TD 2006/72 - Income tax: does the relevant number determined for the purposes of working out the deductible amount of a superannuation pension or annuity under subsection 27H(2) of the Income Tax Assessment Act 1936 take into account the life expectancy of a reversionary pensioner or annuitant?

Taxation Determination

Income tax: does the relevant number determined for the purposes of working out the deductible amount of a superannuation pension or annuity under subsection 27H(2) of the *Income Tax Assessment Act 1936* take into account the life expectancy of a reversionary pensioner or annuitant?

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Ruling

1. Yes. The relevant number used to calculate the deductible amount of a superannuation pension or annuity that is payable to a person (the original pensioner) for life and on the death of that person is payable to another person for their life (the reversionary pensioner) will be the greater of the life expectancies of the original and reversionary pensioners.

Example

2. *Rob became entitled to a superannuation pension on reaching 55 years of age on 30 September 2006. He had made $120,000 personal undeducted contributions to the complying superannuation fund which pays his pension. His pension is payable for life and a reversionary pension will be paid to his wife Joanne in the event of his death. Joanne was also 55 years old when Rob's pension became payable. The pension has no residual capital value.*

3. *The most current Australian Life Tables available before the year in which Rob's pension first commences to be payable (that is. 2006) are the 2000-02 Australian Life Tables. At age 55, the tables state Rob's Life Expectancy Factor to be 25.92 and Joanne's to be 29.91. As Joanne's Life Expectancy Factor is greater than that of Rob, Rob's contributions will be divided by Joanne's Life Expectancy Factor to give a deductible amount of $4,012 (truncated) under the formula set out in subsection 27H(2) of the Income Tax Assessment Act 1936. In the event of Rob's death prior to her death, Joanne may continue to claim the deductible amount against her reversionary pension.*

Date of effect

4. This Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Commissioner of Taxation
15 November 2006

Appendix 1 – Explanation

This Appendix is provided as information to help you understand how the Commissioner's preliminary view has been reached. It does not form part of the proposed binding public ruling.

Explanation

5. Section 27H of the *Income Tax Assessment Act 1936* (ITAA 1936) includes in assessable income the amount of a superannuation pension or annuity derived in an income year, excluding the 'deductible amount' for that pension or annuity. The deductible amount represents a portion of the 'undeducted purchase price' of the pension or annuity. The deductible amount is excluded from the assessable amount of the pension or annuity. It is tax free to the recipient because it represents the return to the pensioner or annuitant of the amount paid to acquire the pension or annuity.

6. The deductible amount is determined for a superannuation pension or annuity for an income year. The deductible amount is generally determined by applying the formula in subsection 27H(2) of the ITAA 1936. Commonly, this simply involves dividing the undeducted purchase price of the pension or annuity by the 'relevant number'. The relevant number is intended to represent the anticipated term of the pension or annuity.

7. The definition of 'relevant number' in subsection 27H(4) of the ITAA 1936 indicates that where a superannuation pension or annuity is only payable for the lifetime of a particular person (a non-reversionary pension), that number will be the life expectancy factor for the person when the pension or annuity commences to be payable (paragraph (b) of the definition of 'relevant number' in subsection 27H(4) of the ITAA 1936). Regulation 9 of the Income Tax Regulations 1936 indicates that the life expectancy factor is determined from the Australian Life Tables that are most recently published before the year in which the pension or annuity first commences to be payable.[1]

8. Paragraph (c) of the definition of 'relevant number' in subsection 27H(4) of the ITAA 1936 also provides that the relevant number will be the period the Commissioner considers appropriate when the pension or annuity is not payable for a fixed period of years or is not payable for the lifetime of a particular person. The Commissioner will have regard to the period during which the pension or annuity will, or may reasonably be expected to, be payable in determining an appropriate number.

9. Where a superannuation pension or annuity may continue to be paid after the death of the original pensioner for the remaining lifetime of the reversionary pensioner, the Commissioner considers the relevant number to be the greater of the life expectancies of the original and the reversionary pensioner. This represents the period for which the pension may reasonably be expected to be payable.

10. Consistent with the approach adopted for a non-reversionary pension, the Commissioner will use the Australian Life Tables that are most recently published before the year in which the pension or annuity first commences to be payable to determine the respective life expectancies of the original and reversionary pensioners.

[1] The Australian Life Tables can be found at the Australian Government Actuary's website (www.aga.gov.au).

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10

Subject references:

- annuities and superannuation pensions
- Commissioner's discretion
- deductible amount
- superannuation, retirement and employment termination
- undeducted purchase price

Legislative references:

- TAA 1953
- ITAA 1936 27H
- ITAA 1936 27H(2)
- ITAA 1936 27H(4)
- Income Tax Regulations 1936 9

Other references:

- www.aga.gov.au

ATO references

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