


TD 93/62 - Income tax: is a building write-off deduction under Division 10D available to a taxpayer who acquires a building (e.g. house, flat or home unit) in respect of which qualifying expenditure has been incurred by any of its owners?

 This cover sheet is provided for information only. It does not form part of *TD 93/62 - Income tax: is a building write-off deduction under Division 10D available to a taxpayer who acquires a building (e.g. house, flat or home unit) in respect of which qualifying expenditure has been incurred by any of its owners?*

 This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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 Part IVA 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 a building write-off deduction under Division 10D available to a taxpayer who acquires a building (e.g. house, flat or home unit) in respect of which qualifying expenditure has been incurred by any of its owners?

1. Yes. A building write-off deduction is available to a taxpayer who acquires a building from an owner, provided that :

(a) there is an amount of qualifying expenditure as defined in paragraph 124ZG (2A) of the *Income Tax Assessment Act 1936*;

(b) construction started after 17 July 1985; and

(c) the building (e.g.house, flat or home unit) is used by the taxpayer for the purpose of producing assessable income as per subsections 124ZH(1), 124ZH(2) and 124ZF(4A).

2. Taxation Ruling IT 2397 at paragraphs 7-9 explains that, for Division 10D purposes, a residential building (or part thereof) is not to be taken to have been used for the purpose of producing assessable income in certain circumstances.

3. Subsections 124ZH(1) and 124ZH(2) set out the rates that apply (these rates and how the qualifying expenditure should be calculated are also set out in Taxation Ruling IT 2640).

Example (i)

Mary purchased a house on 1/7/90 . She has rented the house from the date of purchase. The commencement date of construction was 1/7/86, and it was occupied by the original owner until sold. The qualifying expenditure (construction costs) was \$60,000. Mary can claim the write-off deduction of 4% per annum of the \$60,000 whilst the property is income producing until the qualifying expenditure is nil or the expiry on the 25th year deduction period that stated on the first date the building was used for any purpose. (Mary has 22 years left as the building was first used 1/7/87.)

Example (ii)

Joseph purchased a house on 1/7/90. He occupied the house until 31/12/90 and for the rest of the year of income it was rented and it was reoccupied by Joseph on 1/7/91. The commencement date of construction was 1/7/88 and it was occupied by the original owner until sold. The qualifying expenditure was \$60,000. Joseph can claim the write-off deduction of 2.5% per annum on the \$60,000 for the time it was income producing, ie 1/1/91 till 30/6/91. (Joseph has 38 years left to claim the deduction in those years where the building is income producing, as the building was first used 1/7/89).

Commissioner of Taxation

1/4/93

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Related Rulings: IT 2397 IT 2640

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