


IT 2007 - Entitlement to home loan interest rebates

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TAXATION RULING NO. IT 2007

ENTITLEMENT TO HOME LOAN INTEREST REBATES

F.O.I. EMBARGO: May be released

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F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:
I 1103040 HOME LOAN INTEREST 159ZA-159ZQ
REBATES

PREAMBLE (i) A question has been raised whether a husband and wife may each claim a rebate in respect of interest paid on home loans on their respective homes where initially they both lived in a house owned by the wife who made the interest payments and subsequently the husband made a permanent move to another city and acquired a home in respect of which he made interest payments. The wife remained in the original home.

(ii) A further question was whether a husband can claim under one rebate scheme and his wife under the other scheme where they each have a separate loan but in respect of the same dwelling.

RULING (i) A person is, under the scheme which applies where interest is paid on a loan at a rate of interest in excess of 10 per cent per annum, entitled to a rebate of tax if he or she -

- (A) is a prescribed occupier of a dwelling during the year of income, i.e., occupies the dwelling as a sole or principal residence and has an ownership interest in the dwelling; and
- (B) pays interest during the year on moneys lent to him or her (whether solely or with another person) and applied for specified housing purposes connected with the dwelling, being interest which accrues during the period the person was a prescribed occupier of the dwelling.

If the husband and wife satisfy the above conditions each is entitled to a rebate on the interest paid on the loan to acquire their respective homes. The fact of their being husband and wife does not preclude each qualifying separately for the rebate in respect of their respective sole or principal residences.

The same reasoning applies in deciding entitlement to a rebate under the limited rebate scheme which applies during the first five years of home ownership. The husband and wife would each be entitled to a rebate, subject to the operation of the

"disentitling spouse" concept, up to the maximum prescribed having regard to his or her respective "first occupation date" in respect of interest paid in connection with his or her sole or principal residence.

Whether the "disentitling spouse" concept in the scheme had any effect would need to be decided having regard to whether the husband and wife were in the particular circumstances living "separately and apart" for the purposes of the definition of "spouse" in sub-section 159ZA(1).

(ii) Each taxpayer is entitled to a rebate for interest payments made by him or her under the scheme which provides the greater benefit.

COMMISSIONER OF TAXATION
23 DECEMBER 1982