

# ***TD 94/40 - Income tax: life assurance: are any of the premiums paid by an employer under a 'split purpose' insurance arrangement an allowable deduction?***

 This cover sheet is provided for information only. It does not form part of *TD 94/40 - Income tax: life assurance: are any of the premiums paid by an employer under a 'split purpose' insurance arrangement an allowable deduction?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *18 August 1999*

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FOI Status: may be released

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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).

[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.]

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## Taxation Determination

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### **Income tax: life assurance: are any of the premiums paid by an employer under a 'split purpose' insurance arrangement an allowable deduction?**

1. No. No part of any premiums paid by an employer under a 'split purpose' insurance arrangement is an allowable deduction to the employer. The use of the arrangement to provide 'key person' benefits does not change the situation.
2. A 'split purpose' insurance arrangement is said to exist where one party owns all or part of both the investment and risk components of a life assurance policy and states that each component is held for a separate and distinct purpose. For example, an employer may claim he or she holds the risk component for a revenue purpose and the investment component for a capital purpose.
3. Taxation Ruling IT 155 which deals with 'key person' insurances, acknowledges that a deduction may be allowable for certain premiums paid on a life assurance policy. The premiums must be in respect of a term policy or divisible to a term rider to a life assurance policy. Deductibility is then determined by whether the premiums were paid for a revenue purpose.
4. Taxation Ruling IT 155 was modified by Taxation Ruling IT 2434 which deals with 'split dollar' insurance arrangements. By way of explanation, a 'split dollar' arrangement exists where two parties agree, under a written legally binding agreement, that each owns one of the two components of a life assurance policy. 'Split dollar' policies are mainly used by employers and employees - refer paragraph 4, IT 2434. Usually, the employer owns and is entitled to the benefits of the term component of the policy while the employee owns and is entitled to the investment component of the policy.
5. IT 2434 states that a 'split dollar' arrangement is acceptable provided it results in no greater taxation advantage than if the two parties separately arranged their insurance needs. If this requirement is met each party will be treated as having paid the particular component of the policy owned by them under the arrangement. Paragraph 14, IT 2434 states that premiums payable will be income tax deductions to the extent that the amounts can be said to represent loss or outgoings incurred in gaining or producing assessable income. As stated in IT 155, the term component of a life assurance policy must be taken out by the employer for a revenue purpose in order for the

employer's share (or split) of the premium to be deductible. Premiums in respect of an investment component are not deductible.

6. There is a significant difference between a 'split dollar' arrangement and a 'split purpose' arrangement. With a typical 'split dollar' arrangement an employer who wants to take out a term life policy achieves that result by acquiring only the risk component of a permanent life policy at a cheaper rate. What the employer acquires is set out in the policy and in the associated 'split dollar' agreement.

7. With a 'split purpose' arrangement the situation, in reality, is that the employer is the sole owner of a permanent life assurance policy. There is no legal division of the benefit entitlements under the policy as there is under a 'split dollar' arrangement. Upon maturity (at death or the attainment of the stated date) or surrender of the policy the employer receives a single amount the whole of which is, in normal circumstances, treated as a capital receipt.

8. The usual practice in relation to life assurance policies, as stated in IT 155, therefore applies to split purpose insurance arrangements. That is, the life assurance premiums paid are not allowable deductions as they are paid in respect of a permanent life policy which is owned (in full) by the taxpayer.

9. If monies are borrowed to pay any part of the premiums on a life policy involved in a 'split purpose' arrangement, the interest payable on those borrowings is not an allowable deduction because a 'split purpose' arrangement is based on a permanent life policy the proceeds of which do not constitute assessable income - refer Taxation Ruling IT 2504 and section 67AAA of the *Income Tax Assessment Act 1936* ('the 1936 Act').

### **Commissioner of Taxation**

12/5/94

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Related Determinations:

Related Rulings: IT 155, IT 2434, IT 2504

Subject Ref: life assurance, life companies, deduction for premiums paid under split purpose insurance arrangement.

Legislative Ref: ITAA 1936 51(1), ITAA 1936 67AAA

Case Ref:

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