PRACTICE STATEMENT No. 49
Issue Date: 29/03/2017

SUBJECT	**FIJI REVENUE & CUSTOMS AUTHORITY:** **DISPOSAL OF DEPRECIABLE ASSETS**
DATE OF EFFECT	1 January 2016
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	*Income Tax Act 2015 - Section 14 (1) (d), 17 (1) (c) (iii), 21 (1) (f), 34, 84 (1) 84 (2), 86(5).* *Income Tax (Depreciation Rates) Regulations 2016* (Legal Notice #2/2016)
PRACTICE CO-ORDINATOR	Deputy Director Revenue Management

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INTRODUCTION

1. The purpose of this Practice Statement is to provide information on the disposal of tangible assets used in a business with effect from 1 January 2016. This guideline is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue & Customs Authority (FRCA).

2. A depreciable asset is an asset that has a limited effective life and is expected to decline in value over the time it is used. It excludes a capital asset, intangible asset or trading stock – these assets are separately defined for tax purposes. Land is also excluded as it does not depreciate. Improvements to land or fixtures on land (for example, a fence, retaining wall) may be depreciable assets and are regarded as separate from the land, whether they can be removed or not.

3. When a person disposes off a depreciable asset (e.g. if it is sold, transferred, no longer used etc.), no depreciation deduction is allowed in the year of disposal; instead the person is required to work out the amount to include in gross income (if a gain is made) or the amount to claim as a deduction (in the case of a loss).

4. When a gain is made on the sale of a depreciable asset, both the depreciation recapture (formerly known as a balancing charge) and any gain above cost on disposal are taxed under the income tax. i.e. Capital Gains Tax (CGT) does not apply on the gain above cost. This avoids the depreciation recapture amount and gain above cost being taxed at different rates.

5. Where a building which is a depreciable asset (i.e. not trading stock), is sold together with land, the gain on disposal of the land may be revenue or capital depending on the characterisation of the land in the hands of the owner. If the land is revenue in nature, the gain will be included in gross income and taxed under the income tax. E.g. if an investment property was purchased for the purpose of resale, the gain on the both the land and building will be subject to income tax. Case law will be used as a guide in decision-making.

6. Where an asset is purchased or disposed and the consideration is both in cash and in kind, the cost of the asset includes the fair market value of that consideration in kind. This must be declared in the appropriate returns.

LEGISLATIVE BASIS

7. The basic principles relating to the disposal of depreciable assets is covered in Section 34 of the *Income Tax Act 2015* (ITA).

8. "Depreciable asset" is defined in Section 2 of ITA. It means any tangible personal property or structural improvement to real property that has the following characteristics:
    - has a useful life exceeding one year;

- may lose value through normal wear and tear, or has become obsolete;
- is used wholly or partly to derive taxable income.

9. Consideration is defined in Section 86 of ITA. It means the total amount received or receivable for the disposed asset or, if the consideration is in kind, the fair market value at the time of disposal.

10. Fair market value is defined in Section 5 of ITA. It is the open market value (OMV) of the asset at that particular time. If the OMV cannot be determined, the value of a similar asset can be taken or the CEO can determine the amount, provided the valuation is consistent with generally accepted valuation principles.

11. A disposal takes place when a person no longer owns an asset because it is either sold, exchanged, transferred, distributed, cancelled, redeemed, relinquished, destroyed, lost, expired or surrendered (Section 84 (1) and (2) of ITA).

12. Section 34 (7) provides that the written down value (WDV) of a depreciable asset at the time of disposal is the cost of the asset at that time (as determined under section 85 of ITA) reduced by depreciation deductions allowed in previous tax years.

13. The application of Section 34 and related provisions are explained in the following paragraphs. Extracts of the relevant Sections of the ITA are in the Attachment.

APPLICATION

14. Section 34 (1) provides that when a depreciable asset is disposed, the following applies:
    - if the consideration received is more than the WDV of the asset at the time of disposal, the excess is included in gross income; (Section 34 (1) (a) and Section 14(1) (d)).
    - if the consideration received is less than the WDV of the asset at the time of disposal, the difference is allowed as a deduction (Section 34 (1) (b) and Section 21(1) (f)).

