


TD 93/D143 - Income tax: if a moneylender (A) sells its loan book to a taxpayer (B) and later B writes off some of the debts in the loan book as bad, can B claim those bad debts as deductions under paragraph 63(1)(b)?

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This document has been finalised by TD 93/152.

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Draft Taxation Determination

Income tax: if a moneylender (A) sells its loan book to a taxpayer (B) and later B writes off some of the debts in the loan book as bad, can B claim those bad debts as deductions under paragraph 63(1)(b)?

1. No. Deductions for bad debts are only allowable under paragraph 63(1)(b) of the *Income Tax Assessment Act*, 1936 where those bad debts are in respect of money lent in the ordinary course of a moneylending business carried on by the taxpayer claiming the deduction (see *FCT v. National Commercial Banking Corporation of Australia Ltd* 83 ATC 4715, at p. 4719, (1983) 15 ATR 21; 15 TBRD Case 49 at p. 383; 3 TBRD (NS) Case C3 at p. 17).

2. The purchase of an existing debt from another person is not a loan of money by the purchaser of the debt. A deduction is not, therefore, allowable under paragraph 63(1)(b) for a bad debt where that debt was purchased from another person. This is the case whether or not the person who originally lent the money did so in the ordinary course of a business of moneylending.

NB. This issue was originally considered in Draft TD 92/5. Draft TD 92/5 is withdrawn.

Commissioner of Taxation

3/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations: Draft TD 92/5

Related Rulings: Taxation Ruling TR 92/18

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Legislative Ref: ITAA 63(1)(b)

Case Ref: FC of T v. National Commercial Banking Corporation of Australia Limited 83 ATC 4715, (1983) 15 ATR 21; (1949) 15 TBRD Case 49; 3 TBRD (NS) Case C3; 3 CTBR (NS) Case 12

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