

**EXPOSURE DRAFT – FOR COMMENT AND DISCUSSION ONLY | HUKIHUKI HURANGA
- MŌ TE TĀKUPU ME TE MATAPAKI ANAKE**

Deadline for comment | Aukatinga mō te tākupu: **29 August 2024**

Please quote reference | Whakahuatia te tohutoro: **PUB00274**

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki
Public.Consultation@ird.govt.nz

INTERPRETATION STATEMENT | PUTANGA WHAKAMĀORI

Income tax – identifying the relevant item of property for depreciation purposes

Issued | Tukuna: Issue date

IS XX/XX

This interpretation statement provides general guidance on how to identify the relevant item of property when applying the depreciation rules in the income tax legislation. The relevant item must be identified to ensure it is a depreciable item and, if so, to determine the applicable depreciation method and rate from which amounts of depreciation losses may be calculated. In many cases, this will be relatively straightforward. However, in some cases it may be unclear whether an item is a standalone item of property or part of another item of property.

This statement applies from the date of publication.

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

This statement supplements the following specific guidance:

- **IS0025:** Dairy farming – deductibility of certain expenditure *Tax Information Bulletin* Vol 12, No 2 (February 2000): 10
- **IS 10/01:** Residential rental properties – depreciation of items of depreciable property *Tax Information Bulletin* Vol 22, No 4 (May 2010): 16
- **IS 12/03:** Income tax – deductibility of repairs and maintenance expenditure – general principles, *Tax Information Bulletin* Vol 24, No 7 (August 2012): 68
- **QB 15/03:** Income tax – changing to a different depreciation rate for an item of depreciable property *Tax Information Bulletin* Vol 27, No 4 (May 2015): 30
- **QB 20/01:** Can owners of existing residential rental properties claim deductions for costs incurred to meet Healthy Homes standards? *Tax Information Bulletin* Vol 32, No 7 (August 2020): 126
- **IS 22/04:** Claiming depreciation on buildings, *Tax Information Bulletin* Vol 34, No 8 (September 2022): 9

Contents | Ihirangi

| | |
|--|----|
| Summary Whakarāpopoto | 3 |
| Introduction Whakataki | 5 |
| Scope Hōkaitanga | 5 |
| Relationship to other published guidance | 6 |
| Analysis Tātari..... | 7 |
| “Item of property” | 7 |
| Identifying the relevant item of property..... | 8 |
| Indicators the item is an item of property | 10 |
| Physical and functional distinctness..... | 10 |
| Functionally complete (to some degree) | 14 |
| Varying the function of something else..... | 16 |
| Indicators the item is not an item of property..... | 17 |
| Degree of physical connection or separateness..... | 17 |
| Is part of an integrated system..... | 19 |
| Is a necessary part of completing some other item..... | 20 |
| Summary of the indicators | 22 |

| | |
|---|----|
| Examples Tauira | 24 |
| References Tohutoro..... | 36 |
| Legislative References Tohutoro whakatureture | 36 |
| Case References Tohutoro kēhi | 36 |
| Other references Tohutoro anō | 36 |
| About this document Mō tēnei tuhinga | 37 |
| Appendix – Legislation Āpititanga – Whakature | 38 |

