TD 92/182 - Income tax: a taxpayer appoints another person as a joint signatory to operate a bank account in the taxpayer's name, if she becomes ill or is absent from Australia for any length of time. The taxpayer retains sole beneficial entitlement to the money in the bank account. Is the appointee assessable on any of the interest income derived?

This document has changed over time. This is a consolidated version of the ruling which was published on *5 November 1992*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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.

Taxation Determination

Income tax: a taxpayer appoints another person as a joint signatory to operate a bank account in the taxpayer's name, if she becomes ill or is absent from Australia for any length of time. The taxpayer retains sole beneficial entitlement to the money in the bank account. Is the appointee assessable on any of the interest income derived?

1. No. Where a person is merely a signatory of an account but has no beneficial entitlement to the monies in that account, the person is not liable to taxation on the interest income in respect of that account.

2. This contrasts with the situation in *MacFarlane v. FCT* 86 ATC 4477; (1986) 17 ATR 808 where the bank account was in the name of the appellant but the appellant and another person derived the interest income in equal shares. The Full Federal Court held that they were beneficially entitled in equal shares to the monies in the account.

3. This case established that liability to taxation on interest income is subject to the principles of common law and the law of equity, modified by any relevant legislation, including the *Income Tax Assessment Act 1936*. Therefore, a taxpayer is liable to taxation on interest income where the taxpayer has beneficial entitlement to the monies in the account.

Example:
Taxpayer A's elderly aunt has a bank account in her name and Taxpayer A is a joint signatory to that account. Taxpayer A will only operate the account if his aunt is unable to do so due to ill health. All the funds in the account are hers and Taxpayer A has no entitlement to personally receive any money from this account. Taxpayer A in these circumstances has no beneficial entitlement to the money held in this account and therefore is not liable to taxation on the interest income. In this situation, merely being a signatory to the account is not sufficient on its own to make Taxpayer A liable to taxation on the interest.

Commissioner of Taxation
05/11/92

FOI INDEX DETAIL: Reference No. I 1213572 Previously issued as Draft TD 92/D163
Related Determinations: TD 92/ 106
Related Rulings: IT 2486
Subject Ref: bank account; beneficial interest; derivation of interest; interest income
Legislative Ref: ITAA 19; ITAA 25(1)
Case Ref: MacFarlane v. FCT 86 ATC 4477, (1986) 17 ATR 808
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