


TD 2006/52A1 - Addendum - Income tax: can a dividend, or part of a dividend, be non-assessable non-exempt income under both section 23AJ and section 23AK of the Income Tax Assessment Act 1936 ?

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Addendum

Taxation Determination

Income tax: can a dividend, or part of a dividend, be non-assessable non-exempt income under both section 23AJ and section 23AK of the *Income Tax Assessment Act 1936*?

This Addendum amends Taxation Determination TD 2006/52 to replace references to the foreign tax credit system with legislative references to the foreign income tax offset rules, which replaced the foreign tax credit system with effect from 1 July 2008.

TD 2006/52 is amended as follows:

1. Paragraph 2

- (a) Omit '1 July 2006'; substitute '1 July 2008'.
- (b) Omit '01/12/2006'; substitute '01/12/2008'.
- (c) Omit '01/07/06'; substitute '01/07/2008'.

2. Paragraph 3

Omit '1 December 2006'; substitute '1 December 2008'.

3. Paragraph 5

- (a) Omit 'foreign tax credit'; substitute 'foreign income tax offset'.
- (b) Omit 'section 160AFCJ'; substitute 'section 770-10 of the ITAA 1997'.

4. Paragraph 13

Omit 'foreign tax credits'; substitute 'foreign income tax offsets'.

5. Paragraph 15

- (a) Omit the first sentence; substitute:

Subsection 770-10(2) of the ITAA 1997 provides that a resident taxpayer receiving a dividend that is non-assessable non-exempt income under either section 23AI or 23AK of the ITAA 1936 will be entitled to a non-refundable tax offset for the foreign income tax paid on the distribution.

- (b) Omit 'foreign tax credit'; substitute 'foreign income tax offset'.

6. Paragraph 19

Omit 'foreign tax credits'; substitute 'foreign income tax offsets'.

7. Paragraph 22

- (a) Omit 'section 160AFCJ'; substitute 'section 770-10 of the ITAA 1997'.
(b) Omit 'foreign tax credit'; substitute 'foreign income tax offset'.

8. Legislative references

Omit:

- ITAA 1936 160AF(1)(a)
- ITAA 1936 160AFCJ

Insert:

- ITAA 1936 23AI
- ITAA 1997 770-10
- ITAA 1997 770-10(2)

This Addendum applies on and from 1 July 2008.

Commissioner of Taxation
22 December 2010

ATO references

NO: 1-278QH8L

ISSN: 1038-8982

ATOlaw topic: Income Tax ~~ Exempt income ~~ controlled foreign companies