

TAXATION RULING NO. IT 2486

INCOME TAX : CHILDREN'S SAVINGS ACCOUNTS

F.O.I. EMBARGO: May be released

REF

N.O. REF: 88/4843-2

DATE OF EFFECT: Immediate

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DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

| REFERENCE NO: | SUBJECT REFS: | LEGISLAT. REFS: |
|---------------|---|-----------------------------|
| I 1103568 | CHILDREN'S SAVINGS ACCOUNTS | SECTION 25 DIVISION 6 |
| | TRUSTS - CHILDREN'S SAVINGS ACCOUNTS | DIVISION 6A DIVISION 6AA |
| | INTEREST - CHILDREN'S SAVINGS ACCOUNTS | |

PREAMBLE

This Ruling considers the question of who should pay tax on the interest earned on accounts often referred to as children's savings accounts.

2. Children's savings accounts may be held with a bank, credit union, building society or other financial institution. The requirements and practices of the financial institutions may vary. The accounts are usually opened and operated by parents but some may be opened by others such as grandparents. In some cases children open and operate their own accounts. Many accounts are opened in the names of the children while others are called trust accounts.

3. The problem for the Taxation Office is that some people are using children's savings accounts to hide their own money to avoid paying tax on the interest they earn.

RULING

4. Regardless of the name and type of the account, the essential question that must be asked is: 'Whose money is it?'. If the money really belongs to the parent, in the sense that the parent provided the money and may spend it as he or she likes, then the parent should include the interest in his or her return. If it belongs to the child and the child's total income from all sources is less than \$416 no tax is payable and no tax returns will be required.

5. The answer to the question 'Whose money is it?' must inevitably depend upon the facts of each case. If, for example, the account is made up of money the child has received as birthday or Christmas presents, pocket-money or money from newspaper rounds, childminding, etc., then the money in the account should be regarded as that of the child.

6. On the other hand, if the account contains a large sum of

money careful examination is needed to decide where it came from and whose money it really is. There will be other cases where, although an account is opened by a parent in a child's name, the parent spends or intends to use the funds in the account as if they belonged to the parent. In such cases the money in the account will be treated as belonging to the parent.

7. As a general rule, where the Taxation Office is satisfied that the money in the account really belongs to the child, it will not insist on a strict application of the trust provisions of the Income Tax Assessment Act where the account is operated by a parent as trustee. Where the interest is shown in a tax return lodged by a child a trust tax return will not be necessary.

8. In contrast, the Taxation Office will rely on all arguments available to it to combat the practice by some people of using children's savings accounts to invest their own money and avoid paying tax on the interest they earn.

COMMISSIONER OF TAXATION
18 July 1988