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The Argument for Using the Accruals Concepts of Accounting as Established by the Professional Accounting Bodies to Determine the Application of Section 51(1) of the Income Tax Assessment Act

Abstract

There are indications that the courts are moving away from a strict legalistic interpretation of s 51(1) of the Income Tax Assessment Act (1936) (as amended), to one based on commercial and accounting principles. This article reviews the development of the courts' interpretation of when an expense has been 'incurred' for s 51(1) and puts forward the case for allocating prepayments in accordance with the principles of accruals accounting. This paper confines its discussion to taxpayers who are currently returning their income on an 'accruals basis'.

Keywords

taxation, expenses, accruals accounting

THE ARGUMENT FOR USING THE ACCRUALS CONCEPTS OF ACCOUNTING AS ESTABLISHED BY THE PROFESSIONAL ACCOUNTING BODIES TO DETERMINE THE APPLICATION OF SECTION 51(1) OF THE INCOME TAX ASSESSMENT ACT

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There are indications that the courts are moving away from a strict legalistic interpretation of s 51(1) of the Income Tax Assessment Act (1936) (as amended), to one based on commercial and accounting principles. This article reviews the development of the courts' interpretation of when an expense has been "incurred" for s 51(1) and puts forward the case for allocating prepayments in accordance with the principles of accruals accounting. This paper confines its discussion to taxpayers who are currently returning their income on an "accruals basis".

Introduction

The courts have spasmodically referred to accounting principles in coming to a decision on the deductibility of a particular expense for the purposes of s 51(1) of the Income Tax Assessment Act 1936 (as amended) (ITAA). The recent decision in *Coles Myer Finance Ltd v FCT*¹ (*Coles Myer*) appears to indicate that there may be a new direction taken by the courts in relation to applying accounting principles to determine the timing of deductions for the purposes of s 51(1).

Accruals concepts of accounting and taxation law

The accruals concept of accounting means the accounting basis whereby items of income and expenditure are brought to account as they are earned or incurred (and not as money is received or paid) and included in the financial statements for the accounting period to

¹ (1993) 25 ATR 95; 93 ATC 4214 and 4341.

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which they relate.² The accruals accounting principles endeavour to accommodate the symmetry between the recording of an expense and when the related revenue is earned. This approach has been described as the "matching principle".³

The matching principle

Accountants would readily concede that there are many value judgements and estimates that must be performed in determining business income. As Professor May stated:

Financial accounts must always be largely a matter of convention, judgement and opinion - not a matter of certainty. Whoever claims more for them is doing a disservice to the investor, the businessman and to the profession itself. Certainty would be very welcome in this field just as security of life would be, but it is unattainable and it is mischievous to encourage a belief that it has been or can be achieved.⁴

Professor May's comments may seem quite disturbing to some who consider that the accruals accounting principles give a complete matching of income and expenses. Nevertheless, accruals accounting achieves a far greater degree of "matching" than was being achieved by the pre-Coles Myer interpretation of s 51(1).⁵

Expenses - accounting principles

In accordance with the accruals accounting principles, an expense should be carried forward to subsequent accounting periods if; it is material in amount, it relates to future revenue or future revenue earning capacity of the business, and it is reasonably expected that the business will obtain sufficient future revenue to absorb the carried forward expense or the expense has given rise to an asset which may be reasonably expected to realise at least its book value.⁶

² Statement on Accounting Practice: "AAS 6: Accounting Policies: Determination, Application and Disclosure" para 2.

³ Colditz BT et al, *Australian Accounting* (3rd edn 1983 McGraw Hill) 113.

⁴ Ibid 7.

⁵ The Taxation Review Committee Full Report (*Asprey Report*) AGPS, Canberra, 1975.

⁶ Statement on Accounting Practice: "AAS 9: Expenditure Carried Forward to Subsequent Accounting Periods" paras 9 and 10.

Expenses - the meaning of "incurred" - taxation principles

Section 51(1) of the ITAA states that:

All losses and outgoings to the extent to which they are incurred in gaining or producing the assessable income ... shall be allowable deductions ... [emphasis added].

