


TD 94/D20 - Income tax: when should a Diesel Fuel Rebate paid under the Australian Government Diesel Fuel Rebate Scheme be treated as derived for income tax purposes?

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This document has been finalised by TD 95/16.

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: when should a Diesel Fuel Rebate paid under the Australian Government Diesel Fuel Rebate Scheme be treated as derived for income tax purposes?

1. The price of all diesel fuel purchased includes Commonwealth taxes in the form of Customs/Excise duty. A rebate of this duty is made available through the provisions of the *Customs Act 1901* and the *Excise Act 1901*. The rebate is payable to a person who purchases diesel fuel and uses that fuel otherwise than for the purposes of propelling a road vehicle on a public road,
 - in mining operations;
 - in primary production;
 - at residential premises providing specific amenities for residents;
 - at hospitals, nursing homes or other institutions providing medical or nursing care; and
 - at homes for the aged.
2. In order to claim a rebate, an eligible person must lodge an Application for Diesel Fuel Rebate with the Australian Customs Service. The claim is based on the quantity of diesel fuel purchased for use by the applicant for approved 'off road' purposes.
3. The rebate will be assessable income in the hands of the recipient if it is paid as a consequence of the recipient's income producing activities. For example, if a taxpayer is carrying on a farming business and the diesel fuel, which gave rise to the entitlement to the rebate, is consumed in the course of farming then the rebate will have the character of assessable income in the farmer's hands.
4. If the taxpayer is on a cash basis for tax accounting, the rebate should be included in the taxpayer's assessable income in the year in which it is received.
5. If the taxpayer is on an accruals basis for tax accounting, the rebate should be included in the assessable income of the year in which the taxpayer has a recoverable debt such that he or she is not obliged to take any further steps before becoming entitled to payment (*Farnsworth v. FC of T* (1949) 78 CLR 504, (1949) 9 ATD 33; *Henderson v. FC of T* (1970) 119 CLR 612, 70 ATC 4016; *FC of T v. Australian Gas Light Co.* 83 ATC 4800, (1983) 15 ATR 105). Usually this will be when the taxpayer lodges the necessary forms seeking the rebate.

Example 1:

Taxpayer A, whose income is assessable on an accruals basis, lodges a Diesel Fuel Rebate Claim Form on 15 June 1993 for diesel fuel purchased for approved use during the period 1 May 1993 to 1 June 1993. The payment of the rebate is received on 31 July 1993.

The amount of the rebate is brought to account as assessable income in the year ended 30 June 1993.

Example 2:

Taxpayer B, who prepares his/her income tax return on a cash basis, lodges a Diesel Fuel Rebate Claim Form for diesel fuel purchased for approved use during the period 1 June 1993 to 30 June 1993. The payment of the rebate is received on 31 July 1993.

The amount of the rebate is brought to account, as assessable income in the year ended 30 June 1994.

Commissioner of Taxation

3/3/94

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: accruals basis accounting; cash basis accounting; fuel; petroleum; primary production; mining operations; assessable income

Legislative Ref: ITAA 51(1)

Case Ref: Farnsworth v. FC of T (1949) 78 CLR 504, (1949) 9 ATD 33; Henderson v. FC of T (1970) 119 CLR 612, 70 ATC 4016; FC of T v. Australian Gas Light Co. 83 ATC 4800, (1983) 15 ATR 105

ATO Ref: CNNJ32/1/14 Pt 1

ISSN 1038 - 8982