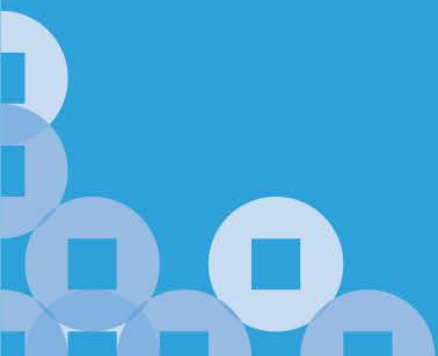




INLAND REVENUE
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IRAS e-Tax Guide

Taxation of Property Developers (Second Edition)



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1 Aim

- 1.1 This e-Tax Guide sets out the tax treatments for transactions carried out by property developers.
- 1.2 This e-Tax Guide is relevant to a company, a partnership or an individual that carries on property development activities (hereafter referred to as a “property developer”). Property development activities comprise the development of land parcels into residential, commercial and industrial properties for sale, usually prior to the completion of the properties.

2 At a Glance

- 2.1 A typical property development cycle starts with the property developer acquiring a land parcel, obtaining government approvals, financing, designing, awarding the construction contracts to various contractors and marketing the property units for sale prior to completion. A property development project can be wholly for residential, commercial or industrial purpose or for mixed-use.
- 2.2 This guide provides the tax treatment on the accounting of property sales and other revenues of a property developer, the deductibility of development and related expenses and the application of the administrative concession relating to a “single-project company”.

3 Glossary of Terms

3.1 Development Cost Account

All costs directly attributable to the property development project are capitalised in the Development Cost Account. The cost items capitalised include cost of land, cost of site preparation, construction cost, financing cost, development charge and property tax.

3.2 Temporary Occupation Permit (“TOP”)

A TOP is issued by the Commissioner of Building Control when building works are completed. It signifies that the completed building or part thereof can be occupied.

4 Date of commencement of property development business

- 4.1 Based on case law¹, a property developer is *prima facie* carrying on the business of property development for sale (hereafter referred to as *prima facie position*). Hence, any land/ property acquired is for development for sale and the date of

¹ Mount Elizabeth (Pte) Ltd v CIT [1986] SGHC 35.

acquisition is regarded as the date of commencement of its property development business².

5 Basis of recognition of taxable profit

5.1 For tax purposes, the profits of a property development project are recognised when the project is substantially completed, i.e. when the TOP is issued, regardless of the revenue recognition method adopted for accounting purposes.

5.2 In the TOP Year of Assessment (“YA”)³, the sale proceeds due and payable in accordance with the payment schedule in the Sale and Purchase Agreement of the property units sold are taxed. Sale proceeds include monies paid to Singapore Academy of Law (“SAL”) as stakeholder⁴. The monies paid is income accrued to a property developer as the property units have been completed and TOP has been issued. The allowable development costs incurred up to that date on these units are allowed as deduction.

5.3 If some property units are not sold by TOP YA, the allowable development costs to be allowed as deduction in the TOP YA have to be apportioned (see example below).

A company developed 100 residential units (total floor area of 15,000 sq m) for sale. TOP was obtained on 1.6.2020. Allowable development costs incurred up to 1.6.2020 was \$75m. As at 31.12.2020, 80 units (total floor area of 13,000 sq m) were sold.

The company’s accounting year end is 31st December. As the TOP was obtained on 1.6.2020, the profit from sale of 80 units would be taxed in YA 2021 and computed as follows:

YA 2021 (basis period: 1.1.2020 to 31.12.2020)

Sale proceeds of 80 units (based on payment schedule in the Sale & Purchase Agreement)	\$78m
Less: Allowable development costs of the 80 units <u>13,000 sq m</u> x \$75m 15,000 sq m	\$65m
Profit from sale of 80 units	----- \$13m -----

The balance of allowable development costs of \$10m (i.e. \$75m less \$65m) attributable to the remaining 20 unsold units would be carried forward and allowed as deduction upon their sale subsequently.

² Refer to details in e-Tax Guide on Determination of the Date of Commencement of Business.

