

TD 93/100 - Income tax: payment of "equipment royalties" pursuant to a contract entered into prior to 8pm on 18 August 1992.

⚠ This cover sheet is provided for information only. It does not form part of *TD 93/100 - Income tax: payment of "equipment royalties" pursuant to a contract entered into prior to 8pm on 18 August 1992.*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *3 June 1993*



This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA 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, 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 a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: payment of "equipment royalties" pursuant to a contract entered into prior to 8pm on 18 August 1992.

1. *Taxation Laws Amendment Act (No. 5) 1992* amended the *Income Tax Assessment Act 1936* to substitute a final withholding tax on royalties paid or credited to non-residents in lieu of the normal assessment system.
2. However, "equipment royalties" (that is, royalties for the use of, or right to use, any industrial, commercial or scientific equipment) paid or credited in accordance with pre 18 August 1992 contracts will remain subject to the assessment system provided a variation of the contract does not occur. Any change whatsoever to a contract will attract the withholding tax provisions.
3. Where a variation to a contract does occur, all equipment royalties paid or credited after the variation will be subject to withholding tax. Royalty payments made prior to the variation will remain subject to the assessment system.

Example:

A contract is entered into on 1 August 1992 which involves the payment of 'equipment royalties' for leased aircraft. The contract is, therefore, excluded from the withholding tax provisions by virtue of section 82(1) of the Taxation Laws Amendment Act (No.5) 1992.

On 30 September 1993 the contract was varied to change the frequency of the royalty payments.

From 30 September 1993 all royalties will be subject to the withholding tax provisions.

Commissioner of Taxation

3/6/93

FOI INDEX DETAIL: Reference No. I 1215080

Previously issued as Draft TD93/ D83

Related Determinations:

Related Rulings:

Subject Ref: Royalty Withholding Tax

Legislative Ref: ITAA Pt III Div 11A

Case Ref:

ATO Ref: 91/9830-0