    In other words:
    - if sale price > WDV = include gain in gross income
    - if sale price < WDV = include loss as a deduction

Example 1 – Sale price of asset (depreciated using the straight line method) exceeds WDV

Lote acquires a computer on January 1, 2016. The computer cost $4,000 and is depreciated on a straight-line basis. The depreciation rate is 25%, which assumes a useful life of four years. Assuming Lote holds the asset for two tax years, the depreciation deduction for each year is $1,000. The written down value of the computer at the start of the 2018 tax year is $2,000.

Lote sells the computer on June 30, 2018 for $2,500 and the details are recorded as follows:

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Gain**
2016	$4000	$1000	$3000		
2017	$3000	$1000	$2000		
2018	$2000			$2500	$500
Total		$2000			

1. *There is no depreciation deduction for the 2018 tax year (Section 34 (1))*
2. *As the consideration for the disposal ($2,500) exceeds the WDV of the computer at the time of disposal ($2,000), section 34(1) (a) provides that the excess ($500) is income included in gross income (section 14(1) (d)).*
3. *$500 represents an amount that has been allowed as a depreciation deduction but which has been recovered by Lote on the disposal of the computer.*

Example 2 - Sale price of asset exceeds cost of acquisition

Suppose instead that the computer in Example 1 was sold for $4500 on June 30 2018

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Gain**
2016	$4000	$1000	$3000		
2017	$3000	$1000	$2000		
2018	$2000			$4500	$2500
Total		$2000			

1. *There is no depreciation deduction for the 2018 tax year (Section 34 (1)).*
2. *As consideration for disposal ($4,500) exceeds WDV at the time of disposal ($2,000), Section 34(1) (a) provides that the excess ($2500) is income included in gross income (Section 14(1)(d)).*
3. *This amount represents both (i) a gain above cost ($500) and (ii) the total depreciation deductions allowed to Lote in respect of the computer ($2,000).*
4. *In this case, the computer has not actually declined in value, but rather has appreciated in value.*

Example 3- Sale price of asset (depreciated using the diminishing value method) exceeds WDV

If Lote has used the diminishing value depreciation method, the depreciation deduction for the 2016 tax year is $1,200 ($4,000 x 30%) and for the 2017 tax year is $840 ($2,800 x 30%). The written down value of the asset at the start of the 2018 tax year is $1,960.

Lote sells the computer on June 30, 2018 for $2,500 and the details are recorded as follows:

Year	**Cost**	**Depr (30%)**	**WDV**	**Sale Price**	**Gain**
2016	$4000	$1200	$2800		
2017	$2800	$ 840	$1960		
2018	$1960			$2500	$540
Total		$2040			

1. *There is no depreciation deduction for the 2018 tax year (Section 34 (1))*
2. *As consideration for the disposal ($2500) exceeds WDV at the time of disposal ($1,960), the excess ($540) is income included in gross income (section 14(1) (d)).*
3. *This represents an amount that has been allowed as a depreciation deduction but which has been recovered by Lote on disposal of the computer.*

15. Where the consideration for the disposal of a depreciable asset is less than the WDV of the asset at the time of disposal, the difference is allowed as a deduction in the tax year of disposal (Section 34 (1) (b)).

Example 4 – Sale price of asset (depreciated using straight-line method) is less than WDV

Suppose instead that the computer in Example 1 was sold for $1,000 on June 30 2018

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Loss**
2016	$4000	$1000	$3000		
2017	$3000	$1000	$2000		
2018	$2000			$1000	$1000
Total		$2000			

1. *There is no depreciation deduction for the 2018 tax year Section 34(1)*
2. *As WDV of the computer at the time of disposal ($2,000) exceeds the consideration for disposal ($1,000), Section 34(1) (b) allows a deduction in the 2018 tax year for the excess ($1,000) (Section 21(1) (f)).*
3. *This represents the additional wear and tear suffered by the computer not*

captured in the depreciation deductions allowed up to the time of disposal.

