissioner of
its choice to become an STS taxpayer for an income
year later revoke that choice in respect of that year?***

 This cover sheet is provided for information only. It does not form part of *TD 2003/D19 - Income tax: Simplified Tax System: can an entity that has notified the Commissioner of its choice to become an STS taxpayer for an income year later revoke that choice in respect of that year?*

This document has been finalised by TD 2003/30.

Draft Taxation Determination

Income tax: Simplified Tax System: can an entity that has notified the Commissioner of its choice to become an STS taxpayer for an income year later revoke that choice in respect of that year?

Preamble

*This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling for the purposes of Part IVAAA of the **Taxation Administration Act 1953**. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

1. No. An entity that is eligible to be an STS taxpayer for an income year and has notified the Commissioner in the approved form of its choice to become an STS taxpayer for that year under paragraph 328-435(b) of the *Income Tax Assessment Act 1997* (ITAA 1997), cannot later revoke its choice to become an STS taxpayer for that year.
2. Subdivision 328-G of the ITAA 1997 establishes the legislative framework governing when and how an entity may enter or exit the Simplified Tax System (STS). It provides for only two ways in which an entity that has notified the Commissioner of its choice to become an STS taxpayer for an income year can cease to be an STS taxpayer.
3. Firstly, under paragraph 328-440(1)(a) of the ITAA 1997 an entity that has notified the Commissioner in the approved form of its choice to become an STS taxpayer for an income year may notify the Commissioner of its choice, again, in the approved form, to stop being an STS taxpayer for a later income year. Secondly, under paragraph 328-440(1)(b) of the ITAA 1997 an entity that has notified the Commissioner of its choice to become an STS taxpayer for an income year will cease to be an STS taxpayer in a later income year if it ceases to be eligible to be an STS taxpayer in that later income year. Under subsection 328-440(2) of the ITAA 1997 this fact must also be notified to the Commissioner in the approved form.
4. The scheme established in Subdivision 328-G of the ITAA 1997 operates on the basis that having notified the Commissioner of its choice to become an STS taxpayer for an income year in the approved form, the entity is committed to that choice for that income year. This emphasises the need for careful consideration to be given to the question of

TD 2003/D19

whether an entity should enter the STS before the entity notifies the Commissioner of a choice to do so.

5. If an STS taxpayer later wishes to leave the STS, it will be able to do so for the next income year by notifying the Commissioner of its choice to stop being an STS taxpayer for that next income year: paragraph 328-440(1)(a) of the ITAA 1997. However, this choice only has effect for that next income year and the years following it. The entity will continue to be viewed as an STS taxpayer for the income year for which it notified the Commissioner of its choice to become an STS taxpayer.

Example

6. Felix chose to become an STS taxpayer in the approved form section of his 2001-02 income tax return. He later realises that he would have been better off if he had not been assessed as an STS taxpayer for the 2001-02 income year. Felix cannot revoke his choice to become an STS taxpayer for the 2001-02 income year. If he wishes to stop being an STS taxpayer, Felix will need to wait until he lodges his 2002-03 income tax return and choose to stop being such a taxpayer when completing that return. However, even if he does this, Felix will only be regarded as not being an STS taxpayer for the 2002-03 and future income years. He will continue to be regarded as an STS taxpayer for the 2001-02 income year.

Date of Effect

7. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Your comments

8. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date.

Comments by Date: 1 October 2003

Contact Officer: Cindy Yap

E-mail address: Cindy.Yap@ato.gov.au

Telephone: (08) 8208 1889

Facsimile: (08) 8208 1800

Address: GPO Box 800

ADELAIDE SA 5001

TD 2003/D19

FOI status: **draft only - for comment**

Page 3 of 3

Commissioner of Taxation

3 September 2003

Previous draft:

Not previously issued in draft form.

Related Rulings/Determinations:

TR 92/20

Subject references:

- leaving the STS
- simplified tax system
- STS taxpayers

Legislative references:

- ITAA 1997 Subdiv 328-G
- ITAA 1997 328-435(b)
- ITAA 1997 328-440(1)(a)
- ITAA 1997 328-440(1)(b)
- ITAA 1997 328-440(2)
- TAA 1953 Part IVAAA

ATO references

NO: 2002/020333

ISSN: 1038-8982