



TD 93/15 - Income tax: a taxpayer makes a voluntary admission after lodging a return for 1989-90, 1990-91, 1991-92 or an 'early balancing' 1992-93 year which resulted in a liability to pay additional tax under subsection 223(1) of the Income Tax Assessment Act 1936 (ITAA). In what circumstances will we, in accordance with paragraph 23 of Taxation Ruling IT 2517, remit in full the additional tax?

 This cover sheet is provided for information only. It does not form part of *TD 93/15 - Income tax: a taxpayer makes a voluntary admission after lodging a return for 1989-90, 1990-91, 1991-92 or an 'early balancing' 1992-93 year which resulted in a liability to pay additional tax under subsection 223(1) of the Income Tax Assessment Act 1936 (ITAA). In what circumstances will we, in accordance with paragraph 23 of Taxation Ruling IT 2517, remit in full the additional tax?*

 This document has changed over time. This is a consolidated version of the ruling which was published on 28 January 1993

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a 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).

Taxation Determination

Income tax: a taxpayer makes a voluntary admission after lodging a return for 1989-90, 1990-91, 1991-92 or an 'early balancing' 1992-93 year which resulted in a liability to pay additional tax under subsection 223(1) of the *Income Tax Assessment Act 1936* (ITAA). In what circumstances will we, in accordance with paragraph 23 of Taxation Ruling IT 2517, remit in full the additional tax?

1. This Determination provides additional guidelines to be used in the circumstances described in exercising the discretion in subsection 227(3) to remit additional tax in full or in part. In providing these guidelines, there is no intention of laying down any conditions to restrict officers in the exercise of the discretion. Each case must be decided on its own merits.

2. Generally we will, in accordance with paragraph 23 of IT 2517, remit in full subsection 223(1) additional tax:

- A. for a company or trustee of a corporate unit trust, public trading trust, superannuation fund, approved deposit fund or pooled superannuation fund:-
 - (a) if the return has been lodged and the voluntary admission is made before the date you are required by section 221AZD of the ITAA (as modified by sections 221AN and 221AU of the ITAA) to make a final payment of tax; or
 - (b) if you are non taxable, if the return has been lodged and the voluntary admission is made prior to the date you would be required by section 221AZD (as modified by sections 221AN and 221AU) to make a final payment of tax, if you were taxable.

For (a) and (b) this is:-

- (i) the 15 March following the end of year;
- (ii) if you have a substituted accounting period, the 15th day of the ninth month following the month in which the end of the substituted accounting period falls or 15 June following the relevant 30 June, whichever is the earliest;

- (iii) the 15 December following the year end if you are liable to make an initial payment and elect to make a single payment; or
- (iv) if you have a substituted accounting period and you are liable to make an initial payment and elect to make a single payment, the 15th day of the sixth month following the month in which the end of the substituted accounting period falls or 15 June following the relevant 30 June, whichever is the earliest.

or

B. for all other taxpayers: -

- (a) if the voluntary admission is made before the due date for payment on the notice of assessment; or
- (b) if you received a refund or you are non taxable before the voluntary admission, if the voluntary admission is made before 30 days after the issue of a notice.

3. Although section 223 was repealed, additional tax may still be imposed under the section for the 1991-1992 year, earlier years or an 'early balancing' 1992-1993 year.

Note: An 'early balancing' 1992-1993 year is one which commenced before 1 July 1992 in lieu of the 1992-1993 year.

Commissioner of Taxation

28/1/93

FOI INDEX DETAIL: Reference No. I 1213966

Previously issued as Draft TD 92/D218

Related Rulings: IT 2517;

Subject Ref: additional tax; remission; voluntary disclosure

Legislative Ref: ITAA 223(1); ITAA 227(3)

ATO Ref: BAN TD 23

ISSN 1038 - 8982