


***TD 93/D245 - Income tax: where subsection 51AD(8) of the Income Tax Assessment Act 1936 applies to a company will consideration be given to the exercise of the Commissioner's discretion pursuant to subsection 51AD(9) if the assets of other companies in the group are put at risk?***

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This document has been finalised by TD 94/1.

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.

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## Draft Taxation Determination

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**Income tax: where subsection 51AD(8) of the *Income Tax Assessment Act 1936* applies to a company will consideration be given to the exercise of the Commissioner's discretion pursuant to subsection 51AD(9) if the assets of other companies in the group are put at risk?**

1. A company which borrows to finance the acquisition or construction of a property may satisfy the tests in sub-section 51AD(8) if it has few assets. In such cases the parent or another group company, as defined in section 80G, may put assets at risk to support the borrowing.
2. If the assets of another group company are put at risk, then consideration would be given to the exercise of the discretion in sub-section 51AD(9).

**Commissioner of Taxation**  
23/9/93

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FOI INDEX DETAIL: Reference No.

Related Determinations: TD 92/138; TD 92/139

Related Rulings:

Subject Ref: Allowable deductions; Finance arrangements; Group companies; Non-recourse debt

Legislative Ref: ITAA 51AD(8); ITAA 51AD(9); ITAA 80G

Case Ref:

ATO Ref: Public Infrastructure Unit DTD/07

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