# *TD 93/116 - Income tax: to what extent are dividends paid by a resident company to a non-resident individual subject to withholding tax?*

**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: to what extent are dividends paid by a resident company to a non-resident individual subject to withholding tax ?

1. The payment of a fully franked dividend is not subject to withholding tax under paragraph 128B (3)(ga) of the *Income Tax Assessment Act 1936.*

2. If a partially franked dividend is paid, the unfranked portion will be subject to tax at the dividend withholding tax rate of 30%. However, this rate is generally reduced to 15% in the case of countries which have a double tax agreement with Australia.

3. If an unfranked dividend is paid, the whole dividend is subject to withholding tax.

Note: In the case of the Philippines and Thailand, a different withholding tax rate applies.

*Example:*
*John is a resident of a country in which Australia has a double tax agreement. He received a fully franked dividend of $200 from Aust. Co. This dividend is not subject to withholding tax.*

*He also received a dividend of $100 which was 75% franked, 25% unfranked. The unfranked portion of $25 is subject to withholding tax of $3.75 ($25 x 15%).*

**Commissioner of Taxation**
24/6/93

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