³ TOP YA refers to the year of assessment in which TOP is issued.

⁴ To eliminate the possibility of default by purchaser’s solicitor which acted as stakeholders in the payment process of new residential properties, the SAL was appointed as the stakeholder of these payments. SAL will release the amount held upon expiry of defect liability period or the satisfactory completion of defect works by the developer.

6 Income accrued before and during development of lands/ properties

6.1 A property developer may receive certain income from the lands/ properties acquired (e.g. en-bloc purchase) before and during their development. The tax treatments of these incomes are as follows:-

Income	Tax treatment
a) Compensation/ liquidated damages from vendors for late completion of purchase of lands/ properties	Taxed upfront on due basis under section 10(1)(a) of Income Tax Act 1947 ("ITA")
b) Compensation/ liquidated damages from contractors for late completion of construction	
c) Interest/ penalty from purchasers for late payment of sale proceeds	
d) Forfeiture of booking fee for abortive sale from purchasers	
e) Rental income (net of revenue expenses wholly and exclusively incurred to earn rental income) derived from the lands/ properties acquired pending development for sale.	
f) Interest income from temporary placement of excess funds of the property developer's Project Account in short-term deposits	Set-off against development cost in the Development Cost Account

7 Expenses incurred before and during development of lands/ properties

7.1 Expenses that are directly attributable to the acquisition of land and property development activities are to be capitalised and accumulated in the Development Cost Account up to the TOP YA. Where there is more than one development project or there are different phases in a development project, a separate Development Cost Account for each project or each phase of a project has to be submitted together with the income tax return.

7.2 The following adjustments must be made to the Development Cost Account to arrive at the allowable development costs for each YA:

Items to be excluded from the Development Cost Account

- Non-deductible costs such as private expenses;
- Marketing and promotional expenses as they are deductible in the year in which they are incurred;

Items to be added to the Development Cost Account

- Expenses charged to the profit and loss accounts prior to TOP date but are attributable to the development project such as interest expenses and property tax.

8 Provision for diminution in value of land

8.1 A property developer may provide for diminution in value of the land prior to development to account for the write down of the cost of land to market value. As any land acquired by a property developer is for development for sale, the cost of land is capitalised in the Development Cost Account and allowed deduction in the TOP YA when the profits from the development project on the land are recognised and taxed. Therefore, it follows that the provision for diminution in value of land is not deductible in the year of provision.

9 Provision for warranty or defects liability

9.1 Generally, a property developer has to make good at its own expense any defects in the sold property units which become apparent within the defects liability period. The defects liability period is usually within 12 months from the date the purchaser receives the Notice of Vacant Possession in respect of the property. As these expenses are deductible in the year in which they are incurred, any provision made is not deductible.

10 Provision for diminution in value of unsold properties of completed projects

10.1 A property developer may provide for diminution in value of unsold property units of completed projects. As the unsold property units are its trading stocks, such specific provision for the write down to market value is tax-deductible. The market value has to be supported by an independent valuation and the documentation on the valuation has to be kept as part of recordkeeping. The Comptroller of Income Tax ("CIT") may request for the valuation report. Once a provision is claimed, a valuation in respect of each unsold property unit must be made every year. Any provision subsequently written back is taxable in the year of write-back.

11 Provision for liquidated damages for late completion

11.1 The property developer may be liable to pay liquidated damages for late completion of project arising from a suit of claim filed by purchasers.

11.2 Strictly, the legal liability for the liquidated damages arises when the property developer acknowledges that there is such a liability. As such, a provision made towards such liability pending settlement of the actual amount is a general provision, which is not deductible for tax purpose. However, as a concession, provision for liquidated damages for late completion which is made after the contracted completion date and calculated based on the terms stipulated in the Sale and Purchase Agreement is allowed deduction. Any provision subsequently written back will be taxed in the year when the actual amount of liquidated damages is determined.

12 Provision for compensation for shortfall in floor area

12.1 The provision made to compensate for the shortfall is deductible only upon lodgement of claim by the purchaser. Any provision subsequently written back will be taxed in the year when the actual amount of compensation is determined.

