



IT 2303 - Income tax: lump sum payment on termination of employment of an assistant marine steward

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 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

TAXATION RULING NO. IT 2303

INCOME TAX : LUMP SUM PAYMENT ON TERMINATION OF
EMPLOYMENT OF AN ASSISTANT MARINE STEWARD

F.O.I. EMBARGO: May be released

REF

H.O. REF: J 249/6 P9

DATE OF EFFECT: Immediate

B.O. REF:

DATE ORIG. MEMO ISSUED: 5 June 1985

F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:

I 1078229 LUMP SUM PAYMENT 26(d)
ON TERMINATION OF
EMPLOYMENT OF ASSISTANT
MARINE STEWARD;
MARITIME INDUSTRY
SEAGOING AWARD

OTHER RULINGS ON TOPIC: IT 246

PREAMBLE

It has been decided that no appeal will be lodged against a decision of Taxation Board of Review No.1, dated 25 March 1985, that a lump sum paid to an assistant marine steward when his ship was decommissioned and sold off the Australian coast is assessable only as to 5% under paragraph (d) of section 26 of the Income Tax Assessment Act. The decision is reported as Case S17 85 ATC 213 and Case 26 28 CTBR(NS).

FACTS

2. The taxpayer had been employed as an assistant marine steward for many years. In 1967 he obtained a permanent position in that capacity with a shipping agent. The taxpayer worked for that company until 1973 when the agency for the coastal shipping was transferred to another company. He continued to work for the new managing agents on the same terms and conditions until October 1974 when the ship on which he had been serving since 1968 was decommissioned and sold off the coast to a Singaporean firm. He was paid a lump sum calculated with reference to his period of employment with the shipping agents, that is, from 1967 to 1974. The taxpayer then went on to the industry roster for re-engagement and served on various ships until his retirement.

3. As described in Taxation Ruling No. IT 246, it is the view of the Commissioner that a lump sum payment made to a seaman covered by the Maritime Industry Seagoing Award 1973 (MISA) because his ship is decommissioned is assessable in full, and paragraph 26(d) does not apply. The basis for this policy is the "industry employment" concept.

4. In this case however, the Board found that until his ship was decommissioned in October 1974 the taxpayer was a permanent employee of the shipping agent and was not part of the

industry engagement system. Evidence was given by the Department of Transport that his name was not on the Register of the Engagement System until after October 1974. The Board found that the lump sum payment was made as a consequence of the termination of his permanent position with the shipping agent and fell within paragraph 26(d). The payment was not made simply because of the decommissioning of the ship. Only after his permanent position was terminated did the taxpayer enter into regulated industry employment covered by Taxation Ruling No. IT 246.

- RULING
5. It is accepted that the Board reached the correct decision on the facts peculiar to the taxpayer.
6. Taxation Ruling No. IT 246 continues to apply to lump sum payments made to maritime industry employees who are engaged under the MISA system.

COMMISSIONER OF TAXATION
2 January 1986

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