TD 92/142 - Income tax: what is the opening value of a unit of property, for the purposes of calculating depreciation, if the unit was previously used for purposes other than producing assessable income?

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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: what is the opening value of a unit of property, for the purposes of calculating depreciation, if the unit was previously used for purposes other than producing assessable income?

1. The opening value of a unit is its original cost to the taxpayer less the amount of any depreciation that would have been allowed if the unit had been used to produce assessable income: section 61 of the *Income Tax Assessment Act 1936* and *FC of T v. Anderson* (1956) 11 ATD 115; 6 ATR 324.

2. Accelerated depreciation (if applicable) should be applied when calculating the rate of depreciation unless the taxpayer has elected to not have the accelerated rates apply.

3. This determination applies in situations where:

(i) a previously tax exempt entity becomes assessable, or plant that was previously used in the production of exempt income is used in the production of assessable income, or

(ii) plant or articles are held for private purposes before being used in producing assessable income, or

(iii) plant was previously used in the production of income that was not assessable.

Example:

(i) ABC Pty Ltd is the trustee of a superannuation fund which became assessable on 1/7/88. It purchased plant for an income producing use on 1/7/82. The annual rate of depreciation applicable was 23.6% prime cost being a standard rate of 20% and a loading of 18% applied to the general rate. The item was fully notionally depreciated by 1/7/88 and therefore a claim for depreciation should not be made by the taxpayer.

(ii) Sole trader first used his private car for business purposes on 1/7/90. He purchased the car for $10,000 on 1/7/88. The opening value for depreciation purposes of the car is its cost less depreciation that would have been allowed in respect of the two years. A depreciation rate of 15% prime cost per annum applies for the 1988-1989 and 1989-1990 income years. The opening value of the car for depreciation on 1/7/90 is $7,000.

(iii) Sole trader used to conduct a business in New Zealand which was where he resided. He emigrated to Australia on 1/7/90 and brought his plant and equipment with him. He is now an Australian resident, and uses the plant and equipment to carry on the same business in Australia that he conducted in New Zealand. The opening value for depreciation purposes of the plant and equipment is its cost less depreciation that would have been allowed if the plant had been used in Australia from the time it was purchased until the date the taxpayer became a resident of Australia i.e. 1/7/90.

Commissioner of Taxation
20/08/92

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