Example 5 - Sale price of asset (depreciated using the diminishing value method) less than WDV

Year	Cost	Depr (30%)	WDV	Sale Price	Loss
2016	$4000	$1200	$2800		
2017	$2800	$ 840	$1960		
2018	$1960			$1000	$960
Total		$2040			

1. *There is no depreciation deduction for the 2018 tax year*
2. *Section 34(1) (b) allows a deduction for the excess ($960) of the written down value of the computer at the time of disposal ($1,960) over the consideration for the disposal ($1,000).*
3. *This represents additional wear and tear suffered by the computer not captured in the depreciation deductions allowed up to the time of disposal.*

16. Section 34 (2) provides that if a depreciating asset has been partly used for a non-taxable purpose and is disposed, only the amount of any gain relating to taxable use is included in gross income.

17. Section 34 (8) provides that when an asset which is partly used during the year for business purposes and partly for some other purpose, is disposed, the WDV is calculated based on the total cost of the asset. I.e. the WDV of the asset is first computed on the basis that the asset has been used wholly to derive income included in gross income before the adjustment is applied.

Example 6 – WDV of asset that is partly used for business purposes and where there is a taxable gain

Assume that in Example 1 above, Lote has used the computer 75% of the time in his business to derive business income included in gross income and 25% of the time for private purposes.

Assuming that Lote uses the straight-line depreciation method , the total decline in value for the each of the 2016 and 2017 tax years is $1,000 and, therefore, the depreciation deduction for each year is $750 ($1,000 x 75%) (Section 31(5)).

Year	Cost	Depr (25%)	WDV	Depr allowable (75%)

2016	$4000	$1000	$3000	$750
2017	$3000	$1000	$2000	$750
2018	$2000	$1000	$1000	$750
2019	$1000	$1000	0	$750
2020	0	0	0	0

Under Section 34(8), the WDV of the asset is computed on the basis that the asset has been used wholly for business; therefore even though the depreciation deduction is $750, the cost of the asset is reduced by the full amount ($2000).

If the asset is sold for $2500, the details are recorded as follows:

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Gain**	**Taxable gain**
2016	$4000	$1000	$3000			
2017	$3000	$1000	$2000			
2018	$2000			$2500	$500	$375
Total		$2000				

1. *The WDV of the asset at the time of disposal is $2,000 ($4,000 - $2,000).*
2. *Lote has made a gain on the disposal of the computer of $500 ($2,500 - $2,000).*
3. *Section 34(2) provides that the amount of the gain included in gross income is $375 ($500 x 75%) being the portion of the gain that relates to use to derive income included in gross income.*
4. *The balance represents the private use of the computer for which no depreciation deductions were allowed.*

Example 7 – WDV of asset partly used for business purposes and where the loss is deductible

If Lote sold the computer for $1,000, Lote has made a loss of $1000 on the disposal of the computer ($2,000 - $1,000).

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Loss**	**Taxable Loss**
2016	$4000	$1000	$3000			
2017	$3000	$1000	$2000			
2018	$2000			$1000	$1000	$750
Total		$2000				

1. *This means that the computer has declined in value more rapidly than anticipated under the depreciation provisions.*
2. *However, part of this greater decline in value relates to the private use of the computer and, therefore, the amount of the loss must be apportioned*
3. *Only that part relating to use to derive gross revenue is allowed.*
4. *The amount of the loss allowed as a deduction is $750 ($1,000 x 75%).*

18. Section 34 (3) provides that when a depreciable asset that has been partly used in a business is disposed and the consideration for the disposal is more than the cost of the asset at the time of the disposal, the amount to be included in gross income under Section 34 (1)(a) is the sum of the following amounts:

    (i) the full amount of the difference between the consideration for the disposal and the cost of the asset at the time of the disposal. i.e. there is no apportionment of the gain above cost for private use of the asset. The whole gain is income included in gross income.

