TR 2004/D4 - Income tax: the taxation implications of 'partnership salary' agreements

Draft Taxation Ruling

Income tax: the taxation implications of 'partnership salary' agreements

Contents Para

Preamble

This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling for the purposes of Part IVAAA of the ***Taxation Administration Act 1953****. It is only final Taxation Rulings that represent authoritative statements by the Australian Taxation Office.*

What this Ruling is about

1. This Ruling considers the assessability to a partner and the deductibility to a partnership of what is commonly referred to as 'partners' salary' or 'partnership salary' paid to a partner from the business of the partnership, whether or not for personal services provided by the partner.

2. The term 'partnership salary' describes any form of additional remuneration paid to a partner from the partnership funds for acting in the partnership business as agreed among the partners. Although all partners have a right to work in and manage the partnership business, the partners may make arrangements amongst themselves concerning their relative contributions. As part of these arrangements, it may be agreed that those partners that make a greater contribution to the partnership business are entitled to additional remuneration from the partnership funds, which may be called salary, wages or specified as a fixed sum payable over a period of time for work performed by the partner.

3. The Ruling then considers whether, in the case where a partner takes a 'partnership salary' in excess of available partnership net income, that excess is assessable to the partner and the other partners are entitled to a deduction for any loss or outgoing incurred by them in meeting the excess. It also considers the effect of a 'partnership salary' agreement on the interests of each of the partners in the net income or partnership loss of the partnership for income tax purposes.

Class of person/arrangement

4. This Ruling only applies where the recipient of the 'partnership salary' is carrying on business in partnership as a partner for income tax purposes. Whether or not the recipient is carrying on business in partnership as a partner is a question of fact. The factors taken into account in determining whether persons are carrying on business as partners in a given year of income are discussed in Taxation Ruling TR 94/8.

Date of effect

5. It is proposed that when the final Ruling is issued, it will apply both before and after its date of issue. However, the final Ruling will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the final Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Previous Rulings

6. This Ruling replaces Taxation Ruling IT 2218 on 'Partners' Salaries'. Taxation Ruling IT 2218 was withdrawn on 22 May 2002.

Ruling

'Partnership salary' is not deductible to the partnership

7. A 'partnership salary' is not truly a salary, nor is it an expense of the partnership, but instead is an additional distribution of partnership profits to the recipient partner. Thus, the payment of a 'partnership salary' to a partner, whether or not for personal services provided by the partner, is not an allowable deduction to the partnership under section 8-1 of the *Income Tax Assessment Act 1997* (the ITAA 1997) and is not taken into account in calculating the net income or partnership loss of the partnership under section 90 of the *Income Tax Assessment Act 1936* (the ITAA 1936). Therefore, the payment of a 'partnership salary' cannot result in or increase a partnership loss.

Assessability of the 'partnership salary' to the partner

8. The 'partnership salary' payments vary the recipient partners' share in the partnership profits and losses and are taken into account in determining that partner's interest in the net income of the partnership under subsection 92(1) of the ITAA 1936.

9. If in a particular income year the 'partnership salary' drawn by a partner exceeds the recipient partner's interest in the available net income of the partnership, the excess is not, at that time, assessable income of the partner under subsection 92(1) of the ITAA 1936. Nor, subject to paragraph 10, is it assessable under section 6-5 of the ITAA 1997. Rather, the excess is assessable to the partner in a future income year when sufficient profits are available and the partners' interest is accounted for under subsection 92(1) of the ITAA 1936.

When 'partnership salary' is not repayable by the partner and exceeds available partnership net income

Assessability of the excess 'partnership salary'

10. In the rare case where the excess 'partnership salary' is not taken as drawings of future profits and is not repayable by the recipient partner in default of such profits the excess is assessable income of the partner under section 6-5 of the ITAA 1997 except to the extent that it represents a repayment of part of the capital contributed by that partner to the partnership.

