


TD 93/D173 - Income tax: is the value of the shares received as consideration for providing services for research and development activities assessable income in the hands of an independent contractor?

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This document has been finalised by TD 93/234.

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: is the value of the shares received as consideration for providing services for research and development activities assessable income in the hands of an independent contractor?

1. The issue of shares in a company to an independent contractor, as consideration for services performed in relation to research and development activities undertaken by the company, is assessable income to the independent contractor under subsection 25(1). That is, the value of the shares constitutes gross income derived by the contractor for the purposes of subsection 25(1). The amount as assessable income is the value of the shares at the time they are issued.
2. Where the taxpayer is an employee of the company then reference should be made to the tax treatment of employee share acquisition schemes.
3. Section 21 applies where consideration is given other than in cash. The money value of the consideration is deemed to have been paid or received.
4. In Taxation Board of Review case, (1953) 4 TBRD *Case D1*, it was held that it was the market value of the shares and not their nominal value that was the correct amount to be assessed to the taxpayer for the services rendered to the company. This view is supported.

Example:

An independent contractor performs services in relation to research and development activities on behalf of a mining company. The contractor receives as consideration for the services performed an issue of shares in that company. The market value of the shares at the time they are issued is assessable to the contractor.

Commissioner of Taxation

1/7/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: assessable income, issue of shares, consideration, research and development;

Legislative Ref: ITAA 21; ITAA 73B

Case Ref: (1953) 4 TBRD *Case D1*.

ATO Ref: NO 88/4630-8

ISSN 1038 - 8982