


***TD 93/32 - Income tax: property development: are tender costs incurred by an unsuccessful tenderer deductible under subsection 51(1) of the Income Tax Assessment Act 1936?***

 This cover sheet is provided for information only. It does not form part of *TD 93/32 - Income tax: property development: are tender costs incurred by an unsuccessful tenderer deductible under subsection 51(1) of the Income Tax Assessment Act 1936?*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part 4VAAA 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: property development: are tender costs incurred by an unsuccessful tenderer deductible under subsection 51(1) of the *Income Tax Assessment Act 1936*?**

1. Yes. Tender costs are deductible under subsection 51(1) if an unsuccessful tenderer is in business, where tender costs are incidental and relevant to that business (per *Ronpibon Tin v FCT* (1949) 78 CLR 47 and *Charles Moore & Co. (W.A.) Pty Ltd v FCT* (1956) 11 ATD 147).

#### **Commissioner of Taxation**

04/03/93

---

FOI INDEX DETAIL: Reference No. I 1214275

Previously issued as Draft TD 92/D107

Related Determinations: TD 92/125; TD 92/131

Related Rulings: IT 2450

Subject Ref: deductibility of tender costs; property development contracts

Legislative Ref: ITAA 51(1)

Case Ref: *Ronpibon Tin v FCT* (1949) 78 CLR 47; *Charles Moore & Co. (W.A.) Pty Ltd v FCT* (1956) 11 ATD 147.

ATO Ref: PD/15B

---

ISSN 1038 - 8982