

TOFA election deadline approaches

The 15 January 2011 deadline to make selected TOFA elections is approaching.

Under the TOFA provisions, taxpayers who are subject to TOFA (usually because their aggregated turnover exceeded \$100 million or their assets exceeded \$300 million) are required to treat all new financial instruments and financial arrangements under the TOFA rules from the date on which they became subject to TOFA.

For most eligible taxpayers, the operative date for TOFA is 1 July 2010. All new financial arrangements starting after that date would be subject to the TOFA provisions.

Transitional election to bring in existing financial arrangements

There is provision for taxpayers to elect to bring under TOFA all financial arrangements that were open on the date the taxpayer became subject to TOFA. Depending on the types of financial arrangements there may be an opportunity to accelerate certain tax deductions or delay the inclusion of certain assessable income by making this election.

For taxpayers who became subject to TOFA on 1 July 2010, they can elect to bring under TOFA, using the transitional election, all financial arrangements that were open on 1 July 2010. This transitional election must be made by the lodgement due date for the taxpayer's 2010 income tax return, which for most companies is 15 January 2011.

There is an election form which should be completed by the taxpayer **and forwarded to the Tax Office** before the lodgement due date (usually 15 January 2011). The election is available on the Tax Office website.

Other TOFA elections

There are other elections that can also be made under TOFA, some of which may also have to be made by 2010 tax return lodgement date.

Elect into TOFA

For taxpayers who are not subject to TOFA (because they are under the turnover and asset thresholds), they can elect to be subject to TOFA under Section 230-455(7). There is an election form on the Tax Office website that must be completed, however it does not need to be sent to the Tax Office. It is retained in the taxpayer's tax return records.

The election can be made at any time during the year of income in which the taxpayer wants TOFA to commence (but it must be made before the end of the income year in which the election is to take effect). For example, if you want TOFA to first apply in the year ended 30 June 2011, the taxpayer must make the election on or before 30 June 2011. By making this election, all new financial arrangements that opened after 1 July 2010 would be subject to TOFA.

If the taxpayer makes this election, they may also elect to bring all open financial arrangements on 1 July 2010 under TOFA using the transitional election mentioned above, which must be made and lodged by the 2010 tax return lodgement due date (usually 15 January 2011). If the taxpayer intends to elect into TOFA and to bring all open financial arrangements into TOFA, they must make the Section 230-455(7) election to come under TOFA and the transitional election by 2010 tax return lodgement due date (even though under ordinary circumstances, the 230-455 election need not be made before 30 June 2011).

Elective TOFA methods

Taxpayers can also elect to apply a variety of elective methods to calculate their gains and losses on financial arrangements in preference to the default accruals and realisations methods (for example, the financial reports method).

There is also a form for this elective method election on the Tax Office website. However, it does not have to be sent to the Tax Office. It is retained in the taxpayer's tax return records.

The election can be made at any time during the year of income in which the taxpayer wants the elective methods to commence (but it must be made before the end of the income year in which the election is to take effect).

For example, if you want the reliance on financial reports method to first apply in the year ended 30 June 2011, the taxpayer must make the election on or before

30 June 2011. By making this election, all new financial arrangements that started after 1 July 2010 would be subject to the financial reports method.

However, where the taxpayer makes the transitional election to bring under TOFA all financial arrangements that were open on 1 July 2010, and the taxpayer wants to apply the elective methods to those open financial arrangements, they must make both the transitional election and the election to use the elective methods by the 2010 tax return lodgement due date (usually 15 January 2011).

For more information on the applicability of the TOFA provisions to your circumstances please contact your PKF Tax Adviser.

Should you require assistance or additional information, please contact your PKF Tax Adviser

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