TD 93/87 - Income tax: should TFN amounts be deducted from that part of a unit trust distribution which is funded by fully franked dividends received by the trust?

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).

Taxation Determination

Income tax: should TFN amounts be deducted from that part of a unit trust distribution which is funded by fully franked dividends received by the trust?

1. Yes. Subsection 221YHZC(1A) of the *Income Tax Assessment Act 1936* ("the Act") requires that a TFN amount be deducted from "unattributed income".

2. "Unattributed income" is defined in subsection 221YHZA(1) as income from investments which are subject to the tax file number (TFN) arrangements in respect of which a TFN has not been provided or taken to have been provided. Investments subject to the TFN arrangements are described in Items 1 to 6 of the table in subsection 202D(1) of the Act.

3. Subsection 221YHZC(1B) of the Act provides that investment bodies are not to deduct TFN amounts from unattributed income which is in the form of fully franked dividend or the franked portion of a partly franked dividend from a share investment. The Act defines a share investment as an Item 6 investment in the table in subsection 202D(1) ie. shares in a public company.

4. Units in a unit trust are not share investments. Therefore, if a unit trust distribution includes income from fully or partly franked dividends, and the unitholder has not provided a TFN or claimed an exemption, the unit manager is required to deduct TFN amounts in accordance with subsection 221YHZC(1C) from any distribution of income made to the unitholder.

Example:

John is a holder of units in ABC Unit Trust: a publicly listed unit trust. The Unit Trust invests in companies which pay both fully franked and partly franked dividends. For the year ended 31 December 1992 John was entitled to a $980 distribution from the Unit Trust which comprised of fully franked and partly franked dividends. John did not provide his TFN to the Unit Trust. The unit manager is required to deduct $472.85 ($980 x .4825) from the income distribution. John is entitled to the franking credit applicable to his share of the income distribution.

Commissioner of Taxation
20/5/93

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Related Determinations:

Related Rulings:

Subject Ref: TFN unit trust distribution comprising of fully franked dividends

Legislative Ref: ITAA 221YHZA; 221YHZC; 202D(1)

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