


# ***TR 98/22A - Addendum - Income tax: the taxation consequences for taxpayers entering into certain linked or split loan facilities***

 This cover sheet is provided for information only. It does not form part of *TR 98/22A - Addendum - Income tax: the taxation consequences for taxpayers entering into certain linked or split loan facilities*

 View the [consolidated version](#) for this notice.



# Addendum

---

## Taxation Ruling

### Income tax: the taxation consequences for taxpayers entering into certain linked or split loan facilities

This Addendum partially withdraws Taxation Ruling TR 98/22 following the decision of the High Court in *FC of T. v Hart* [2004] HCA 26. That decision confirms the application of the general anti-avoidance provisions of Part IVA of the *Income Tax Assessment Act 1936* (ITAA 1936) to linked or split loan facilities to which the Ruling applies.

The Commissioner is revising his view in relation to the deductibility of interest incurred under these facilities and whether the interest disallowed pursuant to Part IVA forms part of the cost base of assets financed by these facilities. The Commissioner's existing opinions on these matters are withdrawn and will be replaced once this review is complete. The Ruling is also currently being reviewed in relation to its discussion of Part IVA in light of the decision.

This addendum applies from today 11 August 2004.

#### **Taxation Ruling 98/22 is amended as follows:**

**1. Paragraph 1**

Omit the paragraph and replace it with:

1. This ruling applies to persons who enter into certain linked or split loan facilities as described in paragraphs 3 to 6 of this Ruling. This Ruling considers whether Part IVA of the *Income Tax Assessment Act 1936* (ITAA 1936) applies to disallow interest that would otherwise be deductible on these linked and split loan facilities. The ruling does not consider the deductibility of interest incurred under these facilities and whether the interest disallowed pursuant to Part IVA forms part of the cost base of assets financed by these facilities.

**2. Paragraph 2**

Omit the paragraph.

**3. Heading before paragraph 8**

Omit the heading.

**4. Paragraphs 8 to 14**

Omit the paragraphs.

**5. Paragraph 15**

Omit the paragraph and replace it with:

15. The general anti-avoidance provisions of Part IVA apply to disallow any additional interest incurred on the investment account that is deductible under s 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997): *FC of T. v Hart* [2004] HCA 26.

**6. Heading before paragraph 27**

Omit the heading.

**7. Paragraphs 27 to 33**

Omit the paragraphs.

**8. Heading before paragraph 35**

Omit the heading.

**9. Paragraphs 35 to 48**

Omit the paragraphs.

**10. Heading before paragraph 72**

Omit the heading.

**11. Paragraphs 72 to 78**

Omit the paragraphs.

**12. Paragraphs 79 and 80**

Omit the paragraphs.

**13. Paragraph 81**

Omit 'not appropriate' and replace with 'not always appropriate'.

**14. Heading before paragraph 84**

Omit the heading.

**15. Paragraphs 84 to 86**

Omit the paragraphs.

**16. Heading before paragraph 87**

Omit the heading.

**17. Paragraphs 87 to 101**

Omit the paragraphs.

---

**Commissioner of Taxation**

11 August 2004

---

ATO references

NO: 2003/11684

ISSN: 1039-0731