

TD 94/27W - Income tax: does 'separate net income' include the imputation credits attached to franked dividends?

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! TD 94/27 has been withdrawn as part of a project to review public rulings.

! This document has changed over time. This is a consolidated version of the ruling which was published on *27 June 2018*

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: does 'separate net income' include the imputation credits attached to franked dividends?

1. No. Imputation credits are not included in 'separate net income' as defined in section 159J of the *Income Tax Assessment Act 1936*.
2. For 'separate net income' purposes, generally only amounts which are income according to ordinary concepts (eg. dividends actually paid or credited to the shareholder), or other amounts specifically included in the definition of separate net income in subsection 159J(6) (eg. capital gains) are separate net income. However, the assessability of an item of income does not necessarily make it 'separate net income'.
3. Imputation credits are not income according to ordinary concepts and are specifically included as assessable income only because of section 160AQT of the Act.

Example:

Mary Smith includes a claim of \$1,177 for a full dependant spouse rebate (no children) in respect of her husband John for the year ended 30 June 1993. John's only income for the year is a dividend received from XYZ P/L of \$200. The imputation credit attached to this dividend is \$127. Therefore, John's assessable income is \$327. However, the amount to be treated as separate net income of the spouse in calculating Mary's spouse rebate is only \$200 (being the fully franked dividend).

Accordingly, Mary is entitled to the full dependant spouse rebate claim.

Commissioner of Taxation

14/4/94

FOI INDEX DETAIL: Reference No. I 1217200

Previously issued as Draft TD 93/D154

Related Rulings: IT 2391

Subject Ref: imputation system; dependant spouse rebate; separate net income

Legislative Ref: ITAA 159J, 160AQT

ATO Ref: CHA Case 220

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