Summary | Whakarāpopoto

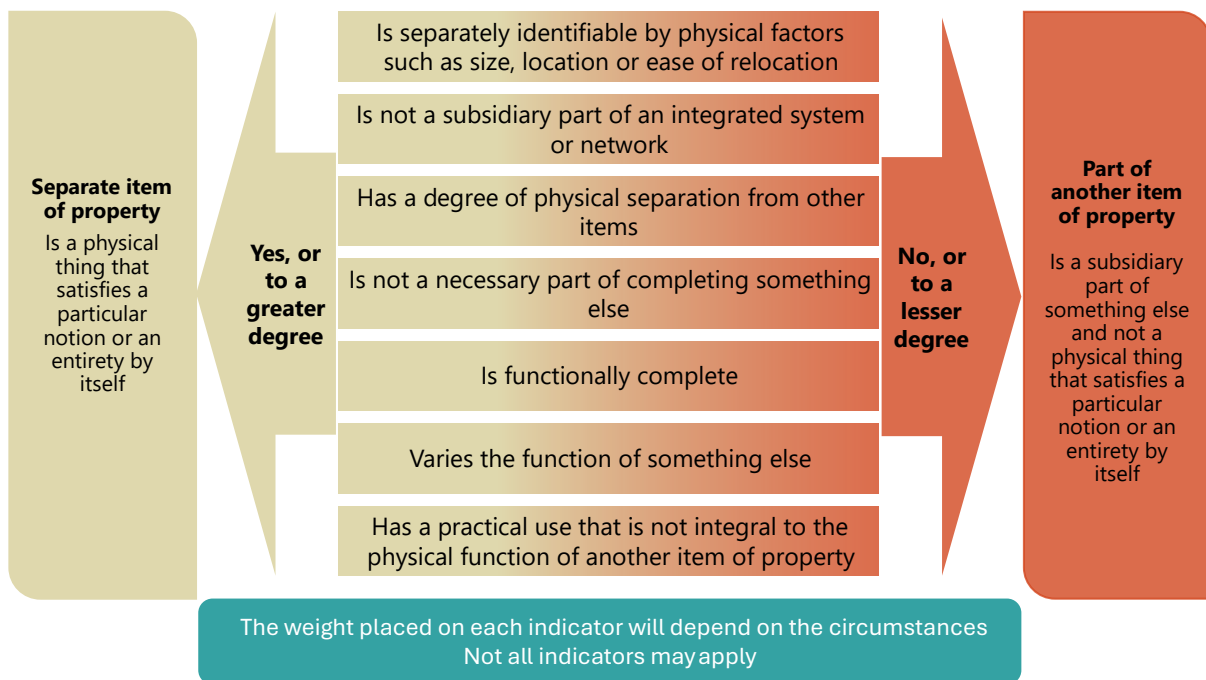
1. This statement considers how to identify an item of property to enable taxpayers to correctly determine the availability of, and amount of, any depreciation loss deductions they may be entitled to claim.
2. The courts have approached this exercise on the basis that the answer is always a question of fact and involves matters of degree and impression. The listing of an item in a table of depreciation rates set by the Commissioner is not by itself determinative of the depreciation treatment of an item because the test will be based on the use of the item in a particular taxpayer's circumstances. This means the same item of property may be treated differently in respect of different taxpayers.
3. The focus is on identifying a physical thing that satisfies a particular notion. That is, something that is an entirety by itself and not a subsidiary part of anything else.
4. The focus is not on the item's operational or economic significance or on finding a profit-earning entity or on abstract concepts separate from the item's physical components.
5. Indicators that the item under consideration **is** an item of property include the following:
 - *The item is physically distinct from a wider asset of which the item might be a part.* Consider whether the item can be separately identified by physical factors (eg, location or size). Determine the item's function (ie, the practical use to which it is put) and consider whether this function is integral to the physical functioning of a wider asset of which the item may be a part. Also relevant is the relative size of the item, whether it can be relocated and the degree of physical attachment between items (ie, whether they can be easily separated or whether this would result in significant damage to either item or both items).
 - *The item is (to some degree) functionally complete.* Functional completeness is about whether the item can function on its own. However, this does not necessarily mean the item needs to be self-contained or used separately.
 - *The item varies the function of another item.* Two items will tend to remain separate items where one item varies the function of another item, enabling it to perform a more specialised function.
6. Indicators the item under consideration **is not** an item of property include the following:
 - *The item has a physical connection with other items.* Where a degree of physical connection exists between the item under consideration and other items this

may indicate the item is not a separate item of property. This may indicate the item is not physically distinct from a wider item.

- *The item is part of an integrated system.* Being physically separate from other items does not necessarily mean the item is a separate item of property where the item is part of an integrated system designed to function as a whole. In that case, the item may lack functional distinctiveness.
- *The item is a necessary part to complete something else.* An item under consideration will tend not to be a separate item of property if it is a necessary part to complete some other item. This relates to the concept of “completeness” and whether the other item would be considered incomplete or unable to function without the item under consideration.

