




TD 93/186 - Income tax: where a trustee is assessed under subsection 98(1) of the Income Tax Assessment Act 1936, in respect of a resident individual beneficiary under a legal disability, is the imputation rebate on dividends allowed in both the trustee's assessment and the individual's assessment?

 This cover sheet is provided for information only. It does not form part of *TD 93/186 - Income tax: where a trustee is assessed under subsection 98(1) of the Income Tax Assessment Act 1936, in respect of a resident individual beneficiary under a legal disability, is the imputation rebate on dividends allowed in both the trustee's assessment and the individual's assessment?*

 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does 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 the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: where a trustee is assessed under subsection 98(1) of the *Income Tax Assessment Act 1936*, in respect of a resident individual beneficiary under a legal disability, is the imputation rebate on dividends allowed in both the trustee's assessment and the individual's assessment?

1. Yes. Where a beneficiary derives other income and is required to include the trust distribution by virtue of subsection 100(1), both the trustee (section 160AQY) and the beneficiary (section 160AQT) receive the imputation rebate. However, the benefit is not actually allowed twice.
2. Under subsection 100(2), a beneficiary who is under a legal disability receives a credit for the tax paid or payable by the trustee on that beneficiary's share of the income entitlement. To calculate this credit the gross tax payable by the trustee under subsection 98(1) is reduced by the beneficiary's share of the trust's imputation rebate. This reduced amount is the credit allowed under subsection 100(2) in the beneficiary's assessment.

Example :- During the year ended 30 June 1993 the ABC Trust derived a net income of \$5,000, consisting of a fully franked dividend of \$3,050 and the attached imputation amount of \$1,950. The sole beneficiary "X" is presently entitled to the trust income, but as a minor, is under a legal disability. In addition to the entitlement to the trust distribution X derived \$2,000 of interest during the year. All income is assessable under the provisions of Division 6AA.

TRUSTEE

The ABC Trust would be assessed under subsection 98(1) on a taxable income of \$5,000. The tax assessed would be:-

Franked dividend, s44(1)	\$3,050
Imputation amount, s160AQT(1)	<u>\$1,950</u>
Taxable Income	<u>\$5,000</u>

BENEFICIARY

The beneficiary "X" would be assessed as follows:-

Interest, s25(1)		\$2,000
Trust distribution, s100(1)		
Franked dividend	\$3,050	
Imputation amount	<u>\$1,950</u>	<u>\$5,000</u>
Taxable Income		<u>\$7,000</u>

TRUSTEE

Tax Payable on \$5,000 @ 47% \$2,350
Less
Imputation rebate, s160AQY \$1,950
Tax payable by trustee, s98(1) \$400

BENEFICIARY

Tax payable on \$7,000 @ 47% \$3,290
Less
Imputation rebate, s160AQX \$1,950
Section 100(2) credit \$400 \$2,350
Net Tax payable by Beneficiary \$940

Note :- The combined tax paid by the trustee and the individual is \$1,340, being 47% of the total income of \$7,000 less the imputation rebate of \$1,950.

Commissioner of Taxation

16/9/93

FOI INDEX DETAIL: Reference No. I 1216182

Previously issued as Draft TD 93/D152

Related Determinations: TD 92/159

Subject Ref: beneficiary; franked dividend; imputation system,

Legislative Ref: ITAA 25(1), ITAA 44(1), ITAA 98(1), ITAA 100; ITAA 160AQT(1), ITAA 160AQX; ITAA 160AQY;

ATO Ref: BANTD30

ISSN 1038 - 8982