

# ***TD 2003/30 - 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?***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *3 December 2003*

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## Taxation Determination

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### **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*

*The number, subject heading, date of effect and paragraph 1 of this Taxation Determination are a ‘public ruling’ for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. The remainder of the Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally or administratively binding.*

1. No. An entity that is eligible to be a STS taxpayer<sup>1</sup> 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.

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<sup>1</sup> The term STS taxpayer is defined in section 328-435 of the *Income Tax Assessment Act 1997*.

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 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. This Determination applies to assessments for income years starting on or after 1 July 2001, to which Division 328 applies. 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).

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### **Commissioner of Taxation**

3 December 2003

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*Previous draft:*

Previously released in draft form as TD 2003/D19

*Related Rulings/Determinations:*

TR 92/1; TR 92/20; TR 97/16

*Subject references:*

- leaving the STS
- simplified tax system

# TD 2003/30

FOI status: **may be released**

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- STS taxpayers

*Legislative references:*

- ITAA 1997 Subdiv 328-G
- ITAA 1997 328-435
- 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

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ATO references

NO: 2003/009781

ISSN: 1038-8982