    (ii) the proportional part of the difference between the cost of the asset and the WDV of the asset at the time of the disposal that relates to the use of the asset in deriving income included in gross income. This represents the recaptured depreciation deductions.

Example 8 - Sale of asset partly used in business and where sale price exceeds cost of acquisition

Assume that in the Example 7 above the computer was sold on June 30, 2018 for $4500.
Business use – 75%

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Gain**
2016	$4000	$1000	$3000		
2017	$3000	$1000	$2000		
2018	$2000			$4500	$2500
Total		$2000			

1. *Section 34(1) provides that there is no depreciation deduction for the 2018 tax year.*
2. *The consideration for the disposal ($4,500) exceeds the cost of the computer at the time of disposal ($4,000).*
3. *The income included in gross income under Section 34(1)(a) is the sum of the following amounts:*
   (i) the difference between the consideration for the disposal and the cost of the asset at the time of disposal (Section 34 (3)(a)) – in this case $500; and
   (ii) the proportionate part of the difference between the cost of the asset and the WDV of the asset at the time of the disposal, in this case, $1,500 ($2000 x 75%) Section 34 (3) (b)).
   = $500 + $1500 = $2000
4. *This amount ($2000) represents the recapture of the depreciation deductions allowed to Lote in respect of the computer.*

19. Sections 34(4)–(6) permits a person who would otherwise have income included in gross income under section 34(1) (a) in respect of the disposal of a depreciable asset and who has acquired a replacement asset, to elect to

defer the inclusion of the income in gross income under section 34(1) (a) through the making of adjustments to the cost of the replacement asset.

20. Section 34 (4) provides for the deferment of the recognition of a gain if a replacement asset will be purchased within 12 months after the disposal.

21. A person can make an election under Section 34 (4) only if the following conditions are satisfied –

    (i) Section 34(1) (a) applies to the disposal of a depreciable asset ("replaced asset").
    (ii) The person acquires a similar depreciable asset ("replacement asset") within twelve months of the disposal of the replaced asset.
    (iii) The replacement asset must be used wholly in deriving income included in gross income.

22. An election under Section 34 (4) is made by notice in writing to the CEO.

23. If an election is made, the effect of subsections (5) and (6) is that the cost of the replaced asset at the time of disposal is "rolled over" into the cost of the replacement asset.

24. Section 34 (5) provides that if the consideration given for the replacement asset is equal to or exceeds the consideration received or receivable for the replaced asset, the cost of the replacement asset is the WDV of the replaced asset at the time of disposal increased by the amount of any excess.

    In other words, where purchase price of replacement (new) asset is equal to or more than sale price of replaced asset:

    Cost of replacement asset = WDV of the replaced asset at the time of disposal + (purchase price – sale price)

Example 9 - WDV where cost of replacement asset = or > sale price of asset

Lote acquires a computer on January 1, 2016. The computer cost $4,000 and is depreciated on a straight-line basis. The depreciation rate is 25%, which assumes a useful life of four years. Assuming Lote holds the asset for two tax years, the depreciation deduction for each year is $1,000. The written down value of the computer at the start of the 2018 tax year is $2,000.

Lote sells the computer on June 30, 2018 for $2,500 and the details are recorded as follows:

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Gain**
2016	$4000	$1000	$3000		
2017	3000	1000	2000		

2018	2000			2500	500
Total		$2000			

Section 34(1)(a) provides that the excess ($500) is income included in gross income (section 14(1)(d))

Suppose Lote buys a new computer (replacement asset) for $5000 six months after the disposal of the computer sold on 30/06/18 (replaced asset).

Lote can write to the CEO to defer the gain on the sale ($500).

<u>Scenario 1</u> - *Suppose Lote purchases a new vehicle for $3000. Since this amount is more than the sale price of the replaced asset ($2500), the cost of the new asset for depreciation purposes will be as follows:*

Cost of replacement asset = WDV of the replaced asset at the time of disposal + (purchase price – sale price)
= $2000 + ($3000 - $2500)
= $2000 + $500
*= **<u>$2500</u>***

Lote's depreciation deduction will be based on $2500.

