



TD 92/179 - Income tax: company A, in the course of carrying on its investment and sharetrading business, issues to its shareholders, at non-refundable premiums, warrants on shares held in another company which grant to the warrant holders the right to purchase the underlying shares at a fixed price within a certain period of time. The nature of the warrants is similar to that of call options. Do the premiums form part of Company A's assessable income under subsection 6-5 of the Income Tax Assessment Act 1997, and are they derived in the years in which the warrants are issued?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 2 September 1998

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part 4VAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

Taxation Determination

Income tax: company A, in the course of carrying on its investment and sharetrading business, issues to its shareholders, at non-refundable premiums, warrants on shares held in another company which grant to the warrant holders the right to purchase the underlying shares at a fixed price within a certain period of time. The nature of the warrants is similar to that of call options. Do the premiums form part of Company A's assessable income under subsection 6-5 of the *Income Tax Assessment Act 1997*, and are they derived in the years in which the warrants are issued?

Section 6-5 of the *Income Tax Assessment Act 1997*, to which this Ruling refers, expresses the same idea as subsection 25(1) of the *Income Tax Assessment Act 1936*.

1. Yes. The premiums received on issue of the warrants are income according to ordinary concepts, as they arise from activities which fall squarely within the scope of Company A's sharetrading and investment business (*Californian Copper Syndicate (Limited and Reduced) v Harris* (1904) 5 TC 159). Also, the issuing of warrants is viewed as a way of generating income by exploiting existing assets - in this case the underlying shares (*Rolls-Royce Ltd v Jeffrey* 1 WLR 425).
2. Yes. Warrants are securities in their own right, and the premiums received on issue "come home" at the time of issue of the warrants. Company A does everything that is necessary to derive the premiums by completing its obligations to issue the warrant securities.

Example:

Company A carried on a business which included investing and trading in shares and options. In the course of two financial years Company A issued warrants to its shareholders which granted rights to purchase fully paid ordinary shares in Company X at \$7.50 each on or before certain dates. The warrants were issued at premiums of \$0.50, which were non-refundable. Company A was entitled to receive total premiums of \$1 million and \$3 million in the two consecutive financial years in which it engaged in this activity. The amounts of \$1 million and \$3 million correctly form part of Company A's assessable income in years 1 and 2 respectively.

Note: The Addendum to this Determination that issued on 2 September 1998 amends the Determination in relation to the 1997-98 or later income years.

Commissioner of Taxation
29/10/92

FOI INDEX DETAIL: Reference No. I 1213546 Previously issued as Draft TD 92/D142

Subject Ref: warrant premium; income according to ordinary concepts; time of derivation.

Legislative Ref: ITAA 1936 25(1); ITAA 1997 6-5

Case Ref: Californian Copper Syndicate (Limited and Reduced) v Harris (1904) 5 TC 159; Rolls-Royce Ltd v Jeffrey [1962] 1
WLR 425, 40 TC 443

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