


Investment Property – Income Issues

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Index

[ATO ID 2002/632](#)

ATO Interpretative Decision

ATO ID 2002/632

Income Tax

Rental income - received in the form of property

FOI status: may be released

Status of this decision: Decision Current

Issue

Is the taxpayer required to include in their assessable income under section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997) rent received in the form of property?

Decision

Yes. The taxpayer is required to include in their assessable income under section 6-5 of the ITAA 1997 rent which is received in the form of property.

Facts

The taxpayer owns a residential property.

A friend of the taxpayer lived in the residential property for a period of time.

In exchange for being allowed to live in the residential property the friend provided the taxpayer with an item of property.

The value of the item of property was equivalent to what would have been a reasonable commercial rent for the property for the period the friend lived there.

The item of property was able to be converted into cash.

Reasons for Decision

Subsection 6-5(1) of the ITAA 1997 provides that an amount is assessable income if it is income according to ordinary concepts.

Rental income is income according to ordinary concepts for the purposes of subsection 6-5(1) of the ITAA 1997.

Section 21 of the *Income Tax Assessment Act 1936* (ITAA 1936) provides that where, upon any transaction, any consideration is paid or given otherwise than in cash, the money value of that consideration shall be deemed to have been paid or given.

The provision of an item of property instead of a cash payment of rental falls within the concept of barter.

Taxation Ruling IT 2668 deals with barter and countertrade transactions. IT 2668 provides at paragraph 7 that:

'... The essential principle when dealing with barter or countertrade transactions is that those transactions are assessable and deductible only to the same extent as a similar cash or credit transaction.'

A payment of cash rental would have been assessable and therefore a barter receipt will be assessable to the same extent as a cash payment.

Taxation Ruling IT 2668 also provides at paragraph 12 that:

'It is also necessary, if the consideration from barter or countertrade transactions is to fall within the concept of income in subsection 25(1), that the consideration be received or receivable as money, in the form of money's worth or in a form which can be employed in the acquisition of some other right or commodity (F.C. of T v. Cooke & Sherden 80 ATC 4140; 10 ATR 696)'

Although IT 2668 deals with subsection 25(1) of the ITAA 1936 the discussion is equally relevant to the application of section 6-5 of the ITAA 1997. Therefore for a non cash item to be considered income the item must be capable of being converted into money.

The item of property received by the taxpayer was capable of being converted into money.

Therefore the value of the item of property received by the taxpayer in exchange for the right to live in their residential property is assessable as rental income under subsection 6-5(1) of the ITAA 1997.

Date of decision: 23 April 2002

Year of income: Year ended 30 June 1997

Legislative References:

Income Tax Assessment Act 1936
section 21
subsection 25(1)

Income Tax Assessment Act 1997
section 6-5
subsection 6-5(1)

Case References:

FC of T v. Cooke & Sherden
(1980) 42 FLR 403
80 ATC 4140

Related Public Rulings (including Determinations)

Taxation Ruling IT 2668

Keywords

Barter & countertrade
Non cash considerations
Rental property income

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