The interpretation of the term "incurred" in s 51(1) has been the subject of many court decisions, most notably in *FCT v James Flood Pty Ltd*.⁷

James Flood case

The High Court in *James Flood* rejected a claim for a deduction of an amount relating to a provision for annual leave for employees which was accrued in the taxpayer's financial accounts (according to accrual accounting principles) but not paid. The claim was rejected on the grounds that it had not been "incurred" in the relevant year of income. The following statement taken from the decision highlights the Court's position:

Commercial and accounting practice may assist in ascertaining the true nature and incidence of the item as a step towards determining whether it answers the test laid down in s 51(1) but it cannot be substituted for the test.

It was also stated that for a loss or outgoing to be "incurred" in the relevant period the taxpayer must be "definitely committed" in the year of income, even if no payment had been made.

RACV Insurance case

The case of *RACV Insurance Pty Ltd v FCT*⁸ also looked at the issue of whether an accounting provision could be considered to be deductible in accordance with s 51(1). The court stated that when a provision was established for accounting purposes it was not always possible to state that a "loss or outgoing" had been incurred for the purpose of s 51(1). The Court in the *RACV* case, however, did allow a deduction for an actuarial estimate of the amount of unreported insurance claims that the insurance company had legally incurred at

⁷ *FCT v James Flood Pty Ltd* (1953) 5 AITR 579.

⁸ *RACV Insurance Pty Ltd v FCT* (1974) 4 ATR 610.

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insurance claims that the insurance company had legally incurred at the end of the year. The following obiter comments made by Menhennitt J appear to suggest, however, that the meaning of incurred should not be confined solely to a legalistic approach:

Further, the provision in s 51(1) that a loss or outgoing is an allowable deduction to the extent to which it is incurred in gaining or producing assessable income appears to me to be a statutory recognition and application of the accounting principle which all the accountants who gave evidence referred to as the matching principle.

The issue of when an expense had been incurred was also addressed by the Full High Court in *Coles Myer Finance Ltd v FCT*.⁹

Coles Myer Finance case

The facts

Coles Myer Finance carries on business as a finance company, acting as financier to the Coles Myer group of companies. During the 1983/84 taxation year the taxpayer drew, and sold at less than their face values, both bills of exchange and promissory notes and a significant proportion of these were outstanding at 30 June 1984. In its return of income for the year ended 30 June 1984, the taxpayer claimed a deduction for the difference between the face values and the sale price of the bills and notes. The Commissioner of Taxation (The Commissioner), disallowed that claim on the basis that no relevant loss or expenditure was incurred until the investments were paid out in the following taxation year.

The primary issue in *Coles Myer* was whether a liability had been "incurred" in relation to the discount on the bills of exchange or the promissory notes in the year ended 30 June 1984. The Court decided that a legal liability had been incurred by Coles Myer when the bills of exchange were accepted. This approach is in accordance with the decision in *KD Morris & Sons Pty Ltd (in liq) v Bank of Queensland Ltd*.¹⁰ In *KD Morris*, Aickin J (with whom Mason J agreed) said:

The liability of the company was not dependent upon any contingency once the bills had been discounted. On the

⁹ Above n 1.

¹⁰ *KD Morris & Sons Pty Ltd (in liq) v Bank of Queensland Ltd* (1980) 146 CLR 165.

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bank paying each bill on presentation, the liability to indemnity arose by reason of the inherent characteristics of an accommodation bill.

The Full High Court in *Coles Myer* also decided, in relation to the promissory notes, that the maker incurs a liability to pay the note at maturity when the note has been drawn. The joint judgment of Mason CJ, Brennan, Dawson, Toohey and Gaudron JJ stated it as follows:

The obligation to pay at a future time created by such a note is clearly a present liability, there being no necessity of presentment of the note for the maker to be liable to pay out the note at maturity...

Legal liability threshold

The *James Flood*, *RACV Insurance* and *Coles Myer* cases highlight the fact that one of the threshold criteria for incurring an expense for s 51(1) is that a legal liability must have arisen and not necessarily whether a cash flow has taken place. This, of course, does not deny that the term incurred may have another related meaning for the purposes of s 51(1), ie "matching" or "timing", as suggested by Menhennitt J in the *RACV Insurance* case.