Deductibility of the excess to the other partners

11. In a case to which paragraph 10 applies the other partners are not entitled to a deduction under section 8-1 of the ITAA 1997 for any loss of partnership capital or any outgoing by way of additional contribution to partnership capital. The loss or outgoing is a loss of capital, or an outgoing of a capital nature, and therefore cannot be deducted under paragraph 8-1(2)(a) of the ITAA 1997.

Individual interests of the partners in the partnership net income

12. An agreement by the partners of a partnership to pay a 'partnership salary' to a partner is a contractual agreement among the partners to vary the interests of the partners in the partnership (and thus the partnership net income) between the partners. For such an agreement to be effective for tax purposes in an income year the agreement must be entered into before the end of that income year (*FCT v. Galland* (1986) 162 CLR 408; (1986) 18 ATR 33; (1986) 86 ATC 4885, *AAT Case 5303* (1989) 20 ATR 3905; *Case W79* 89 ATC 705).

Explanation

The assessment of income derived from a partnership

13. Income derived from a partnership is generally not assessed to the partners under the ordinary income provisions, such as section 6-5 of the ITAA 1997. Rather, Division 5 of Part III of the ITAA 1936 (Division 5) contains the assessing provisions in respect of partnership income.

14. The general structure of Division 5 is that the net income or partnership loss of the partnership is determined under section 90 of the ITAA 1936. Having then determined whether the partnership has a net income or partnership loss for a particular income year, section 92 of the ITAA 1936 then requires that a partner either:

- include in his or her assessable income so much of his or her individual interest in the net income of the partnership (subsection 92(1)); or
- claim as a deduction so much of his or her share of the partnership loss (subsection 92(2)).

15. Consequently, it is not possible for one partner to have an amount of assessable income under subsection 92(1) and another partner to have a loss under subsection 92(2).

The legal nature of 'partnership salary' agreements

16. Pursuant to the various *Partnership Acts* of the States and Territories no partner is entitled to remuneration for acting in the partnership business;[1] however this provision is often varied in partnership agreements. The partnership agreement often contains a clause to the effect that a 'salary', 'wage' or a fixed amount may be drawn by or payable to a partner from the partnership funds for work carried out by that partner in the partnership business. The agreement may or may not specify that such amounts are drawn in anticipation of partnership profits or payable out of the profits of the partnership.

17. A partnership is not a legal entity with its own personality and existence separate and distinct from the partners (*Rose v. FC of T* (1951) 84 CLR 118) and neither the ITAA 1936 nor the ITAA 1997 modify this principle for the purposes of the income tax law. A partner is an owner of the partnership business with his or her co-partners, and is entitled, with his or her partners, to an undivided share in all the assets of the business. The relations between the partners, including their share of the profits and assets of the business and the

[1] Section 24(VI) of the *Partnership Act 1892 (NSW);* section 28(6) of the *Partnership Act 1958 (Vic);* section 27(6) of the *Partnership Act 1891 (Qld);* section 24(VI) of the *Partnership Act 1891 (SA);* section 34(6) of the *Partnership Act 1895 (WA);* section 29(f) of the *Partnership Act 1891 (Tas);* section 29(6) of the *Partnership Act 1963 (ACT)*.

distributions and payments of funds, are agreed internally between the partners.

18. The courts have characterised agreements under which a 'partnership salary' is drawn or paid to a partner from partnership funds as not creating a contract of employment or contract for the services of the partner but rather as an agreement to vary the sharing of partnership profits between the partners (for example *Ellis v. Joseph Ellis & Co.* [1905] 1 KB 324, *MacKinlay (Inspector of Taxes) v. Arthur Young McClelland Moores & Co.* [1990] 2 AC 239 (*MacKinlay*)). An agreement to pay a 'partnership salary' to a partner for his work as a partner is an internal agreement as to how the partnership's funds will be applied as between the partners, and is enforceable on the taking of partnership accounts. A 'partnership salary' is a distribution of partnership funds to the partner, and does not have the character of an expense of the partnership (*MacKinlay*).

