



***TD 94/70 - Income tax: employee share acquisition schemes: can income that is assessable under section 26AAC of the Income Tax Assessment Act 1936 be subject to provisional tax?***

 This cover sheet is provided for information only. It does not form part of *TD 94/70 - Income tax: employee share acquisition schemes: can income that is assessable under section 26AAC of the Income Tax Assessment Act 1936 be subject to provisional tax?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *4 August 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: employee share acquisition schemes: can income that is assessable under section 26AAC of the *Income Tax Assessment Act 1936* be subject to provisional tax?**

1. Yes. Income assessable under section 26AAC is not salary or wages as defined in section 221A and therefore may be subject to provisional tax by the operation of paragraph 221YB(1)(b) or subsection 221YAB(1).

#### **Paragraph 221YB(1)(b)**

2. If the amount of income assessable under section 26AAC together with other non-salary and wage income is \$1,000 or more, and the taxpayer is not entitled to a pension rebate, the income will be subject to provisional tax.

#### **Subsection 221YAB(1)**

3. If the amount of assessable income under section 26AAC is less than \$1,000 it may still be subject to provisional tax where:

(i) the tax payable on taxable income in the preceding year of income less credited amounts (as defined) is \$3,000 or more;

**and**

(ii) notional gross tax (as defined) less rebates and PAYE deductions is \$3,000 or more.

#### *Example*

*Jim Black has a 1991/92 taxable income of \$30,800 made up of salary and wages of \$20,500, from which PAYE deductions of \$3,020 are made, S26AAC income of \$900 and a bonus of \$9,400. He is entitled to a spouse rebate of \$630.*

<i>Tax payable on \$30,800</i>	<i>\$6,898</i>
<i>plus Medicare Levy</i>	<i>\$385</i>
<i>less spouse rebate</i>	<i>\$630</i>
	<i>\$6,653</i>
<i>Less PAYE instalments</i>	<i><u>\$3,020</u></i>
<i>Net tax liability</i>	<i><u>\$3,633</u></i>

*Although the amount of income assessable under section 26AAC is less than \$1,000, the income will still be subject to provisional tax in terms of subsection 221YAB(1).*

**Commissioner of Taxation**

4/8/94

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FOI INDEX DETAIL: Reference No. I 1217728

Previously issued as Draft TD 93/D55

Subject Ref: employee share acquisition schemes; provisional tax

Legislative Ref: ITAA 26AAC; ITAA 221A; ITAA 221YAB(1); ITAA 221YB(1)(b)

ATO Ref: SYD\DTD\92\13

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ISSN 1038 - 8982