



TD 1999/D101 (Withdrawn) - Income tax: do variations to, or transfers of, projects pre-qualified for the development allowance have to be approved by the Development Allowance Authority?

 This cover sheet is provided for information only. It does not form part of *TD 1999/D101 (Withdrawn) - Income tax: do variations to, or transfers of, projects pre-qualified for the development allowance have to be approved by the Development Allowance Authority?*

 This document has been Withdrawn.

Draft Taxation Determination

Income tax: do variations to, or transfers of, projects pre-qualified for the development allowance have to be approved by the Development Allowance Authority?

Preamble

Draft Taxation Determinations (DTD's) present the preliminary, though considered views of the Australian Taxation Office (ATO). DTD's should not be relied on; only final Taxation Determinations represent authoritative statements by the ATO.

1. No. In keeping with the principles of self assessment and to assist with lowering the costs of compliance it has been decided that applications under sections 42, 49, 59 or 69, as applicable, of the *Development Allowance Authority Act 1992* no longer have to be lodged with, or approved by, the Development Allowance Authority (the Authority).
2. All applications for pre-qualification of projects lodged with the Authority before the statutory deadline have now been decided. Projects which have been pre-qualified can claim the benefits of the development allowance under section 82AB(1) of the *Income Tax Assessment Act 1936*. Claims made may, of course, be subject to Australian Taxation Office audit processes.
3. The development allowance applies to expenditure incurred on an eligible unit of property first used or installed ready for use before 1 July 2002. Up to this date the *Development Allowance Authority Act* allows for variations to, or transfers of, pre-qualified projects. These variations to, or transfers of, pre-qualified projects need not have been contemplated by the applicant at the time the Authority pre-qualified the project.
4. An acceptable variation to project expenditure must be in respect of the same, or substantially the same, project as was specified in the pre-qualification certificate issued by the Authority. Examples of variations to pre-qualified projects which would be acceptable to the Authority include, but are not limited to, the following:
 - a multiple increase in eligible capital expenditure due to increased consumer demand or improvements in technology, eg telecommunications, private hospitals;
 - a change in the design of the product requiring a re-equipping of the productive facility, eg motor vehicles, food products etc;
 - a change in production methods but no change to the product produced, eg an open cut miner changing to underground mining to follow the ore deposit.

5. A transfer of a project occurs where the transferor has ceased to carry out the pre-qualified project, and the transferee has taken over the completion of the project with or without variation.
6. This Taxation Determination means that a taxpayer who incurs, or has incurred, expenditure in respect of a pre-qualified project can claim the development allowance in the following situations:
- the expenditure was not included on the pre-qualification certificate when it was issued, however the expenditure is in respect of substantially the same project for which the certificate was issued, or
 - the taxpayer is not the entity to whom a pre-qualification certificate for a project was issued, however a genuine transfer of responsibility for the project from the pre-qualified entity has taken place.
7. Further details are available from the Authority's webpage (www.ato.gov.au/daa).

Your comments

8. We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments by Date: 1 February 2000
Contact Officer: Michael Stanley
E-mail address: Michael.Stanley@ato.gov.au
Telephone: (02) 6216 2843
Facsimile: (02) 6216 2844
Address: Mr Michael Stanley
Australian Taxation Office
2 Constitution Avenue
Canberra City, ACT, 2601

Commissioner of Taxation24 November 1999

Previous draft:

Note previously released in draft form

*Related Rulings/Determinations:**Subject references:*

development allowance, pre-qualified project, eligible plant and equipment

Legislative references:

ITAA 82AB(1); Development Allowance Authority Act 1992 42-77

Case references:

ATO references:

NO 99/15938-3

BO

ISSN: 1038 - 8982