IT 2254 - Income tax : instalment purchase and depreciation on non-residential buildings

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There is an Addendum notice for this document.

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TAXATION RULING NO. IT 2254

INCOME TAX : INSTALMENT PURCHASE AND DEPRECIATION ON NON-RESIDENTIAL BUILDINGS.

F.O.I. EMBARGO: May be released

REF H.O. REF: 85/4599-5 DATE OF EFFECT:

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1205927	DEPRECIATION ON NON-RESIDENTIAL BUILDINGS.	124ZF
	ALLOWANCE AS PERCENTAGE OF CAPITAL COSTS ON CONSTRUCTION EXTENSION ALTERATION OR IMPROVEMENT OF NON-RESIDENTIAL BUILDINGS.	124ZG
		124ZH
		DIV 10D

PREAMBLE Division 10D of the Income Tax Assessment Act 1936 provides income tax deductions for qualifying capital expenditure on the construction, extension or alteration of certain non-residential buildings. The deductions are allowed only in respect of periods during which the building, extension or alteration is used in eligible ways for the production of assessable income.

2. Where construction commenced before 20 July 1982 there is no deduction. Where construction commences after 21 August 1984, the maximum deduction is 4% of the qualifying expenditure, i.e. the expenditure is amortized over 25 years following first use of the completed work. In other cases the maximum deduction is 21/2%, i.e. the expenditure is amortized over 40 years.

3. The deduction can be claimed only by the owner of the building. However, in some circumstances, a lessee is deemed to be the owner and becomes entitled to claim the deduction.

FACTS 4. Under an arrangement recently examined in this office, a State Government body ("Builder") encourages the establishment of manufacturers in the State by means of a concessional deferred purchase scheme. The intended user ("User") of a factory contracts with Builder for the purchase of land and the construction of a factory to agreed plans. The purchase price is calculated on an agreed formula.

5. User pays for the property by instalments with interest accruing on the unpaid balance of the purchase price. Builder provides vendor credit for the whole of the cost of the land as well as financing the whole of the costs of construction of the factory building and associated costs. Title to the property is

transferred to User only when the full purchase price and interest are paid, in the usual case some 11 years after completion of construction.

6. Confirmation was sought that, where a property is acquired under a deferred purchase agreement, the benefit of Division 10D deductions would be available to User prior to the formal transfer of legal title to the property at the end of the 11 year term. Subsidiary issues involved confirmation that expenditure incurred in constructing the building was of a capital nature and the identification of any costs involved in the construction project which did not qualify for Division 10D purposes.

RULING

7. In accordance with the established approach of this office to depreciation on plant which is subject to a mortgage or vendor finance arrangements, it is accepted that User will be the "owner" of the building for the purpose of section 124ZH from the date of completion of construction when User takes possession. Subject to the other requirements for the concession being satisfied, User will be entitled to Division 10D deductions in respect of the qualifying capital expenditure on its construction.

8. The cost of the land itself, and the costs of any necessary clearing, demolition or landscaping, do not qualify as capital expenditure incurred in respect of construction for purposes of Division 10D.

COMMISSIONER OF TAXATION
12 February 1986

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