



This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA 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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: property development: if land, originally acquired as a capital asset, is later ventured into a business of development, subdivision and sale, how is the market value of the land calculated at the time it is ventured into the business?

1. The market value of the land is determined having regard to the 'highest and best use' that can be made of the land. Due weight is given to the land's potential utility and to the probability of consent being given for such potential use. In many instances, the value of land is enhanced when it becomes suitable for subdivision.
2. This is an application of a valuation principle known as 'valuation for highest and best use' which is discussed by Messrs R O Rost and H G Collins in *Land Valuation and Compensation in Australia* (second edition). At page 91, they say:

'Recognition of the willing seller-willing buyer concept necessarily involves valuation for the highest and best use for which the land is adapted. The prudent and well-informed vendor (whose existence must be assumed) would not willingly part with his land for a price less than that appropriate to its highest and best use; and the well-informed buyer would not expect to be able to purchase it for less. Each party would take into account "not only the present purpose to which the land is applied, but also any more beneficial purpose to which, in the course of events at no remote period it may be applied, just as an owner might do if he were bargaining with a purchaser in the market. This is the mode in which the land would be valued." (Said by Isaacs J. in the *Spencer case*.)'

Example

A taxpayer acquired a rural property on which he conducted farming activity. Some years later, the property is ventured into a business involving the development and subdivision of the land into residential allotments.

In calculating the net profit on sale of the residential lots, the taxpayer should take into account an appropriate proportion of the market value of the land when it was ventured into the business of development, subdivision and sale. The market value of the land is its value as broadacres but

taking into account its potential for subdivision and the probability of consent being given for such potential use.

Commissioner of Taxation22 January 1997

FOI INDEX DETAIL: [Reference No.](#) I 1015232

Previously issued as Draft TD 94/D61

[Related Determinations:](#) TD 92/125; TD 92/161[Related Rulings:](#)[Subject Ref:](#) land development; property development; valuation[Legislative Ref:](#)[Case Ref:](#)[ATO Ref:](#) PCTN 24; NAT 96/12074-5

ISSN 1038 - 8982