


IT 2025 - Income tax : 1982-83 budget legislation

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TAXATION RULING NO. IT 2025

INCOME TAX : 1982-83 BUDGET LEGISLATION

F.O.I. EMBARGO: May be released

REF H.O. REF: 12/L82/61 F190 DATE OF EFFECT: Assessments for
the 1982-83
income year

B.O. REF:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1103967	DIVIDEND REBATE	46C
	SPOUSE REBATE	159J
	DAUGHTER-HOUSEKEEPER REBATE	159J
	SOLE PARENT REBATE	159K
	HOUSEKEEPER REBATE	159L
	PENSIONER REBATE	160AAA
	INCOME TAX (RATES) ACT 1982	

OTHER RULINGS ON TOPIC: TAXATION RULING NO. IT 2008

PREAMBLE The purpose of this ruling (which replaces ruling no. IT 2008) is to highlight certain features of the following Budget measures introduced by the Income Tax Assessment Act (No.5) 1982 and the Income Tax (Rates) Act 1982:-

- . dividend rebate;
- . spouse, daughter-housekeeper and housekeeper rebates;
- . sole parent rebate;
- . pensioner rebate; and
- . personal income tax rate scale changes.

RULING Dividend rebate

2. New section 46C of the Assessment Act authorises a rebate of tax at the standard rate on up to \$1,000 of "net eligible dividend income" received by Australian resident individual taxpayers, and certain trustees, from Australian resident companies or corporate unit trusts or from non-resident companies the shares in which are listed on Australian stock exchanges.

3. The definition of "eligible dividend" excludes dividends taxed at higher rates under section 94 or Division 6AA, as well as amounts deemed to be dividends under sections 65, 108 and 109 and dividends paid by a company that, in relation to the year of income in which the dividend is paid, is a co-operative company for the purposes of Division 9. The definition of "eligible taxpayer" restricts the class of taxpayer who can obtain the

rebate by excluding non-residents, companies and, in effect, trustees assessed under section 99A.

4. The rebate is available in respect of "net eligible dividend income" up to \$1,000 at the rate of 30.67 per cent for 1982-83 (a maximum of \$306.70) and 30 per cent for subsequent years (a maximum of \$300). In determining the "net eligible dividend income" in the case of both an individual taxpayer and a trustee, the amount of eligible dividends will be reduced by any directly related deductions, e.g., interest on a loan used to acquire the particular shares on which the eligible dividends were paid. Apportionment of total interest would, of course, be necessary where the loan was also used for other purposes. Other deductions to be taken into account are those which, in terms of section 50, are to be made from dividend income and can be appropriately related to the eligible dividends.

5. It should be noted that, where a trustee is allowed the dividend rebate in an assessment under section 98 on behalf of a resident beneficiary, and that beneficiary is then assessed in terms of section 100, section 46C will operate to also allow a rebate to the beneficiary. If that were not the case, the benefit of the rebate would be lost to the beneficiary, who is only entitled to a credit for the tax paid by the trustee, which would have been reduced due to the allowance of the rebate to the trustee.

6. The rebate will also be available in respect of income distributions received by beneficiaries in trust estates and unit holders in unit trusts (not being corporate unit trusts), to the extent that those distributions represent eligible dividend income, on the basis that dividends passing through a trust retain their character in the hands of the beneficiary.

Spouse, daughter-housekeeper and housekeeper rebates

7. The increase in these rebates with effect from 1 November 1982, where there is a dependent child under 16 years of age or dependent student under 25 years of age adds another step to the procedure to be followed in determining the relevant rebate (if any) to be allowed in a taxpayer's assessment. In the case of these rebates, it will be necessary to first determine whether the taxpayer is "notionally" entitled to a rebate (however small) for a child or student - that is, whether but for sub-section 159J(1A), and after applying the other provisions of section 159J, the taxpayer would be entitled to some rebate in respect of the child or student. If so, the maximum rebate entitlement is \$1,030 (\$963 for 1982-83) in lieu of \$830. The actual rebate to be allowed is then determined in the usual way, applying all the relevant provisions of section 159J or 159L, as the case may be.

8. Where a person migrates to Australia but his wife and children do not accompany him to Australia, initially, the wife and children are regarded as residents of Australia provided arrangements have been made for them to follow the migrant as soon as circumstances permit. This recognition of residence

ceases if the family has not arrived in Australia within five years. On the basis of the foregoing, subject to the other tests being satisfied, the higher spouse rebate will be available to the husband in these circumstances.

