



Explanatory Statement

Income Tax Assessment (Effective Life of Depreciating Assets) Determination 2025

General outline of instrument

1. This instrument is made under subsection 40-100(1) of the *Income Tax Assessment Act 1997* (ITAA 1997).
2. This instrument specifies the effective life of certain depreciating assets that have been determined by the Commissioner.
3. This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Date of effect

5. This instrument commences on the day after it is registered on the Federal Register of Legislation.

Background

6. A depreciating asset is an asset that has a limited effective life and can reasonably be expected to decline in value over the time it is used. The effective life of a depreciating asset is the period for which it can be used by an entity for one or more specified purposes, including a taxable purpose.
7. The effective life of a depreciating asset is used to work out the asset's decline in value (depreciation) for income tax purposes. A deduction may be available under Division 40 of the ITAA 1997 for the depreciating asset's decline in value, to the extent that the asset is used for a taxable purpose.
8. Under subsection 40-95(1) of the ITAA 1997, taxpayers must either:
 - (a) use the effective life for the asset that has been determined by the Commissioner in an instrument made under section 40-100 of the ITAA 1997, or
 - (b) self-assess the effective life for the asset in accordance with section 40-105 of the ITAA 1997.
9. This instrument repeals and replaces the *Income Tax (Effective Life of Depreciating Assets) Determination 2015* (2015 Instrument), which would otherwise sunset on 1 October 2025. This instrument has the same substantial effect as the 2015 Instrument.

Effect of this instrument

10. This instrument specifies the effective life of certain depreciating assets determined by the Commissioner that can be used by taxpayers as a basis to calculate the decline in value of a depreciating asset for income tax purposes.
11. The effective life of those depreciating assets is specified in Table A and Table B in Schedule 2 to this instrument. Table A specifies the effective life of depreciating assets where those assets have been used in specific industries listed in that table. Table B specifies different depreciating assets that can be used by anyone.
12. The first column of a row in each table describes the depreciating assets for which an effective life has been determined by the Commissioner, in column 2 of that row. An entry in the first column describes the depreciating asset by naming the asset or the asset category to which it belongs, or by providing a description of the asset or its use.
13. The second column of each table specifies the effective life of the assets. The third column of each table is marked with an asterisk (*) if the effective life of the asset has been reviewed by the Commissioner, and with a hash (#) if a capped life is available for the asset under section 40-102 of the ITAA 1997.
14. Where the depreciating asset is not described in Table A or Table B, the effective life of that asset must be worked out under section 40-105 of the ITAA 1997.
15. Subsection 40-95(2) of the ITAA 1997 limits an entity's choice of an effective life determined by the Commissioner for a depreciating asset to one that is in force at:
- (a) the time that an entity enters into a contract to acquire the asset, or otherwise acquires it, or starts to construct it if its start time occurs within 5 years of that time; or
 - (b) for plant (which is defined in section 45-40 of the ITAA 1997) that an entity entered into a contract to acquire, otherwise acquired or started to construct before 11.45 am (legal time in the Australian Capital Territory) on 21 September 1999 – the time when an entity entered into the contract to acquire it, otherwise acquired it or started to construct it; or
 - (c) otherwise, its start time (which is defined in section 40-60 of the ITAA 1997 as the time when an entity first uses the depreciating asset, or has it installed ready for use, for any purpose).
16. The fourth column of each table titled 'Last updated' refers to the date the specified effective life of an asset was last reviewed and determined by the Commissioner. The fourth column is informative and not operative – that is the dates in the column do not apply retrospectively. A date in the fourth column merely indicates the date that the Commissioner last revised and determined an effective life of an asset in that row (made under section 40-100 of the ITAA 1997), which could have been under a previous determination. As such, subsection 40-95(2) of the ITAA 1997 requires an entity to apply the effective life determined by the Commissioner in the relevant instrument that was in force at the time.

Example 1: Asset Used Within 5 years of Acquisition – Previous Effective Life Applies:

ABC Pty Ltd runs a hat manufacturing business. On 1 June 2022 the company entered into a contract to acquire a new hat pressing machine. The machine was installed and used on 30 July 2022. At the time the contract was entered into, the effective life for hat manufacturing plant and machinery (which covered hat pressing machines) was thirteen and one-third years.

On 1 July 2022 the determination was updated and the effective life of a hat pressing machine increased to 20 years.

Since ABC Pty Ltd entered into a contract to acquire the hat pressing machine prior to the update of the determination and they started using it within 5 years of entering into the contract, ABC Pty Ltd works out the effective life of this new hat pressing machine using the determination that was in force at the time the contract was entered into, which results in a thirteen and one-third year effective life applying.

Example 2: Asset Used Within 5 years of Acquisition – New Effective Life Applies

With an increase in the number of orders, on 1 February 2023 ABC Pty Ltd entered into a new contract to purchase another hat pressing machine. The asset was installed and used on 1 March 2023.

At the time the contract was entered into, the effective life that was in force for the hat pressing machines was 20 years. Since ABC Pty Ltd started using the hat pressing machine within 5 years of entering into the contract, the 20 year effective life applies.