13 Allocation of land and development cost for a mixed-use development project

13.1 A development project may be held partly for sale and partly for investment. The development project may also be mixed-use. Consequently, the land and development costs have to be allocated in order to compute the taxable profits of the property units that are for sale.

13.2 Some common examples of a mixed-use development project are:

- a) Hotel and shops;
- b) Offices and shops;
- c) Residential (including serviced apartments) and shops;
- d) Hotel, offices and shops.

(Shops include retail stores, food and beverage outlets, banks, cinemas, clinics, health centres, medical suites, etc.)

13.3 Basis of allocation of land costs

13.3.1 Where available, the actual land costs attributable to each property or each of the land use in a mixed-use development should be adopted. Contemporaneous documentation, for example original tender or pricing documents, should be maintained and submitted to the CIT upon request. Where that is not possible, a professional valuation may be used to provide the breakdown of the composite land costs into the relevant components. The material date for such a valuation should be the date of acquisition of the land.

13.32 The land cost for a single use development project may be apportioned according to the land area attributable to each building or property, taking into account the intensity of each part of the land. Alternatively, the land cost may be allocated using the Gross Floor Area (“GFA”) of the property.

13.33 If the property units for sale are part of a mixed-use development, then the land cost allocated to the property units for each use should be based on the actual cost or valuation attributable to the land for the respective uses.

13.34 In the absence of contemporaneous documentation on the actual costs or valuation, the CIT may accept the allocation of land cost as follows:

Step 1: Ascertain the % of use of Gross Floor Area
Usage A: y%, Usage B: z%

Step 2: Work out the market value of land as at the date of acquisition assuming the land is wholly used for each usage
Usage A: \$MA, Usage B: \$MB

Step 3: Compute the combined market value of land
 $\$MV = (\$MA \times y\%) + (\$MB \times z\%)$

Step 4: Allocate the land cost
Land cost for Usage A = $(\$MA \times y\%) / \$MV \times \text{land cost}$
Land cost for Usage B = $(\$MB \times z\%) / \$MV \times \text{land cost}$

13.35 In cases where the land was purchased many years ago, the CIT is prepared, as a concession, to accept the usage (i.e. y% and z% in paragraph 13.3.4 above) as at the date of Grant of Written Permission.

13.4 Basis of allocation of development costs

13.4.1 Direct costs where identifiable should be adopted. Where that is not possible, the development costs may be allocated as follows:

- i) Direct costs which cannot be directly identified for each use or property
 - Use the professionally qualified Quantity Surveyor’s allocation
 - Where the Quantity Surveyor’s allocation is not available, use the GFA of each usage
- ii) Costs of common area
 - Use the GFA of each usage

14 Sale of land/ uncompleted development project

14.1 In line with the *prima facie* position that all properties acquired by a property developer are for development for sale, all gains from sale of land/ uncompleted development project are taxable, being its trading income derived from its property development business. This treatment applies even if the land is undeveloped or the property developer has no development plans for the land or the uncompleted development project is sold due to unforeseen circumstances.

15 Letting out of unsold properties

15.1 Property developers may let out their unsold properties while awaiting the opportunity for sale. As the unsold properties are the trading stocks of the property developers, the rental income derived is taxable under section 10(1)(a) of the ITA.

15.2 Capital allowances may be claimed on items of furniture and fittings that are acquired separately solely for the purpose of letting out the unsold properties e.g. sofa sets, dining sets etc.

16 Related party transactions

16.1 Discount on sale of property unit to employees

16.1.1 Where a property developer sells a property unit to its employee (including family members, relatives and friends of the employee/ related entities' employees) at a discount, over and above that given to the public, the discount is taxable as the employee's benefits-in-kind and the staff discount framework applies⁵.

16.2 Rental of property unit to an employee or related entities' employees

16.2.1 Where the property developer provides a property unit rent free or at below market rent to an employee, the difference between the market rent and the rent paid by the employee, if any, is taxable as the employee's benefits-in-kind. The tax treatment is also applicable if the recipient of the benefit is the property developer's related entity's employees.

