TD 93/D136 (Withdrawn) - Income tax: where assets are the subject of a lease and are traded-in, can a trade-in credit be used to reduce the cost of a replacement leased asset?

This document has been Withdrawn.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: where assets are the subject of a lease and are traded-in, can a trade-in credit be used to reduce the cost of a replacement leased asset?

1. No. A leasing arrangement under which the cost of a leased asset is reduced by a credit that arises from the trade-in of a previously leased asset would not be accepted as an ordinary commercial lease for income tax purposes in accordance with Taxation Ruling IT 28. The lease would be regarded as a purchase of the leased asset.

2. The credit, which in essence is the profit on the trade-in, would be regarded as assessable income under subsection 25(1), of the Income Tax Assessment Act 1936 (the Act); *Case X57 90 ATC 428; AAT Case 5996 21 ATR 3463, A L Hamblin Pty Ltd (1974) 130 CLR 159,FCT v Myer Emporium Ltd (1987) 163 CLR 199* and Taxation Ruling TR 92/3.

3. The fact that money as such does not change hands does not alter the position as section 19 and/or section 21A of the Act would apply in these circumstances.

4. The replacement lease would be regarded for income tax purposes as a purchase of the leased asset. As such depreciation would be allowable on the cost of the new asset under section 54 of the Act, subject of course to the provisions of section 57AF of the Act, where that section applies. In addition, interest payable, and other charges, if any, under the lease would be deductible under subsection 51(1) of the Act.

Example:
An asset is leased. Its market value is $20,000 and its residual is $10,000. It is traded-in on a replacement asset worth $100,000 which will also be leased.

The lessee does not pay the residual value to the lessor to acquire the leased asset, or receive directly the difference between the market value and the residual value of the asset. Instead the cost of the replacement asset is adjusted to take into account these amounts

Cost of asset	*$100,000*
Add residual	*$ 10,000*
	$110,000
Deduct market value of original asset	*$ 20,000*
Value of replacement asset for lease purposes	*$ 90,000*

The lease will not be accepted for taxation purposes. The lessee will be treated as if the replacement asset had been purchased. Depreciation will be allowed on the asset costing $100,000. Interest and other charges,if any, under the lease will also be deductible. The profit of $10,000 made on the trade-in will be assessable under subsection 25(1) of the Act.

Commissioner of Taxation
3/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 28,TR 92/3

Subject Ref: assessable income; leasing; trade-in;

Legislative Ref: ITAA 19, 21A,25(1),51(1),54,57AF

Case Ref: Case X57 90 ATC 428; AAT Case 5996 21ATR 3463, (1974) 130 CLR 159,(1987) 163 CLR 199

ATO Ref: Tow28

ISSN 1038 - 8982