

**LEGALUPDATE**

A DREW &amp; NAPIER PUBLICATION

**IRAS CONDUCTS PUBLIC CONSULTATION  
ON OTHER BORROWING COSTS TO BE  
ALLOWED FOR INCOME TAX PURPOSES**

Drew & Napier LLC recently successfully represented a taxpayer against the Inland Revenue Authority of Singapore (the "IRAS") in a landmark case concerning the deductibility of loan expenses such as borrowing costs, prepayment penalties and guarantee fees. Previously, only limited interest expenses were deductible. The Court of Appeal ruled in the taxpayer's favour, leading to substantial tax savings for the taxpayer. This decision was reported in *The Business Times* on 31 August 2006.

Following this decision, the IRAS issued a consultation paper yesterday stating that it would review the rules for tax deduction of borrowing costs (other than interest expense) incurred in respect of borrowings where the funds are employed to acquire taxable income. The aim of this exercise is to review and assess whether tax treatment of such other borrowing costs that are akin to interest expense should be subject to the same tax treatment as interest expense.

The IRAS is inviting feedback on a proposed list of other borrowing costs that are akin to interest expense in respect of which it would consider allowing tax deductions. Such other borrowing costs include:

- procurement, upfront, commitment, and prepayment fees;
- break costs;
- guarantee fees;
- bank option fees (to keep interest expenses on such loans at fixed levels);
- upfront premium paid on a swap to cap floating rate of interest on such loans; and
- discount on notes/ bonds.

You may view the full consultation paper at:

<http://www.iras.gov.sg/ESVPortal/resources/consultationpaperonotherborrowingcosts.pdf>

The closing date for the submission of views and comments is **22 December 2006**. We will be submitting a response to the consultation paper. If there are any other loan-related expenses which you or your company would like to see on the list, please feel free to contact us before **22 December 2006** and we would be happy to assist you in this regard.

In addition, as it appears that the IRAS is seeking to revamp its deduction rules, this may be a good time to raise issues or concerns that you or your

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company may have relating to the deduction of expenses which have previously been disallowed. We would also be happy to assist you in making submissions to the IRAS in relation to the deductibility of such expenses.

If you would like more information about this consultation paper or wish to discuss how it may potentially affect you or your business, please feel free to contact the lawyer that you usually deal with in Drew & Napier LLC, or any of the following lawyers:

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