Manager
Individuals Tax Unit
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Hi

Submission on housing tax integrity – disallowing travel deductions and limiting depreciation deductions

Please keep my name and email address confidential.

I comment on the proposed changes to deny deductions for depreciating assets used in residential premises.

The proposal to deny deductions for properties acquired prior to the budget announcement, but previously used for a purposes which was not a taxable purpose is not consistent with the stated policy objectives.

Currently, a taxpayer is entitled to deductions for depreciating assets under Div 40 ITAA 1997 that were previously used for private purposes, which commence being used for the purpose of gaining or producing assessable income. In those circumstances, there should not be a risk that the taxpayer is 'refreshing' the value of the asset when it commences being used for an income producing purpose. This is because the asset depreciates over the whole of the ownership period, not solely when it is being used for a taxable purpose. The taxpayer must determine the value of the asset at acquisition and depreciate from that date. Only amounts that have not already been depreciated are deductible once the asset commences to have a taxable purpose.

This is illustrated by the following example:

Lauren acquires a house on 1 Jan 2010. She lives in the property as her main residence until 30 June 2014. From 1 July 2014 to now the property has been rented to tenants. During that time she installed air-conditioning on 1 March 2013 at a cost of $8,000. She determines the effective life to be 10 years (consistent with the Commissioner's published determination on effective life of such an asset).

Under the current rules Lauren can claim a deduction for depreciation of the air conditioner from 1 July 2014. However, it is not open to Lauren to determine a value for the asset at that date and commence depreciating it. Under the current rules Lauren must depreciate the asset from the date of purchase (1 March 2013). At 1 July 2014 she determines the assets opening value and her depreciation from that date is deductible. The acquisition costs an effective life do not change.

If Lauren used the prime cost method the numbers would be:

2012-2013 income year: Asset depreciation ($8,000 / 10 * 122 / 365) = $267 (not deductible)
2013-2014 income year: Asset depreciation ($8,000 / 10) = $800 (not deductible)
2014-2015 income year: Asset depreciation ($8,000 / 10) = $800 (all deductible)
2015-2016 income year: Asset depreciation ($8,000 / 10) = $800 (all deductible)
2016-2017 income year: Asset depreciation ($8,000 / 10) = $800 (all deductible)

As Lauren has to depreciate the asset from when she commenced owning the asset, and can only claim deductions during the period of time that the asset became income producing, there is no risk is her resetting the asset cost base.

Please consider this view. I submit that the current explanatory material is misleading in the risk that it suggests currently exists on this point and the risk which the proposed legislative amendments are seeking to redress.

The proposed amendments are unfair to taxpayers who acquired an asset under the current rules and have been using that asset as an investment property for a long time after an initial period of private use.

Thank you.