


# ***TD 2017/11 - Income tax: who should be assessed to interest on bank accounts?***

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# Taxation Determination

## Income tax: who should be assessed to interest on bank accounts?

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This publication (excluding appendices) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

### **Previous rulings**

1. This Determination consolidates the ATO view previously expressed in:
  - Taxation Ruling IT 2486 *Income tax: Children's savings accounts*
  - Taxation Determination TD 92/106 *Income tax: who should be assessed to interest earned on a joint bank account?*
  - Taxation Determination TD 92/182 *Income tax: a taxpayer appoints another person as a joint signatory to operate a bank account in the taxpayer's name, if she becomes ill or is absent from Australia for any length of time. The taxpayer retains sole beneficial entitlement to the money in the bank account. Is the appointee assessable on any of the interest income derived?*
  - Taxation Determination TD 93/148 *Income tax: are monetary gifts received by a child or any interest earned on investing such money treated as 'excepted assessable income'?*

### **Ruling**

2. For income tax purposes, interest income on a bank account is assessable to the person or persons who beneficially own the money in the account.<sup>1</sup>

<sup>1</sup> *MacFarlane v. FCT* 86 ATC 4477 at 4486-7; (1986) 17 ATR 808 at 819-820.

**Joint accounts**

3. Interest income on a joint bank account is assessable to the account holders in proportion to their beneficial ownership of the money in the account.
4. Unless there is evidence to the contrary, it is presumed that joint account holders beneficially own the money in equal shares.<sup>2</sup> Relevant evidence can include information regarding who contributed to the account, in what proportions contributions were made, the nature of the contributions, who drew on the account and who used the money (and accrued interest) as their own property. Evidence may also be provided that joint account holders hold money in the account on trust for other persons.

**Children's savings accounts**

5. Where a parent operates an account on behalf of a child, but the Commissioner is satisfied that the child beneficially owns the money in the account, the parent can nonetheless show the interest in a tax return lodged for a child. The lodgement of a trust tax return will not be necessary.
6. Where interest income on a bank account is assessable to a child under 18, that income may be subject to higher rates of tax under the rules in Division 6AA of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936) that apply to the income of certain children.

**Examples****Example 1 – joint bank account – rebutting presumption of equal ownership**

7. Barbara and Chelsey are each assessed to income tax on half of the interest not returned on their joint bank account. Barbara later establishes that Chelsey contributed all of the money to the account and usually treated all of the interest as her money. Barbara has only once drawn funds from the account.
8. Chelsey has beneficial ownership of the money in the account and is therefore assessable on all of the interest income. The Commissioner amends Chelsey's and Barbara's income tax assessments accordingly.

**Example 2 – joint signatory – no beneficial ownership of account**

9. Adrian's elderly aunt has a bank account in her name and Adrian is a joint signatory to that account. Adrian will only operate the account if his aunt is unable to do so due to ill health. All the funds in the account are hers and Adrian is not entitled to personally receive any money from the account.
10. Adrian does not have any beneficial ownership of the money in the account and is therefore not assessable on the interest income.

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<sup>2</sup> *Tanumihardjo v. FCT* 97 ATC 4817; (1997) 36 ATR 400; *Case Z7 92 ATC* 131; (1991) 22 ATR 3591.

***Example 3 – child savings account – child does not have beneficial ownership***

11. Shaun, aged 10, has an account in his name. The account was opened by his mother who initially deposited \$7,000 of her own money into it. Shaun's mother is a signatory to the account, and makes regular deposits and withdrawals to pay for Shaun's school and other expenses.
12. Shaun's mother spends the money in the account as if it belongs to her. She is considered to be the beneficial owner. Shaun's mother is assessable on the interest income earned from the account.

***Example 4 – child savings account – parent operates as trustee***

13. Raymond, aged 14, has accumulated \$7,000 over the years from birthdays and other special occasions. Raymond's mother has placed the money into a bank account in his name, which she operates on his behalf. Raymond's mother does not use the money in the account for herself or others. Raymond earns \$490 in interest during an income year.
14. Raymond has beneficial ownership of the money in the account and is therefore assessable on all of the interest income. The birthday gifts are not assessable income.
15. However, as Raymond is under 18 years of age, he will be subject to higher rates of tax under the rules in Division 6AA of Part III of the ITAA 1936.<sup>3</sup>
16. If Raymond shows the interest in his tax return for that income year, his mother will not need to lodge a trust tax return.

**Date of effect**

17. This Determination applies to income years commencing both before and after its date of issue. However, this Determination will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Determination (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

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**Commissioner of Taxation**26 April 2017

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<sup>3</sup> Raymond is a 'prescribed person' because he is a minor and not within one of the exceptions (see section 102AC of the ITAA 1936). The interest is 'eligible assessable income' (see section 102AE of the ITAA 1936) because it is not within any of the categories of 'excepted assessable income' in subsection 102AE(2).

## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

TR 2006/10

*Previous Rulings/Determinations:*

IT 2486; TD 92/106; TD 92/182; TD 93/148

*Legislative references:*

- ITAA 1936
- ITAA 1936 Div 6AA of Pt III
- ITAA 1936 102AC
- ITAA 1936 102AE
- ITAA 1936 102AE(2)
- TAA 1953

*Cases relied on:*

- Case 27 (1991) 22 ATR 3591; 92 ATC 131
- MacFarlane v. Federal Commissioner of Taxation (1986) 13 FCR 356; (1986) 67 ALR 624; (1986) 17 ATR 808; 86 ATC 4477
- Tanumihardjo v. Federal Commissioner of Taxation (1997) 36 ATR 400; 97 ATC 4817; [1997] FCA 735

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ATO references

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