

ALLOWING A WRITE-OFF FOR INDEFEASIBLE RIGHTS OF USE

The Government has decided to allow Australian companies planning to participate in a new international telecommunications cable system through the use of indefeasible rights of use to write-off their expenditure.

Indefeasible rights of use are arrangements under which owners of international telecommunications submarine cable systems grant rights over cable capacity to other carriers.

Key features

The measure will deem capital expenditure on indefeasible rights of use to be the acquisition of plant, allowing write-off over the effective life of the cable system.

Further details are provided in the appendix to this attachment.

Commencement

The measure will apply to contracts entered into after 11.45 am AEST 21 September 1999.

Current arrangements

Under existing law, capital expenditure incurred upon entering into an indefeasible rights of use arrangement can not be amortised. Instead, the expenditure can only be written off as a capital loss when the right expires — usually at the end of the cable's useful life.

Why change is needed

Immediate implementation of this measure will remove tax impediments for Australian companies planning to participate in a new international telecommunications cable system.

Allowing a Write-Off for Indefeasible Rights of Use — Further Details

The Review of Business Taxation recommended that, in advance of the wider treatment of rights outlined in recommendations 10.1 to 10.8, legislation be introduced with immediate effect to accord indefeasible rights of use tax write-off.

The legislation will permit write-off from 21 September 1999 of capital expenditure on indefeasible rights of use.

Expenditure on indefeasible rights of use will be deemed to be the acquisition of plant for capital allowance purposes.

This will allow write-off on a diminishing value or prime cost basis over the effective life of the relevant cable. In other words, the taxation treatment accorded the holder of an indefeasible right of use will be similar to that accorded the owner of the cable. The deduction will commence when the taxpayer first exercises the right for income producing purposes.

The granting of an indefeasible right of use by an Australian taxpayer will be treated as being a disposal by the grantor of an ownership interest in the submarine cable system or an indefeasible right of use.

Balancing adjustment rules will apply on disposal.

The legislation will draw on the proposed partial disposal rules contained in the draft Division 40 in the volume of legislation accompanying *A Tax System Redesigned*. Section 42-J of the ITAA 1997 will be amended to modify its application to part disposals of submarine cable systems and indefeasible rights of use.

Taxpayers will be able to self assess the period of write-off at the commencement of the indefeasible right of use, based on the effective life of the relevant communications cable system. Consistent with the reforms to the capital allowances (see Attachment B), taxpayers will also be able to vary depreciation rates up or down during the life of the asset if its circumstances of use change.

The measure is intended to apply to new capital expenditure on indefeasible rights of use.

As an anti-avoidance measure, it will only apply to capital expenditure on indefeasible rights of use incurred after the date of announcement in relation to cables that were not yet used for telecommunication purposes at the date of announcement.