The Full High Court's decision to apportion the expense

The more important decision that has come from *Coles Myer* is in relation to the timing of the deductions, given that they had been incurred. The Full High Court (Mason CJ, Brennan, Dawson, Toohey and Gaudron JJ with McHugh J dissenting), having established that the expense had been legally incurred, directed that the expense should be apportioned on a straight-line basis over the two years of income as follows:

The acceptance by this court of the jurisprudential analysis of s 51(1) does not compel the conclusion that, once a taxpayer subjects itself in the year of income on revenue account to a present legal liability to pay in a future year of income ... the net loss or outgoing is deductible in full in the year of income. The relevance of the present existence of a legal liability on the part of the taxpayer to meet the bills and notes at a future date is that it establishes that the taxpayer has "incurred" in the year of income an obligation to pay an amount which gives rise to

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a net loss or outgoing, being the recurrent cost of acquiring working or circulating capital. But there remains a question: how much of that net loss or outgoing is referable to the year of income?

Their Honours stated also:

In ascertaining what is the taxpayer's net income ... it is proper to set against the taxpayer's gross income ... the net loss or outgoing referable to that period. Under s 51(1) a loss or outgoing is a deduction only to the extent to which it is incurred in gaining or producing the assessable income ... Although the legal liability to pay is incurred in the year of income, the amount in question is not payable until the subsequent year of income and, more importantly, the net loss or outgoing represents the cost of acquiring funds which the taxpayer puts to profitable use in both years of income.

Two phrases emerge from the above passages which may suggest that the decision in *Coles Myer* should be limited to situations where there is a current liability but payment is not made until a future period. The phrases are "present liability to pay in a future year of income" and "not payable until the subsequent year of income". These phrases were used because of the particular circumstances of the case and they should not be taken out of context.

The phrases were used in conjunction with establishing the fact that an expense was incurred and are merely descriptive of the fact that a payment will be made in future (remembering that for an expense to be incurred there may or may not be a cash flow). The overriding focus is the fact that a legal liability has been incurred which is the threshold criteria. It is perhaps unfortunate that the Court did not discuss at length the intended application of its decision and whether the decision should apply to other expenses, eg, prepayments. Accordingly it is open to our interpretation of the decision in accordance with its plain language in the light of precedent.

The Full High Court in *Coles Myer*, in accepting that there exists a legal liability threshold for incurring an expense and then apportioning the expense, have followed the approach taken by the Full Federal Court in *FCT v Australian Guarantee Corporation Ltd*.¹¹

¹¹ *FCT v Australian Guarantee Corporation Ltd* (1984) 15 ATR 982.

Matching principle - taxation interpretation

At first sight, s 51(1) appears to indicate that, when the word "incurred" is taken in association with the phrase "in gaining and producing the assessable income", we are required to allocate or match that portion of an expense which is directly related to the particular assessable income earned. However, this may in certain cases be impossible to achieve. The most obvious situation where the earning of income could not be matched to expenses would be where no income was earned. New business ventures and negatively-gearred investments are examples of situations where small amounts of income may be expected to be earned in the initial years of operation.

It appears from an objective interpretation of the decision in *Coles Myer* that a commercial approach to the matching principle would be acceptable. (See also *FCT v Snowden & Willson Pty Ltd*,¹² *FCT v Total Holdings (Aust) Pty Ltd*¹³ and *Fletcher v FCT*¹⁴).

In fact, Mason CJ, Brennan, Deane, Dawson, Toohey, Gaudron and McHugh JJ in *Fletcher v FCT*¹⁵ dealt with the issue in the following manner:

The second introductory point to be made about s 51(1) is that reference in it to "the assessable income" is not to be read as confined to assessable income actually derived in the particular tax year. It is to be construed as an abstract phrase which refers not only to assessable income derived in that or in some other tax year but also to assessable income which the relevant outgoing "would be expected to produce".

Accordingly, the High Court decision in *Fletcher* appears to lay down a commonsense approach to the allocation of deductions making them deductible against the amount of income that would be expected.

Dixon J's comments in *W Nevill and Co Ltd v FCT*¹⁶ also focus on a commonsense approach to the matching of income and expenses:

¹² *FCT v Snowden & Willson Pty Ltd* (1958) 7 AITR 308.

¹³ *FCT v Total Holdings (Aust) Pty Ltd* (1975) 9 ATR 885 at 889.

¹⁴ *Fletcher v FCT* (1991) 22 ATR 613.

¹⁵ *Ibid.*

¹⁶ *W Nevill and Co Ltd v FCT* (1937) 1 AITR 67 at 75.

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It does not require that the purpose of the expenditure shall be the gaining or production of the income of that year. The condition the provision expresses is satisfied if the expenditure was made in the given year or accounting period and is incidental and relevant to the operations or activities regularly carried on for the production of income.