16.2.2 However, if the property developer is required under the employment contract to provide accommodation to its employee, the value of the accommodation⁶ is taxable as the employee's benefits-in-kind.

⁵ Refer to details in IRAS website – Tax treatment of staff discount

⁶ Refer to details in IRAS website – Tax treatment of accommodation provided and related benefits

16.3 Sale or rental of property unit to related parties (other than employees or related entities' employees)

16.3.1 Where the property unit is sold, leased or made available to related parties (other than employees or related entities' employees) e.g. shareholders, at below market price or rent, the CIT may make adjustments and the developer will be taxed on the arm's length price. Where market rent is not available, the gross annual value will be used as a proxy for market rent.

17 Intention for long-term investment / trading stock

17.1 In recent years, with the change in the business model of property developers, land may be acquired for development or long-term investment. The CIT is of the view that the mere holding of the vacant land by the property developer for a long period of time in itself is insufficient to demonstrate the long-term investment intent for the piece of land.

17.2 In the interest of tax certainty, the property developer has to inform the CIT of the investment intent when filing its tax return for the YA in which the land was acquired. Supporting documents such as directors' resolutions and notes of board meetings stating the intention are to be retained and submitted to the CIT upon request. If the property developer does not carry out this intent by building properties on the land to derive rental income, the *prima facie* position of land being acquired for development for sale applies.

17.3 If only specific property units of the development project are for long-term investment, the property developer has to submit a schedule showing the specific units to be held for long-term investment and their floor areas. This schedule should be provided when filing the tax return for the YA in which TOP was granted.

17.4 Where the investment intent is accepted by the CIT, the rental income derived from the developed properties is taxable as trading income under section 10(1)(a) of the ITA subject to the provisions of section 10D⁷, if the property developer is ascertained to be in the business of making investments⁸. Otherwise, the rental income is taxable as passive income under section 10(1)(f) of the ITA.

17.5 Investment property which is held as long-term investment may subsequently be redeveloped for sale. In computing the gain or loss arising from the sale of such trading stock, the open market value ("OMV") of the property as at the date it becomes trading stock is treated as the cost of the trading stock.

17.6 Conversely, a property developer may decide to keep unsold property units held

⁷ The previous section 10E has been renumbered to section 10D of the ITA.

⁸ Refer to details in e-Tax Guide on Ascertainment of Income from the Business of the Making of Investments.

for trading as long-term investments. When trading stock is appropriated for non-trade or capital purposes, the unsold units are treated as sold on the date they are appropriated as long-term investments. The resulting profit or loss which is computed based on the OMV of the trading stock as at the date of appropriation is taxable or deductible.

- 17.7 Please refer to the e-Tax Guide on Tax Treatment on Appropriation of Trading Stock for Non-Trade or Capital Purposes and Conversion of Non-Trade or Capital Assets to Trading Stock for more details.

18 Single-project concession for property development companies

18.1 Scope

18.1.1 This section is only applicable to a property development company that is set up⁹ to undertake a single development project for sale (hereafter referred to as “single-project company”).

18.1.2 As the profits of its development project are taxed upon issuance of the TOP, a single-project company may not have sufficient income in subsequent years to fully set off the further costs incurred or the net trade loss from the sale of units after the TOP YA. The single-project company that undertakes only one project and is kept alive merely to service claims arising from the units sold in that single project may apply for the single-project concession.

18.1.3 The single-project concession is an administrative concession granted by the CIT on a case-by-case basis to a single-project company. The concession allows post-completion development costs, business running costs, capital allowances and trade losses claimed/ incurred after TOP YA to be carried back and set off against the assessable income of the last taxable YA up to TOP YA. The carry-back starts only after all units of the development project are sold. The concession is available up to 4 years after TOP YA.

