

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: is a person receiving an annuity (or superannuation pension) resulting from another person's death entitled to a deduction for the undeducted purchase price of the annuity where the deceased's annuity became payable before 1 July 1983?

1. No. Persons receiving this type of annuity (residuary or survivorship annuity) are not entitled to a deduction as they have not contributed to the purchase price of the original annuity.
2. If the original annuity commenced to be payable before 1 July 1983, former section 26AA of the *Income Tax Assessment Act 1936* applies and to be entitled to a deduction a person needs to have made the contributions.
3. If the original annuity commenced to be payable on or after 1 July 1983, section 27H applies and to be entitled to a deduction a person does not need to have made the contributions.

Example:

'A' became entitled to receive an annuity in January 1982. 'A' died January 1992 and as a result 'B' was entitled to receive 60% of the original annuity. As 'A's' entitlement started before 1 July 1983, 'B' is not entitled to a deduction for the undeducted purchase price.

Commissioner of Taxation

18/11/93

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Related Determinations:

Related Rulings: IT 2157

Subject Ref: annuity; superannuation pension; undeducted purchase price

Legislative Ref: ITAA 26AA; ITAA 27H

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