



TD 97/18 - Income tax: life assurance companies - apportionment of current year deductions between classes of assessable income

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 This document has changed over time. This is a consolidated version of the ruling which was published on 9 July 1997

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: life assurance companies - apportionment of current year deductions between classes of assessable income

What this Determination is about

1. This Determination deals with a change in our view about the allocation under section 116CF of the *Income Tax Assessment Act 1936* ('the Act') of expenses, allowable as deductions under either section 111AC or section 111AD, incurred by life assurance companies in obtaining superannuation premiums and the investment component of other life assurance policy premiums.

Section 116CF and Division 8

2. Division 8 of Part III of the Act divides the assessable income of life assurance companies into four classes of assessable income, corresponding to the four classes of policies written by companies. Division 8 then allocates allowable deductions to each class of assessable income. Each of the resulting four components of taxable income of the companies is then taxed at different rates. Section 116CF allocates 'current year deductions', as defined in subsection 110(1), to each class of assessable income. Subsection 116CF (1) allocates those current year deductions that relate exclusively to a particular class of assessable income to that class. Subsection 116CF(2) allocates the residual current year deductions to each class using the formula :

$$\text{Residual current deductions} \times \frac{\text{Income of class}}{\text{Total Income}}$$

Previous View

3. Our long standing view about the allocation of the deductions referred to in paragraph 2 above was that, where a deduction related exclusively to one particular class of policy or business, the deduction should be allocated to that class under subsection 116CF(1), regardless of whether the deduction could be related exclusively to any 'assessable income' of that class. This view was based on our understanding that the policy of Division 8 was to ensure deductions which related exclusively to a particular class of policy or business were allowed, in effect, at the appropriate rate of tax for each of the classes of policy or business.

4. As an example, life assurance companies would receive deductions for initial commission expenses incurred in obtaining superannuation premiums at the rate of tax applicable to the CS/RA class of income (15% for the 1996/97 year of income). Similarly companies would receive deductions for initial commission expenses incurred in obtaining the investment component of other life assurance policy premiums at the rate of tax applicable to the AD/RLA class of income (39% for the 1996/97 year of income). Any expenses (including overriding commission), which relate to more than one class of policy or business, were then treated as residual current deductions and allocated to the CS/RA, AD/RLA and other classes under subsection 116CF(2).

5. Until recently, the life assurance industry had not challenged our previous view on the allocation of deductions under section 116CF.

New view

6. Our previous view on the interpretation of subsection 116CF(1) has been questioned recently by some in the life assurance industry. It is argued that the subsection only refers to deductions that relate exclusively to particular classes of 'assessable income', and not to deductions that relate to particular classes of policy or business. Looking at the examples referred to in paragraph 4 above, this would mean that, as superannuation and other life assurance policy premiums are not assessable income of a life assurance company (subsection 111(1)), expenses that relate exclusively to obtaining these premiums could not be said to relate exclusively to a particular class of 'assessable income' for the purposes of subsection 116CF(1). After considering the issues raised, we recognise that our previous view of the interpretation of subsection 116CF(1) is not supported by law.

7. We now accept that expenses incurred in obtaining superannuation premiums and the investment component of other life assurance policy premiums (apart from those relating to 'specified roll-over amounts', as defined in subsection 110(1)) should be allocated to classes of assessable income according to the formula set out in subsection 116CF(2). Expenses that relate exclusively to obtaining 'specified roll-over amounts' should be allocated under subsection 116CF(1) to the CS/RA class of assessable income. This is because 'specified roll-over amounts' are assessable income of a life assurance company under the CS/RA class (see subsection 111(1A) and paragraph 116CE(4)(d)).

Date of effect

8. This determination only applies to the 1997/1998 year of income (or equivalent substituted accounting period) and future years except to the extent that taxpayers wish to apply it to previous years of income (or equivalent substituted accounting period) to the extent permitted by section 170.

Commissioner of Taxation

9 July 1997

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Not previously issued in draft form.

Related Determinations:

Related Rulings: TR95/28

Subject Ref: classes of assessable income; commission expenses; current year deductions; life assurance companies

Legislative Ref: Division 8 Part III; ITAA 110(1); ITAA 111(1); ITAA 111(1A); ITAA 111AC; ITAA 111AD; ITAA 116CE(4)(d); ITAA 116CF; ITAA 116CF(1); ITAA 116CF(2); ITAA 170

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