The decision in *Ronpibon Tin NL v FCT*¹⁷ also takes the approach of reading the "the" out of s 51(1) ("the assessable income") and hence suggests a relaxation of a strict matching approach.

Timing of deductions on commercial bills

Taxation Ruling TR 93/21 clearly follows the findings in *Coles Myer* in relation to the deductibility of discounts on commercial bills when it outlines in paragraph 19 that:

A presently existing legal liability or obligation to pay an amount in a future year will not necessarily mean that amount is fully deductible in the year in which the legal liability or obligation first came into existence. Regard must also be had to the years of income to which the expense is properly referable.

The Ruling however limits its guidelines to the treatment of deductions for discounts on commercial bills and is accordingly of little assistance in determining the taxation consequences for prepayments generally.

Prepayments

The discussion to date in this comment has focussed on determining when an expense, which has not been paid, has been incurred and in what period that expense is deductible. The question now posed is whether the decision in *Coles Myer* has application to prepayments?

A prepayment is defined in the *Oxford Dictionary* as a payment made before an event or a payment made in advance. In other words, a prepayment may not relate or only partly relate to the period in which it is made. Examples of prepayments commonly made by businesses include advance payments of insurance premiums, rental premiums, lease payments and interest. The deductibility of prepayments for the purposes of s 51(1) is well established. The

¹⁷ *Ronpibon Tin NL v FCT* (1949) 78 CLR 47.

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authorities include; *FCT v Gwynvill Properties Pty Ltd*,¹⁸ *FCT v Ilbery*¹⁹ and *Fletcher v FCT*.²⁰

Commercial focus of business

The main function of commercial activity in any society is the provision of goods and services to the community. Business activity is sustained by the generation of income and return on investment. The making of prepayments is a normal feature of business because of commercial and contractual considerations.

Thus the overriding purpose of making prepayments is driven by commercial forces, and only a small proportion of prepayments are made in the last week of June each year in order to get a tax deduction.²¹

Pre-Ruling Consultative Document

The Pre-Ruling Consultative Document (PRCD) issued by the Commissioner of Taxation on 27 May 1993 sets out the extent to which he considered the decision in *Coles Myer* could be applied to other issues concerning the timing of derivation of income and the deductibility of expenditure under income tax law. (For the purposes of this comment the PRCD implications of the decision in respect of deductions for prepaid expenses will be addressed).

In paragraph 6 of the PRCD, the Commissioner sets out what he considered to be the central focus of the decision:

To obtain a deduction under s 51(1) the net loss or outgoing must be incurred for the purpose of deriving assessable income. In applying this test, the court thought it relevant that the moneys raised had been applied to profitable advantage over two years. The Court decided that the deduction should accordingly be apportioned over the term of the relevant note or bill over the two income years.

¹⁸ *FCT v Gwynvill Properties Pty Ltd* (1986) 17 ATR 844.

¹⁹ *FCT v Ilbery* (1981) 12 ATR 563.

²⁰ Above n 14.

²¹ See *Raymor (NSW) Pty Ltd v FCT* (1990) 21 ATR 458.

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The PRCD goes on further to support the accounting concept of matching income and expenditure in paragraph 8:

Not to apportion the discount could for longer term bills lead to a distortion of the taxpayer's operations on revenue account - allowing a deduction in the year that the bills were drawn would inflate very considerably the s 51(1) deductions for that year.

A further issue which the Commissioner dealt with in the PRCD is whether the Court was formally moving away from interpreting the term "incurred" based on a traditional jurisprudential or legal approach, or whether there was a new approach termed in paragraph 10 of the PRCD as a "commercial approach". (See also *Ronipibon Tin NL v FCT*²² and *Fletcher v FCT*²³).

In paragraph 11, the Commissioner indicates that he accepts that there are two concepts contained in the term "incurred", the first being the threshold issue of legally incurred and then the timing issue of when an expense is deductible:

It may be that characterisation issues are to be addressed by reference to legal or jurisprudential analysis while timing issues are to be addressed by reference to what is the commercial reality.

