# *TD 93/152 - Income tax: if a moneylender (A) sells its loan book to a taxpayer (B) and later B writes off some of the debts in the loan book as bad, can B claim those bad debts as deductions under paragraph 63(1)(b)?*

**This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA 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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).**

# Taxation Determination

## Income tax: if a moneylender (A) sells its loan book to a taxpayer (B) and later B writes off some of the debts in the loan book as bad, can B claim those bad debts as deductions under paragraph 63(1)(b)?

1. No. Deductions for bad debts are only allowable under paragraph 63(1)(b) of the *Income Tax Assessment Act*, 1936 where those bad debts are in respect of money lent in the ordinary course of a moneylending business carried on by the taxpayer claiming the deduction (see *FCT v. National Commercial Banking Corporation of Australia Ltd* 83 ATC 4715, at p. 4719, (1983) 15 ATR 21; 15 TBRD *Case 49* at p. 383; 3 TBRD (NS) *Case C3* at p. 17).

2. The purchase of an existing debt from another person is not a loan of money by the purchaser of the debt. A deduction is not, therefore, allowable under paragraph 63(1)(b) for a bad debt where that debt was purchased from another person. This is the case whether or not the person who originally lent the money did so in the ordinary course of a business of moneylending.

3. Certain taxpayers who fail to satisfy the requirements under paragraph 63(1)(b) may be entitled to a bad debt deduction under subsection 51(1). This Taxation Determination does not address the circumstances in which a bad debt deduction is available under subsection 51(1). That issue is addressed in Taxation Ruling TR92/18.

**Commissioner of Taxation**
5/8/93

FOI INDEX DETAIL: Reference No. I 1215805 Previously issued as Drafts TD 93/D143, TD 92/5
Related Determinations:
Related Rulings: Taxation Ruling TR 92/18
Subject Ref: bad debts; moneylending; deductions; transfer of loan book
Legislative Ref: ITAA 63(1)(b)
Case Ref: FC of T v. National Commercial Banking Corporation of Australia Limited 83 ATC 4715, (1983) 15 ATR 21; (1949) 15 TBRD Case 49; 3 TBRD (NS) Case C3; 3 CTBR (NS) Case 12
ATO Ref: 93/2965-0 (NO)
ISSN 1038 - 8982