


TD 94/D107 - Income tax: property development: if a property developer borrows money to purchase trading stock, under what section of the Income Tax Assessment Act 1936 is the cost of borrowing that money an allowable deduction?

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Draft Taxation Determination

Income tax: property development: if a property developer borrows money to purchase trading stock, under what section of the *Income Tax Assessment Act 1936* is the cost of borrowing that money an allowable deduction?

1. If a property developer incurs borrowing costs on money borrowed to purchase trading stock (e.g. stamp duty, legal expenses, but not interest) those costs are deductible under section 67 as an expenditure incurred in borrowing money used to produce assessable income.
2. Costs of borrowing money are of a capital nature. Such costs relate to the loan and, 0 loans are generally on capital account, borrowing costs are also generally on capital account. Such costs remain a capital expense even if the money borrowed is used to purchase trading stock.
3. The costs of borrowing money to purchase trading stock are separate and distinct from the use to which the money borrowed may be put, i.e. to purchase trading stock. Such costs are not expenditure incurred in the purchase of trading stock and are not deductible under subsection 51(1) by virtue of subsection 51(2). Even if there is inconsistency between subsection 51(1) by virtue of subsection 51(2) and section 67, subsection 51(1), being a provision of general application must give way to section 67, it being a specific provision.
4. Because borrowing costs are a capital expense, they are not deductible under subsection 51(1).

Example:

On 1 July 1993 a property developer borrows \$1,000,000 to purchase land which will be developed and sold as residential allotments. The term of the loan is three years. Borrowing costs of \$9,000 are incurred. Under section 67 the deductions allowable are:

1994	\$3,000
1995	\$3,000
1996	\$3,000.

The borrowing costs are not an indirect cost of the land as trading stock and are not deductible under subsection 51(1) by virtue of subsection 51(2).

The borrowing costs are a capital expense and so not deductible under subsection 51(1) in the year in which they are incurred.

Commissioner of Taxation

1/12/94

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Related Determinations:

Related Rulings:

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