


***TD 93/D135 - Income tax: must dividends paid in respect of different classes of shares be franked at the same rate to avoid being considered as underfranked?***

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This document has been finalised by TD 93/166.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

## Draft Taxation Determination

**Income tax: must dividends paid in respect of different classes of shares be franked at the same rate to avoid being considered as underfranked?**

1. Yes. Where dividends paid in respect of different classes of shares have the same reckoning day, they are considered to be same day dividends in terms of subsection 160AQE(2) of the *Income Tax Assessment Act 1936*. In this circumstance, these dividends must be franked at the same rate.
2. If different reckoning days apply, there is no requirement for a company to frank dividends on different classes of shares at the same rate.
3. Note that in some situations, different classes of shares (as described in the company's Articles of Association) may not constitute different classes of shares for imputation purposes (subsection 160APE(2)).

### Example

*ABC Pty Ltd passes a resolution on 25 May to pay dividends franked to 50% to class A shareholders. On 27 May they pass another resolution to pay dividends franked to 60% to class B shareholders. Class A and B shares are considered to constitute different classes of shares as per subsection 160APE(2).*

*If the reckoning day is 30 May for both class A and B dividends, the company will be required to frank both dividends to 60%.*

*However, if the reckoning day is 30 May for class A dividends and 2 June for class B dividends, the company may frank dividends for class A shares to 50% and class B shares to 60%.*

**Commissioner of Taxation**

3/6/93

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Related Determinations:

Related Rulings:

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