



TD 93/52 - Income tax: Division 10AAA Mineral Transport Expenditure: use of road primarily and principally for transport of minerals. Does this refer to the use by all and sundry of the road in question or solely to use by the taxpayer?

 This cover sheet is provided for information only. It does not form part of *TD 93/52 - Income tax: Division 10AAA Mineral Transport Expenditure: use of road primarily and principally for transport of minerals. Does this refer to the use by all and sundry of the road in question or solely to use by the taxpayer?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *25 March 1993*

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: Division 10AAA Mineral Transport Expenditure: use of road primarily and principally for transport of minerals. Does this refer to the use by all and sundry of the road in question or solely to use by the taxpayer?

1. Division 10AAA should be considered in terms of overall use by all users during the year of income. The test does not involve the taxpayer's purpose for the road expenditure.
2. In accordance with section 123A, it is a requirement that the road is for use primarily and principally for the transport of minerals obtained from the carrying on by any person of prescribed mining operations or of processed materials produced from such minerals.
3. Those minerals should be transported in the carrying on of a business for the purpose of gaining or producing assessable income.
4. If the road is not used primarily and principally for the transport of minerals as referred to in section 123A in a particular year, as a result of termination of use for that purpose, then no deduction in terms of section 123B would be allowable. The application of subsection 123C(2) would then be appropriate.
5. Deductions could be recommenced in a subsequent year in terms of subsection 123C(6) where the use primarily and principally as referred to in section 123A has been restored.
6. We consider that 'terminated' involves more than a temporary cessation. Subsection 123B(2) is not intended to apply when only a temporary failure to satisfy subsection 123A(1) has occurred.

Example

At the direction of the relevant Government authorities, a mining company has been required to outlay \$1 million specifically for the purpose of upgrading an existing road to accommodate heavy trucks necessary for the transport of minerals from its prescribed mining operations. Should the road not be used primarily and principally for mineral transport in view of the extent of other use by both the mining company and other users, the conditions of section 123A would not be satisfied. TD 93/53 explains how to determine the extent of road use for mineral transport.

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