7. These indicators are often the inverse expression of another and can be reduced to the form in Figure | Hoahoa 1.

Figure | Hoahoa 1: Determining whether something is an item of property



Introduction | Whakataki

Scope | Hōkaitanga

8. This interpretation statement provides general guidance for identifying the relevant item of **tangible** property when applying the depreciation rules of the Act.¹
9. The statement does not address how to distinguish expenditure that is capital in nature from that which is revenue in nature. It is assumed that a taxpayer has incurred capital expenditure and is concerned with identifying what the expenditure was for when applying the depreciation rules.
10. In addition to correctly identifying the relevant item of tangible property, other requirements must be met under the Act before a deduction for a depreciation loss will arise. Broadly, these additional requirements are that the:
 - taxpayer owns the item of property;²
 - property is depreciable property;³
 - property is used, or is available for use, to derive assessable income;⁴ and
 - depreciation loss is calculated in the correct manner (ie, using the correct method and rate).⁵

These additional requirements are not discussed in this statement.⁶

11. The statement does not consider any rules that may apply to some items of property that may then affect whether they are treated as part of another item or are able to be depreciated separately. For example, whether an item is part of a commercial fit-out of a building or is part of a network for the distribution or conveying of electricity, gas, water or telecommunications.⁷

¹ This statement does not apply to **intangible** property.

² Sections EE 1(2)(a) and EE 2 to EE 5.

³ Sections EE 1(2)(b) and EE 6 to EE 8.

⁴ Section EE 1(2)(c).

⁵ Sections EE 1(2)(d) and EE 9 to EE 11.

⁶ For more information on the application of the depreciation rules, see Inland Revenue: Te hekenga wāriū - Depreciation ([webpage, Inland Revenue, last updated 26 July 2021](#)).

⁷ See “commercial fit-out”, “utilities distribution asset”, “utilities distribution network” and “utilities distribution network operator” as defined in s YA 1.

Relationship to other published guidance

12. This statement considers the issue of identifying an item of property in general terms. The Commissioner has published specific guidance that should be consulted instead of this statement where identifying the relevant item of property is needed to determine:
 - the deductibility of:
 - certain expenditure related to dairy farming ([IS0025](#));⁸
 - expenditure on residential rental properties to meet the healthy homes standards ([QB 20/01](#));⁹
 - whether the relevant item is a separate item of property or part of a residential rental building ([IS 10/01](#));¹⁰ and
 - what is a “building” for depreciation purposes ([IS 22/04](#)).¹¹
13. There is also guidance on what to do if the relevant item of property has been incorrectly identified and an incorrect depreciation rate has been applied as a result.¹²
14. As discussed from [28], an item of property is a “physical thing which satisfies a particular notion” or an “entirety”. In some cases, the specific guidance listed above has identified the particular notion or entirety that is relevant in the context of that guidance. For example, IS0025 refers to the “extraction of milk” as the particular notion in relation to milking plant. IS 10/01 and QB 20/01 apply where the relevant entirety may be a residential rental property. IS 22/04 applies where the relevant entirety may be a building.
15. Also, in the context of residential rental properties, the specific guidance in IS 10/01 includes a practical test that, although not drawn from (or found in) any specific case, is

⁸ IS0025: Dairy farming – deductibility of certain expenditure *Tax Information Bulletin* Vol 12, No 2 (February 2000): 10.

⁹ QB 20/01: Can owners of existing residential rental properties claim deductions for costs incurred to meet Healthy Homes standards? *Tax Information Bulletin* Vol 32, No 7 (August 2020): 126. Healthy homes standards provide specific and minimum standards for heating, insulation, ventilation, moisture ingress and drainage, and draught stopping in rental properties: Healthy homes (webpage, Tenancy Services, 2024).

¹⁰ IS 10/01: Residential rental properties – depreciation of items of depreciable property *Tax Information Bulletin* Vol 22, No 4 (May 2010): 16.

¹¹ IS 22/04: Claiming depreciation on buildings *Tax Information Bulletin* Vol 34, No 8 (September 2022): 9.

¹² QB 15/03: Income tax – changing to a different depreciation rate for an item of depreciable property *Tax Information Bulletin* Vol 27, No 4 (May 2015): 30.

consistent with the case law and is a useful tool to apply in that context. QB 20/01 also applies the test in the context of residential rental properties.

