


TD 94/D100 - Income tax: can the value of an annuity contract be amortised over the effective life of the annuity and the amortisation expense deducted from the annuity income when calculating the separate net income of a dependant under section 159J of the Income Tax Assessment Act 1936?

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Draft Taxation Determination

Income tax: can the value of an annuity contract be amortised over the effective life of the annuity and the amortisation expense deducted from the annuity income when calculating the separate net income of a dependant under section 159J of the *Income Tax Assessment Act 1936*?

1. Yes, separate net income is calculated as the dependant's gross income less any expenses incurred in earning such income. Expenses which are considered to be a direct charge against the income can be deducted from the dependant's gross income to determine the separate net income. When deciding if an expense is a direct charge against income a taxpayer may look at the ordinary accounting and commercial principles that apply.
2. When a taxpayer purchases an annuity, the principal used to purchase the annuity ceases to exist as it has been transformed into an income source. Annuity payments are not derived from the money paid for the annuity; they are derived solely from the annuity contract. The annuity contract creates an asset, that is, the right to receive the annuity. That asset is an intangible asset.
3. It is normal accounting practice to amortise an intangible asset over its expected life. Therefore, the value of an annuity contract may be amortised over the expected life of the annuity. The amortisation expense can be deducted from annuity income to reflect the true net profit from the annuity when calculating separate net income.

Commissioner of Taxation

22/9/94

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Related Determinations:

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