



TD 95/52 - Income tax: is depreciation allowable under subsection 54(1) of the Income Tax Assessment Act 1936 if income producing operations in a business have not yet commenced?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *20 September 1995*

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 depreciation allowable under subsection 54(1) of the *Income Tax Assessment Act 1936* if income producing operations in a business have not yet commenced?

1. No. Subsection 54(1) of the *Income Tax Assessment Act 1936* does not allow depreciation on plant, which is to be used for income producing operations in a business, where the taxpayer has not commenced those operations.
2. The subsection requires the plant to be used by the taxpayer during the year of income for the purpose of producing assessable income. As income producing operations are yet to commence, the plant is not used for producing assessable income.
3. Alternatively, the subsection requires the plant to be installed ready for such use and held in reserve. We interpret the expression 'held in reserve' as to 'keep back or save for future use in those present income-producing operations' (Mr Beddoe in *Case X46* 90 ATC 378 at 381; *AAT Case 5877* 21 ATR 3411 at 3414). If the income producing operations are yet to commence, the plant is not 'held in reserve' for producing assessable income.

Example

A taxpayer, whose only source of income is from investments, purchases a fishing boat in order to commence the business of fishing at some time in the future. Due to illness, the taxpayer does not commence the fishing business until 12 months after the purchase. During this time the boat lies idle.

A depreciation deduction is not allowable prior to commencing the business as the vessel is neither used to produce assessable income nor is it held in reserve for such purpose.

Commissioner of Taxation

20/09/95

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