Prepayments prior to *Coles Myer Finance*

Prior to the *Coles Myer* case, annual prepayments like insurance, rent, lease payments and interest were deductible in the year they were incurred. This was despite the fact that these items in most cases gave a benefit beyond the end of the year in which the deduction was claimed. However, limited legislative recognition of the matching principle was given in this respect in ss 82KZL to 82KZO of the ITAA. The function of these sections is to limit the availability of an immediate deduction for prepayments to amounts which relate to periods of less than 13 months after the date of payment. If prepayments relate to a period greater than 13 months, these sections apply to spread (match) the deduction over the lesser of the period for which the service is to be provided and 10 years, on a straight-line basis.

²² Above n 17.

²³ Above n 14.

Thus, prior to the advent of *Coles Myer*, the legislation recognised the existence of the matching principle and gave a small concession in allowing annual payments to be deductible once paid. In fact, the *Coles Myer* decision appears to strike at prepayments which are currently deductible under ss 82KZL to 82KZO. To quote the PRCD:

There appears to be nothing fundamental in the reasoning of the High Court that limits the apportionment or spreading approach to particular types of business expenditure or to situations where the amount is to be paid in the future.

The Commissioner's revised position

If one was to consider that the Commissioner was lending strong support to the acceptance of the accruals concept of accounting in the PRCD, then on 2 September 1993 one would have been very disappointed. Rather than supporting the accruals concept of accounting, in relation to prepayments, the Commissioner in his Draft Ruling TR93/D39 distanced himself from relating the decision in *Coles Myer* to prepayments.

Obviously, there had been a dramatic change in the position of the Commissioner between the Pre-Ruling document and the Draft Ruling. Perhaps the Commissioner after extensive consultation with interested parties has succumbed to the not inconsiderable pressure from commercial interests and considered that it was not the opportune time to apply the *Coles Myer* decision to prepayments.

The reason given by the Commissioner for the change of position is stated in paragraph 7 of the Draft Ruling as follows:

However, the question of prepayments was not argued before the High Court nor did the joint judgment specifically deal with either the question or the long line of High Court and Federal Court decisions specifically on prepayments. That line of authority generally accepts that a prepaid expense which is on revenue account is fully deductible in the year in which the payment is made.

The position that, because the decision in *Coles Myer* did not discuss prepayments, no inference can be drawn is too simplistic. The Commissioner's approach in his Draft Ruling is in fact extending a preference to taxpayers who have the ability to pay expenses in advance over taxpayers whose financial circumstances do not allow

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them to make prepayments.

For example, take the position of the following two business people/taxpayers, Mr Jones and Ms Smith, each of whom has business borrowings of \$100,000. Mr Jones's business is operating with excess cash when compared to his current cash requirements. He approaches his bank on 27 June 1993 and negotiates a prepayment of interest on the borrowings for twelve months of \$9,500. Assuming that the conditions of s 51(1) are otherwise satisfied, Mr Jones can get a tax deduction for this amount in the year ended 30 June 1993.

Ms Smith, on the other hand, does not have surplus cash and accordingly cannot make a prepayment of interest on her loan. Even if she arranged her borrowing through a bill of exchange facility, she could only get a deduction for that portion of the discount which is referable to the year ended 30 June 1993 or approximately three days.

In the above example, the tax treatment of Ms Smith's position attempts to relate the expense incurred to the earning of income (as in *Coles Myer*). However, in the case of Mr Jones there appears to be an almost complete absence of this matching approach. The Draft Ruling gives rise to an inequity in the treatment of taxpayers.

Cases used by the Commissioner to support his revised position

The Draft Ruling outlines a number of cases relating to prepayments where the prepayment was considered deductible upon payment. While these cases support the contention that a prepayment may be incurred once the payment is made, the cases do not deny that apportionment of expenses is possible.

The Commissioner cites the case of *FCT v Solling*²⁴ to support his revised position. However, this case lends strong support for applying the accruals accounting principles to prepayments. Lee J indicated that his decision was based on the accounting practice used in the actual case:

Where accountancy practice does not require, as a matter of proper accounting, that the accruals basis be applied to an outgoing in a particular case under consideration then

²⁴ (1985) 16 ATR 753.

the question when it was "incurred" must be dealt with without reference to the accruals basis

This passage indicates that, if the accounts of the taxpayer were prepared on an accruals basis, then Lee J would have apportioned the prepayment in accordance with that accounting practice. It is interesting to note also that the Commissioner argued that the apportionment of prepayments was the appropriate method for accounting for those expenses.

The Commissioner also refers to *FCT v Ilbery*,²⁵ which affirms the fact that normally a prepayment is incurred and deductible when paid. Toohey J stated: "Likewise it was not disputed that the prepayment was an outgoing incurred."

