

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: are monetary gifts received by a child or any interest earned on investing such money treated as 'excepted assessable income'?

1. No. Genuine monetary gifts received by a child on special occasions such as birthdays or religious events are not assessable for any purpose of the *Income Tax Assessment Act 1936*. Provided that the child is a 'prescribed person' under section 102AC of the Act, any interest earned on the accumulation of such gifts is treated as 'eligible assessable income' in terms of subsection 102AE(1) of the Act. Such interest is taxed at the higher rates applicable under Division 6AA.

2. Subsection 102AE(2) of the Act sets out the limited circumstances in which certain forms of income are deemed to be 'excepted assessable income'. Interest from accumulated gifts does not fall into any of the categories, as set out in that subsection. In particular, paragraph 102AE(2)(f), which refers to accumulations of excepted income, has no application to interest earned on monetary gifts.

Example:

Raymond, aged 14, has accumulated \$7,000 over the years from birthdays and other special occasions. The money was put into his bank account and he earned \$490 in interest during the year ending 30 June 1993. Raymond, who is a 'prescribed person' for the purposes of Division 6AA, earned no other income during that year. The total amount of interest earned is treated as 'eligible assessable income' as it does not fall under any of the categories of 'excepted assessable income' under subsection 102AE(2) of the Act. In this case, the tax payable for the year ended 30 June 1993 would be (\$490 - \$416) x .66 = \$48.84.

Commissioner of Taxation

5/8/93

FOI INDEX DETAIL: Reference No. I 1215760

Previously issued as Draft TD93/D108

Related Determinations:

Related Rulings: IT330, IT2486 and IT2489

Subject Ref: children's income, gifts, exempt income, excepted assessable income

Legislative Ref: ITAA 102AC, 102AE(1), 102AE(2)

Case Ref:

ATO Ref: SSOTD2

ISSN 1038 - 8982