19. The entitlement of a partner to a distribution of profits is merely a part of his fractional interest as a partner in the partnership profit; it is not severable from his interest as a partner (*FC of T v. Everett* (1980) 143 CLR 440; (1980) 10 ATR 608; (1980) ATC 4076 at CLR 450; ATR 613; ATC 4081). The effect of an agreement to pay a 'partnership salary' is that the partner receives a fixed part of the profits of the partnership before the remaining part falls to be divided among the partners in the appropriate proportions. The amounts distributed to the partner are brought into account in computing that partner's interest in the profits or assets of the partnership. However, the 'partnership salary' is still regarded as constituting part of the profits of the partnership (*Watson v. Haggitt* [1928] AC 127, *MacKinlay*). In other words, the 'partnership salary' amounts drawn by the partner during the year before partnership accounts are taken and the partnership profit (or loss) ascertained are merely advances.

'Partnership salary' is not deductible to the partnership

20. As the 'partnership salary' payment is a distribution or drawing in respect of partnership profits it cannot be characterised as an expense of the business and therefore does not constitute an allowable deduction to the partnership under section 8-1 of the ITAA 1997 that is taken into account in calculating the net income or partnership loss of the partnership under section 90 of the ITAA 1936 ((1952) 3 CTBR(NS) *Case 11*; 3 TBRD *Case C22* 142, (1966) CTBR(NS) *Case 110*; 16 TBRD *Case R59* 271, (1968) 14 CTBR(NS) *Case 59*; 18 TBRD *Case T69* 353, (1985) 28 CTBR(NS) *Case 81*; *Case S75* 85 ATC 544 and *Scott v. FC of T* (2002) 50 ATR 1235; 2002 ATC 2158). Therefore, the payment of 'partnership salary' to a partner cannot result in or contribute to a partnership loss for the purposes of section 90 of the ITAA 1936.

Alternative views

21. A view has been put that the payment of 'partnership salary' to a partner may, in some circumstances, depending on the precise terms of the agreement, be characterised as an expense of the partnership. It is argued that the case law characterising 'partnership salary' as a distribution of profits has not taken account of the effect of section 82 of the *Law of Property Act 1925* (UK). The Australian States subsequently introduced laws based on section 82 of the *Law of Property Act 1925* (UK).[2] In Australia, for example, section 72 of the *Conveyancing Act 1919* (NSW) overcomes the general law position that a person cannot enter into a contract with him or herself and another or others jointly by providing that such a contract will be 'construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone'.

22. In Australia these words have been interpreted by the courts as validating the actual agreement entered into by the parties (*Stewart v. Hawkins* (1960) SR (NSW) 104, *Browne v. Commissioner of State Revenue* (2002) 51 ATR 184; 2002 ATC 4872). Thus, the alternative view is that in some circumstances the 'partnership salary' agreement is able to be characterised as an agreement by the partnership to pay a sum of money for additional services rendered by the recipient partner.

23. Accordingly, it is argued that if the partnership profits cover part of the 'partnership salary', then that much of the payment will be a partnership distribution to that partner under section 92 of the ITAA 1936 but the excess will be deductible to the partnership under section 8-1 of the ITAA 1997 when calculating the net income or partnership loss of the partnership under section 90 of the ITAA 1936.

24. It is argued that the payment is incurred under an agreement which was entered into for the purpose of earning partnership income. Furthermore, it is argued even if the excess payment was funded from the other partners' capital contributions this does not affect the deductibility of the excess to the partnership under section 8-1 of the ITAA 1997.

25. The Commissioner does not agree with this view. We think the better view is that 'partnership salary' agreements are valid as an agreement among all the partners and that no recourse to section 72 of the *Conveyancing Act 1919* (NSW) and its equivalents in other State jurisdictions is necessary or appropriate. In our view 'partnership salary' agreements are internal agreements and operate as an agreement among all the partners, not as an agreement between the partnership and a particular partner. Such agreements

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[2] Section 72 of the *Conveyancing Act 1919 (NSW);* section 82 of the *Property Law Act 1958 (Vic)*; section 50 of the *Property Law Act 1974 (Qld)*; section 40 of the *Law of Property Act 1936 (SA)*; section 52 of the *Property Law Act 1969 (WA)*; section 62 of the *Conveyancing and Law of Property Act 1884 (Tas)*. All these provisions are based on section 82 of the *Law of Property Act 1925 (UK)*.

are enforceable by a winding up order on the taking of partnership accounts.

