TD 94/D60 - Income tax: property development: a property developer purchases land with the intention of disposing of an existing building and redeveloping the site by constructing strata titled shops and offices for sale. How is the disposal of the building 'treated' for taxation purposes?

Taxation Determination **TD 94/D60**

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: property development: a property developer purchases land with the intention of disposing of an existing building and redeveloping the site by constructing strata titled shops and offices for sale. How is the disposal of the building 'treated' for taxation purposes?

1. The income tax consequences of disposal of the building will be governed by the particular method of disposal adopted.

2. Where the developer demolishes the building all costs associated with the demolition are allowable deductions under subsection 51(1) of the *Income Tax Assessment Act 1936*.

3. The vacant land (and eventually the strata titled shops and offices) is trading stock of the developer and the demolition costs are taken into account in ascertaining the cost price of the trading stock on hand at the end of the year of income.

4. In this situation the building is an encumbrance and there is no capital loss associated with its demolition. The building is treated as having no market value at the time of acquisition of the land.

5. Payments received from the sale of any materials from the demolished building are assessable income under subsection 25(1).

6. Where the original intention of the developer is not to demolish the building but to remove it for sale, it becomes a separate item of trading stock upon its severance from the land. The building is treated as property purchased for the purpose of sale and incidental to the carrying on of a business of property development.

7. Unlike the demolition situation, the removal and sale of the building indicate the existence of a separate value for the building at the time of purchase. The purchase price of the property is apportioned between the land and the building. In most cases the actual sale price of the building would be the best evidence of its market value at the time of purchase. The proceeds from the sale of the building, being trading stock of the taxpayer, are assessable income under subsection 25(1).

Example

Taxpayer acquired a city block with an existing building that it intends to demolish and redevelop into strata titled shops and offices for sale as individual units. The existing building is sound and well-constructed but it is not making the best use of the site.

The costs of demolition are allowable deductions and are also taken into account in calculating the cost price of the trading stock (being the vacant land and eventually the strata titled shops and offices) on hand at the end of the year of income.

Commissioner of Taxation
26/5/94

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