

TD 2005/D17W - Withdrawal - Income tax: is an employee's deduction for the decline in value of a depreciating asset used for a taxable purpose affected by section 51AH of the Income Tax Assessment Act 1936, if they are subsequently reimbursed an amount for the cost of the asset by their employer?

 This cover sheet is provided for information only. It does not form part of *TD 2005/D17W - Withdrawal - Income tax: is an employee's deduction for the decline in value of a depreciating asset used for a taxable purpose affected by section 51AH of the Income Tax Assessment Act 1936, if they are subsequently reimbursed an amount for the cost of the asset by their employer?*



Notice of Withdrawal

Taxation Determination

Income tax: is an employee's deduction for the decline in value of a depreciating asset used for a taxable purpose affected by section 51AH of the *Income Tax Assessment Act 1936*, if they are subsequently reimbursed an amount for the cost of the asset by their employer?

Taxation Determination TD 2005/D17 is withdrawn with effect from today.

1. The draft determination provided that section 51AH of the *Income Tax Assessment Act 1936* (section 51AH) does not apply to affect the employee's deduction for the decline in value of their asset where the employee has been reimbursed by their employer for the cost of a depreciating asset.
2. The draft determination went on to explain that section 51AH and the 'otherwise deductible rule' in section 24 of the *Fringe Benefits Tax Assessment Act 1986* constitute a scheme of taxation designed to take into account losses or outgoings that are deductible in one income year. Deductions for decline in value are taken over the effective life of depreciating assets and are not intended to be part of that scheme.
3. The draft determination is no longer relevant as the law has been changed so that, for depreciating assets acquired on or after 1 July 2008, section 51AH does not apply to deny employees' deductions under Division 40 of the *Income Tax Assessment Act 1997*.
4. Note that the law has also been changed so that, where an employer has provided an expense payment benefit or property benefit to which section 58X of the *Fringe Benefits Tax Assessment Act 1986* applies, no deduction is available to the employee for the decline in value of the eligible work related item:
 - (a) in the 2007-08 and later income years, if the item was acquired after 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008; and
 - (b) in the 2008-09 and later income years, if the item was acquired on or before 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008.

TD 2005/D17

Page 2 of 2

Commissioner of Taxation

9 July 2008

ATO references

NO: 2006/20258

ISSN: 1038-8982

ATOlaw topic: Income Tax ~~ Deductions ~~ other employment related expenses

Income Tax ~~ Deductions ~~ expenses incurred by employer for employees