18.1.4 The circumstances under which the concession may be applied are as follows:

- a) the company has undertaken one and only one development project for sale;
- b) the single development project for sale has one TOP date;

⁹ Tax exemption scheme for new start-up companies does not apply to companies incorporated after 25 Feb 2013 that undertake property development for sale, for investment or for both investment and sale (including single project companies). Refer to details in IRAS website – Tax exemption scheme for new start-up companies.

- c) the last unit of the development project is expected to be sold within 4 years after TOP YA; and
- d) the TOP YA or YA of last unit sold is YA 2010 and after.

18.15 The concession ceases to apply to a single-project company from the 5th year after TOP YA even if the company is alive and continues to incur expenses or losses. If the company is alive after the concession period, the deductibility of expenses incurred thereafter will be subject to normal tax deductibility rules.

18.16 Subsequent single development projects, if any, undertaken by the single- project company will not qualify for the concession.

18.17 Where the single development project has 2 TOP dates to facilitate the handing over of completed property units to the purchasers, the concession can still be applied, provided the duration between the 2 TOP dates is 6 months or less. In such a situation, the carry back will be up to the later of the 2 TOP YAs.

18.18 An overview of the concession is at Annex 1.

18.2 Application of the concession

18.2.1 The concession is applied in the following manner:

a) All property units of the project sold by TOP YA

The post-completion development costs, business running costs and capital allowances incurred/ claimed subsequent to the TOP YA are allowed to be carried back for setoff against the assessable income of the last taxable YA up to TOP YA.

b) Last property unit sold within 4 years after TOP YA

The carry-back starts only after all units of the development project are sold or 4 years after the TOP YA, whichever is the earlier. Thus, any capital allowances and trade losses for each YA after the TOP YA but before the last property unit is sold will be carried forward, subject to the business continuity test and shareholding test.

When the last property unit is sold within 4 years after TOP YA, the total unabsorbed capital allowances¹⁰ and unabsorbed trade losses¹¹ can be carried back for setoff against the assessable income of the last taxable YA

¹⁰ Unabsorbed capital allowances of a company are the capital allowances which are in excess of its income from all sources for any YA.

¹¹ Unabsorbed trade losses of a company are the losses from its trade which are in excess of all its income from other sources for any YA.

up to TOP YA.

1822 Examples 1 and 2 of Annex 2 provide illustrations of how the concession is applied in the above 2 situations.

18.3 Conditions governing the application of the concession

A) Shareholding test

1831 The carry-back of unabsorbed capital allowances and unabsorbed trade losses under the concession is subject to the shareholding test¹². Hence, the shareholders of the company must be substantially the same on the following dates:

a) For carry-back of unabsorbed capital allowances:

- i) First day of the YA in which the capital allowance arose; and
- ii) Last day of the YA in which the capital allowance is used for setoff against the company's income

b) For carry-back of unabsorbed trade losses:

- i) First day of the year in which the trade loss was incurred; and
- ii) Last day of the YA in which the trade loss is used for setoff against the company's income.

B) Interaction of the concession with carry-back relief and group relief systems

1832 Where a single-project company qualifies and elects for the carry-back relief system¹³, the concession will not be applicable. If the company chooses to opt for the concession, the carry back of unabsorbed capital allowances and unabsorbed trade losses is effected after the transfer of the loss items under the group relief ("GR") system¹⁴.

18.4 Revocation of the Concession

18.4.1 Notwithstanding the above paragraphs, the CIT may revoke the concession granted where he assessed that the conditions for the concession have not been

¹² Stipulated under sections 23(4) and 37(12) of the ITA.

¹³ For more details of the carry-back relief system, please refer to e-Tax Guide on "Carry-Back Relief System" and "Enhanced Carry-Back Relief System".

¹⁴ The company is required to write in to IRAS if it also wishes to avail itself of the GR as it will be considered on a case-by-case basis.

For more details of the GR system, please refer to e-Tax Guide on "Group Relief System".

met subsequently.

18.4.2 For example, a property development company has been granted the concession. In the 3rd year after the TOP YA (i.e. within the time limit of 4 years after TOP YA) of its single development project, the company started another development project. The CIT will withdraw the concession as the property development company was not set up solely to undertake a single development project.

