

TD 2004/D66 - Income tax: are payments to a volunteer respite carer to cover expenses of providing respite care for a disabled person assessable income?

 This cover sheet is provided for information only. It does not form part of *TD 2004/D66 - Income tax: are payments to a volunteer respite carer to cover expenses of providing respite care for a disabled person assessable income?*

This document has been finalised by TD 2004/75.



Draft Taxation Determination

Income tax: are payments to a volunteer respite carer to cover expenses of providing respite care for a disabled person assessable income?

Preamble

*This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling for the purposes of Part IVAAA of the **Taxation Administration Act 1953**. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

1. No. Payments to a volunteer respite carer to cover expenses of providing respite care for a disabled person are not assessable income.
2. Assessable income includes ordinary income under section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997) and statutory income under paragraph 26(e) of the *Income Tax Assessment Act 1936* (ITAA 1936).
3. Relevant factors in determining whether a payment is ordinary income include whether the payment is for services rendered, such as from personal services, and the character of the payment in the hands of the recipient.
4. Income Tax Ruling IT 2639 describes income from personal services as 'income that an individual earns predominantly as a direct reward for his or her personal efforts, for example, the provision of services, exercise of skills or the application of labour.'
5. Volunteer respite carers are not paid any amount for their time or to reward them for any personal services they provide. They are volunteering their time without any expectation of monetary reward. Nor are they providing the care as an employee, carrying on a business of respite care or being paid any amount to compensate for the loss of other income. The payments therefore do not have the characteristics of ordinary income and so are not assessable under section 6-5 of the ITAA 1997.
6. Paragraph 26(e) of the ITAA 1936 includes as statutory income allowances gratuities, compensations, benefits, and premiums paid in respect of employment or services rendered by a person.
7. Payments to volunteer respite carers are considered to be in the nature of a reimbursement of expenses of providing respite care to a disabled person. They are not paid as an allowance or as any of the other kinds of payments in respect of employment or services rendered that are covered by paragraph 26(e). The payments are therefore not assessable income under paragraph 26(e).

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Example

8. *Peter provides volunteer respite care for a child with disabilities for one weekend (Friday evening to Monday morning) per month. Peter is paid an amount of \$350 for the weekend by an organisation that arranges respite care for disabled persons. The payment is intended to cover expenses incurred in providing the respite care including food and drink, laundry, recreation activities and transport. The payment is considered to be in the nature of a reimbursement of expenses and therefore is not included in Peter's assessable income.*

Date of effect

9. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of 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).

Your comments

10. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date.

Due date: 22 October 2004
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Commissioner of Taxation

24 September 2004

Related Rulings/Determinations:

TR 92/1; TR 92/20; TR 97/16; IT 2639

Subject references:

- allowances vs reimbursements
- carer payments
- disabled care expenses

- income

- reimbursed expenses

Legislative references:

- ITAA 1936 26(e)
- ITAA 1997 6-5
- TAA 1953 Pt IVAAA

ATO references

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