


IT 2219 - Income tax: deductions for payments by an employee into a disability pension fund

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TAXATION RULING NO. IT 2219

INCOME TAX: DEDUCTIONS FOR PAYMENTS BY AN EMPLOYEE
INTO A DISABILITY PENSION FUND

F.O.I. EMBARGO: May be released

REF

H.O. REF: 82/5849

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1194210	DISABILITY INSURANCE	25(1)
	FUND	51(1)
	DEDUCTIONS FOR	
	CONTRIBUTIONS	

OTHER RULINGS ON TOPIC : IT 208

PREAMBLE

An Australian university which has a superannuation scheme for its staff members set up a separate fund which it called a "disability pensions fund". The rules provide that any person who becomes a member of the university superannuation scheme "shall become a member of the Fund unless exempted from such membership by the Council".

2. Contributions into the Fund are payable by each member and the University may deduct the appropriate amounts from the member's salaries. The rates of contribution are calculated as percentages of the salaries. The contributions are applied by the University in payment of premiums on an insurance policy issued by a large insurance company.

3. Subject to the terms and conditions set out in the Fund rules - a member becoming wholly or partially disabled for a period may be granted a pension benefit. The maximum pension normally payable is one half of the salary which the member would be getting if on full pay according to position and classification when the pension became payable.

4. The Fund does not provide for any capital benefits to contributors, nor are contributors entitled to a refund of contributions upon termination of service. The benefits payable by the Fund represent compensation for loss of earnings.

RULING

5. It is considered that the principles to be applied to the University's Disability Pension Fund are, in essence, those applied by the High Court in FCT v Smith, 81 ATC 4114 : 11 ATR528. The implications of the decision are set out in Taxation Ruling No. IT208. The Disability Pension Fund's function is to provide periodic payments to a disabled contributor during a period of disablement. The benefits provided by the Fund are assessable income by virtue of section

25(1).

6. Contributions to the Fund by the salaried employees are accepted as allowable deductions under sub-section 51(1). There is sufficient connection between the payments to the Fund to provide the benefits following the loss of earnings and the assessable income which may result from those payments in the event that a period of disability, or partial incapacity, should occur.

COMMISSIONER OF TAXATION
20 November 1985