9. With regard to the housekeeper rebate, it should be noted that a taxpayer may be entitled to the increased rebate even though entitlement to the basic rebate of \$830 does not arise because the housekeeper is caring for the dependent child or student. For example, the housekeeper may be engaged during the whole of the year in caring for the taxpayer's invalid spouse and may take no part in caring for a dependent child in respect of whom the taxpayer is notionally entitled to a rebate. The increased housekeeper rebate would still, however, be available to the taxpayer in those circumstances.

Sole parent rebate

10. The increase in the sole parent rebate from 1 November 1982 is merely an increase in the maximum rebate from that date.

Pensioner rebate

11. A taxpayer in receipt of an Australian social security or repatriation pension, allowance or benefit (other than an unemployment, sickness or special benefit) that is subject to tax in Australia is entitled to some rebate of tax in his or her assessment where the taxable income does not exceed \$6,342 in 1982-83 and \$7,428 for subsequent years.

12. The rebate is not available to a taxpayer who is in receipt of -

- . a superannuation pension;
- . an unemployment, sickness or special benefit or a related allowance; or
- . an Australian social security or repatriation pension that is exempt from tax in Australia or is not subject to tax in Australia by virtue of a double taxation agreement,

unless the taxpayer, during some part of the year of income, also derived a pension, allowance or benefit that entitles him or her to the rebate.

Personal income tax rate scale changes

13. The Income Tax (Rates) Act 1982 implements the relevant Budget measures by providing for the announced increases in the top of the zero rate and standard rate steps in the personal income tax rate scale and the reduction in the standard rate of personal tax. The major feature of the Act (as compared with the Income Tax (Rates) Act 1976) is the effect of the withdrawal of the tax-free threshold (zero rate step) from non-residents generally, from 17 August 1982.

14. The defined term "prescribed non-resident" is most relevant in determining the rates of tax to be applied for 1982-83 and subsequent years. For example, a "non-resident taxpayer" - that is, a taxpayer who is a "prescribed non-resident" - is entitled to only a partial tax-free threshold in 1982-83 and no threshold in subsequent years.

15. A "prescribed non-resident" does not include all persons who are non-residents for the purposes of the Assessment Act. A taxpayer who was a resident for some part of an income year, although a non-resident for the remainder of that year, is not a "prescribed non-resident". He is therefore a "resident taxpayer" for rates purposes for that year and is entitled to the benefit of the tax-free threshold for that year. For example, a person may have resided in Australia for many years up until his retirement on (say) 31 July, when he leaves Australia to live permanently overseas. Alternatively, a non-resident may come to Australia on (say) 15 June to take up permanent residence. In each case, the person would be a "resident taxpayer" and entitled to the tax-free threshold for the income year in question.

16. Perhaps the main group of taxpayers who remain non-residents for Assessment Act purposes but are resident taxpayers for Rates Act purposes are those in receipt, at any time during the year of income, of Australian social security or repatriation pensions, allowances or benefits that are subject to tax in Australia. This does not include non-resident recipients of Australian superannuation pensions, unless they also receive, or at some time during the relevant year of income did receive, a taxable social security or repatriation pension. With regard to Commonwealth superannuitants, it is noted that such a person is not an "eligible employee for the purposes of the Superannuation Act 1976" and is not therefore necessarily a "resident" in terms of the definition in section 6 of the Assessment Act.

17. Another category of non-residents, who are (for 1982-83 only) resident taxpayers for Rates Act purposes are those who came to Australia on a short working visit on or before 17 August 1982, or who had made firm arrangements for such a visit by that date. In determining whether "arrangements for the visit were completed on or before 17 August 1982", it is not intended that too strict a view be taken. For example, even though a written contract for a visit may not have been signed by 17 August, it would be reasonable to accept that arrangements were completed by that date where there is evidence that negotiations regarding the visit were effectively finalised by that date. It may be accepted, in appropriate cases, that an oral contract may have existed well before a written contract was signed.

18. The partial tax-free threshold of \$585 available for 1982-83 to taxpayers who are non-resident taxpayers for Rates Act purposes reflects the withdrawal of the threshold with effect from budget day (17 August 1982) and represents the appropriate proportion of the 1982-83 threshold of \$4,462 for resident

taxpayers. Similarly, the partial minimum taxable income levels applying for 1982-83 in Division 6AA cases (\$136) and in some section 99 cases (\$54) represents the relevant proportion of the corresponding minimum taxable income levels applying in the case of resident taxpayers, resident beneficiaries and resident trust estates, as the case may be - that is, \$1,040 and \$416 respectively. For 1982-83 assessment purposes, the partial threshold or partial minimum taxable income applies regardless of the period during the year in which the income was derived.

COMMISSIONER OF TAXATION
8 MARCH 1983