



TD 92/137 - Income tax: subsection 51AD(8) of the Income Tax Assessment Act 1936 specifies that section 51AD does not apply to property unless the whole or a predominant part of the cost of acquisition or construction of the property is financed directly or indirectly by non-recourse debt or debts: What is the meaning of 'predominant' in that context?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 20 August 1992

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax: subsection 51AD(8) of the *Income Tax Assessment Act 1936* specifies that section 51AD does not apply to property unless the whole or a predominant part of the cost of acquisition or construction of the property is financed directly or indirectly by non-recourse debt or debts: What is the meaning of 'predominant' in that context?

1. The word 'predominant' is not defined in income tax law. Therefore it bears its common meaning.
2. The Macquarie Dictionary defines 'predominant' as:
 - '1. having ascendancy, power, authority, or influence over others; ascendant.
 2. prevailing.'
3. In applying the dictionary definition to determine whether a predominant part of the cost of acquisition or construction of property has been financed by non-recourse debt, the closest meaning would be 'having ascendancy' i.e. more or greater than other costs. While technically that could be a percentage less than 50%, we take the view that, in the context of section 51AD, the section does not apply unless more than 50% of the cost of acquisition or construction of the relevant property has been financed by non-recourse debt as defined in subsection 51AD(8).

Commissioner of Taxation
20/08/92

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