IRAS e-Tax Guide

Determination of the Date of Commencement of Business

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Determination of the Date of Commencement of Business

1 Aim

This e-Tax Guide[1] provides some guidance on the determination of the date of commencement of a business.

2 At a glance

2.1 Generally, a business may be regarded as having commenced operation when the business has established its profit-making structure and started its first commercial activity.

2.2 In determining the date of commencement of business by a taxpayer, the Comptroller of Income Tax ("CIT") requires the following facts for examination:

(i) description of the taxpayer's main business and the activities carried on by the business;

(ii) description of profit-making structure of the identified business;

(iii) whether the company has begun its day-to-day business operations; and

(iv) chronological list of key events leading up to the profit-making structure being operationally ready and the time when the taxpayer starts its ordinary business activities.

2.3 Once the date of commencement of business is ascertained, all expenses incurred prior to this date are pre-commencement expenses and would not qualify for tax deduction.

[1] This e-Tax Guide replaces IRAS' e-Tax Guide, "Determination of the Date of Commencement of Business", published on 12 Dec 2008.

3 Background

3.1 The deductibility of outgoings and expenses of a business is governed by the provisions of sections 14 and 15 of the Income Tax Act ("ITA"). Under section 14(1), only outgoings and expenses that are wholly and exclusively incurred in the production of income are tax deductible.

3.2 All outgoings and expenses incurred prior to the date on which a business commences operation are not wholly and exclusively incurred in the production of income. Hence, such expenses do not qualify for tax deduction.

3.3 In the Year of Assessment 2004, a concession for enterprise development was introduced. Under this concession, a business will be treated as having commenced its operations on the first day of the accounting year in which it earns its first dollar of business receipt (i.e. deemed date of commencement of business). As such, revenue expenses incurred in the aforesaid accounting year, including those incurred prior to the day on which the business earns its first dollar of receipt, will be deductible for tax purposes.

3.4 With effect from YA 2012, the concession for enterprise development was enhanced to allow a deduction for revenue expenses incurred 1 year prior to the deemed date of commencement of business[2&3].

3.5 The concession for enterprise development does not preclude a business from substantiating that it has commenced operation earlier than the accounting year in which it earns its first dollar of business receipt.

4 Guidance to determine the date of commencement of business

4.1 The ITA does not provide any definition on when a business is regarded as having commenced its operation. The date of commencement of a business depends on the facts of each case. Based on principles drawn from case laws, it is only when the business has established its profit-making structure and started its first commercial activity that it can be regarded as having commenced operation.

4.2 What constitutes "a profit-making structure" will differ from business to business. The type of activities a business primarily engages in will determine its profit-making structure and the operational readiness of such structure. For example, in a case of hotelier, the profit-making structure can be said to be in place when the hotel licence is obtained. This is when the hotel premises would have been fully constructed and the internal fittings installed. It is upon obtaining this licence that the hotel can start its operation and receive its first guest.

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[2] Section 14U of the ITA

[3] Please refer to the IRAS e-Tax Guide on "Income Tax: Concession for Enterprise Development – Deduction of Certain Expenses Incurred Before Business Revenue is Earned".

4.3 In determining the date of commencement of business by a taxpayer, the CIT generally requires the following facts for examination:

(i) description of the taxpayer's main business and the activities carried on by the business;

(ii) description of profit-making structure of the identified business;

(iii) whether the company has begun its day-to-day business operations; and

(iv) chronological list of key events leading up to the profit-making structure being operationally ready and the time when the taxpayer starts its ordinary business activities.

4.4 In the course of evaluating the facts, the CIT will distinguish activities that are merely preparatory or preliminary in nature from those conducted by the business on a day-to-day basis. Preparatory or preliminary activities are typically activities undertaken by the taxpayer before it is in a position to derive income. Such activities may include signing a business contract, obtaining a loan to build infrastructure for the business and construction/building of the infrastructure.

4.5 Once the date of commencement of business is ascertained, all expenses incurred prior to this date, being pre-commencement or pre-operating expenses, would not qualify for tax deduction under section 14(1).

4.6 Examples on CTI's determination of the date of commencement of business for the following industries are illustrated in the Annex:

(i) Wholesale and Retail
(ii) Hoteliers
(iii) Manufacturing
(iv) Property Developer
(v) Proprietary Club
(vi) Professional Services

5 Contact information

If you have any enquiries or need clarification on this Guide, please call:

(a) 1800-3568622 (Corporate)

(b) 1800-3568300 (Individual).

6 Updates and amendments

	Date of amendment	Amendments made
1	29 July 2014	Paragraph 3.4 is inserted to highlight that the concession for enterprise development has been enhanced to allow a deduction for revenue expenses incurred 1 year prior to the deemed date of commencement of business.

Annex – Illustration of date of commencement of business

(I) Wholesale and Retail

A trader in the wholesale and retail industries is considered to have commenced its business when it opens its door to the public.

