

EXPOSURE DRAFT

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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.	

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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.

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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

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

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2 **13 Subparagraph 40-110(2)(a)(iii)**

3 Omit “and”, substitute “or”.

4 **14 At the end of paragraph 40-110(2)(a)**

5 Add:

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

10 **15 Subsection 40-110(5)**

11 Repeal the subsection, substitute:

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

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

16 **16 Paragraph 701-55(2)(d)**

17 Omit “—either”.

18 **17 After subparagraph 701-55(2)(d)(i)**

19 Insert:

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

23 **18 Subparagraph 701-55(2)(d)(ii)**

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