

***TD 93/156W - Income tax: is a refund notice an 'assessment' for the purposes of the Income Tax Assessment Act 1936 when a taxpayer has a taxable income above the tax-free threshold but is entitled to franking rebates in excess of the amount of tax otherwise payable and a refund notice issues to refund existing PAYE credits to the taxpayer?***

**!** This cover sheet is provided for information only. It does not form part of *TD 93/156W - Income tax: is a refund notice an 'assessment' for the purposes of the Income Tax Assessment Act 1936 when a taxpayer has a taxable income above the tax-free threshold but is entitled to franking rebates in excess of the amount of tax otherwise payable and a refund notice issues to refund existing PAYE credits to the taxpayer?*

**!** This document has changed over time. This is a consolidated version of the ruling which was published on 26 September 2012



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## Notice of Withdrawal

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### Taxation Determination

Income tax: is a refund notice an 'assessment' for the purposes of the *Income Tax Assessment Act 1936* when a taxpayer has a taxable income above the tax-free threshold but is entitled to franking rebates in excess of the amount of tax otherwise payable and a refund notice issues to refund existing PAYE credits to the taxpayer?

Taxation Determination TD 93/156 is withdrawn with effect from today.

1. Taxation Determination TD 93/156 explains that a refund notice is not an 'assessment' as defined in subsection 6(1) of the *Income Tax Assessment Act 1936*. This means that the taxpayer does not have objection rights against the notice and there is no limit on the period in which the Commissioner could issue an assessment to increase the taxpayer's taxable income.
2. The definition of 'assessment' was amended by the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005* as part of the Review of Aspects of Income Tax Self Assessment law changes. Under the new definition, which has effect for the 2004-05 and later income years, a notice that there is no taxable income or that no tax is payable (for example, a refund notice) is an assessment. This means that it may be the subject of an objection and also that the time limits for review apply.
3. Accordingly, TD 93/156 has no application for the 2004-05 income year and later income years and is therefore withdrawn.
4. The current treatment of assessments is outlined in Taxation Ruling TR 2011/5 *Income tax: objections against income tax assessments*.

ATO references

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