18.5 Administrative procedures

18.5.1 A single-project company that wishes to apply for the concession in the YA must elect in writing in its tax computation when submitting its income tax return for that YA. It must also submit to the CIT revised tax computations of the prior YA(s) showing the amount of qualifying expenses/ capital allowances to be carried back.

18.6 Frequently asked questions

18.6.1 Please refer to the Annex 3 for frequently asked questions and answers.

19 Contact information

19.1 If you wish to seek clarification on the contents of this e-Tax Guide, please contact IRAS at 1800-3568622.

20 Updates and amendments

	Date of update	Updates made
1	20 Apr 2022	<ul style="list-style-type: none"> • Updated paragraph 5.2 to explain the tax treatment of monies paid to SAL as stakeholding monies. • Inserted paragraphs 17.5 and 17.6 to update the tax treatment on the appropriation of trading stock for non-trade or capital purposes and conversion of non-trade or capital asset to trading stock. • Removed paragraph 18.6 and Annex on transitional rules for one-project concession. • Updated the renumbered provisions based on the Income Tax Act 1947. • Updated the numbering of the footnotes.

Overview of the single-project concession for property development companies

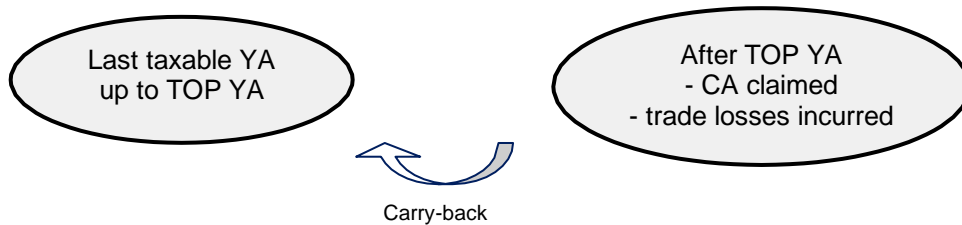
Terms of carry-back	All units are sold by TOP YA	Not all units are sold by TOP YA	
		Last unit sold is sold within 4 years after TOP YA	Last unit is sold in the 5 th year from TOP YA or later
<ul style="list-style-type: none"> ▪ Circumstances under which concession applies 	<ul style="list-style-type: none"> ▪ Applicable to a property development company that is set up to undertake a single development project for sale with one TOP date ("single-project company") ▪ The last unit of the development project is sold within 4 years after TOP YA 		<ul style="list-style-type: none"> ▪ Not applicable
<ul style="list-style-type: none"> ▪ Types of expenses 	<ul style="list-style-type: none"> ▪ Post completion costs ▪ Business running costs 		<ul style="list-style-type: none"> ▪ Not applicable
<ul style="list-style-type: none"> ▪ Time limit for carry-back 	<ul style="list-style-type: none"> ▪ To allow up to 4 years after TOP YA for carry-back of capital allowances ("CA") and trade losses 		<ul style="list-style-type: none"> ▪ Not applicable
<ul style="list-style-type: none"> ▪ Application of the concession 	<ul style="list-style-type: none"> ▪ Carry-back of CA and trade losses starts <u>after</u> TOP YA 	<ul style="list-style-type: none"> ▪ Carry-back of CA and trade losses starts <u>after</u> last unit is sold 	<ul style="list-style-type: none"> ▪ Not applicable
	<ul style="list-style-type: none"> ▪ CA and trade losses will be carried back to set off against the assessable income of the last taxable YA ▪ If the profit of the last taxable YA is insufficient to absorb the amount carried back, the balance will be carried back further to next prior taxable YA up to TOP YA ▪ Carry-back is subject to shareholding test 		<ul style="list-style-type: none"> ▪ Not applicable

Illustration on application of the single-project concession

Example 1

i) All units sold by TOP YA

- Unabsorbed CA and unabsorbed trade losses claimed/ incurred after TOP YA will be carried back to last taxable YA up to TOP YA
- The carry-back of unabsorbed CA and unabsorbed trade losses is up to 4 years after TOP YA



