


TD 94/D46 - Income tax: are the expenses, including remuneration, of an administrator subject to the Commissioner's priority under section 221P of the Income Tax Assessment Act 1936 (ITAA)?

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Draft Taxation Determination

Income tax: are the expenses, including remuneration, of an administrator subject to the Commissioner's priority under section 221P of the *Income Tax Assessment Act 1936* (ITAA)?

1. An administrator appointed under Part 5.3A of the *Corporations Law*, is a trustee for the purposes of section 221P of ITAA from the date of appointment.
2. Accordingly amounts payable by the administrator in respect of deductions made before the dates contained in subsection 221P (1A) and (1B) of the ITAA for the purposes of Division 2 of Part VI of the ITAA, but not dealt with in the manner required by that Division, have priority over all other debts pursuant to subsection 221P(2).
3. The relief from that priority which is provided for in subsection 221P(3), in respect of costs, charges or expenses of the trustee of the estate of a bankrupt or the liquidator of a company that is being wound up, is not available to an administrator.

Commissioner of Taxation

12/5/94

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