



Effective Life Determination of Effective life of Depreciating Assets Legislative Instrument

Explanatory Statement

General Outline of Instrument

The authority for making an effective life determination is provided by subsection 40-100(1) of the *Income Tax Assessment Act 1997*.

The proposed *Income Tax (Effective life of Depreciating Assets) Amendment Determination 2006 (No1)* is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

This Instrument applies from 1 July 2004.

What is this instrument about:

The instrument provides taxpayers with the Commissioner's determination of effective life as a basis to work out the decline in value (depreciation) of a depreciating asset for income tax purposes where they have chosen, under section 40-95 of the *Income Tax Assessment Act 1997*, to use the Commissioner's determination.

What is the effect of this instrument:

This instrument amends the description in *Income Tax (Effective life of Depreciating Assets) Amendment Determination 2005 (No3)* which had unintended consequences that did not reflect industry practices. The description in the 2005 Determination extended to an exclusive licence in a copyright in a feature film. It should have extended only to a copyright in a feature film and not to any licence in such a copyright. This instrument corrects that mistake.

Background:

The Government announced in the Federal Budget 2005-6 that deductions for copyright in films would be subject to the effective life regime to apply on and from 1 July 2004.

The *Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005*, which implemented this proposal, received Royal Assent on 14 December 2005.

The policy of effective life write-off came into effect on 21 September 1999, when accelerated depreciation was removed.

As part of that policy the Government also endorsed the Review of Business Taxation's recommendation that the Commissioner of Taxation institute an ongoing revision of the effective life schedule (recommendation 8.5 of *A Tax System Redesigned*).

The Tax Office is undertaking a comprehensive review of the Commissioner's determinations of effective life. In doing so, it is taking advice from taxpayers, valuers, industry associations, industry engineers and manufacturers of the assets.

The current review is the most comprehensive ever undertaken in terms of the information gathered and the consideration given to different factors.

Taxation Ruling TR 2000/18 explains the factors the Tax Office takes into account when making effective life determinations. Those factors include commercial and technical obsolescence, to the extent it is predictable. The review is not focusing on the physical life of assets to the exclusion of economic influences on effective life.

Ultimately, the Commissioner's determinations must satisfy the question of how long the depreciating asset can be used by any entity for a taxable purpose.

Consultation:

All major taxpayers affected by this determination were consulted and invited to make comments.

Commissioner of Taxation

14 February 2006

Related Rulings/Determinations:

- TR 2000/18C10

Previous Rulings/Determinations:

- *Income tax (Effective life of Depreciating Assets) Determination 2001*
- TR 2000/18C9

Subject references:

- depreciation
- depreciation rates
- determination
- effective life

Legislative references:

- ITAA 1997 Div 40
- ITAA 1997 Subdiv 40-E
- ITAA 1997 Subdiv 40-F
- ITAA 1997 40-70(1)
- ITAA 1997 40-75(1)
- ITAA 1997 40-95
- ITAA 1997 40-100
- ITAA 1997 40-100(4)
- ITAA 1997 40-100(4)(b)
- ITAA 1997 40-105(1)

- ITAA 1997 40-110
 - ITAA 1997 Div 42
 - ITAA 1997 Subdiv 42-M
 - TAA 1953 Pt IVAAA
 - Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005
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ATO references

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