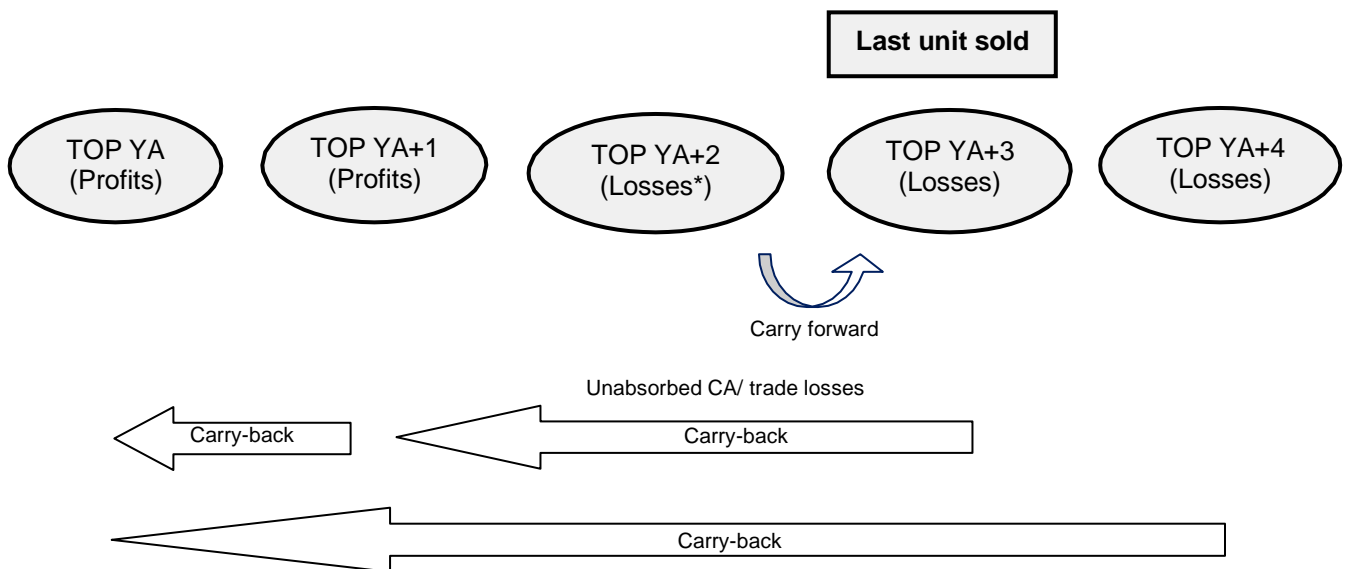
ii) Not all units sold by TOP YA & last unit sold within (TOP YA + 4) years

During the period after TOP YA but before all units sold

- CA and trade losses will be carried forward

When project is completely sold

- CA and trade losses will be carried back to last taxable YA up to TOP YA



Annex 2 - Illustration on application of the single-project concession (cont'd)

