


TD 96/13 - Income tax: if a foreign company pays a taxable dividend into a foreign bank account of an Australian resident shareholder who has no access from Australia to the income, is the dividend assessable income of the shareholder?

 This cover sheet is provided for information only. It does not form part of *TD 96/13 - Income tax: if a foreign company pays a taxable dividend into a foreign bank account of an Australian resident shareholder who has no access from Australia to the income, is the dividend assessable income of the shareholder?*


 This Ruling has been reviewed by the ATO and does not require any updates as at 31 March 2017.



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: if a foreign company pays a taxable dividend into a foreign bank account of an Australian resident shareholder who has no access from Australia to the income, is the dividend assessable income of the shareholder?

 This Ruling has been reviewed by the ATO and does not require any updates as at 31 March 2017.

1. Yes. The dividend is assessable income in Australia. It is irrelevant that the shareholder cannot transfer the funds out of the foreign country.
2. A resident shareholder is assessable on dividends paid to him or her by the company out of profits (subsection 44(1) of the *Income Tax Assessment Act 1936* ('the Act')).
3. 'Shareholder' is defined in subsection 6(1) of the Act to include a member or stockholder.
4. The dividend paid into the shareholder's foreign bank account is paid to the shareholder.

Example

In Blankfield v. FCT (1972) 3 ATR 258; 72 ATC 4177 an Australian resident taxpayer had a bank account in a foreign country. Dividends from a company based in the same foreign country were paid into the bank account.

Restrictions imposed by the foreign country upon the export of currency and assets meant the taxpayer was unable to draw funds from the account.

Through the depositing of the dividend in the taxpayer's bank account the dividend was paid to the taxpayer. The fact that the taxpayer could not draw on the blocked account was irrelevant to his liability to tax in Australia.

FOI INDEX DETAIL: Reference No. I 1014918

Previously issued as Draft TD 93/D272

Related Determinations:

Related Rulings:

Subject Ref: dividend income; paid

Legislative Ref: ITAA 6(1); ITAA 44(1)

Case Ref: Blankfield v. FCT (1972) 3 ATR 258; 72 ATC 4177

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