
Taxation Determination

Income tax: Simplified Tax System: can an entity notify the Commissioner of its choice to become, or stop being, an STS taxpayer for an income year, after it has lodged that year's income tax return?

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. Yes. An entity that wishes to notify the Commissioner of its choice to become, or stop being, an STS taxpayer¹ for an income year, in circumstances other than those covered by TD 2003/29 and TD 2003/30, can do so in the approved form, under sections 328-435 and 328-440 of the *Income Tax Assessment Act 1997* respectively, in conjunction with an application for an amendment to that year's income tax return or assessment. This is provided the application for amendment is lodged within the four year period allowed for the amendment of assessments under subsection 170(6) of the *Income Tax Assessment Act 1936* (ITAA 1936).
2. The entity's choice is made in 'the approved form' if the information lodged with the application for amendment is the information that would have been provided had the choice been made in the relevant labels of the entity's income tax return.
3. Subsection 170(6) of the ITAA 1936 provides that the Commissioner *may* amend a relevant assessment if the conditions in the subsection are satisfied. In order to enable the Commissioner to appropriately determine the amendment application, the entity should provide an explanation of why the notification of the choice was not made in the approved form at the time the entity's income tax return for the income year in question was lodged, and any other information considered relevant (see paragraph 170(6)(c)).
4. An entity may also notify the Commissioner of the choice to become or stop being an STS taxpayer in conjunction with lodging a notice of objection against its income tax assessment for a relevant income year.

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

TD 2003/31

Date of Effect

5. This Determination applies to assessments for income years starting 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).

Commissioner of Taxation

3 December 2003

Previous draft:

Previously released in draft form as TD 2003/D20

Related Rulings/Determinations:

TR 92/1; TR 92/20; TR 97/16; TD 2003/29; TD 2003/30

Subject references:

- amendment of assessments
- entering the STS
- leaving the STS
- objection rights
- simplified tax system
- STS taxpayers

Legislative references:

- ITAA 1936 170(6)
- ITAA 1936 170(6)(c)
- ITAA 1997 Div 328
- ITAA 1997 328-435
- ITAA 1997 328-440
- TAA 1953 Part IVAAA

ATO references

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