<u>Scenario 2</u> - *Suppose Lote purchases a new vehicle for $2500. Since this amount is equal to the sale price of the replaced asset ($2500), the cost of the new asset for depreciation purposes will be as follows*

Cost of replacement asset = WDV of the replaced asset at the time of disposal + (purchase price – sale price)
= $2000 + ($2500 - $2500)
= $2000 + 0
= <u>$2000</u>

Lote's depreciation deduction will be based on $2000.

25. Section 34 (6) provides that if the consideration received or receivable for the replaced asset exceeds the consideration given for the replacement asset, the cost of the replacement asset is the WDV of the replaced asset at the time of disposal reduced by the amount of the excess.

    In other words, where sale price of replaced asset is more than purchase price of replacement asset:

    Cost of the replacement = WDV of the replaced asset at the time of disposal - the excess (sale price – purchase price)

Example 10 - Sale price of replaced asset > purchase price of replacement asset:

Using the details in Example 9, suppose that the new asset cost $2000, the following shows how Section 34 (6) is applied

Year	**Cost**	**Depr (25%)**	**WDV**	**Sale Price**	**Loss**
2016	$4000	$1000	$3000		
2017	3000	1000	2000		
2018	2000			2500	500
Total		$2000			

Cost of replacement computer is calculated by adding the gain ($500) to the cost of the new asset ($5000).

Cost of the replacement = WDV of the replaced asset - (Sale price – Purchase price)
= $2000 - ($2,500 - $2000)
= $2000 - $500
= $1,500

Lote will claim depreciation based on $1500.

26. The following example illustrates how the gain on sale upon disposal of land and building is accounted for.

Example 11 – Sale of land and building

On 1 January 2017 Lote sold land and building used in his business

Asset	***Purchased Year 2000***	***WDV***	***Sold Year 2017***	***Gain on sale***
Land	*$100,000*	-	*$420,000*	*$320,000*
Building	*$200,000*	*115,000**	*$180,000*	*$65,000*
Total	*$300,000*		*$600,000*	

**WDV of the building as at 1/1/17 was $115,000 (Depreciated at 2.5% from 2000)*

1. *Gain on sale of building - $65,000 (180,000 - $115,000) will be included in gross income.*
2. *Gain on sale of land $320,000 (420,000 – 100,000) will be subject to CGT*

<u>NB: </u>*Section 86* (5) provides that " *If two or more assets are disposed of by a person in a single transaction and the consideration for each asset is not specified, the total consideration for the disposal is apportioned among the assets disposed of in proportion to their respective fair market values determined at the time of the disposal.*"

PROCESS

27. The sale of depreciable assets will be reported in income tax returns. Where the CEO considers that the valuation provided does not reflect the fair market value, the person's calculation of gain/loss on disposal may be reviewed.

28. In cases where a taxpayer wishes to defer the tax on the gain on a replaced asset, the person may apply to the CEO in writing. FRCA will notify the taxpayer of the decision to accept or reject the request.

29. Depreciation records and information of sales and purchases of depreciable assets must be kept for 7 years including but not limited to the following–
    - a list of assets in respect of which depreciation is claimed;
    - their date of purchase;
    - their cost;
    - calculation of depreciation;
    - date of disposal;
    - consideration received, and
    - records of profit and loss statement and amount claimed for income tax purposes.

