


IT 2208 - Income tax: administration expenses: exploration and prospecting business

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TAXATION RULING NO. IT 2208

INCOME TAX: ADMINISTRATION EXPENSES : EXPLORATION AND PROSPECTING BUSINESS

F.O.I. EMBARGO: May be released

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1205210	ADMINISTRATION EXPENSES	51
	EXPLORATION AND	53
	PROSPECTING BUSINESS	54
		122J
		124AH

PREAMBLE

In businesses established for the purpose of carrying on exploration and prospecting activities there may be incurred in the early existence of the business, before any assessable income is derived, losses and outgoings of a general administrative nature. Advice has been sought on the correct treatment of these administrative expenses for income tax purposes.

2. The sorts of losses and outgoings that are contemplated may include rent of business premises, interest on moneys borrowed to purchase business premises, municipal rates and taxes, salaries of clerical staff, depreciation on office furniture, etc. The losses and outgoings do not come within the definitions of "exploration and prospecting" in sub-sections 122J(6) and 124AH(7). Whether they qualify for income tax deduction depends upon the application of general principles of income tax.

3. It is now well settled that losses and outgoings incurred in a year are not debarred from deduction simply because they have not produced any assessable income in a year, cf. *Ronpibon Tin NL v. FCT* (1949) 78 CLR 47 and more recently *FCT v. D.P. Smith* 81 ATC 4114 : 11 ATR 538. There are numbers of business undertakings which are entitled to income tax deductions for losses and outgoings incurred in the early years of their existence before any assessable income is derived, e.g. mining, primary production, afforestation, etc. The reality is that, in some business undertakings, assessable income cannot be expected to be derived for some time.

4. A useful illustration appears in *Vallambrosa Rubber Co. Ltd. v. Farmer*, Volume 5, Tax Cases at page 529. The case involved a company which derived its income from the cultivation and sale of rubber. It was established that the rubber trees did not yield rubber until they were about six years old. It was held that the expenses of cultivation, managing, etc. were allowable as deductions in each of the years the expenses were

incurred.

RULING 5. The same general principles apply to exploration and prospecting businesses. Where a bona fide business is being carried on for the purpose of producing assessable income losses and outgoings incurred in the period prior to the receipt of assessable income are to be allowed as income tax deductions to the extent permitted under relevant provisions of the income tax law, e.g. sections 51, 53, 54 etc.

COMMISSIONER OF TAXATION
13 November 1985