



TD 92/194W - Income tax: for imputation purposes does a 'frankable dividend' include a payment made by a private company, that is deemed to be a dividend by virtue of section 108 or section 109 of the Income Tax Assessment Act 1936?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 7 August 2013



Notice of Withdrawal

Taxation Determination

Income tax: for imputation purposes does a 'frankable dividend' include a payment made by a private company, that is deemed to be a dividend by virtue of section 108 or section 109 of the *Income Tax Assessment Act 1936*?

Taxation Determination TD 92/194 is withdrawn with effect from today.

1. TD 92/194 outlines for imputation purposes whether a frankable dividend under section 160APA of the *Income Tax Assessment Act 1936* (ITAA 1936) includes a payment made by a private company that is deemed to be a dividend by virtue of section 108 or section 109 of the ITAA 1936.
2. Section 108 of the *ITAA 1936* was repealed as part of the Tax Laws Amendment (2007 Measures No. 3) Bill 2007.
3. The term 'frankable dividend' under section 160APA of the ITAA 1936 was replaced by the term 'frankable distributions' under section 202-40 of the *Income Tax Assessment Act 1997* (ITAA 1997). Subsection 202-40(1) states that a distribution is a frankable distribution only if it is not an 'unfrankable distribution'. Paragraph 202-45(g) of the ITAA 1997 defines an 'unfrankable distribution' to specifically include a deemed dividend by virtue of section 109 of the ITAA 1936.
4. As the legislation clearly states the views expressed in the Taxation Determination, it is considered that this Determination is no longer necessary.
5. Accordingly, the TD is withdrawn.

Commissioner of Taxation
7 August 2013

ATO references

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ATOlaw topic: Income Tax ~~ Entity specific matters ~~ franking of dividends - company matters
Income Tax ~~ Tax integrity measures ~~ private company distributions