


TD 93/1 - Income tax: capital gains: do the costs of obtaining a loan form part of the cost base of an asset acquired with the loan monies?

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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: capital gains: do the costs of obtaining a loan form part of the cost base of an asset acquired with the loan monies?

1. No. As such costs are incurred in obtaining a loan or other finance, they are *not*:-

- (a) part of "any consideration in respect of the acquisition of the asset" (paragraph 160ZH(1)(a) of the *Income Tax Assessment Act 1936*);
- (b) part of "the incidental costs to the taxpayer of the acquisition of the asset" (sub-section 160ZH(5));
- (c) for the purposes of paragraph 160ZH(1)(ba), expenses of a non-capital nature as they do not satisfy the requirements of subsection 160ZH(6A).

Note: (i) Interest incurred on a loan taken out to finance the acquisition of an asset is taken to be a 'non-capital cost' and hence included in the cost base of the asset under paragraph 160ZH(1)(ba).

- (ii) Section 67 may permit a deduction to be claimed where loan funds are used to acquire an income-producing asset.

Commissioner of Taxation

21/1/93