TD 94/D61 - Income tax: property development: if land originally acquired and used as a farm, is later ventured into a business of subdivision, development and sale, how is the market value of the land calculated at the time it is ventured into the business?

This document has been finalised by TD 97/1.

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: property development: if land originally acquired and used as a farm, is later ventured into a business of subdivision, development and sale, how is the market value of the land calculated at the time it is ventured into the business?

1. The market value of the land is determined having regard to the 'highest and best use' that can be made of the land. Due weight is given to the land's potential utility and to the probability of consent being given for such potential use. In many instances the value of land is enhanced when it becomes suitable for subdivision.

2. This is an application of a valuation principle known as 'valuation for highest and best use' which is discussed by Messrs R O Rost and H G Collins in *Land Valuation and Compensation in Australia*. At page 86, they say:

> 'Recognition of the willing seller-willing buyer concept necessarily involves valuation for the highest and best use for which the land is adapted. The prudent and well-informed vendor (whose existence must be assumed) would not willingly part with his land for a price less than that appropriate to its highest and best use; and the well-informed buyer would not expect to be able to purchase it for less. Each party would take into account not only the present purpose to which the land is applied, but also any more beneficial purpose to which, in the course of events at no remote period it may be applied, just as an owner might do if he were bargaining with a purchaser in the market. This is the mode in which the land would be valued.'

3. The date of valuation is the date the land is ventured into a business of land development. A business of subdivision, development and sale commences when a taxpayer forms the intention to commence such a business and undertakes activities to put that intention into action.

Example

Some years ago a taxpayer acquired land that was used as a farm. He now decides to venture the land into a business of subdivision, development and sale. After discussions with the local authorities he engages a consultant to draw up a plan of subdivision and to prepare a rezoning application.

In calculating the net profit on the proceeds of sale of any subdivided blocks, the taxpayer should take into account the market value of the land at the time he decided to venture it into a business of subdivision, development and sale. The market value of the land is its value as broadacres without any rezoning or subdivision approval but taking into account its potential for subdivision and the probability of consent being given for such potential use.

Commissioner of Taxation
26/5/94

FOI INDEX DETAIL: Reference No.
Related Determinations: TD 92/125; TD 92/161
Subject Ref: land development; valuation; property development; Property Development Industry Cell
ATO Ref: PD/1G

ISSN 1038 - 8982