16. In summary, this statement supplements, but does not replace, the earlier specific guidance. Therefore, the specific guidance should be consulted where it is relevant to the particular notion or entirety involved.
17. Also, the principles that apply to identifying the relevant item of property in the specific guidance and in the general context dealt with in this statement are the same, including where the issue concerns the deductibility of repairs and maintenance expenditure.¹³

Analysis | Tātari

“Item of property”

18. The Act contains rules that permit depreciation loss deductions for assets used or available for use in deriving assessable income or in carrying on a business for the purpose of deriving assessable income.¹⁴ The permitted deductions are based on a proportion of the cost of the asset. The proportion or depreciation rate is fixed by the Commissioner for assets of that type and is based on the asset’s estimated useful life. If there is no appropriate depreciation rate, taxpayers can apply for a provisional rate.¹⁵
19. The term used in the depreciation rules for an asset is an “item of property”.¹⁶ Accordingly, when applying the depreciation rules, it is necessary to determine the relevant item of property to determine the appropriate depreciation rate to apply.
20. The identity of the item of property will determine its cost and whether that cost is below certain thresholds. These thresholds determine such things as whether the item:
 - is an item of low value, meaning its cost can be deducted in full in the year of acquisition; or
 - can be depreciated using the pool method of depreciation.
21. Other income tax matters may also depend on the correct identification of the item of property, including the following:

¹³IS 12/03: Income tax – deductibility of repairs and maintenance expenditure - general principles *Tax Information Bulletin* Vol 24, No 7 (August 2012): 68 at [99].

¹⁴ Subpart EE.

¹⁵ See Depreciation – a guide for business – IR260 (guide, Inland Revenue, April 2023) at p33 – 34.

¹⁶ Section EE 1(2). The term “item of property” is not defined in the Act.

- Whether the expenditure is for a separate item of property or is an improvement of an existing item of depreciable property. While under s EE 37 improvements can be depreciated at a taxpayer's option as if it were a separate item of depreciable property, the applicable depreciation rate is based on the item of depreciable property that is improved.¹⁷
- Whether the cost of the item is such that it qualifies as an item of low value under s EE 38. Subject to certain qualifications, s EE 38 provides a 100% depreciation rate to items of depreciable property costing no more than a certain amount (currently \$1,000).

Identifying the relevant item of property

22. The identity of the relevant item of property may be obvious in many cases but not in others. For example, it may not be obvious where:
- two or more items are acquired or produced together, and the question arises as to whether they are separate items or have combined into a larger item of property;
 - an item acquired or produced relates to existing items of depreciable property, and the question arises as to whether the item is part of the existing item or items; or
 - an existing item has been, arguably, incorrectly identified.
23. In the third case listed, this may be where something has been incorrectly treated as forming part of a larger item of property when it is a separate item of property or where the opposite has occurred.
24. The fact an item has a depreciation rate determined by the Commissioner does not mean such an item is always treated as a separate item of property.¹⁸ Nor is how a person has treated an item for accounting purposes or in a tax fixed asset register necessarily determinative, given the potential for earlier misidentification of the relevant item, as mentioned above. The item of property must be identified first according to the guidance set out in this statement and the other published guidance mentioned in [12]. Then, the depreciation rate is determined by finding in the Commissioner's depreciation determinations the item description that most accurately describes the asset, as identified.¹⁹

¹⁷ See IS 10/01 at [8].

¹⁸ See QB 20/01 at [30] and IS 10/01 at [62].

¹⁹ See QB 15/03 from [13].

25. The object of the exercise considered in this statement is to identify the relevant item of property. It is the same exercise as is conducted in the context of repairs or maintenance where the object is to identify the subject matter of the work completed to determine whether the expenditure incurred carrying out that work is deductible or capitalised to the cost base of the relevant asset.²⁰
26. **The courts have approached this exercise on the basis that the answer is always a question of fact and involves matters of degree and impression.** For example, in *Auckland Trotting Club*,²¹ the Court of Appeal agreed with the views expressed in *Phillips v Whieldon Sanitary Potteries*²² that “there is no one line of approach to the problem that is exclusively correct” and in *Margrett*²³ that the decision is “essentially a question of fact and of degree”.²⁴ In *Hawkes Bay Power*, the High Court stated that the question of what is the entirety was “a matter of degree and of the right conclusion to be drawn from the facts”.²⁵ And, in *Case N8*, the Taxation Review Authority stated “[i]t is a question of fact, degree and impression as to what is included or excluded in an entity”.²⁶
27. Despite this, factors derived from the case law can indicate whether the item under consideration is or is not an item of property.
28. First, the courts have said the focus of the exercise is on identifying:
- a “physical thing which satisfies a particular notion”;²⁷
 - something that is an “entirety by itself” and “not ... a subsidiary part of anything else”;²⁸ and
 - “the totality or entirety of the physical asset”.²⁹

