



***TD 93/225 - Income tax: are Tax Instalment Deductions (T.I.D.s) required to be made from director's fees where the director is also an employee of a related company and it is a condition of employment or appointment that the director's fees be paid by the director to the related company?***

 This cover sheet is provided for information only. It does not form part of *TD 93/225 - Income tax: are Tax Instalment Deductions (T.I.D.s) required to be made from director's fees where the director is also an employee of a related company and it is a condition of employment or appointment that the director's fees be paid by the director to the related company?*

 This document has changed over time. This is a consolidated version of the ruling which was published on 18 November 1993



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: are Tax Instalment Deductions (T.I.D.s) required to be made from director's fees where the director is also an employee of a related company and it is a condition of employment or appointment that the director's fees be paid by the director to the related company?**

1. No. T.I.D.s are not required to be made from director's fees, where the director is also an employee of a related company and it is a condition of his/her employment or appointment that the director's fees received by him/her are to be paid to the related company.
2. Director's fees paid to a person qualify as 'salary or wages' because of paragraph (b) of that definition in subsection 221A(1) of the *Income Tax Assessment Act 1936*. An employer is ordinarily required to deduct T.I.D.s from payments of salary or wages pursuant to section 221C. Section 221D of the ITAA allows the rate at which T.I.D.s are to be deducted to be varied in special circumstances.
3. We consider that the circumstances described above are 'special circumstances' under subsection 221D(1) and it would be inappropriate to require the deduction of T.I.D.s from payments of director's fees in such cases. This Tax Determination is the notification which is required to be made by the Commissioner under subsection 221D(2) where the Commissioner varies the amount of T.I.D.s to be deducted because of special circumstances.
4. This Taxation Determination does not alter the policy which is outlined in paragraph 3 of Taxation Ruling IT 2319. Director's fees are considered to be derived by the individual director and form part of his/her assessable income. Where the director is required to pay over all or part of those fees to the parent company as a condition of his/her employment or appointment, the amounts so paid represent losses or outgoings incurred in gaining or producing the director's assessable income.

*Example*

*Company A is a major shareholder of Company B. Company A appoints an employee, C, as a director to the board of Company B. As a condition of his/her employment or appointment, C is required to pay any director's fees he/she receives to Company A. T.I.D.s would ordinarily be required to be made from director's fees, but in this case the rate at which they are to be deducted may be varied to nil in respect of the amounts paid to Company A.*

**Commissioner of Taxation**

18/11/93

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Related Rulings: IT 2319; IT 2320

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