

TD 93/D93 - Income tax: is a depreciation deduction allowable under subsection 54(1) if income-producing operations in a business have not yet commenced?

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This document has been finalised by TD 93/52.

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: is a depreciation deduction allowable under subsection 54(1) if income-producing operations in a business have not yet commenced?

1. No. Subsection 54(1) of the *Income Tax Assessment Act 1936* does not allow a deduction for depreciation on plant, which is to be used for income-producing operations in a business, where the taxpayer has not yet commenced those operations.
2. The subsection requires the plant to be used by the taxpayer during the year of income for the purpose of producing assessable income. As the business has yet to commence, the plant cannot have been used for income-producing operations in the business.
3. Alternatively, the subsection requires the plant to be installed ready for such use and held in reserve. We interpret the expression 'held in reserve' as to keep back or save for future use in present income-producing operations. (Mr Beddoe in *Case X46 90 ATC 378* at 381, *AAT Case 5877 21 ATR 3411* at 3414)

Example

A taxpayer, whose only source of income is income from investments, purchases a fishing boat in order to commence the business of fishing. Due to illness, he does not commence the fishing business until 12 months after the purchase. During this time the boat lies idle.

A depreciation deduction is not allowable prior to commencing the business as the vessel is neither used to produce assessable income nor is it held in reserve for such purpose.

Commissioner of Taxation
15/04/93

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