


# ***TD 96/D8 - Income tax: in a primary production business what is the correct taxation treatment for expenditure on unsuccessful bores and wells?***

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This document has been finalised by TD 96/41.

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: in a primary production business what is the correct taxation treatment for expenditure on unsuccessful bores and wells?**

1. The expenditure should be written off over three years in accordance with section 75B of the *Income Tax Assessment Act 1936*.

2. This Determination applies to bores and wells that are drilled or excavated but do not supply water or supply water of an insufficient quality or quantity to be used in a primary production business.

3. The expenditure on an unsuccessful bore or well is not deductible under subsection 51(1). As the purpose of the drilling or excavation is to bring into existence a capital asset the expenditure will be of a capital nature whether successful or not (see *10 CTBR Case 89*).

4. The expenditure does not bring into existence 'plant or articles' and will therefore not be eligible for a depreciation deduction under subsection 54(1). In *15 CTBR Case 48* the Board found that unsuccessful bore holes:

'...were not used during the year of income for the purpose of producing assessable income nor were they held in reserve during that year ready for use for that purpose, if required. They have no effective life and in their useless state have no value whatever.'

5. Section 75B provides a deduction over three years for certain expenditure of a capital nature incurred 'primarily and principally for the purpose of conserving or conveying water'. The Commissioner considers that the primary and principal purpose of the expenditure determines deductibility and the fact that the bore or well has failed to produce water of a sufficient quality or quantity would not disqualify the expenditure under subsection 75B(3A).

*Example*

*John, a cane farmer, incurs expenditure of \$2,400 on the drilling of two unsuccessful bores in the year ending 30 June 1995.*

*John is entitled to a deduction of one third of the expenditure (\$800) in each of the 1995, 1996 and 1997 financial years under section 75B(3B).*

**Commissioner of Taxation**17 July 1996

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref:

Legislative Ref: ITAA 51(1); ITAA 54(1); ITAA 75B; ITAA 75B(3A)

Case Ref: 10 CTBR Case 89; 15 CTBR Case 48

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