

TD 95/33 - Income tax: when are 'Factor (f)' payments derived by pharmaceutical companies?

 This cover sheet is provided for information only. It does not form part of *TD 95/33 - Income tax: when are 'Factor (f)' payments derived by pharmaceutical companies?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *12 December 2007*

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: when are 'Factor (f)' payments derived by pharmaceutical companies?

1. Payments derived by pharmaceutical companies under the Factor (f) program are assessable under either section 6-5 or section 15-10 of the *Income Tax Assessment Act 1997* (ITAA 1997). In accordance with Taxation Ruling TR 98/1 Income tax: determination of income; receipts versus earnings, recipients of Factor (f) payments should account for them by the method that is most appropriate to their business operations. However, subject to subsection 6-5(4) and subsection 6-10(3) of the ITAA 1997, they would generally be regarded as being derived when received by the taxpayer. It is at this time that the recipient has to account for the payments for tax purposes.

2. Prices for pharmaceutical products listed under the Pharmaceutical Benefits Scheme are negotiated by the Pharmaceutical Benefits Pricing Authority and pharmaceutical companies. One of the eight factors to be considered when negotiating prices is the level of Australian activity pricing guideline known as Factor (f) which allows for higher notional prices to be paid to a company in return for approved programs of development and a significant commitment to local production, research and development.

Commissioner of Taxation

29/06/95

FOI INDEX DETAIL: Reference No. I 1015836

Previously issued as Draft TD 93/D228

Related Determinations: TD 93/18

Related Rulings: TR 98/1

Subject Ref: bounty; subsidy

Legislative Ref: ITAA 1997 6-5; ITAA 1997 6-5(4); ITAA 1997 6-10(3); ITAA 1997 15-10

Case Ref:

ATO Ref: AULC 11/711 (Way); NAT 95/4526-3

ISSN 1038 - 8982