



***TD 94/1 - Income tax: where subsection 51AD(8) of the Income Tax Assessment Act 1936 applies to a company will consideration be given to the exercise of the Commissioner's discretion pursuant to subsection 51AD(9) if the assets of other companies in the group are put at risk?***

 This cover sheet is provided for information only. It does not form part of *TD 94/1 - Income tax: where subsection 51AD(8) of the Income Tax Assessment Act 1936 applies to a company will consideration be given to the exercise of the Commissioner's discretion pursuant to subsection 51AD(9) if the assets of other companies in the group are put at risk?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *13 January 1994*

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: where subsection 51AD(8) of the *Income Tax Assessment Act 1936* applies to a company will consideration be given to the exercise of the Commissioner's discretion pursuant to subsection 51AD(9) if the assets of other companies in the group are put at risk?**

1. A company which borrows to finance the acquisition or construction of a property may satisfy the tests in subsection 51AD(8) if it has few assets. In such cases the parent or another group company, as defined in section 80G, may put assets at risk to support the borrowing.
2. If the assets of another group company are put at risk, then consideration would be given to the exercise of the discretion in subsection 51AD(9). What constitutes sufficient assets and adequate exposure to risk can only be determined on the facts of each particular case.

**Commissioner of Taxation**

13/1/94

---

FOI INDEX DETAIL: Reference No. I 1216862

Previously issued as Draft TD 93/D245

Related Determinations: TD 92/138; TD 92/139

Related Rulings:

Subject Ref: allowable deductions; finance arrangements; group companies; non-recourse debt

Legislative Ref: ITAA 51AD(8); ITAA 51AD(9); ITAA 80G

Case Ref:

ATO Ref: Public Infrastructure Unit DTD/07

---

ISSN 1038 - 8982