



TD 95/42 - Income tax: can a premium paid by an employer on a trauma insurance policy in respect of an employee be an allowable deduction to the employer?

 This cover sheet is provided for information only. It does not form part of *TD 95/42 - Income tax: can a premium paid by an employer on a trauma insurance policy in respect of an employee be an allowable deduction to the employer?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *18 August 1999*

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: can a premium paid by an employer on a trauma insurance policy in respect of an employee be an allowable deduction to the employer?

1. Yes, where the trauma policy is:
 - (a) owned by an employer;
 - (b) the employer is the beneficiary of the policy;
 - (c) the premium is paid for a revenue purpose; and
 - (d) the purpose of the policy is to advance the business ends of the taxpayer;

then the premium is deductible under section 8-1 of the *Income Tax Assessment Act 1997* ('the 1997 Act') (formerly subsection 51(1) of the *Income Tax Assessment Act 1936* (the 1936 Act)).

2. A revenue purpose would exist where any benefit expected to be obtained by the employer under the policy was to cover the loss of profit, either on account of reduced income or increased expenditure, arising as a result of the loss of the employee through the occurrence of the insured event or condition under the trauma policy. There needs to be a nexus between the amount of the insurance benefit and the expected quantum of lost profits. A benefit received in these circumstances would constitute assessable income to the employer under section 6-5 of the 1997 Act.

Note: The Addendum to this Determination that issued on 18 August 1999 applies in relation to the 1997-98 or a later income year.

Commissioner of Taxation
9 August 1995

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Related Determinations: TD 95/39; TD 95/40; TD 95/41; TD 95/43

Related Rulings:

Subject Ref: accident and disability insurance policies; life assurance companies; trauma insurance policies

Legislative Ref: ITAA 1997 6-5; ITAA 1997 8-1

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