

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, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax: insurance: is 'profit share' commission payable by a reinsurer to a reinsured under a reinsurance contract to be taken into account for the purposes of calculating an unearned premium provision of the reinsured?

1. No. 'Profit share' commission is of a different nature to the proportional reinsurance commission discussed in paragraphs 101 and 102 of Taxation Ruling IT 2663.
2. Profit share commission is not paid in order to recoup to the ceding company a share of its acquisition costs as under a proportional reinsurance contract.
3. The concept of a profit share commission is that the profit which is earned on the business passing under the reinsurance contract is due to the skill and care with which the ceding company conducts its business and that some part of that profit should therefore be returned to the ceding company as a reward for such skill and care.

Commissioner of Taxation

16/07/92

FOI INDEX DETAIL: Reference No. I 1212909

Related Determinations: TD 92/119, TD 92/120, TD 92/123

Related Rulings: IT 2663

Subject Ref: general insurance companies, profit share commission, proportional reinsurance commission, unearned premium provision.

ATO Ref: Insurance Industry Cell

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