


# ***IT 2656A - Addendum - Income tax : deductibility of takeover defence costs***

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## TAXATION RULING IT 2656

### Income tax: deductibility of takeover defence costs

#### ADDENDUM

F.O.I. EMBARGO: may be released

*The Tax Law Improvement Project is restructuring, renumbering and rewriting the income tax law in plain language. The Parliament is amending the income tax law progressively to reflect these aims. As new laws come into effect, Taxation Rulings (including Taxation Determinations) about old laws are being brought into line with them.*

This Addendum amends Taxation Ruling IT 2656, in relation to the 1997-98 or a later income year, as follows:

1. Omit 'subsection 51(1)' (wherever occurring except paragraph 10); substitute 'section 8-1'.
2. **Paragraph 1**
  - (a) Omit '*Income Tax Assessment Act 1936*'; substitute '*Income Tax Assessment Act 1997*';
  - (b) Omit '*Companies (Acquisition of Shares) Act 1980* and Codes (ie. the takeovers code); substitute 'Corporations Law'.
3. **After paragraph 1**

Insert:

'1A. Section 8-1 of the *Income Tax Assessment Act 1997*, to which this Ruling refers, expresses the same idea as subsection 51(1) of the *Income Tax Assessment Act 1936*.'
4. **Paragraph 4**
  - (a) Omit 'takeovers code'; substitute 'Corporations Law';
  - (b) Omit 'code'; substitute 'Corporations Law'.



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### **5. Paragraph 5**

- (a) Omit 'Part A of the Schedule to the takeovers code'; substitute 'Part A of section 750 of the Corporations Law';
- (b) Omit 'section 22 of the code'; substitute 'section 647 of the Corporations Law';
- (c) Omit 'Part B of the Schedule'; substitute 'Part B of section 750 of the Corporations Law'.

### **6. Paragraph 6**

- (a) Omit 'Part C of the Schedule of the takeovers code'; substitute 'Part C of section 750 of the Corporations Law';
- (b) Omit 'section 32 of the code'; substitute 'section 683 of the Corporations Law';
- (c) Omit 'Part D of the Schedule'; substitute 'Part D of section 750 of the Corporations Law'.

### **7. Paragraph 8**

Omit the whole paragraph in quotation; substitute:

- '8-1(1) You can deduct from your assessable income any loss or outgoing to the extent that:
- (a) it is incurred in gaining or producing your assessable income; or
  - (b) it is necessarily incurred in carrying on a business for the purposes of gaining or producing your assessable income.
- 8-1(2) However, you cannot deduct a loss or outgoing under this section to the extent that:
- (a) it is a loss or outgoing of capital, or of a capital nature; or
  - (b) it is a loss or outgoing of a private or domestic nature; or
  - (c) it is incurred in relation to gaining or producing your exempt income; or
  - (d) a provision of the Act prevents you from deducting it.
- 8-1(3) A loss or outgoing that you can deduct under this section is called a general deduction.'

### **8. Paragraph 9**

Omit two references to 'subsection' in (i) and (ii); substitute 'section'.



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**9. Paragraph 10**

Omit 'the Act'; substitute '*the Income Tax Assessment Act 1936*'.

**10. Paragraph 13**

Omit 'Companies Code'; substitute 'Corporations Law'.

**11 After paragraph 27**

Insert:

'28. In *Case Z11* 92 ATC 160; AAT *Case 7769* (1992) 23 ATR 1086, the Administrative Appeals Tribunal has supported the Taxation Office's position on this issue.'

**Commissioner of Taxation**

2 September 1998

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