



TD 93/50 - Income tax: do credits of tax instalment deductions constitute "an amount of relevant tax ... paid by a person" for the purposes of subsection 9(1) of the Taxation (Interest on Overpayments) Act 1983 (TIOPA)?

 This cover sheet is provided for information only. It does not form part of *TD 93/50 - Income tax: do credits of tax instalment deductions constitute "an amount of relevant tax ... paid by a person" for the purposes of subsection 9(1) of the Taxation (Interest on Overpayments) Act 1983 (TIOPA)?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *25 March 1993*

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: do credits of tax instalment deductions constitute "an amount of relevant tax ... paid by a person" for the purposes of subsection 9(1) of the *Taxation (Interest on Overpayments) Act 1983 (TIOPA)*?

1. Yes. Where the amount of tax instalments deducted from the salary or wages of an employee (as shown on a group certificate or a tax stamps sheet) exceeds the tax liability assessed for the year of income, paragraph 221H(2)(b) of the *Income Tax Assessment Act 1936* requires the excess tax instalments to be credited against any other tax payable by the employee.
2. Subsection 9(4) of the TIOPA operates so that when tax instalments deducted by an employer (and which have been remitted to the Commissioner) are credited against the tax liability of an employee, the employee is deemed to have paid the tax to the extent of the amount so credited. The provision operates generally where an amount paid by one person has been applied against the tax liability of another person.
3. The crediting or absorption of the tax instalments against tax outstanding is "an amount of relevant tax ... paid by a person" for the purposes of subsection 9(1) of the TIOPA. The employee is deemed to have paid that amount on the day on which the amount is applied against the employee's tax liability, usually the date of the relevant assessment.

Example:

A taxpayer lodges an objection against his/her 1990/91 tax assessment of \$1,000. The assessment is not paid. On 31 July 1992, the taxpayer's 1991/92 assessment issues with excess tax instalments of \$400 over the tax assessed for the year. The excess tax instalments are applied against the tax outstanding. The taxpayer's objection to the 1990/91 assessment is allowed and the \$400 previously withheld in respect of the 1991/92 assessment is then refunded. The taxpayer is deemed to have paid \$400 to the Commissioner on 31 July 1992 towards the outstanding 1990/91 tax for the purposes of calculating interest on overpayments.

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Related Determinations: TD 92/150

Related Rulings: IT 2069; IT 2295; IT 2381

Subject Ref: interest on overpayments; overpaid tax; tax refunds; taxation objections and appeals

Legislative Ref: ITAA 221H(2)(b); TIOPA 9(1); 9(4)

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