IT 2069W - Notice of Withdrawal - Interest on overpaid tax

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Notice of Withdrawal

Taxation Ruling

Interest on overpaid tax

Taxation Ruling IT 2069 is withdrawn with effect from today.

1. Taxation Ruling IT 2069 deals with a number of issues that have been raised in relation to the *Taxation (Interest on Overpayments) Act 1983*. The Ruling is being withdrawn because the issues dealt with in the Ruling have been addressed by subsequent legislative amendments or referred to in other Tax Office publications.

2. The *Taxation Laws Amendment Act (No. 4) 1994* and the *Tax Laws Amendment (2006 Measures No. 2) Act 2006* introduced changes to the definition of 'decision to which this Act applies' in subsection 3(1) of the Act which is now cited as the *Taxation (Interest on Overpayments and Early Payments) Act 1983* (the Act).

3. These amendments broadened the class of decisions to which the Act applies. As part of this change a new paragraph (ca) in the definition of 'decision to which this Act applies' was included in subsection 3(1). The effect of this paragraph for overpayments or early payments of relevant taxes is that the Act now applies to decisions of the Commissioner to amend an assessment made in relation to a taxpayer reducing the liability of the taxpayer to tax.

4. The amended definition applies to any decision made on or after 1 July 1994 in relation to an assessment in respect of the 1993-94 income year or any later income year.

5. As a result of the amendments, it is now clear that interest is payable on the overpayment of tax in the circumstances outlined in paragraphs 2, 3, 4, 5 and 9 of the Ruling. Therefore these paragraphs of the Ruling have no ongoing application.

6. Paragraphs 6 and 7 of the Ruling consider whether interest on overpaid tax will be payable when tax is deferred under section 31B of the *Income Tax Assessment Act 1936* (ITAA 1936). Section 31B of the ITAA 1936 was a transitional provision that was repealed by the *Taxation Laws Amendment Act (No. 3) 1989*. Generally the last income year in which the transitional provisions applied was 1981-82. Therefore these paragraphs of the Ruling have no ongoing application.

7. The issue dealt with in paragraph 8 of the Ruling is now explained in further detail in paragraph 83.2.27 and 83.2.28 of the ATO Receivables Policy contained in Law Administration Practice Statement PS LA 2006/11. Therefore this paragraph of the Ruling is no longer necessary.

Commissioner of Taxation
21 February 2007

ATO references
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