TD 94/68 - Income tax: who is responsible for lodgment of a company income tax return if both a receiver/manager and a liquidator have been appointed ?

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Australian Taxation Office

Taxation Determination **TD 94/68**

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: who is responsible for lodgment of a company income tax return if both a receiver/manager and a liquidator have been appointed ?

1. A receiver/manager and a liquidator each satisfies the definition of 'trustee' in subsection 6(1) of the *Income Tax Assessment Act 1936*. Therefore, each is legally responsible for lodging the return under the provisions of paragraphs 254(1)(a) and (b).

2. However, the Commissioner acknowledges that under certain appointments, the receiver/manager does not have control of the financial records. In these cases, the Commissioner would look to the liquidator for lodgment.

3. In other cases, the receiver/manager and the liquidator have equal control of the financial records. In these cases, the Commissioner accepts the usual commercial practice that the liquidator lodges the return.

Commissioner of Taxation
4/8/94

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