TD 93/53 - Income Tax : Subdivision 330-H Transport Capital Expenditure: use of road primarily and principally for the transport of minerals. On what basis is this determined?

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This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

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Taxation Determination

Income Tax : Subdivision 330-H Transport Capital Expenditure: use of road primarily and principally for the transport of minerals. On what basis is this determined?

1. It is recognized that in general road usage there is substantially more wear on the road as a result of heavy vehicles than for normal motor vehicles with road construction being predominantly based on an "equivalent standard axle rate".

2. Consequently, it is inappropriate to use a physical count of vehicles as the only basis in determining a "use primarily and principally for the transport of minerals" as stipulated in section 330-70.

3. In addition, varying types of vehicles may use the road. This suggests that a more appropriate result could be achieved by a requirement that more than 50% of the overall weight of vehicles using the road relates to mineral transport.

4. Bearing in mind that

(i) usage is generally considered in terms of numbers;

(ii) physical wear to the roads is greater for heavy haulage trucks;
and
(iii) vehicles other than mineral haulage trucks could also include heavy transport vehicles,

it has been decided that to meet the requirement of " use primarily and principally for the transport of minerals", the taxpayer should, over the income year, satisfy two criteria -

(a) the overall weight of vehicles using the road for transport of minerals obtained from carrying on eligible mining operations has exceeded 50% of the total overall weight of vehicles using the road,
and
(b) the number of vehicles using the road for the above purpose has exceeded 25% of the total number of vehicles using the road.

5. The above usage tests may be applied independently to the different road sections involved in respect of the transport of minerals obtained from carrying on eligible mining operations.

6. For purposes of the above criteria, a recognised statistical sampling method would be acceptable which should take into account seasonal variations in usage rates.

NOTE: Subdivision 330-H and section 330-70 of the *Income Tax Assessment Act 1997*, to which this Determination refers, express the same ideas as Division 10AAA and section 123A, respectively, of the *Income Tax Assessment Act 1936*.

Commissioner of Taxation
25/3/93

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