

IT 2081 - Interest derived by norfolk island residents

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TAXATION RULING NO. IT 2081

INTEREST DERIVED BY NORFOLK ISLAND RESIDENTS

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1078649	SOURCE OF INTEREST RESIDENT NORFOLK ISLAND	7A(2), 24G, 24L(1), 24L(5)

PREAMBLE This office has recently had occasion to consider whether interest paid to a resident of Norfolk Island on deposits placed with a Norfolk Island branch of an Australian mainland bank is liable to Australian income tax.

RULING 2. Division 1A, Part III of the Income Tax Assessment Act 1936, comprising sections 24B to 24N, was enacted in 1973 to put an end to the use of Norfolk Island, and to an extent Papua New Guinea, as tax havens. When the relevant provisions were inserted into the Assessment Act they were framed so as to continue to exempt from Australian tax the Island and other ex-Australian income of people who live on Norfolk Island and are not resident in Australia for income tax purposes.

3. The legislative intention to continue to exempt from Australian tax interest and royalty payments derived by a resident of Norfolk Island from sources on the Island finds expression in sections 24G and 24L.

4. Paragraph 24G(1)(a) exempts from Australian tax income derived by a resident of Norfolk Island from sources in the Island.

5. Sub-section 24L(1) applies to interest paid to an Island resident by a person who is a resident of Australia and the interest is not an outgoing wholly incurred by that person in carrying on business in a country outside Australia at or through a permanent establishment in that country. By virtue of sub-section 24L(2) income to which section 24L applies is deemed, for the purposes of Division 1A but subject to section 24L as a whole, not to have been derived in Norfolk Island but to have been derived in Australia.

6. Sub-section 24L(5) provides, however, that, in sub-section 24L(1), the expressions "Australia", "resident" and "non-resident" have the same meanings as they would have had if sub-section 7A(2) had not been enacted. In effect, sub-section 24L(5) means that, for the purposes of sub-section 24L(1), Norfolk Island is not part of Australia.

7. The cumulative effect of the relevant sub-sections of section 24L is that, for the purposes of sub-section 24L(1), a resident of Norfolk Island is not a resident of Australia. In carrying on its branch business the mainland bank is carrying on a business at or through a permanent establishment in a country outside Australia.

8. It follows, therefore, that interest paid by a Norfolk Island branch of an Australian bank to a resident of Norfolk Island on deposits with the branch would not be interest of the kind described in sub-section 24L(1). The interest would be exempt from Australia income tax under paragraph 24G(1)(a).

COMMISSIONER OF TAXATION
23 May 1984<