

TD 93/142A2 - Addendum - Income tax: in calculating the residual value of a leased item, may a lower residual value than those outlined in IT 28 be adopted in light of the more generous depreciation rates?

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Addendum

Taxation Determination

Income tax: in calculating the residual value of a leased item, may a lower residual value than those outlined in IT 28 be adopted in light of the more generous depreciation rates?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 93/142 to:

- amend the first column of the tables to clarify the application of the tables where there are multiple consecutive leases of an asset
- clarify that the minimum residual value percentages in the tables are calculated with respect to the total period that the asset is leased, and
- insert Example 3 to demonstrate the minimum acceptable residual value for a car subject to consecutive leases.

TD 93/142 provides the Commissioner's view on how to calculate the minimum residual values for leased items. This assists taxpayers to determine whether a contractual arrangement is a bona fide lease or a hire purchase agreement, as one of the relevant factors to consider is the residual value at the end of the arrangement. The distinction between a bona fide lease and a hire purchase agreement is important because section 8-1 and Divisions 40 and 240 of the *Income Tax Assessment Act 1997* and subsection 7(6) of the *Fringe Benefits Tax Assessment Act 1986* have very different treatments for each type of arrangement.

TD 93/142 is amended as follows:

1. Paragraph 3

In the table, omit the first column; substitute:

Total leased period

1 year

2 years

3 years

4 years

5 years

2. Paragraph 3A

(a) In the table, omit the first column; substitute:

Total leased period

1 year

2 years

3 years

4 years

5 years

(b) In the formula, omit the words 'Term of the lease'; substitute 'Total leased period'.

(c) After the paragraph, insert new paragraph 3B:

3B. The first column in the table set out in paragraph 3A of this Determination titled 'Total leased period' provides that the minimum residual value should be calculated based on the total number of years the asset has been leased for, whether this has resulted from a single lease or multiple lease agreements. The minimum residual value should be calculated using the cost of the asset at the commencement of the total lease period.

3. Paragraph 5

Omit 'at paragraph 3'; substitute 'in paragraph 3'.

4 Paragraph 6

(a) Omit 'cost of the asset'; substitute 'cost of the car'.

(b) After the paragraph, insert new paragraph 7 (and heading):

Example 3

7. A car with an effective life of 8 years is acquired after 30 June 2018 and leased for a period of 1 year. At the conclusion of that lease, a new lease is entered for 2 years. Using the 8-year effective life column in the table in paragraph 3 of this Determination and the total leased period of 3 years, the minimum residual value will be 46.88% of the cost of the car. The table applies the same irrespective of whether the car is leased through the same leasing company or another leasing company.

This Addendum applies on and from 14 July 2021.

Commissioner of Taxation

14 July 2021

ATO references

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