Toohey J decided, however, that the expense here was not incidental and relevant to the gaining or producing of assessable income and, accordingly, while the expense was incurred it was not deductible.

The Draft Ruling makes reference to Latham CJ's dictum in *Emu Bay Railway Company Ltd v FCT*²⁶ to support the assertion that an annual prepayment made on revenue account is deductible on payment. The most significant statement made by Latham J in that case related to payments not made:

The words "outgoing incurred" should not be limited to expenditure actually made. They include a liability presently incurred and due though not yet discharged ...

It was inappropriate to select the case of *FCT v Gwynvill Properties Pty Ltd*²⁷ in support of the fact that an annual prepayment is deductible in the year in which the payment is made because, as in the case of *Ilbery*, a deduction was denied. If there is denial of the deduction, then the Court had no opportunity to extend its decision to the extent to which was done in *Coles Myer*. The merit in selecting the case of *Creer v FCT*²⁸ is also suspect because the focus of this case was the issue of whether a prepayment was capital or revenue in nature.

²⁵ Above n 19.

²⁶ (1944) 71 CLR 596 at 606.

²⁷ Above n 17.

²⁸ (1985) 16 ATR 246.

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Taxpayer's position based on the Draft Ruling

If we were to quantify the benefit of allowing deductions for annual prepayments, it could be assumed that on average half of these annual payments would be made in advance at the end of any year of income. (Note that some prepayments, such as rent, may only be for one month). This, in itself, appears to be of significant benefit. But it should be remembered that it is only a timing benefit and only of use to those taxpayers who have a taxable income. This timing benefit obviously reduces the taxable income of the current year and defers a taxation liability into the future, which would be considered to be good tax planning.

If taxpayers consider that this position gives them a "win win" result then company taxpayers should consider the fact that in recent years the Commissioner has been gradually bringing the payment date for company tax forward. On average, the payment date has been brought forward by at least six months. It has been suggested that the payment date will be brought forward even more for certain companies in the near future. This forward movement in the payment date of company tax would very easily erode all the benefits of being able to claim a deduction for annual prepayments in the year of payment.

This should be evident from the fact that the proportion of total deductions which prepayments form is insignificant for most businesses. Thus any benefit that taxpayers consider is gained from the deductibility of prepayments in the year of incurrence is minimal, as the Commissioner continues to come out well ahead by getting the actual tax payments significantly earlier.

Perhaps the Commissioner is using his position in the Draft Ruling as a smoke screen to disguise his real intentions. When the Commissioner is satisfied that the payment schedule for company tax has been brought forward sufficiently, what impediment would exist for him then to bring a case involving prepayments and attempt to prove that *Coles Myer* had implications for prepayments? The Commissioner has left this option open by stating in paragraph 6 of the Draft Ruling that:

The joint majority judgment in *Coles Myer* could possibly be read as applying to all losses and outgoings including prepayments and that consequently such losses and outgoings should be apportioned over the years to which they are properly referable.

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The possibility of litigation initiated by taxpayers in relation to this issue is very unlikely because the position set out by the Draft Ruling puts taxpayers in what could be considered to be a good position, ie being able to deduct on a straight-line basis the discount component of commercial bills and promissory notes and being able to claim a deduction for annual prepayments in the year paid.

Conclusion

Court decisions lend significant support to the assertion that a legal liability to pay an amount must have arisen for the incurrence of an expense under s 51(1) of the Income Tax Assessment Act (1936). The recent decision of the Full High Court in the *Coles Myer Finance* case, having established this legal liability threshold existed, then apportioned a discount expense on commercial bills and promissory notes on a straight-line basis in accordance with the accruals accounting principles.

In consideration of the *Coles Myer Finance* decision, the Commissioner initially supported the application of accrual accounting principles to the deductibility of prepayments. However, he subsequently withdrew this support in Draft Ruling TR93/D39 which was issued on 2 September 1993.

An analysis of the decisions relating to prepayments indicates that, while the decisions support immediate deductibility, none of the decisions clearly denies the ability to apportion the prepayments over the period to which they relate. This comment concludes that there is no legal impediment to the application of the *Coles Myer* decision to the deductibility of prepayments, in accordance with the accruals concepts of accounting as established by the Professional Accounting Bodies, and suggests that the Commissioner's position in his Draft Ruling is likely to change.