

IT 91 - Shares acquired as retirement benefits: inter-relationship of sec 26(d) and 26AAC

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TAXATION RULING NO. IT 91

SHARES ACQUIRED AS RETIREMENT BENEFITS:
INTER-RELATIONSHIP OF SEC 26(d) AND 26AAC.

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SHARES
RETIREMENT BENEFITS
SHARE ACQUISITION
SCHEMES

26(d)
26AAC

PREAMBLE A question was raised whether section 26AAC of the Income Tax Assessment Act, which governs the taxation of benefits acquired after 17 September 1974 under schemes for the acquisition of shares by employees, would be regarded as covering shares acquired under superannuation arrangements that provide for members to receive shares in employer companies when they retire.

RULING

2. In cases where parcels of shares are acquired as a consequence of retirement and in such circumstances that the other prerequisites for the operation of section 26(d) of the Act are clearly satisfied, it is considered that a proper construction of the Act as whole would require the income tax liability in respect of the acquisition of share to be determined in accordance with section 26(d) without the simultaneous application of section 26AAC.

3. An example of cases where all of the prerequisites of section 16(d) were not satisfied would be where arrangements associated with an employee's retirement provide for acquisitions of separate parcels of shares at intervals following the retirement with a resultant failure of the "lump sum" test in section 26(d). Section 26AAC could well have application in such cases.

COMMISSIONER OF TAXATION