


IT 325 - Distribution from defence forces retirement benefits fund

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TAXATION RULING NO. IT 325

DISTRIBUTION FROM DEFENCE FORCES RETIREMENT BENEFITS
FUND

F.O.I. EMBARGO: May be Released

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1104071	DEFENCE FORCES	26(d)
	RETIREMENT BENEFITS	26AA
	FUND	82H
	DISTRIBUTION OF	159R
	SURPLUS ASSETS	
	LUMP SUM PAYMENT	

PREAMBLE The question has been raised whether payments made by the Defence Forces Retirement Benefits Fund in the course of distributing surplus assets of the fund would be assessable income of the recipients.

FACTS

2. As a result of the Quinquennial Investigation of the fund for the period 1 July 1959 to 30 June 1964 a surplus was found to exist for those members who became contributors prior to 14 December 1959. The investigation also indicated that a deficit existed for those members who had entered the fund subsequent to 14 December 1959.

3. Provision for distribution of a surplus to those pre-December 1959 contributors and pensioners who were deemed eligible was made by Part III of the Defence Force Retirement Benefits Act (No. 3) 1968. In effect, it is provided that there shall be paid out of the fund to each contributor and pensioner deemed eligible or if the contributor or pensioner is deceased to such other person considered proper an amount equal to the sum of an allocated amount plus a further amount which would be the equivalent to compound interest thereon. It is intended that the payment to each eligible person will be in the form of a lump sum. Payments will commence during the week ended 5 June 1970 and will be handled by the D.F.R.B. Board in the case of pensioners and other persons whilst the various Service Departments will be making arrangements in respect of contributors who are still serving.

4. It will be noted that the legislation enabling distribution of these surplus assets was based on the approach adopted by Act No. 97 of 1965 which provided for the distribution during 1965 and 1966 of the surplus assets in the Commonwealth Superannuation Fund to eligible contributors and pensioners.

RULING

5. It has been decided that the payments to be made out of the D.F.R.B. Fund by way of distribution of the surplus assets whether made to a contributor, pensioner or to some other person in respect of a former contributor who has died will not form part of the assessable income of the person concerned.

6. The view taken also leads to the conclusion that the distributions should not be regarded as adjustments to contributions under the Defence Forces Retirement Benefits Act which fall for consideration under section 82H. Accordingly, it has been decided that the lump sum distributions referred to above may be ignored in calculating the amount (if any) to be excluded from assessable income under section 26AA.

COMMISSIONER OF TAXATION