30. Further information can be obtained by contacting any of our Customer Enquiry centers Fiji wide or emailing info@frca.org.fj

<u>ATTACHMENT</u>

<u>Extracts from ITA 2015</u>

Interpretation

2. "depreciable asset" *means any tangible personal property or structural improvement to real property that—*

(a) has a useful life exceeding one year;

(b) is likely to lose value as a result of normal wear and tear, or obsolescence; and

(c) is used wholly or partly to derive income included in gross income;

"trading stock" *includes—*

(a) any property produced, manufactured, purchased, or otherwise acquired for manufacture, production, sale or exchange;

(b) any materials or consumables used in the production or manufacturing process; or

(c) livestock, other than animals used as beasts of burden or working beasts;

Fair market value

5.*—(1) The fair market value of an asset, property, service, or benefit at a particular time is the ordinary open market value of the asset, property, service or benefit at that time.*

(2) If it is not possible to determine the fair market value of an asset, property, service, or benefit at a particular time under subsection (1), the fair market value is the consideration of a similar asset, property, service or benefit would ordinarily fetch in the open market at that time, adjusted to take account of the differences between the similar asset, property, service, or benefit and the actual asset, property, service or benefit.

(3) For the purposes of subsection (2), an asset, property, service or benefit is similar to another asset, property, service or benefit, as the case may be, if it is the same as, or closely resembles, the other asset, property, service or benefit in character, quality, quantity, functionality, materials or reputation.

(4) If the fair market value of an asset, property, service or benefit cannot be determined under subsection (1) or (2), the fair market value is the amount determined by the CEO provided that the valuation is consistent with generally accepted valuation principles.

(5) This section is subject to sections 63 and 85(11)-(14).

Income included in gross income

14.*—(1) Subject to this Act, the gross income of a person for a tax year is the total of the following—*

(d) income that a section of this Act includes in the gross income of the person for the year.

Business income

17.*—(1) The following are included in the business income of a person conducting a business—*

(c) the net gain from—

(i) the conduct of a venture or concern in the nature of a trade, commerce, agriculture or manufacture;

(ii) the carrying on or carrying out of a profit-making undertaking or scheme; or

(iii) the disposal of an asset, other than trading stock or an asset subject to sub-paragraph (i) or (ii), held on revenue account by a person in carrying on a business;

21.*—(1) Subject to this Act, a person is allowed a deduction for a tax year for—*
(f) any expenditure to the extent incurred by the person during the tax year on the repair of property used to derive income included in gross income;

Disposal of depreciable asset

34.*—(1) Subject to this section, if a person disposes of a depreciable asset in a tax year, the person is not allowed a depreciation deduction for the year and—*

(a) if the consideration for the disposal of the asset exceeds the written down value of the asset at the time of disposal, the amount of the excess is income included in the gross income of the person for that year; or

(b) if the written down value of the asset at the time of the disposal exceeds the consideration for the asset, the person is allowed a deduction in that year for the amount of the excess.

*(2) If subsection (1) applies to a depreciable asset that has been used partly in deriving income included in gross income and partly for another use and the consideration for the disposal of the depreciable asset is equal to or less than the cost of the asset at the time of the disposal, the amount of income included in gross income under subsection (1)(a) or the amount allowed as a deduction under subsection (1)(b) is the proportional part that relates to the use of the asset in deriving income included in gross income. Income Tax—****32*** *of* ***2015***

(3) If subsection (1) applies to a depreciable asset that has been used partly in deriving income included in gross income and partly for another use and the consideration for the disposal of the asset exceeds the cost of the asset at the time of the disposal, the amount of income included in gross income under subsection (1)(a) is the sum of the following:

(a) the full amount of the difference between the consideration for the disposal and the cost of the asset at the time of the disposal;

(b) the proportional part of the difference between the cost of the asset and the written down value of the asset at the time of the disposal that relates to the use of the asset in deriving income included in gross income.

(4) If subsection (1) (a) applies to the disposal of a depreciable asset (referred to as the "replaced asset") by a person and the person acquires a similar depreciable asset wholly used to derive income included in gross income (referred to as the

"replacement asset") within 12 months after the disposal, the person may elect by notice in writing to the CEO to defer recognition of the gain on disposal of the replaced asset until the subsequent disposal of the replacement asset.

(5) If a person makes an election under subsection (4) and the consideration given by the person for the replacement asset is equal to or exceeds the consideration received or receivable for the replaced asset, the cost of the replacement asset is the written down value of the replaced asset at the time of disposal increased by the amount of the excess, if any.

