TD 92/127 - Income tax: property development : if land is acquired for development, subdivision and sale but the development is abandoned and the land sold in a partly developed state, how is a profit on the sale of the land treated for income tax purposes?

This cover sheet is provided for information only. It does not form part of *TD 92/127 - Income tax: property development : if land is acquired for development, subdivision and sale but the development is abandoned and the land sold in a partly developed state, how is a profit on the sale of the land treated for income tax purposes?*

This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax : property development : if land is acquired for development, subdivision and sale but the development is abandoned and the land sold in a partly developed state, how is a profit on the sale of the land treated for income tax purposes?

1. Net profit made on the sale of the land is assessable income under subsection 25(1) of the *Income Tax Assessment Act 1936.*

2. The land is treated as trading stock when it is acquired and during the time the development activities are being conducted. After the development activities cease, the land is no longer treated as trading stock because the taxpayer is not carrying on a business of trading in land.

3. As the land is not disposed of when the development activities cease, proper accounting practice requires the taxpayer to return a closing value for that land at that time. On the eventual sale of the land any undeducted amounts in respect of the cost of the land are taken into account in calculating the net profit on the sale.

4. The existence of a tax liability in this situation is reinforced by the decision of the High Court of Australila in *FC of T v. Murphy*(1). There it was held that the proceeds on sale of items previously held as trading stock are assessable income under subsection 36(1) notwithstanding that the business has ceased.

Example

A taxpayer acquires broadacres for development, subdivision and sale. Subdivision plans are approved and work on kerbing and guttering commences. Due to financial difficulties the taxpayer is unable to continue the project and it is abandoned. Some years later the partly developed land is sold.

The net profit on the sale of the land is assessable income under subsection 25(1).

Commissioner of Taxation
16/07/92

FOI INDEX DETAIL: Reference No. I 1212961
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Subject Ref: land development; development abandoned; sale partly developed state
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