

TAX TREATMENT OF PROPERTY DEVELOPMENT COMPANIES -CONCESSION FOR ONE PROJECT COMPANIES

INTRODUCTION

1. The income derived by a property development company from a building project may be computed based on the completed contracts method or the percentage of completion method. Once a method is adopted, it must be applied consistently.
2. Under the completed contracts method, income from a project will be recognised when it is fully or substantially completed.
3. The Comptroller of Income Tax regards a project having been substantially completed when the Temporary Occupation Permit (TOP) is issued by the Building Control Division. At this stage, project income is brought to tax. The income is computed by taking the sale proceeds due under the Sale and Purchase Agreements and deducting allowable expenses incurred up to that date on that part of the development which has been sold.
4. After the issuance of the TOP, the property development company may have to incur further costs to make good defects which have developed. Additional development costs incurred on that part of the development which has been sold will be allowed against the income recognised in each relevant accounting period after the TOP date.
5. Where the property development company only undertakes one single project (ie one-project company), the income which arise after the TOP stage may at times be insufficient to cover the additional development costs incurred. In such an event, the loss can be carried forward and be utilised as a deduction against future income provided that there is no substantial change in shareholders.
6. Where a one-project company does not have or is unlikely to have enough income in the years after the TOP year against which to fully setoff the loss from additional development costs incurred, the Comptroller may, as a concession, allow such additional development costs incurred after the TOP stage to be carried back to the TOP year for the income of that year to be reduced by the amount of the carried-back costs.
7. The purpose of this Practice Note is to spell out:
 - (a) the circumstances under which the Comptroller may allow the development costs incurred after TOP stage to be carried back to the TOP year;
 - (b) the types of development costs allowed to be carried back to the TOP year.

ADMINISTRATIVE PRACTICE

8. Where the one-project company has insufficient income to fully offset the development expenses incurred after the TOP year, the Comptroller may allow such unabsorbed costs

to be carried back to the TOP year, as a concession. The concession may be given in the following circumstances:

- (a) where the company goes into liquidation upon completion of the project;
 - (b) where the company is unlikely to have sufficient future income to offset the unabsorbed costs.
9. Only development expenses directly incurred to make good defects of the property during the warranty period after sale are allowed to be carried back to the TOP year. Therefore, general administrative, selling and other indirect expenses cannot be carried back.
 10. The concession will be granted on a case by case basis depending on the specific circumstances of each case. The Comptroller has the right to revoke the concession if the situation warrants it.
 11. Cases which have been finalised before this Practice Note without the benefit of the concession will not be reopened unless valid objections have been lodged with the Comptroller.