


TR 2004/4A1 - Addendum - Income tax: deductions for interest incurred prior to the commencement of, or following the cessation of, relevant income earning activities

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Addendum

Taxation Ruling

Income tax: deductions for interest incurred prior to the commencement of, or following the cessation of, relevant income earning activities

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 2004/4 to update references to Taxation Rulings.

TR 2004/4 is amended as follows:

1. Contents list

Omit the table; substitute:

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2. Paragraph 1

Omit the paragraph; substitute:

1. This Ruling considers the deductibility of interest expenses incurred prior to the commencement of income earning activities, and interest expenses incurred after income earning activities have ceased.

3. Paragraph 2

Omit the last sentence.

4. Paragraph 3

Omit the first sentence; substitute 'The decisions discussed in this Ruling deal with the issue of the deductibility of interest in terms of subsection 51(1) of the *Income Tax Assessment Act 1936* (ITAA 1936).'

5. Paragraph 4

Omit the paragraph; substitute:

4. This Ruling applies to income years commencing both before and after its date of issue. However, this Ruling will 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 this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

6. Paragraph 5

Omit the heading and paragraph.

7. Paragraph 6

Omit '*Steel*'; substitute '*Steele v. FC of T* 99 ATC 4242; (1999) 41 ATR 139 (*Steele*)'.

8. Paragraph 20

- (a) Omit '*Brown*'; substitute '*FC of T v. Brown* 99 ATC 4600; (1999) 43 ATR 1 (*Brown*)'.
- (b) Omit '*Jones*'; substitute '*FC of T v. Jones* 2002 ATC 4135; (2002) 49 ATR 188 (*Jones*)'.

9. Paragraph 33

Omit the paragraph; substitute:

33. In the following examples, the outgoing incurred would not be deductible because the outgoing is incurred 'too soon', 'preliminary' or a 'prelude':

- expenses relating to the establishing of a paper production industry were not deductible as they were held to be entirely preliminary and directed at deciding whether or not an undertaking would be established to produce assessable income – *Softwood Pulp and Paper Ltd v. FC of T* 76 ATC 4439; (1976) 7 ATR 101
- expenses incurred by a professional footballer in securing employment with a new club were incurred too soon to be properly regarded as gaining or producing assessable income – *FC of T v. Maddalena* 71 ATC 4161; (1971) 2 ATR 541
- expenditure on research into the development and production of monoclonal antibodies was not deductible as the company was not conducting the research as a business or an activity of gaining or producing assessable income but rather as a collaborator in a research project – *Goodman Fielder Wattie*
- expenditure on research into the development of products made from tea tree oil was not deductible as the expenditure was not capable of being identified with the derivation of any assessable income – *Howland Rose & Ors v. FC of T* 2002 ATC 4200; 49 ATR 206

- interest incurred on a loan used to purchase options to acquire shares as the options do not give rise to an entitlement to dividends. Although the options may be converted into shares at a later date, from which dividends may be expected, the interest expense is considered to be both preliminary to and remote from any possible derivation of assessable income.

10. Detailed contents list

Omit the table; substitute:

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11. Related Rulings/Determinations

Omit;

TR 92/20; TR 2000/17

Insert:

TR 2006/10

This Addendum applies on and from 22 March 2017.

Commissioner of Taxation
22 March 2017

ATO references

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