

## Commercial websites & tax deductions

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13 June 2016

In *Draft Taxation Ruling TR 2016/D1*, the ATO sets out its preliminary views on the types of expenses which may be tax deductible or depreciable, where those expenses relate to acquiring, developing, maintaining or modifying a website for use in a business (i.e. a commercial website). This includes expenditure relating to domain names and social media. We consider the ATO's views below.

### Revenue or capital?

According to the ATO, commercial website expenses will be immediately deductible where they have a revenue nature. Expenses which enhance the profit-yielding structure of the business however, are capital in nature and thus not deductible under ITAA 1997 s 8-1. Capital expenses may however be depreciable under ITAA 1997 Div 40 or s 40-880.

### Types of expenses

The table below summarises the ATO's views on the deductibility of different expenses relating to commercial websites:

Types of Expenditure	Tax Deductible	Comments
Labour	✓	In general, considered a revenue expense. However, if it goes to the enhancement of the profit yielding structure of the business, then the expense will not be deductible. It is not deductible under s 8-1 as it would be of a capital nature.
Off-the-shelf products	✗	If the product enhances the profit-yielding structure of the business (i.e. it is of a capital nature), then it may be considered in-house software and the expenses

		for acquiring the product may be depreciable under ITAA 1997 Div 40.
<b>Periodic usage fees</b>	✓	Periodic operating, registration, licensing or usage fees in relation to a business website are tax deductible.
<b>Acquiring or developing a website</b>	✗	These expenses are of a capital nature and are directly referable to the enhancement of the profit-yielding structure of the business and may be considered in-house software and thus not tax deductible.
<b>Maintaining a website</b>	✓	This is a deductible revenue expense under s 8-1.
<b>Modifying a website</b>	Possibly	Depends on the degree of the modification. Modifications that do not alter the functionality, improve the efficiency of function or extend the useful life of the website may be considered to have revenue characteristics and be tax deductible. Modifications that do any of the above may be depreciable under ITAA 1997 Div 40.
<b>Social media</b>	✓	Maintaining and updating a social media presence are considered a form of marketing and the expenses incurred for these purposes are tax deductible.
<b>Domain names</b>	✓	Periodic registration/usage fees in relation to a domain name may be tax deductible. However, a one off payment to secure the right to use a domain name is capital in nature and not deductible.

### **In-house software**

Software that is integrated into a commercial website may be considered ‘in-house’ software and may be depreciable under ITAA 1997 Div 40. In-house software includes:

- software integrated into a commercial website mainly to enable further interaction between the owner and the user;

- software provided on a commercial website to be installed by the user solely to aid interaction with the business through a user interface; and
- content that is linked to the website and does not have a separate value outside the website.

## **Conclusion**

Once the ATO's draft ruling has been finalised, it will be an important policy change for businesses that have an online presence. The ATO has appropriately included numerous examples in the draft ruling in order to reduce the possibility of confusion for taxpayers. Affected businesses should note the different examples to ensure compliance with tax law.