


IT 2449 - Income tax : prescribed payments system, deduction exemption certificates - approval and revocation

 This cover sheet is provided for information only. It does not form part of *IT 2449 - Income tax : prescribed payments system, deduction exemption certificates - approval and revocation*

This document has been Withdrawn.

There is a [Withdrawal notice](#) for this document.

TAXATION RULING NO. IT 2449

INCOME TAX : PRESCRIBED PAYMENTS SYSTEM, DEDUCTION
EXEMPTION CERTIFICATES - APPROVAL AND REVOCATION

F.O.I. EMBARGO: May be released

REF

N.O. REF: 87/5911-1

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1211174	PRESCRIBED PAYMENTS	221YHQ 221YHS

PREAMBLE

A basic aim of the Prescribed Payments System (PPS) is to provide for the collection of tax at source by deducting tax from payments to which the system applies.

2. To this end, section 221YHD requires payers to make deductions from those payments that are subject to deduction at the rate prescribed in the Income Tax Regulations.

3. Section 221YHQ(2) allows the Commissioner to issue a Deduction Exemption Certificate exempting payments subject to the provisions of section 221YHD from the deduction of tax, where he is satisfied that among other things an applicant has satisfactorily complied with all obligations under any Acts administered by the Commissioner during the three years preceding the date of the application.

4. Further, where an applicant fails to meet one or more of the requirements of sub paragraph (2)(a)(i), (ii) and (iii) of section 221YHQ, the Commissioner, having regard to special circumstances that may have existed, may issue an exemption certificate if he considers it unreasonable not to do so. The special circumstances to which the Commissioner may have regard include whether all obligations under Acts administered by the Commissioner have been complied with in relation to any business carried on by:

- in the case of a private company, directors and or shareholders
- in the case of a public company, directors
- in the case of a partnership, the partners
- in the case of a trust, the trustee.

5. A successful applicant's situation will be reviewed during the term of the certificate to ensure that the satisfactory compliance record is maintained. Where a satisfactory compliance record has not been maintained, section 221YHS allows the Commissioner to revoke the certificate.

6. The purpose of this Ruling is to outline the situations in

which applicants or their associates will not be regarded as having satisfactorily complied with their obligations under Acts administered by the Commissioner.

RULING

7. Applicants will not be regarded as having satisfactorily complied with their obligations if any of the situations outlined below are found to exist at the time of lodgment of an application for exemption or at any time checks are made during the term of the certificate:

- (a) Any Income Tax, Fringe Benefits Tax or Sales Tax return is outstanding and overdue for lodgment and not the subject of an agreed arrangement to lodge.
- (b) Any debit in relation to Income Tax, including a remittance of tax deductions to be made by a group employer (PAYE) or a payer of prescribed payments (PPS), Fringe Benefits Tax or Sales Tax is outstanding and overdue and not the subject of an agreed arrangement to pay.
- (c) The last lodged income tax return was received after 31 March of the year following the year of income and was not the subject of an agreed arrangement or extension to lodge and the tax payable on that return exceeded \$2000 and was not paid by 30 June of that year and was not the subject of an agreed arrangement to pay.
- (d) An amount of income tax exceeding \$2000 was due for payment before 1 July prior to the date of the application but was not paid until that date or later and was not the subject of an agreed arrangement to pay.

8. Further, if any of the following situations is found to have existed in the three years prior to lodgment of an application or in the three years prior to the date that any check is made for continued compliance during the term of the certificate, applicants will not be considered to have satisfactorily complied with their obligations under Acts administered by the Commissioner:

- (a) There has been a conviction for an offence against any of the Acts administered by the Commissioner.
- (b) Legal action has been taken for recovery of any debt due under any of the Acts administered by the Commissioner.
- (c) An assessment has been raised under :
 - (i) section 167 of the Income Tax Assessment Act; or
 - (ii) section 73 of the Fringe Benefits Tax Assessment Act; or

(iii) section 25 (2A) of the Sales Tax Assessment Act (No.1)

(d) Additional tax has been imposed in accordance with:

(i) section 223 of the Income Tax Assessment Act; or

(ii) section 115 of the Fringe Benefits Tax Assessment Act; or

(iii) section 45(2) of the Sales Tax Assessment Act (No.1)

and the additional tax included a culpability component at a rate equal to or greater than 40% of the tax avoided.

(e) The terms of a notice issued under:

(i) section 264 of the Income Tax Assessment Act; or

(ii) section 128 of the Fringe Benefits Tax Assessment Act; or

(iii) section 23 of the Sales Tax Assessment Act (No.1)

have not been complied with.

(f) A penalty has been imposed under:-

(i) section 221EAA or 221YHH of the Income Tax Assessment Act.

(g) A Fringe Benefits Tax return has been lodged sufficiently late so as to delay payment of an instalment of Fringe Benefits Tax on more than one occasion.

(h) There is a reasonably significant history of late payment of taxation debts, e.g. there have been more than four occasions when additional tax for late payment has been imposed and not subsequently remitted in respect of a taxation debt that was not the subject of an agreed arrangement to pay or, during the most recent year of the three years in question, such late payments have occurred on more than two occasions.

9. In providing this Ruling, there is no intention of restricting Deputy Commissioners or authorised officers in taking into account in considering an application, or in reviewing an approval during the term of a certificate:

(a) any special circumstances surrounding the breach of an obligation by an applicant; or

(b) any explanation that may be provided by an applicant in relation to an apparent breach of an obligation.

The guidelines are provided to form the basis of a consistent commonsense treatment of applicants by different branch offices.

COMMISSIONER OF TAXATION

24 September 1987