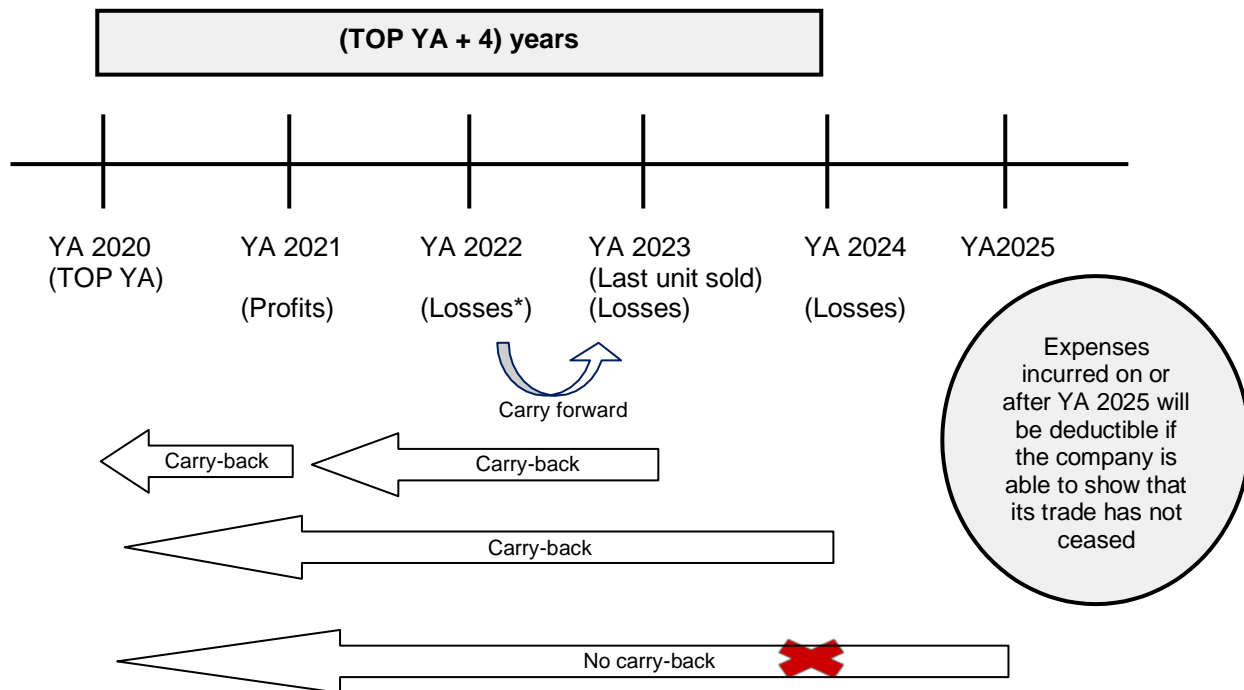
Example 2

TOP YA = YA 2020

Last unit sold in YA 2023 [therefore within (TOP YA + 4) years]

Single-project concession starts after last unit sold (i.e. YA 2023)

Time limit for carry-back = YA 2021 to YA 2024 (up to 4 years after TOP YA 2020)



- 1) Trade losses incurred for YA 2022 will be carried forward to YA 2023 as carry-back starts from YA 2023 (YA of last unit sold)
- 2) Accumulated losses as at YA 2023 will be carried back to set off against the assessable income of last taxable YA 2021
- 3) If profit of last taxable YA 2021 is not sufficient to absorb the losses carried back, such losses will be carried back further to next prior taxable YA 2020
- 4) YA 2024 trade losses can be carried back but no carry-back from YA 2025 onwards
- 5) Expenses incurred from YA 2025 (e.g. statutory expenses) will be deductible if the company is able to show that its trade has not ceased

Frequently asked questions

Q1. Is the concession only applicable to property development companies?

A1. Yes, the concession is applicable only to property development companies.

Q2. A property development company has been granted the concession. In the 7th year after the TOP YA of its single project, the company commenced a new business (not a property development business). Will IRAS withdraw the Concession previously granted?

A2. IRAS will not withdraw the concession previously granted as the new business was carried out after the time limit of 4 years after TOP YA.

Q3. A property development company has been granted the concession. In the 8th year after the TOP YA of its single project, the company started another development project. Can the company apply for the concession for its second development project?

A3. No. The company cannot qualify for the concession in respect of its second development project. However, IRAS will not withdraw the concession previously granted for the first development project as the second development project was carried out after the time limit of 4 years after TOP YA.

Q4. A property development company incurred losses on its development project A. It did not apply for the single-project concession. Shortly thereafter, it took on development project B which made profits in the earlier years but incurred losses in the later years. Can the company apply for the concession for project B?

A4. No. The company cannot qualify for the concession in respect of project B as it is not considered as a single-project company. As defined in paragraph 18.1.1, a single-project company is one that is set up to undertake a single development project for sale.

Q5. A manufacturing company ceased its manufacturing business and started a property development project. Can the company apply for the concession?

A5. No. The company cannot qualify for the concession as the concession is applicable to a company that is set up to undertake a single property development project for sale.