

TD 93/D225 (Withdrawn) - Income tax: are distributions made in the course of an informal winding up of a company assessable when the company is not dissolved within a reasonable time ?

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! This document has been Withdrawn.

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Draft Taxation Determination

Income tax: are distributions made in the course of an informal winding up of a company assessable when the company is not dissolved within a reasonable time ?

1. Yes. Subsection 47(2B) provides that if a company is not dissolved within 3 years after the informal distribution or within such further period as the Commissioner allows, the distribution is deemed to be a dividend paid by the company out of profits derived by it. The deemed dividend is assessable in the year that the distribution was made.

2. The amount which is deemed to be a dividend under subsection 47(2B) will be the total shareholders' funds less any amount of paid up capital.

Example

On 1 June 1993, Company A distributes the net assets of the company to its two shareholders B and C who both own 1 share each. The capital account of Company A is as follows : -

<i>Reserves</i>	<i>100,000</i>
<i>Paid up capital</i>	<i><u>2</u></i>
	<i>100,002</i>

If no action is taken to dissolve Company A within 3 years of the informal distribution (ie 1/6/96) then shareholders B and C will be assessable on their share of the shareholders' funds less any amount of paid up capital. The amount deemed to be a dividend is \$100,000. (ie 100,002 - 2(paid up capital)). Therefore shareholders B and C will be each assessable on a deemed dividend of \$50,000 in the 1992/3 income year.

Commissioner of Taxation

2/9/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Companies; Deemed Dividends; Distribution

Legislative Ref: ITAA s47(2A) & (2B)

Case Ref:

ATO Ref: HOB/TD11