Inland Revenue
Te Tari Taake

TECHNICAL DECISION SUMMARY > PRIVATE RULING

WHAKARĀPOPOTO WHAKATAU HANGARAU > WHAKATAUNGA TŪMATAITI

Property as trading stock

Decision date | Rā o te Whakatau: 30 June 2026

Issue date | Rā Tuku: 28 August 2026

TDS 26/12

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Subjects | Kaupapa

This item summarises a private ruling about whether a building and fit-out are trading stock for Investment Boost purposes.

Taxation laws | Ture tāke

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

Summary of facts | Whakarāpopoto o Meka

1. The Taxpayer is part of a privately owned property group that carries on development and investment activities.
2. The Taxpayer was established specifically to purchase a piece of land, develop a commercial building on the land, and sell the land, building and fit-out.
3. The Taxpayer has leased most of the building and receives rental income.
4. The Taxpayer was seeking certainty that the building and fit-out are trading stock for Investment Boost purposes.

Issues | Take

5. The issue considered in this ruling was whether the building and fit-out are trading stock to the Taxpayer under para (ca) of the definition of "trading stock" in s YA 1.

Decisions | Whakatau

6. The Tax Counsel Office decided that the building and fit-out are trading stock to the Taxpayer under para (ca) of the definition of "trading stock" in s YA 1 (for the purposes of s DI 2).

Reasons for decisions | Pūnga o ngā whakatau

7. Paragraph (ca) of the definition of "trading stock" in s YA 1 states that in s DI 2 "trading stock" means "property that is trading stock under section EB 2, ignoring section EB 2(3)(a)".[1]

8. Under s EB 2(1), trading stock means property a person who owns or carries on a business has for the purpose of selling or exchanging in the ordinary course of the business.

9. Where more than one purpose exists for holding property, the courts have applied a dominant purpose test.[2]

10. Ordinarily, trading stock does not include land (s EB 2(3)(a)). However, in s DI 2 this exclusion is ignored, meaning buildings and other fixtures on land may be trading stock in s DI 2.

11. Relevantly, trading stock does not include depreciable property.

12. The Tax Counsel Office considers that the Taxpayer holds the building and fit-out for the dominant purpose of selling them in the ordinary course of its business (rather than deriving rental income). On that basis, the Tax Counsel Office concluded that the building and fit-out are trading stock as defined in para (ca) of the definition of "trading stock" in s YA 1.

13. Although the Taxpayer has no history of developing and selling buildings because it was established solely to purchase and develop the land, the Tax Counsel Office considers the following factors support the conclusion that the building and fit-out are held for the dominant purpose of selling them in the ordinary course of the Taxpayer's business:

    - The Taxpayer was established specifically to develop and sell the property, and its activities are consistent with the wider group's established practice of developing commercial properties for sale to third-party purchasers.
    - The Taxpayer had actively engaged in negotiations with potential third-party purchasers throughout the construction of the building and up to the time of the ruling application.

[1] The main purpose of subpart DI is to allow a person a deduction in relation to expenditure on a new investment asset, effectively accelerating depreciation or amortisation, as applicable, for that asset.

[2] *Horizon Homes Ltd v CIR* (1994) 16 NZTC 11,064 (HC) and *CIR v National Distributors Ltd* (1989) 11 NZTC 6,346 (CA).

- The Taxpayer is actively seeking a purchaser for the property.
- Projected sales commission was incorporated into the project's financial modelling.
- The Taxpayer does not treat the building or fit-out as depreciable property.
- Although the Taxpayer has leased most of the building and receives rental income, the Tax Counsel Office accepted, based on the information provided, that the main purpose of leasing the building is to make it more attractive to prospective purchasers and facilitate a sale.