26. Furthermore, the validating provisions cannot change the character of the agreement; and thus cannot convert an agreement as to the distribution of funds between the partners into something else. 'Partnership salary' paid to a partner for work as a partner is a matter which is internal to the partnership and not an outgoing incurred by the partnership. Thus we do not agree that the excess over profits, as an amount of remuneration paid to a partner for work as a partner, would be properly characterised as a working expense deductible under section 8-1 of the ITAA 1997.

Assessability of the 'partnership salary' to the partner

27. Under subsection 92(1) of the ITAA 1936 the individual interest of a partner in the net income of the partnership is included in the assessable income of the partner. A partner's assessable income from a partnership is ordinarily derived at the end of the income year when the net income of the partnership is ascertained (*FC of T v. Galland* (1986) 162 CLR 408; (1986) 18 ATR 33; (1986) 86 ATC 4885). Therefore derivation of income by a partner occurs independently of distributions to or drawings by the partners during the year, including 'partnership salary' amounts received by a partner.

28. However, although the 'partnership salary' amounts have no effect on the recipient partner's liability for tax under the partnership they are taken into account in determining the recipient partner's interest in the net income (or partnership loss) of the partnership at the end of the income year under section 92 of the ITAA 1936.

29. This means that where available partnership profits are sufficient, the distributions or drawings of 'partnership salary' increase that partner's share in the net income of the partnership before the remaining profits are divided among the other partners and are assessable to the partner under subsection 92(1) of the ITAA 1936 at the end of the income year.

30. However, there may be cases where partnership profits in a particular income year are not sufficient to cover the 'partnership salary'. Usually, 'partnership salary' is payable out of profits, and thus drawings of 'partnership salary' are made in advance or anticipation of future profits. The entitlement to 'partnership salary' affects the partners' interests in the profits in respect of more than one year. Thus, if partnership profits are not sufficient in one income year the 'partnership salary' may be met from profits of subsequent years.

31. The effect of this is that the excess distributions or drawings will be assessable to the recipient partner under subsection 92(1) of the ITAA 1936 in the future income year when profits are sufficient (and are debited against profits in that year). In the event that sufficient profits are not otherwise made by the partnership before retirement or the partnership dissolves, the partner is liable to repay them. Whether the liability to repay the amount exists or not depends

on the facts and is to be determined having regard to the partnership agreement, other relevant written documentation, and the partnership accounts. Drawings, or otherwise repayable amounts, are not derived as income at the time of advance under section 6-5 of the ITAA 1936.

When 'partnership salary' is not repayable by the partner and exceeds available partnership net income

Assessability of the excess 'partnership salary'

32. In the rare case where the 'partnership salary' is not taken as drawings or otherwise repayable by the recipient partner in the event of insufficient future profits and it exceeds the partner's interest in available partnership profits for that income year the tax treatment of that amount depends on the character of the payment, in particular whether it is a repayment of capital, and the terms of the agreement.

33. If the excess amount is properly regarded as a repayment of part of the capital contributed by that partner to the partnership it is not income according to ordinary concepts (because it is capital) and is not assessable to that partner under either subsection 92(1) of the ITAA 1936 or section 6-5 of the ITAA 1997. Whether an advance to a partner is a repayment of his or her capital will depend on the facts, including the terms of the partnership agreement, the intention of the parties, and the accounting treatment of the payment.

34. However, if the excess amount is not a repayment of the partner's contributed capital and he or she is not liable to repay it, the excess may be assessable to the partner under section 6-5 of the ITAA 1997 as income according to ordinary concepts.