Example 3: Asset Used 5 Years After Acquisition – New Effective Life Applies:

Bob runs a wooden furniture manufacturing business. On 1 June 2021, Bob entered a contract for a new belt sander. However, due to exceptional demand, Bob's belt sander was on backorder. Subsequent supply chain issues significantly impact the manufacture of the new machine, resulting in the belt sander finally being installed and ready for use on 30 June 2026.

Prior to 1 July 2022, the effective life for all wooden furniture-making plant was $13\frac{1}{3}$ years. On 1 July 2022, the effective life determination was updated which changed the effective life for a belt sander used in wooden furniture manufacturing industry from $13\frac{1}{3}$ years to 12 years.

Even though Bob entered into the contract for the belt sander when the earlier version of the effective life determination was in force, because the machine was not used within 5 years of the contract being entered into, Bob will need to use the effective life that was in force at the time the belt sander was first used or installed ready for use. Therefore, the effective life that applies to Bob's belt sander is 12 years, which came into force on 1 July 2022.

Table A – Effective Life (Industry Categories)

17. Table A specifies the effective life of depreciating assets that are used in a particular industry. These particular industries are listed in the industry heading in Table A.

18. Industry headings in Table A are drawn from the classification subject categories in the Australian and New Zealand Standard Industrial Classification (ANZSIC) Codes.

19. Under paragraph 6(2)(a) of *Income Tax Assessment (Effective Life of Depreciating Assets) Determination 2025* if the depreciating asset corresponds exactly with a description of an asset under that industry heading, the effective life of the asset is the period specified in column 2 of that row. A depreciating asset will correspond exactly with an entry in the first column of table A where the name or description of the asset exactly matches the entry in the first column. For example, an entity operating in the Dairy Product Manufacturing industry uses a heat exchanger in their production process, this asset corresponds exactly with a description (that is, Heat exchangers) in the table under the heading of Dairy Product Manufacturing.

20. Under paragraph 6(2)(b) of *Income Tax Assessment (Effective Life of Depreciating Assets) Determination 2025* the effective life of a depreciating asset that is used in a particular industry which, although it does not correspond exactly with a description in column 1 of that table, falls within or broadly satisfies the function described in column 1, will be the period in column 2 of that table that relates to that asset. A depreciating asset will fall within or broadly satisfy the function

description if it has a structure and performs a function that is the same or very similar to the item described in column 1 for the same industry. For example, the effective life of scissor lifts has been determined for a number of industries. An entity can adopt the effective life of scissor lifts used in the same industry for their mobile elevated work platform because the two assets have the same or similar structure and perform the same function.

21. Where a depreciating asset has been used in one of the industries specified in Table A, subsection 6(2) must first be applied to determine the effective life for that asset.

Table B – Effective Life (Asset Categories)

22. If the effective life of a depreciating asset cannot be determined in accordance with subsection 6(2), for example because the asset is not described in the column 1 of Table A or the asset is not used in a listed industry, the effective life of the asset may be able to be determined in accordance with subsection 6(3).

23. If the depreciating asset corresponds to a description in column 1 of Table B, the effective life of that asset is the period specified in column 2 of the same row of that table.

24. A depreciating asset will correspond to a description in column 1 of that table where the name or description of the asset matches the entry in the first column.

Example 4: Asset not described under an industry in Table A:

Janine runs a private recovery studio. One of the assets Janine has installed at her business premises is a swimming pool, which is used directly in the business to rehabilitate clients. The assets listed in Table A under the Health and fitness centres and gymnasias operation industry heading do not include swimming pools or associated assets. In Table B, there is a category of swimming pool assets. Janine can therefore use the effective life of swimming pool assets, such as chlorinators, covers and filtration assets as specified under Swimming pool assets in Table B to determine the effective life of these assets for her business purposes.

25. Subsection 6(3) is not available where the effective life of the asset could be determined in accordance with subsection 6(2).

Compliance cost assessment

26. To be advised.

Consultation

27. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken before the Commissioner makes a determination.

28. As part of the consultation process, you are invited to comment on the draft determination and its accompanying draft explanatory statement.

Please forward your comments to the contact officer by the due date.

Due date:	23 July 2025
Contact officer:	Alexander Mangano
Email:	alexander.mangano@ato.gov.au
Phone:	(02) 4223 2003

Legislative references

Acts Interpretation Act 1901

Human Rights (Parliamentary Scrutiny) Act 2011

Income Tax Assessment Act 1997

Legislation Act 2003

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Statement of compatibility with human rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Income Tax Assessment (Effective Life of Depreciating Assets) Determination 2025

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

This legislative instrument specifies the effective life of depreciating assets as determined by the Commissioner. An effective life specified in this instrument may be used for a depreciating asset in accordance with this instrument. Effective life is used to calculate the decline in value (depreciation) of a depreciating asset for income tax purposes.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms. The instrument merely specifies the effective life of certain depreciating assets that have been determined by the Commissioner.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.