



TD 92/143 - Income tax: is establishment expenditure incurred by a company preparatory to listing its shares on an Australian or foreign stock exchange deductible under section 8-1 of the Income Tax Assessment Act 1997?

 This cover sheet is provided for information only. It does not form part of *TD 92/143 - Income tax: is establishment expenditure incurred by a company preparatory to listing its shares on an Australian or foreign stock exchange deductible under section 8-1 of the Income Tax Assessment Act 1997?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *5 May 1999*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part 4VAAA 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, the Determination applies to transactions entered into both before and after its date of issue.

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

Taxation Determination

Income tax: is establishment expenditure incurred by a company preparatory to listing its shares on an Australian or foreign stock exchange deductible under section 8-1 of the *Income Tax Assessment Act 1997*?

1. No. There is insufficient connection between establishment expenses incurred by a company and the derivation of assessable income from its income producing activities for the expenses to be deductible under the first limb of section 8-1. The costs are not incidental or relevant to the operations or activities regularly carried on by a company for the production of its assessable income (*Ronpibon Tin NL v FC of T* (1949) 78 CLR 47).
2. Establishment expenses are not necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income under the second limb of section 8-1. The expenses do not have the character of a working expense or form part of the cost of a company's trading operations (*John Fairfax & Sons Pty Ltd v FC of T* (1959) 101 CLR 30).
3. Establishment expenses are outgoings on the business entity, structure or organisation or its ownership and are not deductible under section 8-1. They are outgoings of capital or of a capital nature.

Section 8-1 of the *Income Tax Assessment Act 1997*, to which this Determination refers, expresses the same ideas as subsection 51(1) of the *Income Tax Assessment Act 1936*.

Note: The Addendum to this Determination that issued on 5 May 1999 applies in relation to the 1997-98 or a later income year.

Commissioner of Taxation
20/08/92

FOI INDEX DETAIL: Reference No. I1213131

Subject Ref: deductions; stock exchange listing expenses

Legislative Ref: ITAA 1936 51(1); ITAA 1997 8-1

Case Ref: *Ronpibon Tin NL v FC of T* (1949) 78 CLR 47; *John Fairfax & Sons Pty Ltd v FC of T* (1959) 101 CLR 30

ATO Ref: Bankstown TD 1

ISSN 1038 - 3158