35. Whether an amount is income according to ordinary concepts under subsection 6-5(1) of the ITAA 1997 must be determined 'in accordance with the ordinary concepts and usages of mankind, unless the legislature provides otherwise' (*Scott v. FC of T* (1935) 35 SR (NSW) 215; (1935) 3 ATD 142 per Jordan CJ at SR 219; ATD 144).

36. As discussed in TR 1999/17, some of the relevant factors in determining whether an amount is ordinary income include:

- whether the payment is the product of any employment, services rendered, or any business;[3]
- the quality or character of the payment in the hands of the recipient;[4]

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[3] *FC of T v. Harris* (1980) 43 FLR 36; (1980) 80 ATC 4238; (1980) 10 ATR 869 at FLR 40; ATC 4241; ATR 872, *Hayes v. FC of T* (1956) 96 CLR 47 at 54; (1956) 11 ATD 68 at 72.

[4] *FC of T v. Blake* (1984) 84 ATC 4661; (1984) 15 ATR 1006 - refer comments of Carter J (at ATC 4664; ATR 1010); *Scott v. FC of T* (1966) 117 CLR 514; (1966) 14 ATD 286 (at CLR 526; ATD 293); *GP International Pipecoaters Pty Ltd v. FC of T* (1990) 170 CLR 124; (1990) 90 ATC 4413; (1990) 21 ATR 1 (at CLR 136; ATC 4419; ATR 6).

- the form of the receipt, that is, whether it is received as a lump sum or periodically;[5] and
- the motive of the person making the payment. Motive, however, is rarely decisive as in many cases a mixture of motives may exist.[6]

37. Having regard to these factors, the excess amount is ordinary income to the recipient partner because it:

- is a product of an income earning activity (being the partner's interest in the partnership business, and thus a gain from property) and is not capital in the hands of the partner (although funded from the capital contributions of the other partners);
- generally takes the form of periodical and regular amounts;
- is expected and relied upon by the partner for his or her financial support; and
- is made in substitution for income from the partnership in the event it is unprofitable.

38. Other than the case where the excess amount constitutes a repayment of the recipient partner's contributed capital, the excess amount is income not capital in the hands of the partner. The partner's capital investment in the partnership business remains intact, there is no realisation or return or sterilisation of the partner's interest in the partnership; the receipt flows from that partner's interest in the partnership business (*FC of T v. Everett* (1980) 143 CLR 440; (1980) 10 ATR 608; (1980) 80 ATC 4076, *FC of T v. Montgomery* (1999) 198 CLR 639; (1999) 99 ATC 4749; (1999) 42 ATR 475). Regardless of how the excess amount is funded, it is received as a replacement income stream in the event that the partnership is unprofitable, secures an income to the partner and therefore, is assessable to that partner under section 6-5 of the ITAA 1997.

39. For example, in the case of *Williamson v. Ough* (1934) 20 TC 194, which concerned an advance by a trustee to a beneficiary in respect of future income, the House of Lords held that there was nothing in the circumstances of the case to indicate that the beneficiaries were under a personal liability to repay the amounts paid to them and therefore as the trustees were empowered to make payments to the beneficiaries so as to secure them an income in any event, it followed that the payments were income in the hands of the beneficiaries. The payments were considered to be of an income character, despite the fact that they were funded from the capital of the trust, because they were made to provide a replacement income stream to the beneficiaries (in the case where income was not available).

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[5] *FC of T v. Dixon* (1952) 86 CLR 540; (1952) 10 ATD 82 (at CLR 557; ATD 86).
[6] *Hayes v. FC of T* (1956) 96 CLR 47; (1956) 11 ATD 68 (at CLR 55; ATD 72-73).

