



TD 94/D35 (Withdrawn) - Income tax: is interest deductible to a unit holder on borrowed funds used to acquire units in a trust where the distribution received includes amounts which are not assessable income?

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 This document has been Withdrawn.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: is interest deductible to a unit holder on borrowed funds used to acquire units in a trust where the distribution received includes amounts which are not assessable income?

1. If a unit trust, which has no net income for Division 6 purposes, distributes non-assessable income to a unit holder, that amount will be exempt income by virtue of the definition of exempt income in subsection 6(1) of the *Income Tax Assessment Act 1936*. The interest expense is not deductible as it fails to satisfy the conditions for deductibility set out in subsection 51(1).

2. If a unit trust distributes both assessable and non-assessable income, the interest expense is incurred for a dual purpose, i.e., the derivation of both assessable and non-assessable income. The interest expense is apportioned (*Kidston Gold Mines v FC of T 91 ATC 4538*) in the ratio of assessable distribution to total distribution to determine the allowable deduction (*Adelaide Racing Club v FC of T (1964) 114 CLR 517 (1992) AAT Case 8229*).

Example:

Distributions received by unitholder X in 1992 from the ABC Tourist Hotel Unit Trust totalled \$10,000, comprising \$8,000 from the net income of the trust and \$2000 accounting income from the operation of Divisions 10C and 10D of Part 111. Unitholder X, who incurred interest expense in the year of \$4,000 on funds borrowed to finance the purchase of the units, would receive a deduction of \$3,600 under subsection 51(1), ie. the assessable proportion of the distribution is 80% ($\$8,000 \div \$10,000 \times 100$) so that the allowable deduction is 80% of \$4,000.

Commissioner of Taxation

7/4/94

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2684

Subject Ref: deductions; interest; interest incurred in deriving non assessable income; unit trust distributions of accounting income

Legislative Ref: ITAA 6(1); ITAA 51(1)

Case Ref: (1992) AAT Case 8229, 92 ATC 308 Case Z33; Adelaide Racing Club Inc. v FC of T (1964) 114 CLR 517, 9 AITR 404; Kidston Goldmines Ltd. Inc. v FC of T (1991) 22 ATR 168, 91 ATC 4538.

ATO Ref: CAS AUD 013
