TD 2006/D12 - Income tax: will a balancing adjustment amount arise under section 40-285 of the Income Tax Assessment Act 1997 if a balancing adjustment event, such as a sale, occurs for a depreciating asset before the taxpayer uses the asset, or has it installed ready for use, for any purpose?

Draft Taxation Determination

Income tax: will a balancing adjustment amount arise under section 40-285 of the *Income Tax Assessment Act 1997* if a balancing adjustment event, such as a sale, occurs for a depreciating asset before the taxpayer uses the asset, or has it installed ready for use, for any purpose?

This Ruling provides you with the following level of protection:

This publication is a draft for industry and professional comment. It represents the Commissioner's preliminary view about the way in which a relevant taxation provision applies, or would apply to entities generally or to a class of entities in relation to a particular scheme or a class of schemes. You can rely on this publication (excluding appendices) to provide you with protection from interest and penalties in the way explained below. If a statement turns out to be incorrect and you under-pay your tax as a result, you will not have to pay a penalty. Nor will you have to pay interest on the under-payment provided you reasonably relied on the publication in good faith. However, even if you don't have to pay a penalty or interest, you will have to pay the correct amount of tax provided the time limits under the law allow it.

Ruling

1. Yes, provided the taxpayer would have worked out the depreciating asset's decline in value under Subdivision 40-B of the *Income Tax Assessment Act 1997* if the taxpayer had used the asset.[1]

Example

2. *You purchase a depreciating asset for $5,000 to be used, or to be installed ready for use, exclusively in your business that is carried on to produce assessable income. You would have worked out the asset's decline in value under Subdivision 40-B had you used the asset. However, you never use the asset, or have it installed ready for use, for any purpose, but instead sell the asset for $6,000. The sale is a balancing adjustment event. The termination value of the asset was $6,000, being the amount which was received for the asset at the time of sale. The adjustable value in this case is the cost of the asset, namely $5,000, and the balancing adjustment amount is the difference between the adjustable value and the termination value, namely $1000, which would be included in your assessable income for the income year in which the balancing adjustment event*

[1] All legislative references in this Determination are to the *Income Tax Assessment Act 1997*.

occurred. Similarly, if the asset was sold for $4,000, a deduction of $1,000 would be allowable for the income year in which the balancing adjustment event occurred.

Date of effect

3. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of 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).

Commissioner of Taxation
1 March 2006

Appendix 1 – Explanation

This Appendix is provided as information to help you understand how the Commissioner's preliminary view has been reached. It does not form part of the proposed binding public ruling.

Explanation

4. A balancing adjustment amount arises under section 40-285 if a balancing adjustment event[2] occurs for a depreciating asset the taxpayer held and:

- whose decline in value the taxpayer worked out under Subdivision 40-B; or
- whose decline in value the taxpayer would have worked out under that Subdivision if the taxpayer had used the asset.

5. Common examples where the taxpayer would not have worked out the depreciating asset's decline in value under Subdivision 40-B if the taxpayer had used the asset include:

- if it is an asset to which Division 40 does not apply;[3] or
- if the taxpayer could not work out a decline in value for the asset under Subdivision 40-B because another Subdivision of Division 40 applies.[4]

6. A balancing adjustment amount is included in the taxpayer's assessable income to the extent that the asset's termination value[5] is more than its adjustable value[6] just before the balancing adjustment event occurred.[7] A balancing adjustment amount is allowed as a deduction to the extent that the asset's termination value is less than its adjustable value just before the balancing adjustment event occurred.[8] This amount is included in assessable income or deducted for the income year in which the balancing adjustment event occurred.

7. Subsection 40-290(1) reduces the balancing adjustment amount worked out under section 40-285 if the taxpayer's deductions for the decline in value of the depreciating asset have been reduced under section 40-25. Subsection 40-25(2), with the exception of low-value pools and certain cars, reduces the deduction for the decline in value of a depreciating asset to the extent that the asset is used, or installed ready for use, for a purpose other than a taxable purpose.

8. Where the taxpayer has not used the asset, or had it installed ready for use, for any purpose, there can be no reduction under subsection 40-25(2). Accordingly, in that situation subsection 40-290(1) would not reduce the amount to be included in the taxpayer's assessable income under subsection 40-285(1) or reduce the amount of the taxpayer's deduction under subsection 40-285(2).

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[2] See section 40-295 as to when a balancing adjustment event occurs for a depreciating asset.
[3] See sections 40-30 and 40-45.
[4] See section 40-50.
[5] See sections 40-300 to 40-325 as to how to work out an asset's termination value.
[6] Paragraph 40-85(1)(a) provides that the adjustable value of a depreciating asset that you have not used, or had installed ready for use, for any purpose is the asset's cost.
[7] Subsection 40-285(1).
[8] Subsection 40-285(2).

Appendix 2 – Your comments

9. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date. (Note: The Tax Office prepares a compendium of comments for the consideration of the relevant Rulings Panel. The Tax Office may use a sanitised version (names and identifying information removed) of the compendium in providing its responses to persons providing comments. Please advise if you do not want your comments included in a sanitised compendium.)

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References

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/20

Subject references:

- adjustable value
- assessable balancing adjustment amount
- balancing adjustment deduction
- balancing adjustment event
- capital allowances
- taxable purpose
- termination value

Legislative references:

- ITAA 1997 Div 40
- ITAA 1997 Subdiv 40-B
- ITAA 1997 40-25
- ITAA 1997 40-25(2)
- ITAA 1997 40-30
- ITAA 1997 40-45
- ITAA 1997 40-50
- ITAA 1997 40-85(1)(a)
- ITAA 1997 40-285
- ITAA 1997 40-285(1)
- ITAA 1997 40-285(2)
- ITAA 1997 40-290(1)
- ITAA 1997 40-295
- ITAA 1997 40-300
- ITAA 1997 40-305
- ITAA 1997 40-310
- ITAA 1997 40-315
- ITAA 1997 40-320
- ITAA 1997 40-325

ATO references

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