Deductibility of the excess to the other partners

40. In the event the 'partnership salary' exceeds available partnership profits and is not repayable the other partners may incur a loss or outgoing to the extent of the excess in meeting their obligations to the recipient partner. However, the other partners are not entitled to a deduction under section 8-1 of the ITAA 1997 for that loss or outgoing. This is because the loss or outgoing of the remaining partners is a loss of capital, or an outgoing of a capital nature, and therefore excluded from deductibility under paragraph 8-1(2)(a) of the ITAA 1997.

41. As discussed above, a 'partnership salary' agreement takes effect as an internal agreement between the partners and concerns the partnership funds and assets. Thus, the rights and obligations of the partners arising from a 'partnership salary' agreement are partnership rights and obligations. Any loss or outgoing incurred by the remaining partners under a 'partnership salary' agreement is made as part of the relations between partners, by co-owners in their capacities as partners.

42. Accordingly, the liability for the excess is that of the partners and, if no profits are available in the partnership, must be met from the capital of the partnership. In this event the entitlement of the recipient partner will be met from the partnership capital of the other partners, or if the capital fund is insufficient and the entitlement is not limited to that capital, from further contributions made by those partners. Any further contributions made by the other partners are simply further contributions of capital and not deductible to them. Thus, in meeting the obligation the other partners lose or make an outgoing of capital which cannot be deducted under section 8-1.

Individual interests of the partners in the net income

43. The various State *Partnership Acts*[7] provide that all partners share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the partnership. However, this can be varied by express or implied agreement between the partners.

44. An agreement to pay a 'partnership salary' to a partner takes effect as a contractual agreement among the partners to vary the distribution of partnership profits among the partners so that one partner receives an additional share of the profits. Accordingly, such an agreement, if effective, will vary any previous agreement as to the division of partnership profits.

[7] Section 24(l) of the *Partnership Act 1892 (NSW)*; section 28(1) of the *Partnership Act 1958 (Vic)*; section 27(1) of the *Partnership Act 1891 (Qld)*; section 24(l) of the *Partnership Act 1891 (SA)*; section 34(1) of the *Partnership Act 1895 (WA)*; section 29(a) of the *Partnership Act 1891 (Tas)*; section 29(1) of the *Partnership Act 1963 (ACT)*.

45. An agreement to pay a 'partnership salary' to a partner made after the end of the income year when the net income or partnership loss of the partnership is ascertained is not effective for tax purposes to alter what has been derived or incurred at the close of the income year. As discussed earlier at paragraph 27, a partner derives income from a partnership under section 92 at the end of the income year when the net income of the partnership is ascertained (*FCT v. Galland* (1986) 162 CLR 408; (1986) 18 ATR 33; (1986) 86 ATC 4885). An agreement made after this time cannot alter retrospectively the respective share of the partners in that income as ascertained (*AAT Case 5303* (1989) 20 ATR 3905; *Case W79* 89 ATC 705).

Examples

Example 1

46. Anna and Robert formed a partnership under which it was agreed that they share the profits and losses of the partnership equally. The partnership agreement allowed the partners to draw a salary if the partners so agreed. It was agreed at the beginning of the income year that Anna would draw a salary of $20,000, for managing the business, and that the balance of profits and losses would be shared equally. The 2003-2004 year's net profit after paying Anna's salary was $35,000. Determination of the net income, for the purpose of completing the Statement of Distribution on the Partnership return, is as follows:

Partnership profit (after deducting salary)	$35,000
Plus:	
Anna's salary	$20,000
Net income	$55,000

The net income is then distributed, in accordance with the partnership agreement, being 50%, 50%, as follows:

Anna:	
Salary	$20,000
Plus interest in balance of net income:	
50% of (55,000 – 20,000)	$17,500
Distribution	**$37,500**
Robert:	
Interest in balance of net income:	
50% of (55,000 – 20,000)	$17,500
Distribution	**$17,500**
Total distribution	**$55,000**

Example 2

47. Christine and Julia formed a partnership under which it was agreed that they share the profits and losses of the partnership equally. The partnership agreement provided that in addition to this Christine would be entitled to draw $20,000 a year for managing the business. The 2003-2004 year's net (accounting) loss, after paying Christine's salary, was $10,000. Determination of the net income, for the purpose of completing the Statement of Distribution on the Partnership return, is as follows:

