



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* (No 2) would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

This Instrument applies from 1 July 2006.

What is this instrument is about:

The instrument provides taxpayers with new ANZSIC codes to reflect changes to be introduced in the taxpayers income tax returns and will allow effective lives to be applied to the new industry codes to calculate the decline in value (depreciation) of an asset for income tax purposes as determined by the Commissioner for the purpose of section 40-95 of the *Income Tax Assessment Act 1997*.

What is the effect of this instrument:

It provides taxpayers with a choice under the *Income Tax Assessment Act 1997* for the purpose of measuring a decline in value (depreciation) as a taxpayer can use either an effective life determined by the Commissioner or work out (self-assess) their own effective life.

By using the effective life determined by the Commissioner it provides what is referred to as a "safe harbour" life for taxpayers as it provides certainty to the taxpayer that these lives will be accepted by the Commissioner.

Background:

The policy of effective life depreciation 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.

The new determinations in this edition of Taxation Ruling TR 2000/18 do not represent any change in policy. They represent proper administration of the law.

The Government has been assured that the new determinations have been arrived at by a proper process. An independent Review Panel has confirmed that sufficient consultation was undertaken. Any comments on the new determinations should be directed to the Commissioner of Taxation.

Consultation:

Notifications of the various reviews being conducted are listed on the Tax Office website with an invitation for participation in the reviews.

Draft effective lives are also published along with requests for feedback and these drafts are also sent to industry participants, associations etc for comment. After considering any feedback final effective lives are published in TR2000/18 on the Tax Office website.

A panel consisting of external representatives from the CPA Australia, the Corporate Taxpayers Association, as well as the Treasury, the Australian Valuations Office, and the First Assistant Commissioner, OCTC who eventually signs the instrument ensures that a full consultative process has been carried out with all stakeholders when conducting effective life reviews.

The final effective lives are also sent to all taxpayers that participated in the review and the determination is also published on the ATO website.

Commissioner of Taxation

19 June 2006

Related Rulings/Determinations:

- TR 2000/18C9

Previous Rulings/Determinations:

- *Income tax (Effective life of Depreciating Assets) Determination 2001*
- TR 2000/18C10

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
- Taxation Laws Amendment Act (No. 4) 2002

ATO references

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