IT 2069 - Interest on overpaid tax

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TAXATION RULING NO. IT 2069

INTEREST ON OVERPAID TAX

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1115466	OVERPAYMENT OF TAX INTEREST	TAXATION (INTEREST ON OVERPAYMENTS) ACT 1983

PREAMBLE The purpose of this ruling is to clarify a number of issues which have been raised in relation to the Taxation (Interest on Overpayments) Act 1983.

RULING Objection by Another Taxpayer

2. Where an amount of tax is overpaid other than as a result of a decision to which the Act applies as defined by Section 3 of the Act (i.e. a decision in respect of an objection or appeal), but as a result of a decision to amend an assessment in the light of a decision to which the Act applies made in relation to another taxpayer, interest is not payable on the overpaid tax. An example of a common situation of this type is where only one partner in a partnership objects to the amount of the distribution from the partnership included in his assessment on a ground which, in effect, disputes the calculation of the partnership net income or partnership loss. The objection is allowed and as an indirect consequence another partner's assessment is amended by the Commissioner to reflect the decrease in that particular partner's share of partnership income.

3. It is considered that in this type of case the decision which gave rise to the overpayment by the partner who did not object is one step removed from the decision to which the Act applies. No authority to pay interest in these cases therefore exists.

Consequential Adjustments

4. Where an assessment that has been paid is amended as a result of a decision to which the Act applies, and an amount of additional tax for late lodgement that had been imposed under section 226 of the Income Tax Assessment Act 1936 is reduced in proportion to the reduction in tax payable (Taxation Ruling IT 2034 refers), interest is to be paid on the reduction of additional tax as well as on the reduction in tax payable. Similarly, cases will arise where an assessment is amended as a result of a decision to which the Act applies and, because the

taxpayer is subject to the primary producer averaging provisions of the law, subsequent assessments will also be amended to reduce the tax payable because of the lower taxable income in the earlier year. In these cases interest is payable on the reduction of tax in respect of the amendments to the subsequent years' assessments, even though objections were not lodged against those assessments.

5. In both of these cases, the overpayment of the relevant tax is considered to arise as a consequence of a decision on the objection.

Tax Deferred

6. Section 31B of the Income Tax Assessment Act 1936 allows a winemaker in certain circumstances to defer payment of a portion of tax payable. Cases will arise where the tax payable, less the amount deferred, has been paid, and subsequently, as a result of a decision to which the Act applies, the original assessment is amended and the amount of tax deferred under section 31B is increased. In these cases, the amount of tax that has been overpaid is the amount of the reduction in tax payable in the amendment plus the amount by which tax deferred under section 31B is increased.

7. It is considered that where there is a legal right to defer payment of tax, such as provided by section 31B, any amount paid in excess of the amount legally due that is refunded or applied against an outstanding amount as a result of a decision to which the Act applies, is subject to interest.

End of Accrual Period

8. Where, as a result of a decision to which the Act applies, an amount which is not applied against outstanding tax is refunded after the issue date of the relevant amended assessment, interest is payable until the date of the refund.

Tax Overpaid Only Partly as a Result of a Decision to Which the Act Applies

9. Cases will arise where an amendment consists of two components, only one of which is as a result of a decision to which the Act applies. An example of this type of case would be where a claim not included in an objection is allowed in the amendment allowing the objection. In these cases it is necessary to calculate that part of the reduction in tax payable which relates to the decision to which the Act applies to determine the amount upon which the interest is payable.
This is calculated by subtracting the tax (including provisional tax) that would have been payable in the amended assessment if the only adjustment had been as a result of a decision to which the Act applies, from the tax payable (including provisional tax) in the original assessment. The resulting amount is the amount upon which interest is payable.

COMMISSIONER OF TAXATION

5 January 1984