# *TD 93/D267 - Income tax: capital gains: how do deductions allowed or allowable under Division 10D of the Income Tax Assessment Act 1936 on an income-producing building affect the calculation of a capital gain or loss on disposal of that building?*

**Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.**

# Draft Taxation Determination

## Income tax: capital gains: how do deductions allowed or allowable under Division 10D of the *Income Tax Assessment Act 1936* on an income-producing building affect the calculation of a capital gain or loss on disposal of that building?

1. The base for calculating a capital gain is cost, or where a building has been owned for at least 12 months prior to disposal, indexed cost. There is no adjustment to this base for deductions allowed or allowable under Division 10D. There is also no 'recoupment' of Division 10D deductions if the disposal price for the building exceeds the amount of 'residual capital expenditure'.

2. In calculating a capital loss on the disposal of a building, deductions allowed or allowable under Division 10D to the person disposing of the building are taken into account in determining its reduced cost base. It is considered that the Division 10D amounts are taken into account whether the person disposing of the building is the original owner or a subsequent purchaser.

*Example (1):*

*A person acquires an income-producing building on 1 July 1986 for $180,000 and commences to derive income at that time. The purchase cost is apportioned as follows:*

| | |
|---|---|
| *Land* | *$100,000* |
| *Building* | *$80,000* |

*There is existing qualifying expenditure of $70,000 in respect of which the person is entitled to an annual 4% deduction ie. $2,800.*

*The building is sold on 1 July 1990 for $110,000. The person has claimed building write-off of $11,200 (4 x $2,800).*

*The capital gain is $3,520 [Sale Price $110,000 - Indexed Cost ($80,000 x 1.3310].*

*Example (2):*

*Assume the same facts in (1) but that the building is sold for $60,000. The capital loss would be $8,800 [Reduced Cost Base ($80,000 - $11,200) - Sale Price $60,000)].*

**Commissioner of Taxation**
14/10/93

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