TD 95/D21 - Income tax: self assessment: can a person obtain a private ruling in terms of Part IVAA of the Taxation Administration Act 1953 (TAA) for a year of income after the year ended 30 June 1992, where the question covered in the private ruling concerns depreciation deductions allowable in respect of plant acquired and used, or installed ready for use, before 1 July 1992?

This cover sheet is provided for information only. It does not form part of *TD 95/D21 - Income tax: self assessment: can a person obtain a private ruling in terms of Part IVAA of the Taxation Administration Act 1953 (TAA) for a year of income after the year ended 30 June 1992, where the question covered in the private ruling concerns depreciation deductions allowable in respect of plant acquired and used, or installed ready for use, before 1 July 1992?*

This document has been finalised by TD 96/6.

Australian Taxation Office

Taxation Determination **TD 95/D21**

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: self assessment: can a person obtain a private ruling in terms of Part IVAA of the *Taxation Administration Act 1953* (TAA) for a year of income after the year ended 30 June 1992, where the question covered in the private ruling concerns depreciation deductions allowable in respect of plant acquired and used, or installed ready for use, before 1 July 1992?

1. Sections 14ZAF and 14ZAG provide that a person may apply for a ruling on the way in which a tax law or tax laws would apply in respect of a year of income in relation to an arrangement.

2. Section 13 of the *Taxation Laws Amendment (Self Assessment) Act 1992* provides that an application under section 14ZAF or 14ZAG of the TAA must not relate to an arrangement that began to be carried out before 1 July 1992.

3. To determine whether a taxpayer is entitled to obtain a private ruling we need to identify the arrangement to which the ruling will relate and to ascertain if that arrangement commenced after 1 July 1992.

4. The definition of 'arrangement' in section 14ZAAA of the TAA is very broad and includes a part of an arrangement.

5. The ongoing use of plant for the purposes of gaining or producing assessable income is considered to be a series of arrangements each of which is capable of being treated as a separate arrangement. In resolving the substantive question in a private ruling application regarding depreciation, we would need to consider the circumstances under which an item of plant is used during the year of income to which the ruling relates. It is this set of circumstances that determine the way in which the tax law under consideration will apply to the rulee and that constitute the arrangement on which a private ruling is given. The circumstances will, or may, change in each year of income and, consequently, if the private ruling application concerns the ongoing use of the plant, there can be a new arrangement in each year.

6. Even though the plant may have been acquired and used, or installed ready for use, before 1 July 1992, a private ruling in terms of Part IVAA of the TAA can be obtained because the arrangement, or part of the arrangement, concerning the ongoing use of the plant and on which the ruling is given will have commenced after that date.

7. However, the acquisition of a unit of property is also an arrangement. An application for a private ruling in respect of the way in which a tax law or tax laws will apply to some aspect arising

from the acquisition, for example, the cost of the unit for depreciation purposes, or whether the unit of property is plant, will relate to an arrangement that takes place at the time of acquisition. If the acquisition took place before 1 July 1992, no private ruling could be given on a question involving the application of tax law to circumstances relevant to the acquisition of the property.

Commissioner of Taxation
1 November 1995

FOI INDEX DETAIL: Reference No.
Related Determinations:
Related Rulings:
Subject Ref: depreciation; private rulings
Legislative Ref: TAA 14ZAAA; TAA 14ZAF; TAA 14ZAG; TAA Pt IVAA
Case Ref:
ATO Ref: NAT 95/8801-9; D/95/0002/Par

ISSN 1038 - 8982