Example (Supermarket)

Dates	Events
1.1.2013	Incorporation of company
1.2.2013	Signed tenancy agreement for business premises, purchased office equipment, recruited staff, placed orders for products to be sold
1.4.2013	Retail stock arrived and arranged on shelves
9.4.2013	Supermarket opened its door to the public
1.6.2013	Official opening ceremony

The supermarket is considered to have commenced business when it opened its door and offered its goods for sale to the public. Thus, its date of commencement would be 9.4.2013. The opening ceremony is merely ceremonial and does not alter the actual date of commencement.

(II) Hoteliers

Under the Hotels Act, a hotel operator is required to register the premises with the Hotels Licensing Board ("HLB") before it can operate as a hotel. Typically, when an application to HLB is made, the hotel premises should be fully constructed and the internal fittings installed. Otherwise, it will not be able to meet the conditions for registration as a hotel. The hotel is only allowed to receive its first guest upon obtaining the certificate of registration. CIT, therefore, considers a hotel to have commenced its business on the date of certificate of registration.

Example

Dates	Events
6.1.2012	Purchased land to construct hotel premises
1.3.2012	Began construction of hotel premises
2.6.2013	Conducted training for staff
1.7.2013	Applied for hotel registration certificate
2.8.2013	Obtained certificate of hotel registration

The activities carried out by the hotelier prior to 2.8.2013 were merely preparatory in nature. The business would be regarded as having commenced on 2.8.2013, which is the date it obtained its certificate of hotel registration. This is the earliest date it could operate as an hotelier and receive its first guest.

(III) Manufacturing

A manufacturer is considered to have commenced business when its profit-making structure capable of commercial production has been put in place. Generally, the date on which the manufacturer commenced commercial production is taken as the date of commencement of business.

Example (Manufacturer of electronic components)

Dates	Events
2.1.2013	Incorporation of company
1.12.2013	Completed construction of manufacturing plant
5.12.2013	Obtained relevant licences to manufacture components
8.12.2013	Recruited staff
15.12.2014	Installed plant and machinery
20.12.2014	Sent engineers and technical specialist for training
15.1.2014	Purchased raw materials
30.1.2014	Tested product during trial run before commercial production
15.2.2014	Commenced commercial production
25.2.2014	Made first sale

The manufacturer is considered to have commenced business when it started its first commercial production on 15.2.2014. Licences and other expenses incurred prior to 15.2.2014 are pre-commencement expenses. These expenses relate to preliminary work done in preparation for the commencement of business and hence not tax deductible.

(IV) Property Developer

A newly incorporated property development company which develops properties for sale is regarded as having commenced business on the date it acquires a land/building for development for sale. All expenses incurred prior to the date of acquisition of the land/building are pre-commencement expenses and therefore do not qualify for tax deduction. Expenses, such as cost of land, construction cost, financing cost and property tax, incurred in the course of the property development would be capitalised as part of the development costs. These capitalised costs would qualify for tax deduction as cost of sale when the Temporary Occupation Permit is issued.

(V) Proprietary Club[4]

The main business of a proprietary club involves the sale of club memberships and the operation of the club. The main source of income for such business is usually from the sale of its club memberships. Thus, the proprietary club is generally regarded as having commenced business on the date it first launches its membership drive. All revenue expenses incurred on or after the date of the launch are tax deductible.

Example

Dates	Events
16.10.2012	Purchased land to build clubhouse
12.11.2012	Conducted recruitment and staff training exercises
15.12.2012	Launched its membership drive through advertisements and promotional campaigns
3.1.2013	Commenced construction of clubhouse
3.2.2013	Received first club membership fees from members
13.3.2014	Completed the construction of clubhouse
1.4.2014	Clubhouse facilities were opened to members

The proprietary club would be regarded as having commenced its business on 15.12.2012 when it first launched its club membership drive. It is through its advertisement and marketing efforts that the business was able to derive its earnings. This is notwithstanding that the club only received its first membership fees on 3.2.2013 and the clubhouse facilities were opened on 1.4.2014.

All activities carried out prior to 15.12.2012 were preparatory in nature. Thus, expenses incurred prior to 15.12.2012 are pre-commencement expenses and do not qualify for tax deduction.

[4] In a proprietary club, the club together with the premises and assets are owned by the proprietor. Members of the club do not own the club, and have no say in the management of the club.

(VI) Professional Services

A business which provides professional services such as fund management services is considered to have commenced operation when the necessary set-up for the activities that enables it to conduct its day-to-day operation is in place. Generally, this is when the business is ready to market its services and conclude contracts with its potential clients.

Example (Fund management services)

Dates	Events
10.1.2012	Incorporation of the company
15.11.2012	Establishment of office
30.11.2012	Recruited fund managers and other office staff
15.3.2013	Commenced to market its fund management products/services
4.1.2014	Commenced to derive income

The business of fund management commenced on 15.3.2013 when the company was able to market its products and services. This is notwithstanding that the company only started to derive its income on 4.1.2014.

In the context of the fund management business, the marketing activities are part of the company's regular business activities and are integral to its day-to-day operations. The necessary set-up was in place on 15.3.2013 for the marketing activities to be conducted. Expenses, to establish an office and recruit the fund managers and other office staff, incurred prior to 15.3.2013 were preparatory in nature. These are pre-commencement expenses and are not tax deductible.