TD 93/145 - Income tax: is an employee entitled to a deduction for depreciation in relation to an item of plant used for income producing activities when he or she is subsequently reimbursed for the cost of the item?

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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: is an employee entitled to a deduction for depreciation in relation to an item of plant used for income producing activities when he or she is subsequently reimbursed for the cost of the item?

1. Yes. Section 51AH of the *Income Tax Assessment Act 1936* does not apply to reduce a deduction for depreciation.

2. If an employee is reimbursed in respect of an amount of a tax deductible work-related loss or outgoing and the reimbursed amount is not included in the employee's assessable income, section 51AH applies to reduce the amount of the loss or outgoing allowed or allowable to the employee by the amount of the reimbursement.

3. However, if the employee is reimbursed for the cost of an item of plant used for income producing activities, section 51AH does not apply to reduce a deduction for depreciation because the reimbursement is not in respect of a deductible *loss* or *outgoing* allowed or allowable to the employee. In our view, depreciation is not a loss or outgoing for the purposes of section 51AH.

4. The depreciation provisions (section 54 and associated provisions) allow the owner of an item of plant to deduct the capital cost of the item over its effective life. The annual depreciation amount is calculated by reference to the cost or depreciated value of the plant and the appropriate prime cost or diminishing value rate applicable to its effective life.

5. Where effective life is less than 3 years, or the initial cost does not exceed $300, the depreciation rate is 100% for plant acquired after 1 July 1991 unless the taxpayer nominates a depreciation rate of less than 100% (subsection 55(2)). The deductible amount of depreciation is based on the period and the extent to which the property is used for income-producing activities.

6. If plant acquired by an employee is used in income producing activities then the employee is entitled to a deduction for depreciation. Where the employee is subsequently reimbursed by his or her employer for the cost of the item, that reimbursement is not taken into account in calculating the deductible amount of depreciation because the reimbursement is, in general, a separate transaction which does not affect the initial cost of the item.

7. However, if the cost of the item is subject to a discount or rebate on the acquisition of the property, then the cost for depreciation purposes is the cost after the amount of the discount or rebate is deducted.

Example

Employee X acquires a computer and a briefcase for work-related activities at a cost of $3,000 and $150 respectively. X's employer subsequently reimburses X for the total cost of the briefcase and part of the cost of the computer.

The briefcase is used by X solely for work-related activities and the computer is used 70% of the time in work-related activities. X is entitled to calculate the annual depreciation amount based on the initial costs of $3,000 and $150. The deductible amount in relation to the computer would be limited to 70% of the annual depreciation amount.

Commissioner of Taxation
29/7/93

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