


TD 92/D6 - Income tax: if title to depreciable property passes in equity at the time of entry into a contract of sale, who (as between the vendor and the purchaser) is entitled to the depreciation deduction for the period after the contract is entered into and before completion?

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Taxation Determination

Income tax: if title to depreciable property passes in equity at the time of entry into a contract of sale, who (as between the vendor and the purchaser) is entitled to the depreciation deduction for the period after the contract is entered into and before completion?

1. If the title to depreciable property is split into legal and beneficial titles as a result of a contract of sale, it is generally the case that the depreciation deduction under subsection 54(1) of the *Income Tax Assessment Act 1936* is properly claimed by the party entitled to the income generated by the use of the plant or articles during the period in which the title is split (the 'split-title period').
2. If the parties have agreed that one of them is entitled to the income generated by the use of the depreciable property in the split title period, the party entitled to that income is the appropriate claimant of the depreciation deduction for that period.
3. If the parties have not agreed who between them is entitled to the income generated by the use of the depreciable property for the split-title period, the party entitled at general law to the income from the property is the appropriate claimant of the depreciation deduction for that period.

Commissioner of Taxation

28/5/92

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Related Determinations:

Related Rulings:

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