

TD 93/D182 - Income tax: should directors fees be included in the assessable income of a director who must pass on those fees to a partnership of which the taxpayer is a member?

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This document has been Withdrawn.

There is a [Withdrawal notice](#) for this document.

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: should directors fees be included in the assessable income of a director who must pass on those fees to a partnership of which the taxpayer is a member?

1. Yes, but the taxpayer will be allowed a deduction for the amount of the directors fees passed on.
2. It is common practice for partners of professional partnerships in particular, to be appointed directors of client firms and of public companies. The appointments often occur because of the direct association between the taxpayer and the partnership. As a result, the appointments are often seen simply as another service provided by the partnership with the appointed partner being the partnership nominee.
3. The practice does not however eliminate or circumvent the incidence of tax on the fees for the partner. It is the individual partner and not the partnership who is appointed as a director, who assumes personally the responsibilities and obligations of the position, who performs the duties of the position and who is remunerated for those duties. It follows that the directors fees are the income of the individual partner.
4. It is also common practice for a partnership agreement to contain provisions which require a partner undertaking paid services outside, although associated with, the partnership business to obtain the approval of the other partners and to pay into the partnership account the remuneration for those services. In these circumstances, the remuneration is treated as partnership income to be shared by all partners in proportion to their respective interest in the partnership. In other words, the fees are treated no differently than, nor are they separated from, other partnership income.
5. Because of these general practices, the direct association between the director and the partnership (and sometimes the partnership and the company) and the approval and passing on conditions of the partnership agreement, any fees passed on to the partnership will be allowed as a deduction to the director.

Note: this issue was originally considered in Draft TD 92/D148, which is now withdrawn.

Commissioner of Taxation
15/7/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2014; IT 2319; IT 2320

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