



TD 93/234 - Income tax: is the value of the shares received as consideration for providing services for research and development activities assessable income in the hands of an independent contractor?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *18 August 1999*



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).

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

Taxation Determination

Income tax: is the value of the shares received as consideration for providing services for research and development activities assessable income in the hands of an independent contractor?

1. Yes. Shares in a company issued to an independent contractor as consideration for services performed in relation to research and development activities undertaken by the company, constitutes assessable income of the independent contractor under section 6-5 of the *Income Tax Assessment Act 1997*. That is, the value of the shares constitutes gross income derived by the contractor for the purposes of section 6-5. The amount of assessable income is the value of the shares at the time they are issued.
2. Section 21 applies where consideration is given other than in cash. The money value of the consideration is deemed to have been paid or received.
3. In Taxation Board of Review case, (1953) 4 TBRD *Case D1*, it was held that it was the market value of the shares and not their nominal value that was the correct amount to be assessed to the taxpayer for the services rendered to the company. The ATO agrees with this view.
4. Section 6-5 of the *Income Tax Assessment Act 1997*, to which this Determination refers, expresses the same ideas as subsection 25(1) of the *Income Tax Assessment Act 1936*.

Example:

An independent contractor performs services in relation to research and development activities on behalf of a mining company. The contractor receives as consideration for the services performed an issue of shares in that company. The market value of the shares at the time they are issued constitutes assessable income of the contractor.

Commissioner of Taxation

9/12/93

FOI INDEX DETAIL: Reference No. I 1216718

Previously issued as Draft TD 93/D173

Related Determinations:

Related Rulings:

Subject Ref: assessable income, issue of shares, consideration, research and development

Legislative Ref: ITAA 1936 21; ITAA 1936 73B; ITAA 1997 6-5

Case Ref: (1953) 4 TBRD *Case D1*.

ATO Ref: NAT 88/4630-8

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