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| **EXPOSURE DRAFT** |

Inserts for

Treasury Laws Amendment (Measures for Consultation) Bill 2021: Intangible asset depreciation

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule 1 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. |  |

Schedule 1—Intangible asset depreciation

Income Tax Assessment Act 1997

1 Paragraph 40‑75(5)(a)

After “is”, insert “of a kind”.

2 Paragraph 40‑75(5)(b)

Omit “asset.”, substitute “asset; and”.

3 After paragraph 40‑75(5)(b)

Insert:

(c) has as its \*effective life the period applicable to the asset under that item.

4 Subsection 40‑75(5)

Omit “you acquire the asset”, substitute “you start to \*hold the asset”.

5 Subsection 40‑75(6)

Repeal the subsection, substitute:

(6) The adjustment is to use, instead of the asset’s \*effective life, the period remaining in that effective life as at the time you start to \*hold the asset.

Note: The asset’s effective life is the period described in paragraph (5)(c).

6 Subsection 40‑95(6)

Omit “However, you must use an \*effective life determined by the Commissioner”, substitute “Despite subsection (5), (5B) or (5C), you must use the \*effective life referred to in subsection (6A)”.

7 After subsection 40‑95(6)

Insert:

(6A) For the purposes of subsection (6), the asset’s \*effective life:

(a) unless paragraph (b) of this subsection applies—is determined by the Commissioner; or

(b) if the asset is an intangible \*depreciating asset of a kind mentioned in an item of the table in subsection (7)—is the period applicable to the asset under that item.

8 Subsection 40‑95(7)

Omit all the words before the table, substitute:

Exception: intangible depreciating assets

(7) The ***effective life*** of an intangible \*depreciating asset of a kind mentioned in an item of this table is the period applicable to the asset under that item unless:

(a) you start to \*hold the asset on or after 1 July 2023; and

(b) you choose to work out the ***effective life*** of the asset yourself under section 40‑105.

9 Subsection 40‑95(7) (table item 3)

Repeal the item.

10 After subsection 40‑95(7)

Insert:

(7A) If you wish to make the choice referred to in paragraph (7)(b), you must do so for the income year in which the asset’s \*start time occurs.

Note: For rules about choices, see section 40‑130.

(7B) To avoid doubt:

(a) subsection (7) does not apply to an intangible \*depreciating asset to which subsection (4) applies; and

(b) except as described in paragraph (6A)(b), subsection (7) does not apply to an intangible depreciating asset to which subsection (5) applies.

11 After subsection 40‑105(1B)

Insert:

(1C) Thirdly, if relevant for the asset, have regard to the term of the asset and any options available for extension or renewal of that term.

12 Paragraph 40‑105(4)(a)

Repeal the paragraph, substitute:

(a) an asset of a kind mentioned in an item of the table in subsection 40‑95(7) if the asset’s \*effective life:

(i) is the period applicable to the asset under that item; and

(ii) is not being recalculated under section 40‑110;

13 Subparagraph 40‑110(2)(a)(iii)

Omit “and”, substitute “or”.

14 At the end of paragraph 40‑110(2)(a)

Add:

(iv) are using an effective life applicable to the asset under an item of the table in subsection 40‑95(7) (or the period remaining in that effective life, as provided for under subsection 40‑75(6)); and

15 Subsection 40‑110(5)

Repeal the subsection, substitute:

Exception: intangibles that you start to hold before 1 July 2023

(5) This section does not apply to an intangible \*depreciating asset, of a kind mentioned in an item of the table in subsection 40‑95(7), which you start to \*hold before 1 July 2023.

16 Paragraph 701‑55(2)(d)

Omit “—either”.

17 After subparagraph 701‑55(2)(d)(i)

Insert:

(ia) the head company were able to choose at that time an effective life for the asset in accordance with subsections 40‑95(7) and (7A); or

18 Subparagraph 701‑55(2)(d)(ii)

Omit “40‑95(7), (8)”, substitute “40‑95(8)”.