


TD 93/D236 - Income tax:(i) Does the whole amount receivable by an advertising agency from an advertiser client (for the cost of media space, commission and service fee) form part of the gross income of the agency under subsection 25(1) of the Income Tax Assessment Act 1936 (ITAA)? (ii) When is this income 'derived' for the purposes of subsection 25(1) of the ITAA? (iii) Where an advertiser fails to pay the advertising agency for placing an advertisement with a media entity is the agency entitled to claim a deduction under section 63 of the ITAA?

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Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax:

(i) Does the whole amount receivable by an advertising agency from an advertiser client (for the cost of media space, commission and service fee) form part of the gross income of the agency under subsection 25(1) of the Income Tax Assessment Act 1936 (ITAA)?

(ii) When is this income 'derived' for the purposes of subsection 25(1) of the ITAA?

(iii) Where an advertiser fails to pay the advertising agency for placing an advertisement with a media entity is the agency entitled to claim a deduction under section 63 of the ITAA?

(i) Yes. We consider that the whole of the amount receivable is generated by activities of the agency. This differs from the tax treatment of monies, which may be held in trust, by other types of agents, for example, life insurance agents.

(ii) The income is 'derived' by the advertising agency at the time the advertisement is published or broadcast. This is irrespective of the billing system used by the agency.

(iii) Yes, subject to the provisions of section 63.

Commissioner of Taxation

16/9/93

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