


***TD 93/D256 - Income tax: insurance: in the calculation of the amount deductible for general management expenses, can subsection 113(2) be used by a company which conducts both general and life insurance business?***

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This document has been finalised by TD 94/11.



Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Income tax: insurance: in the calculation of the amount deductible for general management expenses, can subsection 113(2) be used by a company which conducts both general and life insurance business?**

1. Yes, provided the life assurance business is the 'sole or principal business' of the company and it has not made an election that subsection 113(1) shall be applied.
2. Whether a company can be said to be engaged in the 'sole or principal business' of life assurance is entirely a question of fact and there is a range of different considerations that would be critical in answering this question. An important consideration that is relevant in this instance is the respective size of each of the businesses - the phrase 'sole or principal business' in subsection 113(2) means that the life assurance business must be the main business which outweighs in importance all the other businesses of the company.
3. If it cannot be concluded that the company is engaged in the 'sole or principal business' of life assurance, subsection 113(2) would not be available to be used for the calculation of the amount of general management expenses that are deductible. In such case, subsection 113(1) must be used to determine the amount deductible. In the case of a life assurance company that is not engaged in the sole or principal business of life assurance, an election to use subsection 113(1) is not required.

**Commissioner of Taxation**

30/9/93

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