



TD 93/D171 (Withdrawn) - Income tax: where there is a partial recovery of both capital and trade debts which have the same security, what is the amount allowed as a deduction under subsection 63(1) of the Income Tax Assessment Act 1936?

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 This document has been withdrawn

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: where there is a partial recovery of both capital and trade debts which have the same security, what is the amount allowed as a deduction under subsection 63(1) of the *Income Tax Assessment Act 1936*?

1. If a taxpayer is not carrying on a business of money lending, a bad debt deduction is not allowable under paragraph 63(1)(a) unless the debt has been previously included in assessable income.
2. If in the process of the debtor company being wound up, there is a partial recovery of both capital and trade debts with the same priority, the amount recovered will be apportioned between the two classes of debt in the same ratio that each class of debt bears to the total debt, unless an agreement for priority of payment exists.
3. If the taxpayer is not carrying on the business of monelending, only the unrecovered amount which has been previously included in assessable income (e.g. the unrecovered amount of the trade debt) is allowable under subsection 63(1).

Example : XYZ Ltd owed ABC Ltd \$10,000
 \$6,000 represented a long term loan to acquire a capital asset.
 \$4,000 represented trade debt which had been returned as income.
 All the debt was governed by the same security which did not provide for payment priority
 in respect of any class of debt.
 On liquidation of XYZ Ltd, ABC Ltd received only \$8,000 (i.e., 80% of total debt)
 \$4,000 - \$3,200 (80% of \$4,000) = \$800
 Therefore, amount of bad debt allowable is \$800.

Commissioner of Taxation

1/7/93

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Related Determinations:

Related Rulings:

Subject Ref: Bad Debt

Legislative Ref: ITAA 63(1)

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