



TD 2004/24W - Income tax: is there a deemed assessment under section 166A of the Income Tax Assessment Act 1936 when a company lodges a 'non-taxable return' for a year of income?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *26 September 2012*



Notice of Withdrawal

Taxation Determination

Income tax: is there a deemed assessment under section 166A of the *Income Tax Assessment Act 1936* when a company lodges a 'non-taxable return' for a year of income?

Taxation Determination TD 2004/24 is withdrawn with effect from today.

1. Taxation Determination TD 2004/24 provides the Commissioner's view on whether there is a deemed assessment under section 166A of the *Income Tax Assessment Act 1936* (ITAA 1936) when a company lodges a 'non-taxable return'. Under the former definition of 'assessment' in subsection 6(1) of the ITAA 1936, there was no assessment where there was no taxable income or no tax payable. It followed that, where a company lodged a non-taxable return, there was no deemed assessment under section 166A of the ITAA 1936. As there was no assessment, there was no limit on the period in which the Commissioner could issue an assessment to increase the taxpayer's taxable income.
2. The definition of 'assessment' was amended by the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005* as part of the Review of Aspects of Income Tax Self Assessment law changes. An assessment now includes the ascertainment that there is no taxable income or that there is no tax payable. The amended definition applies in relation to 2004-05 and later income years.
3. This means that under subsection 166A(3) of the ITAA 1936 as it applies for the 2004-05 and later income years, there is a deemed assessment when a company lodges a return that shows no taxable income or that there is no tax payable.
4. Accordingly, TD 2004/24 has no application for the 2004-05 income year and later income years and is therefore withdrawn.
5. The current treatment of assessments, including deemed assessments is outlined in Taxation Ruling TR 2011/5 *Income tax: objections against income tax assessments*.

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ATO references

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