



TD 94/13 - Income tax: are levies paid by wheatgrowers to the 'Wheat Industry Fund', as provided for by the Wheat Marketing Act 1989 and associated legislation, deductible under subsection 51(1) of the Income Tax Assessment Act 1936 ? Are refunds of 'equity' from this Fund assessable income under subsection 25(1)?

 This cover sheet is provided for information only. It does not form part of *TD 94/13 - Income tax: are levies paid by wheatgrowers to the 'Wheat Industry Fund', as provided for by the Wheat Marketing Act 1989 and associated legislation, deductible under subsection 51(1) of the Income Tax Assessment Act 1936 ? Are refunds of 'equity' from this Fund assessable income under subsection 25(1)?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *27 January 1994*

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 levies paid by wheatgrowers to the 'Wheat Industry Fund', as provided for by the *Wheat Marketing Act 1989* and associated legislation, deductible under subsection 51(1) of the *Income Tax Assessment Act 1936*? Are refunds of 'equity' from this Fund assessable income under subsection 25(1)?

1. Yes. Levy payments are deductible and refunds are assessable.
2. All wheatgrowers are required to pay the Wheat Industry Fund ['WIF'] levy, which is calculated on sales of wheat to other persons. The levy consists of two components: a component to be used for wheat research and a component to enable the Australian Wheat Board to undertake investment activities for the benefit of the wheat industry as a whole.
3. Subject to the following exception, both components of the levy are deductible under subsection 51(1), being necessarily incurred by growers in carrying on their business. Wheatgrowers that are companies, are entitled to a concessional deduction under section 73B for the wheat research component of the levy and are not also entitled to a deduction under subsection 51(1) for this component.
4. Wheatgrowers are allocated equity in the WIF based on the levies paid by them. A refund of equity will be made where a wheatgrower's equity in a given year is less than \$50. These refunds are receipts by wheatgrowers in the ordinary course of business and are assessable income under subsection 25(1).
5. Refunds are also made to the estates of deceased wheatgrowers. These refunds are assessable income under subsection 25(1), as they are considered to be receipts resulting from the operations of wheat growing (*Squatting Investment Co. Ltd. v FC of T* (1954) 88 CLR 413; 10 ATD 361). They are assessable regardless of whether a business of wheat growing is still being carried on (*Case No J81* (1958) 9 TBRD 460; *Case 46* (1958) 8 CTBR (NS) 221).

6. The views in this Taxation Determination are consistent with those in Taxation Ruling IT 224, which dealt with the former Wheat Finance Fund levies and distributions payable under the former *Wheat Levy Act 1979*.

Commissioner of Taxation

27/1/94

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Related Determinations:

Related Rulings: IT 224, TR 92/9

Subject Ref: allowable deductions; assessable income from primary production; primary production; wheat growing

Legislative Ref: ITAA 25(1), 51(1), 73B

Case Ref: FC of T v. Squatting Investment Co Ltd (1954) 88 CLR 413, 10 ATD 361; Case No J81 (1958) 9 TBRD 460, Case 46 (1958) 8 CTBR (NS) 221

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