

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: is the Commonwealth Scientific and Industrial Research Organisation (CSIRO) an educational institution for the purposes of the articles in Australia's double tax agreements (DTAs) dealing with the remuneration of professors and teachers?

1. No. CSIRO does not fall within the meaning of the expression 'university, college, school or other educational institution' in the professors and teachers articles in Australia's DTAs. It follows that visiting professors and teachers employed by CSIRO are not exempt from Australian tax under those articles.
2. Many of Australia's DTAs contain a professors and teachers article which exempts from Australian tax in certain circumstances, income derived by visiting professors and teachers from teaching or carrying out advanced study or research at a university, college, school or other educational institution in Australia.
3. The term 'educational institution' is not defined in Australia's DTAs. However Australia's DTAs provide that undefined terms generally have the meaning which they have under the domestic law of the country applying the DTA.
4. The meaning of 'school, college or other place of education' within section 82A of the *Income Tax Assessment Act 1936* was considered in Case M11, 80 ATC 78, and it was held that 'other place of education' was taken to have a meaning limited to places of education which are similar to schools, colleges or universities. It was also held that for an establishment to be regarded as a place of education, the primary function of the establishment must be for education. Further, in Case P17, 82 ATC 72, 'school' had the meaning of a place at which organised or systemised instruction, usually in class form, is given on a regular and continuing basis.
5. CSIRO is primarily a research organisation. While CSIRO also has an educational role, it does not fall within the meaning of the expression 'university, college, school or other educational institution' for purposes of the professors and teachers articles in Australia's DTAs.

Commissioner of Taxation

1/7/93

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Related Determinations:

Related Rulings:

Subject Ref: CSIRO; educational institution

Legislative Ref: ITAA 82A; Income Tax (International Agreements) Act 1953

Case Ref: Case M11, 80 ATC 78, 23 CTBR(NS) Case 97; Case P17, 82 ATC 72, 25 CTBR(NS) Case 81

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