²⁰ This is because the tests are derived from the same case law. This comes about because, historically, the rules for depreciating business assets and for claiming deductions for the cost of repairing and maintaining those same assets, were linked in the income tax legislation (s 108 of the Income Tax Act 1976 and IS 10/01 at [45]).

²¹ *Auckland Trotting Club v CIR* [1968] NZLR 967 (CA).

²² *Phillips v Whieldon Sanitary Potteries Ltd* (1952) TC 213 per Donovan J at 219.

²³ *Margrett v The Lowestoft Water & Gas Co* (1935) 19 TC 481 per Finlay J at 488.

²⁴ *Auckland Trotting Club* at 975 and 976.

²⁵ *Hawkes Bay Power Distribution Ltd v CIR* (1998) 18 NZTC 13,685 (HC) at 13,701.

²⁶ *Case N8* (1991) 13 NZTC 3,052 (TRA) at 3,070.

²⁷ *Lindsay v FCT* (1961) 106 CLR 377 (FCHCA) at 384 adopted in *Auckland Trotting Club* (CA) at 975. See also *Hawkes Bay Power* (HC) at 13,701, *Poverty Bay Electric Power Board v CIR* (1999) 19 NZTC 15,001 (CA) at 15,007 and *CIR v Auckland Gas* (1999) 19 NZTC 15,011 (CA) at 15,019.

²⁸ *Lindsay v FCT* at 385. See also *Hawkes Bay Power* at 13,701.

²⁹ *Auckland Gas* (CA) at 15,019 and *Poverty Bay Electric Power Board* at 15,006.

29. Court decisions also show that the focus is **not** on:
- the operational significance or economic value of the item (including the need for the thing to be used in conjunction with other things or systems to realise that value);³⁰
 - a profit-earning structure or entity;³¹ or
 - abstract concepts separate from the physical components of the item.³²
30. As discussed from [32], the decisions show indicators that suggest whether the item under consideration is or is not the relevant item of property. Due to the courts sometimes expressing the same or similar concept in differing terms, some of the indicators are a subset or an inverse of another. **The weight to be given to each indicator and whether any one indicator is determinative depends on the circumstances.**
31. Some indicators help determine if the item under consideration **is the relevant item of property**. These indicators include where the item is:
- physically and functionally distinct from a wider asset that the item might be part of;
 - functionally complete (to some degree); or
 - varying the function of something else.
32. Some indicators suggest the item under consideration **is not the relevant item of property**. These indicators include where the item:
- has a degree of physical connection with other items;
 - is part of an integrated system; or
 - is a necessary part of completing something else.

Indicators the item is an item of property

Physical and functional distinctness

33. The focus is to identify a “physical thing which satisfies a particular notion” or “an entirety”. It follows that a physical thing or entirety should, in some way or ways, be distinct from other things. The court decisions show that physical and functional

³⁰ *Auckland Gas (CA)* at 15,026.

³¹ *Auckland Gas (CA)* at 15,019.

³² *Auckland Gas Co Ltd v CIR* (2000) 19 NZTC 15,702 (PC) at 15,707 per IS 12/03 at [58].

distinctness is a primary concern in such considerations. Distinctness is discussed in IS 12/03:

