TD 93/50 - Income tax: do amounts withheld from payments for work and services constitute 'an amount of relevant tax ... paid by a person' for the purposes of subsection 9(1) of the Taxation (Interest on Overpayments and Early Payments) Act 1983 ?

This cover sheet is provided for information only. It does not form part of *TD 93/50 - Income tax: do amounts withheld from payments for work and services constitute 'an amount of relevant tax ... paid by a person' for the purposes of subsection 9(1) of the Taxation (Interest on Overpayments and Early Payments) Act 1983 ?*

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

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This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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).

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

Taxation Determination

Income tax: do credits of amounts withheld from payments for work and services constitute 'an amount of relevant tax ... paid by a person' for the purposes of subsection 9(1) of the *Taxation (Interest on Overpayments and Early Payments) Act 1983*?

1. Yes. Where an amount withheld from payments for work and services under Subdivision 12-B of Schedule 1 to the *Taxation Administration Act 1953* (TAA) exceeds the tax liability assessed for the year of income, subsection 18-15(1) of Schedule 1 to the TAA requires the excess amounts withheld to be credited against any other tax payable by the employee.

2. Subsection 9(4) of the *Taxation (Interest on Overpayments and Early Payments) Act 1983* (TIOEPA) operates so that when amounts withheld by an employer (and which have been remitted to the Commissioner) are credited against the tax liability of an employee, the employee is deemed to have paid the tax to the extent of the amount so credited. The provision operates generally where an amount paid by one person has been applied against the tax liability of another person.

3. The crediting or absorption of the amounts withheld against tax outstanding is 'an amount of relevant tax ... paid by a person' for the purposes of subsection 9(1) of the TIOEPA. The employee is deemed to have paid that amount on the day on which the amount is applied against the employee's tax liability, usually the date of the relevant assessment.

Example:
A taxpayer lodges an objection against his/her 2000/01 tax assessment of $1,000. The assessment is not paid. On 31 July 2002, the taxpayer's 2001/02 assessment issues with excess amounts withheld of $400 over the tax assessed for the year. The excess amounts withheld are applied against the tax outstanding. The taxpayer's objection to the 2000/01 assessment is allowed and the $400 previously withheld in respect of the 2001/02 assessment is then refunded. The taxpayer is deemed to have paid $400 to the Commissioner on 31 July 2002 towards the outstanding 2000/01 tax for the purposes of calculating interest on overpayments.

Commissioner of Taxation
25/3/93

FOI INDEX DETAIL: Reference No. I 1214485 Previously issued as Draft TD 93/D11
Related Determinations: TD 92/150
Related Rulings: IT 2069; IT 2295; IT 2381
Subject Ref: interest on overpayments; overpaid tax; tax refunds; taxation objections and appeals
Legislative Ref: TIOEP Act 1983 9(1); TIOEP Act 1983 9(4); TAA 1953 Sch 1 Subdiv 12-B; TAA 1953 Sch 1 18-15(1)
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