(6) If a person makes an election under subsection (4) and the consideration received or receivable for the replaced asset exceeds the consideration given for the replacement asset, the cost of the replacement asset is the written down value of the replaced asset at the time of disposal reduced by the amount of the excess.

(7) Subject to subsection (8), the written down value of a depreciable asset at the time of disposal of the asset is the cost of the asset at the time of disposal reduced by the depreciation deductions allowed to the person in respect of the asset in previous tax years.

(8) If section 31(5) applies to a depreciable asset for a tax year, the written down value of the asset is computed on the basis that the asset was used in that year solely to derive income included in gross income.

Disposal

84.*—(1) A person makes a disposal of an asset if the person parts with the ownership of the asset, including when the asset is—*

- *(a) sold, exchanged, transferred or distributed; or*
- *(b) cancelled, redeemed, relinquished, destroyed, lost, expired or surrendered.*

(2) A person disposes of an asset at the time the person parts with the ownership of the asset, including when the person ceases to have legal title to the asset and when the asset is sold, exchanged, transferred, distributed, cancelled, redeemed, relinquished, destroyed, lost, expired or surrendered.

Cost

85.*—(1) Subject to this Act, this section establishes the cost of an asset for the purposes of the Act.*

(2) Subject to this section, the cost of an asset of a person, other than an intangible asset, is the sum of the following amounts—

- *(a) the total consideration given by the person for the asset, including the fair market value of any consideration in kind determined at the time the asset is acquired and, if the asset is constructed, produced or developed, the cost of construction, production or development;*
- *(b) any incidental expenditure incurred by the person in acquiring or disposing of the asset;*

(c) any expenditure incurred by the person to install, alter, renew, reconstruct or improve the asset.

(3) Subject to this section, the cost of an asset of a person that is an intangible asset is the total expenditure incurred by the person in acquiring, creating, improving and renewing the intangible asset, and any incidental expenditure incurred in acquiring or disposing of the intangible asset.

(4) The cost of an asset of a person includes any amount given for the grant of an option to the person to acquire the asset.

(5) The cost of an asset of a person is reduced by the amount of any deduction allowed to the person under Part 2 in respect of amounts included in the cost of the asset, other than a depreciation or amortisation deduction.

(6) An amount is included in the cost of an asset on the earlier of the date that it is paid or payable.
(7) If a person disposes of a part of an asset, the cost of the asset is apportioned between the part of the asset retained and the part disposed of in accordance with their respective fair market values determined at the time the person acquired the asset.

(8) The cost of an asset of a person does not include the amount of any grant, subsidy, rebate, commission, or other assistance received or receivable by the person in respect of the acquisition of the asset, except to the extent to which the amount is included in the gross income of the person.

(9) The reference to "other assistance" in subsection (8) does not include a loan repayable with or without interest.
(10) If the acquisition of an asset by a person is the derivation of an amount—

(a) included in the gross income of the person, the cost of the asset is the amount so included plus any amount paid by the person for the asset; or

(b) that is exempt income, the cost of the asset is the exempt amount plus any amount paid by the person for the asset.
(11) If—

(a) a person seeks to include an amount of expenditure in the cost of a capital asset, including expenditure incurred in carrying out improvements to a capital asset;

(b) the person is unable to produce any record of the expenditure; and

(c) the CEO, after carrying out such investigation as he or she considers appropriate, has decided not to allow the inclusion of any such expenditure in the cost of the capital asset, the person may apply to the Solicitor-General to appoint an independent assessor to provide an assessment of the amounts sought to be included as expenditure in the cost of the capital asset, including any expenditure incurred in carrying out improvements to the capital asset.

(12) The person appointed as an independent assessor under subsection (11) must be a person suitably qualified in carrying out valuation and assessment of such expenditure, and may include any person employed by the Government.

(13) The decision and assessment of the independent assessor appointed under subsection (11) is final and binding on all parties.

(14) The costs incurred in the appointment of, and assessment by, the independent assessor are to be borne by the Solicitor-General.

End of PS

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