11. When considering whether something is a distinct asset it may be helpful to determine whether the thing can be separately identified by physical factors, for example, its location or size (*Lindsay v FCT* (1961) 106 CLR 392 (Full Ct HCA), *Hawkes Bay Power Distribution Ltd v CIR* (1998) 18 NZTC 13,685 (HC), *O'Grady (HM Inspector of Taxes) v Bullcroft Main Collieries Ltd* (1932) 17 TC 93 (KB), *Samuel Jones & Co (Devondale) Ltd v CIR* (1951) 32 TC 513 (IH (1 Div)), *Margrett (HM Inspector of Taxes) v Lowestoft Water and Gas Co* (1935) 19 TC 481 (KB)). Something that is physically divisible and distinct from other things might suggest that it is a single asset (*Case F67* (1983) 6 NZTC 59,897, *O'Grady, Samuel Jones, Margrett*). Also, a physical connection between component parts will often be relevant to finding a single asset (*Auckland Gas* (CA)). Subsidiary parts of an integrated system should be considered part of that system rather than assets in their own right (*Poverty Bay Electric, Hawkes Bay Power*).
 12. Similarly, **determining something's function may also be helpful** when identifying the relevant asset being worked on (*Auckland Gas* (CA), *Poverty Bay Electric, Hawkes Bay Power, Case N8* (1991) 13 NZTC 3,052). **A smaller thing that is integral to a larger asset's ability to physically function is not likely to be the relevant asset** (*Hawkes Bay Power*), while something that is physically capable of separate operation by itself is more likely to be the relevant asset in a repairs and maintenance context (*Poverty Bay Electric, Hawkes Bay Power*).
[Emphasis added]
34. Other physical aspects mentioned in IS0025 include considering the relative size of the item and whether it can be relocated. IS 10/01 considers items that can be relocated within a residential rental building are more likely to be considered separate items of property.³³ IS 10/01 considers it is relevant to consider the degree of physical attachment between items such as whether an item is built-in or attached or connected to a building in such a way the item's removal would be difficult or result in significant damage to the item, the building or both.³⁴
35. QB 20/01 considered determining whether a smaller thing is integral to a larger asset including any legal requirements with a bearing on the larger thing's functionality. The need for a property to include certain things to meet regulations concerning healthy homes so the property fulfilled the notion of a "residential rental property" was considered.³⁵

³³ See IS 10/01 at [68], [202] and [215].

³⁴ See step 3 of the three-step test set out in IS 10/01.

³⁵ See QB 20/01 at [11] – [13].

36. For depreciation purposes, buildings are treated differently from other items of property (eg, claiming a loss on disposal is limited). IS 22/04 considers the appearance and function of a structure are relevant to determining whether the structure is a building for depreciation purposes.³⁶
37. In *Case F67*, in the context of identifying the item of property for repairs and maintenance purposes, Barber DJ considered that a rental property divided into two shops was a single item of property despite this division because the property functioned as one set of premises in terms of title, ownership, insurance and administration of the tenancies.³⁷
38. Since the publication of the earlier items of specific guidance, the Court of Appeal in *Queenstown Airport Corporation Ltd* considered whether runway end safety areas at the Queenstown airport were depreciable property.³⁸ This decision supports the view that an item of property for depreciation purposes is something with a separate function and is physically distinct. To be depreciable, the runway end safety areas had to fall within one of the categories of depreciable land improvement listed in schedule 13 of the Act. The taxpayer argued, among other things, that the runway end safety areas formed part of the wider runway system and fell within the term “airport runway” listed in schedule 13. The court decided that it did not, because the runway end safety areas were functionally and physically distinct from the airport runway. The court said:
- [68] **We do not accept the appellant’s argument that the RESAs [runway end safety areas] are airport runways because they form part of the wider runway system.** Mr Goddard submitted the airport could not lawfully be operated for international flights without the RESAs. He argued accordingly that they were an integral part of the overall runway system. For the Commissioner, Mrs Courtney accepted that RESAs could be regarded as part of the wider runway system but we accept her submission that **the RESAs are functionally and physically distinct from the airport runway** for the reasons we have already set out.
[Emphasis added]
39. The reasons the court had earlier set out for runway end safety areas being functionally and physically distinct were that:
- the runway had a bituminous surface on which aircraft took off and landed, whereas the runway end safety areas were grassed and not used by aircraft except in an emergency;³⁹ and

³⁶ See IS 22/04 at [33].

³⁷ *Case F67* (1983) 6 NZTC 59,897 (TRA).

³⁸ *Queenstown Airport Corporation Ltd v CIR* [2017] NZCA 20.

³⁹ At [50].

