

DETERMINATION > MISCELLANEOUS

Amortisation Rates for Landfill Cell Construction Expenditure

Issued: 7 March 2023

DET 23/01

Application

This Determination sets out the amortisation rates for landfill cell construction expenditure as determined by the Commissioner of Inland Revenue. It is made pursuant to section 91AAN of the Tax Administration Act 1994.

The Determination applies to taxpayers, who meet the criteria under section DB 46 of the Income Tax Act 2007 and have incurred landfill cell construction expenditure in an income year starting on or after 1 April 2022. Its application may be supplemented or amended by supplementary Determinations pursuant to section 91AAN(6) of the Tax Administration Act 1994.

REPLACES DET 05/02, which was issued 15 November 2005.

Discussion

In this Determination, unless the context otherwise requires, expressions used have the same meanings as those in ss CB 8, CB 28, DB 46, YA 1, schedules 12 and 19 of the Income Tax Act 2007 and s 91AAN of the Tax Administration Act 1994 in respect of an income year starting on or after 1 April 2022 and subsequent income years.

Determination

Pursuant to section 91AAN of the Tax Administration 1994, for the purposes of section 91AAN(2), the banded rate set out in schedule 12 of the Income Tax Act 2007 that is to be used to amortise the types of landfill cell construction expenditure, as set out in the schedule to this Determination and incurred in an income year starting on or after 1 April 2022, shall be, at the election of the taxpayer, at either:

- a) 63.5% (straight-line equivalent); or
- b) 63.5% (diminishing value depreciation rate)

This Determination is made by me, acting under delegated authority from the Commissioner of Inland Revenue under section 7 of the Tax Administration Act 1994.

This determination was signed by me on 7th March 2023.

Rob Falk

Technical Lead, Technical Standards, Legal Services

Inland Revenue

SCHEDULE TO DETERMINATION DET 23/01

AMORTISATION RATES FOR LANDFILL CELL CONSTRUCTION EXPENDITURE

<p>Types of landfill cell construction expenditure to which this Determination shall apply</p>
<p>Cell construction costs</p>
<p>Excavation means costs relating to:</p> <ul style="list-style-type: none"> • Earthworks design • Preparatory works (such as clearing the cell site) • Earthworks, including excavation, borrowing and filling • Erosion control measures and remediation of borrowed areas associated with cell construction • Contractors' overheads related to cell construction • Cell-specific resource consents other than those which qualify as fixed life intangible property.
<p>Cell lining means costs relating to the design, construction and quality assurance of cell liners (clay, geosynthetic, flexible membrane, concrete or bitumen) and protection and separation layers, including reworking and sub-excavation to support subsequent compaction or to provide slope stability.</p>
<p>Leachate drainage means the provision of drainage material to assist in drainage of leachate from the base and sidewalls of a landfill cell.</p> <p>This excludes drainage pipes and systems for the passage and extraction of leachate from the landfill.</p>

Note: The above landfill cell construction expenditure does not include expenditure that relates to the site development of the landfill and expenditure that is deductible under any legislative provision in the Income Tax Act 2007 other than section DB 46.

COMMENTARY ON DETERMINATION DET 23/01

AMORTISATION RATES FOR LANDFILL CELL CONSTRUCTION EXPENDITURE

Introduction

This commentary does not form part of the Determination. It is intended to help in the understanding and application of the Determination.

This Determination sets out the amortisation rates (depreciation like deductions) that the Commissioner has determined for each of the types of landfill cell construction expenditure that is listed in the schedule to this Determination (later referred to as “listed landfill cell construction expenditure”).

Taxpayers who meet the criteria under section DB 46 of the Income Tax Act 2007 and have incurred the listed landfill cell construction expenditure in an income year starting on or after 1 April 2022, are required to elect to apply either the amortisation rate of 63.5% (diminishing value depreciation rate) or 63.5% (straight-line equivalent).

This Determination does not apply to types of expenditure that are not listed in the schedule to this Determination.

Criteria under section DB 46 of the Income Tax Act 2007

A taxpayer meets the criteria under section DB 46 of the Income Tax Act 2007 if:

- the taxpayer carries on a business in New Zealand; and
- the taxpayer incurs, in the business, expenditure:
 - that is of a type listed in schedule 19 of the Income Tax Act 2007, other than expenditure listed in part C of the schedule; and
 - that is not incurred in relation to revenue account property other than land that is subject to section CB 8 of the Income Tax Act 2007; and
 - that is not deductible under any other legislative provision in the Income Tax Act 2007 but for section DB 46.

