


# ***IT 86 - Taxation of lump sum leave payments***

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TAXATION RULING NO. IT 86

TAXATION OF LUMP SUM LEAVE PAYMENTS

F.O.I. EMBARGO: May be released

REF

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LUMP SUM LEAVE PAYMENTS

26AC

RETIREMENT ALLOWANCE

26AD

TERMINATION OF EMPLOYMENT

LEAVE CREDITS - PUBLIC HOLIDAYS

RAILWAY EMPLOYEES

PREAMBLE

As a result of the amendments effected by the Income Tax Assessment Amendment Act (No.2) 1978, a lump sum payment after 15 August 1978 for accrued long service leave received in consequence of retirement from, or the termination of, any office or employment is assessable in full to the extent that it is a payment for leave which accrued after 15 August 1978 and assessable on the 5 per cent basis to the extent that it is a payment for leave which accrued on or prior to that date.

2. Where a payment is made for leave which relates to service both up to and after 15 August 1978 it is necessary to apportion the payment into two amounts. To achieve this, sub-section 26AD(3) contains a formula which provides a basis for calculating the part of the payment attributable to the leave which accrued after 15 August 1978. The balance of the payment is for leave which accrued in the period up to 15 August 1978.

FACTS

3. During discussion on the amendment in the Parliament a matter was raised of certain Victorian Railways employees who receive a day's leave credit when called upon to work on a public holiday. Some of these employees have accumulated a large number of such days which they are entitled to take as leave, or to receive payment for. It is apparently usual for payment to be taken on retirement or termination of employment.

RULING

4. The particular employees are covered by the Railways Salaried Officers Award 1960 and the leave granted in lieu of public holidays is not part of annual leave or long service leave. Accordingly, any payment received on retirement for such accrued "public holiday" leave will remain assessable income to the extent of 5 per cent of the amount received.

5. Further investigations have shown that some South Australian and Tasmanian railway employees who are also covered by separate clauses of the Railways Salaried Officers Award and employees of State Government Departments both in Victoria and

other States receive similar leave credits for working on public holidays. Each situation will have to be decided in the light of the terms of the relevant law or award under which the leave is credited but it appears from those that have been examined that the provisions that exist for leave in lieu of public holidays give to any lump sum payment on retirement in respect of such accrued leave the continuing character of an amount assessable as to 5 per cent only.

COMMISSIONER OF TAXATION