

# Accountants News

INFORMATION FOR PRACTISING ACCOUNTANTS

## Depreciable or Non Depreciable - That is the Question

In this Newsletter we outline the process we use to answer this often vexing question.

**Kaylene  
Arkcoll**



### How do I know if it's depreciable?

Establishing whether or not a particular building item is depreciable under Division 40 can be a challenging exercise.

The only list of depreciable items officially published by the ATO is contained in TR 2000/18. This list is far from comprehensive. For example, it does not include common residential items such as dishwashers or clothes dryers.

As a result, one of the questions we are most frequently asked is, "Where can I get a full list of the standard depreciable items for a residential building?"

Unfortunately, we can't provide a simple answer to this question. We have yet to find a publicly accessible list which we consider reliable. Private companies who prepare comprehensive lists of depreciable items for their own internal use (including ourselves) normally cannot afford to make them available to the public – the potential liability problems associated with providing such information for uncontrolled use are too extensive.

While we can't provide a comprehensive list of the items we believe are depreciable, we can provide an insight into the process we use when determining the status of a specific item.

### Step 1. Check the ATO's publications

Firstly, check if there is a listing for the item in TR 2000/18 or any other material published by the ATO.

A word of caution – when relying on a listing in TR 2000/18, make sure you check the circumstances in which the item is depreciable. The inclusion of an item in the list does not mean it is automatically depreciable in all circumstances. A classic example of this is inground swimming pools. These may be depreciable when used by a commercial pool operator but not when used in association with a general rental property. You may have to trace the listing back to the specific AAT or court case in which the item's depreciable status was first established.

TR 2000/18 no longer makes reference to items which are not depreciable. However, you can find a brief list of these items on page five of the ATO publication Rental Properties 2000-01.

### Step 2. Check AAT and court precedents

If the item is not listed in an ATO publication, the next step should be a review of AAT and court decisions. From these case decisions it is possible to compile a substantial list of non depreciable items. Once again, before relying on a case decision, it is important to check

the exact facts of the case and its precedent value.

A quick way to determine whether there is a case precedent for an item is to do a keyword search of the ATO's legal database. In a number of instances the ATO has reproduced the contents of specific cases in the form of Interpretative Decision papers. While the contents of these do not have the force of a ruling, they provide a valuable guide to probable ATO policy.

### Step 3. Make a decision based on depreciable principles

As a last resort, you may have to make a decision based purely on an application of the core depreciation principles established by the Courts. We recommend this be your last recourse because even experts sometimes have difficulty working out exactly how the principles should be applied.

There is not room in this article to provide a full explanation of the various principles which you should take into account. If you are interested in researching these, we recommend using one of the detailed commentaries prepared by companies such as CCH or ATP.

If you are not experienced in this area of depreciation, the following starter pointers may be of assistance. However, we emphasize the

importance of investigating each item on a case by case basis – following these pointers blindly could be extremely hazardous.

- i) If the item is a loose item of furniture (when used it is not attached to the building), it will almost certainly qualify as depreciable.
- ii) If the item is a piece of machinery or equipment, it will almost certainly qualify as depreciable. However, care may need to be taken to determine what, if any, associated building items will form part of the depreciable unit. For example, ductwork can be included in the cost of central air-conditioning plant. The addition of an item of plant to an otherwise non depreciable item will not normally change that item's status. For example, automatic opening door motors, spa bath blowers and electronic sprinkler control panels are all depreciable while the base items they are associated with are not.
- iii) If the item is a passive building element the application of the depreciation principles is historically less predictable. While a few such items (e.g. carpet and vinyl) have qualified as depreciable, the majority of items have not. We recommend that you assume the item will not be depreciable unless you can establish strong grounds for taking a contrary position.

### Examples of non depreciable items

As we note in Step 2, court and AAT cases contain many examples of items which do not qualify as depreciable under Div 40.

For your convenience we have reproduced the following list of items which we regularly see inappropriately depreciated.

*from ATO Interpretative Decision ID 2001/92*

- vanity unit (which holds a basin and is attached to a wall)
- tiling
- tap ware
- towel rails, soap holders, toilet roll holders and robe hooks
- fly screens attached to opening windows
- fly screen door for balcony sliding door
- mirrors and shower screens
- mirrored sliding doors (which form part of a built-in wardrobe)

*from IT 243*

- built-in cupboards (including built-in wardrobes)
- rotary clothes hoists

*from AAT Case 11/97*

- kitchen cupboards (in standard residential usage)

*from ATO Case Decision Summary CDS10262*

- underground piping, sprinklers and solenoid valves in garden watering/ sprinkling systems.

*from AAT Case 7380*

- roller doors (in this case in a commercial building but the principle holds for residential usage)

*from ATO Interpretative Decision ID 2001/95*

- inground swimming pools associated with rental unit blocks

### CGT Questions

#### Cost base adjustments

When calculating capital gains on a property purchased after 13 May 1997, the cost base of the property must be reduced by the amount of any Division 43 deductions that the taxpayer could claim.

We have been asked on a number of occasions whether this reduction still applies if the taxpayer has elected not to make a Div 43 claim.

The answer to this question is yes. Section 110-45(4)(b) requires the deduction "if you could have deducted" the amount. Provided you qualified for the deduction, it is irrelevant whether you actually claimed it.

#### Quantity surveying estimates as cost bases

Where taxpayers construct a building, the cost base for the building should be their construction expenditure.

Taxpayers occasionally ask us whether we can provide an estimate of their construction costs as they are unable to establish what their construction expenditure was.

While it is physically possible for us to prepare a construction cost estimate for these properties, neither the legislation nor official ATO policy allows for the use of an estimate. (TR 97/25 relates exclusively to Div 43 deductions).

For this reason we strongly recommend that, prior to paying for an estimate, the taxpayer obtain binding advice that the ATO will accept the use of an estimate in their circumstances.



Quality Assured to  
AS/NZS ISO 9002:1994

## Leary & Partners Pty Ltd

ACN 010 134 148

QUANTITY SURVEYORS

Free Call: **1800 808 991**

Free Fax: **1800 808 921**

Postal Address: PO Box 38 Toowong QLD 4066

E-mail: [enquiries@leary.com.au](mailto:enquiries@leary.com.au)

On the Web at: [www.leary.com.au](http://www.leary.com.au)

Offices • Brisbane • Gold Coast • Sydney • Melbourne  
Associate Offices • Cairns • Mackay • Townsville • Sunshine Coast • North Coast NSW • Perth

Professional services available from Leary & Partners:  
• Taxation Depreciation Schedules • Maintenance Management  
• Sinking Fund Forecasts • Replacement Valuations • Asset Registers  
For information on any of these services, please contact Christina Murray