Estimated useful life

The amortisation rate for listed landfill cell construction expenditure is based on:

- the average planned filling time for commercial landfill cells in New Zealand; and
- the average estimated economic life of commercial landfill cells in New Zealand.

Commercial landfill cells refer to landfill cells that are constructed by taxpayers in the waste management industry who meet the above criteria under section DB 46 of the Income Tax Act 2007.

For the listed landfill cell construction expenditure, the estimated useful life commences once construction of the commercial landfill cell to which the expenditure relates has been completed and continues until the relevant landfill cell is filled and capped.

The average planned filling time of commercial landfill cells in New Zealand is approximately one year. For the purpose of calculating the estimated useful life of commercial landfill cells, this is the main factor that has been considered in estimating the economic life of these cells.

The practice of intermediate filling affects the estimated economic life of commercial landfill cells. Intermediate filling refers to situations where a commercial landfill cell can only be filled to a certain level of the cell's capacity in the first year of operation. Intermediate filling may occur due to the size and/or depth of the landfill cell, topographical or other operational factors. Where intermediate filling is involved, the commercial landfill cell will have an estimated economic life longer than the planned filling time of one year.

Inland Revenue has considered the fact that even if intermediate filling is involved, most revenues will be derived from a commercial landfill cell in its first year of operation. Using a weighted-average, Inland Revenue generally has applied more weight to the first year of commercial landfill cell's operation as opposed to the later year(s) before the cells are fully filled and capped.

During the process of making this Determination, Inland Revenue has also considered the following matters, but decided that these matters do not significantly impact on the estimated useful life of a commercial landfill cell in New Zealand:

- future development in waste management technologies and initiatives; and
- landfill gas revenues derived from commercial landfill cells; and

- the likelihood of re-opening commercial landfill cells after they have been capped; and
- non-commercial landfills; and
- commercial landfills in overseas jurisdictions.

The estimated useful life of commercial landfill cells in this Determination has been established by Inland Revenue following extensive consultation with taxpayers in the waste management industry and industry experts.

Amortisation rates

The process adopted in arriving at the amortisation rates of the listed landfill cell construction expenditure commenced with the establishment of the estimated useful life for the commercial landfill cells. This data is then translated into an established straight-line equivalent rate as set out in column 2 of schedule 12 of the Income Tax Act 2007. The straight-line equivalent rate in column 2 is further translated into an appropriate diminishing value depreciation rate as set out in column 1 of schedule 12.

Although the estimated useful life of commercial landfill cells may vary in New Zealand, the amortisation rates of the listed landfill cell construction expenditure in this Determination have been established for the widest possible application to the waste management industry.

Application of this Determination to expenditure incurred in an income year starting on or after 1 April 2022

This Determination applies to taxpayers who meet the criteria under section DB 46 of the Income Tax Act 2007 and incur the listed landfill cell construction expenditure in an income year starting on or after 1 April 2022.

Where taxpayers have an approved non-standard balance date of 30 June, the Determination applies to the listed landfill cell construction expenditure incurred on or after 1 July 2022. The Determination shall not apply to these taxpayers before their 2022 income year.

Additions of new amortisation rates/amendments to existing amortisation rates

Amendments to this Determination will be made by the Commissioner issuing supplementary Determinations pursuant to subsection 91AAN(6) of the Tax Administration Act 1994.

Amendments may include adding further expenditure to those already listed in the schedule to this Determination, adjusting the estimated useful life of commercial landfill cells due to operational changes in the waste management industry in New Zealand. Amendments may be effective for the current or future income years. They will not apply to previous income years.

Changes may also be made to the Determination from time to time by Inland Revenue on receipt of written applications from taxpayers in the waste management industry.

Applications for changes must include the following information:

- the nature of the amendment to the Determination being sought; and
- applicant's details - this includes full name, IRD number (if applicable), address, and contact details (i.e. cell phone number and the contact person) for enquiries; and
- information to support the change requested.

Applications for changes to the Determination are to be sent to:

Technical Lead
Technical Standards, Legal Services
National Office
Inland Revenue
P O Box 2198
WELLINGTON

In considering applications for amendment to this Determination, Inland Revenue will continue to consult with relevant taxpayers in the waste management industry and industry experts.

Inland Revenue will discuss any amendment that is to be made to this Determination with the applicant before it is finalised.