


TD 93/D272 - Income tax: are dividends, paid into a foreign bank account to which a resident taxpayer has no access from Australia, to be treated as income?

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This document has been finalised by TD 96/13.

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Draft Taxation Determination

Income tax: are dividends, paid into a foreign bank account to which a resident taxpayer has no access from Australia, to be treated as income?

1 Yes. The dividend is assessable income in Australia. It is irrelevant that the taxpayer cannot transfer the funds out of the foreign country.

2 "Shareholder" is defined at sub section 6(1) of the *Income Tax Assessment Act 1936* (ITAA) to include a member or stockholder.

3 A resident shareholder is assessable on dividends paid to him by the company out of profits (subsection 44(1) ITAA).

4 The dividend paid into the shareholder's foreign bank account is regarded as paid to the shareholder.

Example

In Blankfield v FCT an Australian resident taxpayer had a bank account in a foreign country. Dividends from a company based in the same foreign country were paid into the bank account.

Restrictions imposed by the foreign country upon the export of currency and assets meant the taxpayer was unable to draw funds from the account.

Through the depositing of the dividend in the taxpayer's bank account, it was considered that the dividend was paid to the taxpayer. The fact that the taxpayer could not draw on the blocked account was irrelevant to his liability to tax in Australia.

Commissioner of Taxation

28/10/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: dividend income.

Legislative Ref: ITAA 44.

Case Ref: Blankfield v FCT 1972 ATR 258, 1972 ATC 4177

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