

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA 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: can section 82KZM of the *Income Tax Assessment Act 1936* apply to a prepayment for a service to be provided over a 12 month period?

1. Yes. Section 82KZM applies to prepaid expenditure incurred under an agreement for a thing to be done over a 12 month period, if the agreement does not require the thing to be wholly done within 13 months after the day on which the prepaid expenditure is incurred.

2. Subdivision H of Division 3 of Part III comprising section 82KZL to section 82KZO has the effect of denying an immediate deduction for certain prepaid expenditure (except excluded expenditure as defined in subsection 82KZL(1)) which is incurred under an agreement entered into after 25 May 1988. This expenditure which would otherwise be deductible under subsection 51(1) must be apportioned over the eligible service period.

3. The 'eligible service period' is defined in subsection 82KZL(1).
 It begins on the later of:
 - the day, or the first day, on which the thing to be done under the agreement may commence to be done, or
 - the day on which the expenditure is incurred.
 It ends on the earlier of:
 - the last day on which the thing to be done may cease to be done, or
 - 10 years from the beginning of the eligible service period.

Example:

Where an agreement provides for services to be provided over a 12 month period commencing at any time during the 1992 calendar year, the eligible service period will be the period from midnight on 31 December 1991 to midnight on 31 December 1993 (731 days).

If a prepayment of \$10,000 for this service was made on 1 January 1992 the expenditure would be deductible as follows:

Year ended 30/6/92	\$2,490	$(\$10,000 \times \frac{182}{731})$
Year ended 30/6/93	\$4,993	$(\$10,000 \times \frac{365}{731})$
Year ended 30/6/94	\$2,517	$(\$10,000 \times \frac{184}{731})$

Commissioner of Taxation

24/6/93

FOI INDEX DETAIL: Reference No. I 1215012

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Related Determinations: TD 93/118, TD 93/119

Related Rulings:

Subject Ref: premium; interest; leases; prepayments; eligible service period

Legislative Ref: ITAA 51(1); ITAA 82KZL; ITAA 82KZM

Case Ref:

ATO Ref: NEW TD29

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