Partnership net loss (after deducting salaries)	$(10,000)
Plus:	
Christine's salary	$20,000
Net income	$10,000

The net income is then distributed, in accordance with the partnership agreement, being 50%, 50%, as follows:

Christine:	
Salary:	$10,000
Interest in partnership net income:	
50% of ($10,000 – 10,000)	$0
Distribution	**$10,000**
Julia:	
Interest in partnership net income:	
50% of ($10,000 – 10,000)	$0
Distribution	**$0**
Total distribution	**$10,000**

The $20,000 was taken by Christine as drawings in advance of profits. Christine's drawings do not affect her liability to tax, other than to determine her individual interest in the net income and loss of the partnership under section 92 of the ITAA 1936.

The $10,000 drawn in excess of available profits will be met from profits in future years and be assessable to Christine under subsection 92(1) of the ITAA 1936 in that future year when sufficient profits are available. If the partnership is wound up before this time, the $10,000 excess is repayable by her and thus not assessable under subsection 92(1) of the ITAA or section 6-5 of the ITAA 1997.

Your comments

48. We invite you to comment on this draft Taxation Ruling. Please forward your comments to the contact officer by the due date.

Due Date:	**8 October 2004**
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Detailed contents list

49. Below is a detailed contents list for this draft Ruling:

Commissioner of Taxation
25 August 2004

Previous draft:
Not previously issued as a draft

Related Rulings/Determinations:
TR 92/20; TR 94/8; TR 1999/17; IT 2218

Subject references:
- partnership salaries

Legislative references:
- Conveyancing Act 1919 (NSW) 72
- Conveyancing and Law of Property Act 1884 (Tas) 62
- ITAA 1936 Pt III Div 5
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- ITAA 1936 92
- ITAA 1936 92(1)
- ITAA 1936 92(2)
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- (1968) 14 CTBR(NS) Case 59; 18 TBRD Case T69 353
- (1985) 28 CTBR(NS) Case 81; Case S75 85 ATC 544
- AAT Case 5303 (1989) 20 ATR 3905; Case W79 89 ATC 705
- Browne v. Commissioner of State Revenue (2002) 51 ATR 184; 2002 ATC 4872
- Ellis v. Joseph Ellis & Co. [1905] 1 KB 324
- FC of T v. Blake (1984) 84 ATC 4661; (1984) 15 ATR 1006
- FC of T v. Dixon (1952) 86 CLR 540; (1952) 10 ATD 82

- FC of T v. Everett (1980) 143 CLR 440; (1980) 10 ATR 608; (1980) 80 ATC 4076
- FC of T v. Galland (1986) 162 CLR 408; (1986) 18 ATR 33; (1986) 86 ATC 4885
- FC of T v. Harris (1980) 43 FLR 36; (1980) 80 ATC 4238; (1980) 10 ATR 869
- FC of T v. Montgomery (1999) 198 CLR 639; (1999) 99 ATC 4749; (1999) 42 ATR 475
- GP International Pipecoaters Pty Ltd v. FC of T (1990) 170 CLR 124; (1990) 90 ATC 4413; (1990) 21 ATR 1
- Hayes v. FC of T (1956) 96 CLR 47; (1956) 11 ATD 68
- MacKinlay (Inspector of Taxes) v. Arthur Young McClelland Moores & Co [1990] 2 AC 239
- Rose v. FC of T (1951) 84 CLR 118
- Scott v. FC of T (1935) 35 SR (NSW) 215; (1935) 3 ATD 142
- Scott v. FC of T (1966) 117 CLR 514; (1966) 14 ATD 286
- Scott v. FC of T (2002) 50 ATR 1235; 2002 ATC 2158
- Stewart v. Hawkins (1960) SR (NSW) 104
- Watson v. Haggitt [1928] AC 127
- Williamson v. Ough (1934) 20 TC 194

ATO references:

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