

IT 2136 - Reduction of provisional tax - in certain circumstances where sub-section 100(2) applies



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TAXATION RULING NO. IT 2136

REDUCTION OF PROVISIONAL TAX - IN CERTAIN CIRCUMSTANCES
WHERE SUB-SECTION 100(2) APPLIES

F.O.I. EMBARGO: May be released

REF

H.O. REF: 84/3823-4

DATE OF EFFECT:

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1132019	PROVISIONAL TAX	221YDC(1) 100(2)

PREAMBLE

The question has been raised as to the way in which provisional tax is calculated where:

- (a) a taxpayer is a beneficiary of a trust estate, and
 - (b) the beneficiary's share of the net income of the trust estate includes prescribed payment income from which tax has been deducted, and
 - (c) the beneficiary will be assessed under section 100.
2. Where an assessment is raised under section 98 to a trustee in respect of a beneficiary under a legal disability, the trustee is entitled to credit for tax deducted from prescribed payments (PPS credit) attributable to that beneficiary.
3. When calculating the provisional tax payable by the trustee of the trust estate, a reduction is made to take account of estimated PPS credit to be applied in the next succeeding assessment.
4. Sub-section 100(2) operates in the beneficiary's assessment to reduce the tax assessed to the beneficiary by the tax paid or payable by the trustee in respect of the beneficiary's share of the net income of the trust estate, i.e. the beneficiary may be entitled to a credit equal to the tax paid or payable by the trustee on that share of the net income of the trust estate before allowance of any share of PPS credit which has been applied against the tax payable by the trustee.
5. Previously, when calculating the amount of provisional tax payable by the beneficiary of the trust estate in such cases (either when raising an assessment or as a result of an application to vary provisional tax), the provisional tax otherwise payable has been reduced, in accordance with sub-section 221YDC(1), by the amount of provisional tax paid or payable by the trustee. However, as a reduction for PPS credit

has been made in the calculation of the provisional tax payable by the trustee as outlined at paragraph 3, this has meant that the provisional tax payable by the beneficiary has effectively been increased by the amount of PPS credit applied in calculating the trustee's provisional tax.

RULING

6. Accordingly, as the intention of the legislation is to ensure that tax in respect of trust income is not paid by both the trustee and the beneficiary, it has been decided that, where a taxpayer is a beneficiary to whom section 100 applies, provisional tax otherwise payable will be reduced by an amount equal to the provisional tax that would have been payable by the trustee if no reduction had been made for PPS credit in calculating the trustee's provisional tax.

EXAMPLE

(a) Section 98 Assessment:

Basic provisional tax payable by trustee	= \$6,000
Reduced by estimated PPS credit	= \$5,000
Net provisional tax payable by trustee	= \$1,000

(b) Beneficiary's Assessment:

Provisional tax payable by beneficiary	= \$8,000
Reduced by basic provisional tax payable by trustee	= \$6,000
Net provisional tax payable by beneficiary	= \$2,000

COMMISSIONER OF TAXATION
18 February 1985

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