



TD 92/140 - Income tax: in Division 16D of Part III of the Income Tax Assessment Act 1936 , what does effective life mean in applying the tests of a qualifying arrangement to items of second hand property?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *20 August 1992*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax: in Division 16D of Part III of the *Income Tax Assessment Act 1936*, what does effective life mean in applying the tests of a qualifying arrangement to items of second hand property?

1. Division 16D applies to certain finance lease arrangements involving the use of property by tax exempt entities which satisfy the tests of a qualifying arrangement in section 159GG.
2. One of the tests of a qualifying arrangement in Division 16D (paragraph 159GG(1)(b)) is based on a comparison between the duration of the arrangement (arrangement period) and the effective life of the property at the commencement of the arrangement period. If the arrangement period equals or exceeds 75% of the effective life of the property (50% for real property) then the test is satisfied.
3. For the purposes of Division 16D, the effective life of property at a particular time is defined in subsection 159GE(1) as the Commissioner's estimate of effective life after that time assuming that the property is maintained in reasonably good order and condition. The relevant time from which the effective life is measured is the commencement of the arrangement period.
4. Accordingly, if the arrangement is a lease in respect of second hand property, the effective life for the purposes of this test is the remaining effective life of the property at the commencement of the lease.

Note: For the purposes of calculating taxation depreciation allowances, section 54A specifies that the effective life of second hand plant must be estimated as if the item was new. That rule is not applicable to effective life as defined in subsection 159GE(1).

Example:

Lease Co, a resident leasing company, leases an item of depreciable property to a non-resident for 5 years. Assuming that the item is 4 years old at the time of entering into the lease agreement and the effective life of the item as new is 10 years, then the remaining effective life is 6 years at the commencement of the arrangement period. The arrangement period of 5 years exceeds 75% of the remaining effective life of the item in this instance and the qualifying arrangement test is satisfied.

Commissioner of Taxation
20/08/92

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second hand property

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