


TD 93/D55 - Income tax: employee share acquisition schemes - is income that is assessable under section 26AAC of the Income Tax Assessment Act 1936 (ITAA) liable to provisional tax?

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This document has been finalised by TD 94/70.

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: employee share acquisition schemes - is income that is assessable under section 26AAC of the *Income Tax Assessment Act 1936* (ITAA) liable to provisional tax?

1. Yes. Income assessable under Section 26AAC is not salary or wages as defined in section 221A and therefore may be subject to provisional tax under either subsection 221YB(1) or subsection 221YAB(1) of the ITAA.

Subsection 221YB(1)

2. If the amount of income assessable under section 26AAC together with other non-salary and wage income is \$1,000 or more, and the taxpayer is not entitled to a pension rebate, the income will be subject to provisional tax.

Subsection 221YAB(1)

3. If the amount of assessable income under section 26AAC together with other non-salary and wage income is less than \$1,000 it may still be subject to provisional tax where:

(i) The tax payable on taxable income in the preceding year of income less credited amounts is \$3,000 or more;

AND

(ii) Notional gross tax less rebates and PAYE deductions is \$3,000 or more.

EXAMPLE:

Jim Black has a 1991/92 taxable income of \$30,500 made up of salary and wages of \$20,500 from which PAYE deductions of \$3,020 are made, section 26AAC income of \$900 and a bonus of \$9,400. He is entitled to a spouse rebate of \$630.

<i>Tax payable on \$30,800</i>	<i>\$6,898</i>
<i>plus Medicare Levy</i>	<i>\$385</i>
<i>less spouse rebate</i>	<i><u>\$630</u></i>
	<i>\$6,653</i>
<i>less PAYE instalments</i>	<i><u>\$3,020</u></i>
<i>Net tax liability</i>	<i><u>\$3,633</u></i>

Although the amount of income assessable under section 26AAC is less than \$1,000, the income will still be subject to provisional tax in terms of subsection 221 YAB(1).

Commissioner of Taxation

04/03/93

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