


TD 94/72 - Income tax: when is a distribution by the trustee of a unit trust included in the assessable income of a unitholder?

 This cover sheet is provided for information only. It does not form part of *TD 94/72 - Income tax: when is a distribution by the trustee of a unit trust included in the assessable income of a unitholder?*

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: when is a distribution by the trustee of a unit trust included in the assessable income of a unitholder?

1. A distribution by the trustee of a unit trust is included in the assessable income of a unitholder in the year of income in which the unitholder is presently entitled to a share of the income of the unit trust, rather than the year in which the distribution is received by the unitholder.
2. Unless a provision in the trust deed states otherwise, a unitholder is entitled to a share of the income of a unit trust at the end of the period during which the income is derived.
3. Accordingly, a unitholder must include in assessable income for a particular year of income the share of net trust income to which the unitholder is entitled in that year of income, e.g. half-yearly or quarterly distributions. The date on which the distribution statement or actual payment is received by the unitholder is not relevant (see also paragraph 10 of Taxation Ruling IT 2497).
4. This Determination applies to all unit trusts, including cash management trusts, equity trusts, mortgage trusts and property trusts, but does not include unit trusts which are treated as companies for the purposes of the *Income Tax Assessment Act 1936*.

Example:

A unitholder, who holds units in XYZ unit trust at 30 June 1994, receives an income distribution of \$100 in August 1994. The income distribution relates to income derived by the trust in the 1993/94 financial year and consists of an assessable component of \$90 and a non-assessable component of \$10.

Both the unitholder and the unit trust adopt 30 June as their year end date and the unitholder is presently entitled to a share of the income of the trust at 30 June 1994.

The assessable component of \$90 is to be included in the unitholder's assessable income for the 1993/94 income year.

FOI INDEX DETAIL: Reference No. I 1217749

Previously issued as Draft TD 93/D189

Related Rulings: IT 2497

Subject Ref: unit trusts, trust distributions, present entitlement, unitholding taxpayers

Legislative Ref: ITAA 97

ATO Ref: BRI 0028

ISSN 1038 - 8982