



TD 94/80 - Income tax: is an investor who borrows to fund the purchase price of infrastructure borrowings, entitled to a deduction under subsection 51(1) of the Income Tax Assessment Act 1936 for any interest incurred by the investor for that purpose?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 6 October 1994

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: is an investor who borrows to fund the purchase price of infrastructure borrowings, entitled to a deduction under subsection 51(1) of the *Income Tax Assessment Act 1936* for any interest incurred by the investor for that purpose?

1. Interest derived from infrastructure borrowings is tax exempt. Section 159GZZZZF ensures that an investor can have deductions for interest incurred on funds borrowed for the purpose of investing in infrastructure borrowings, as if the interest derived from infrastructure borrowings were not exempt.

2. The extent to which interest paid by an investor on a loan used for the full purchase price of infrastructure borrowings will be tax deductible depends on an investor's particular circumstances. In order for the interest to be deductible the investor must have entered into the loan solely for the purpose of funding the investment in or acquisition of the infrastructure borrowings. One indicator that the investor had a purpose other than, or in addition to, funding the infrastructure borrowings would be where the deductions in relation to the infrastructure borrowings are greater than the exempt return on the infrastructure borrowings grossed up by the investor's marginal tax rate as it would be but for the infrastructure borrowing investment and any related income and deductions.

Commissioner of Taxation

6/10/94