- obvious distinctions existed between the runway and runway end safety areas in their usage and maintenance requirements, including that the runway:
 - had annual usage of about 8,000 take-offs and landings, whereas the runway end safety areas had not been used; and
 - was subject to significant loads and had a design life of 5 to 10 years, whereas the runway end safety areas required minimal maintenance and had a design life of 120 years.⁴⁰

40. In an Australian context concerned with a “unit of eligible property”, function was found to be a useful guide. For instance, in *Tully* (FCA), Lockhart J said:⁴¹

Helpful though the dictionaries are they do not provide much practical guidance in determining the meaning of the expression “unit of eligible property” for present purposes. It is true that ultimately the question what constitutes “a unit of eligible property” depends on the facts of the particular case, but some guidance to the Commissioner and taxpayers is called for. In my view, the nearest one can get to enunciating a test of fairly general application is that **it is the function or purpose of the particular item to which one looks to see if it answers the description on the facts of the case of “a unit of eligible property”**. ...

The difficulty of identifying a “unit of property” for the purposes of the Assessment Act is that sometimes an item may be correctly described as a “unit” when it is one of a number of parts which upon assembly perform a subsidiary function.

Sometimes each part may be correctly described as a unit before assembly and at other times after assembly. On other occasions there may not be a unit until a number of parts have been integrated into a complete system.

Then the whole may answer the description of a unit. The possibilities and combinations are numerous. **But purpose or function must generally be a useful guide to the identification of an item as answering the description of a unit of property in particular cases.** [Emphasis added]

41. In *Monier Colourtile* (NSWSC), one issue was whether a two-way radio “system” comprising a base station, mobile receiver transmitters and an executive handset was a “unit of eligible property”.⁴² The taxpayer argued that the components of the two-way radio system were one unit of property because the components were useless without each other. Lee J said that, while that was true in a commercial sense so far as the user was concerned, the test has regard to the unit and its purpose or function. He concluded that the base station and the mobile stations each had a distinct function and were separate units of property.⁴³

⁴⁰ At [57]–[59].

⁴¹ *FCT v Tully Co-operative Sugar Milling Association Ltd* 83 ATC 4,495 (FCA) at 4,504.

⁴² *Monier Colourtile Pty Ltd v FCT* 83 ATC 4,399 (NSWSC).

⁴³ At 4,406–4,407.

The contention advanced on behalf of the company is that all the components of the system constitute one unit of property — or at the very least those in the initial acquisition in February, viz. the base station and the fourteen mobiles. **It is stressed that the base station is useless without one or more mobile stations and vice versa. Whilst it must be acknowledged that this is true in a commercial sense so far as the user is concerned, that forms no basis for a conclusion that the entirety is to be regarded as one unit** for the purposes of sec. 82AB. The test laid down in *Tully Co-operative Sugar Milling Association Ltd. v. F.C. of T.* ... results in the conclusion that **the base station, each mobile station and the handset were separate units of property, within the meaning of the section.** ...

... **The test has regard to the unit and its purpose or function**, without regard to the fact that that function may only become commercially useful or valuable to the holder of the property if some other equipment is also put to use according to its particular function. [Emphasis added]

42. On appeal, the Full Court of the Federal Court of Australia found no reason to disturb Lee J's finding.⁴⁴
43. And, in *Veterinary Medical*, Pincus J said the function identified must be the "external function", which he described as the practical use to which the unit is able to be put in the taxpayer's business:⁴⁵

The test of function is of no use unless one decides what sort of function is relevant. ..., it appears to me that if the function test is to have any sensible use, the function identified must be, so to speak, the external function — **the practical use to which the unit is able to be put in the taxpayer's business.**
[Emphasis added]

Functionally complete (to some degree)

44. Functional completeness is about an item's function and its ability to carry out that function. Functional completeness does not mean the item performs a different function to another item. It is about whether the item can function on its own or is integral to the functioning of a wider asset.
45. IS 10/01, after considering the issue of "completeness" and the decision in *Poverty Bay Electric Power*, concludes:

124. In addition, the court [in *Poverty Bay Electric Power (CA)*] found that a smaller part of the network was not the relevant asset because it was only part of an integrated system incapable of separate operation. This strongly suggests it is relevant that

⁴⁴ *Monier Colourtile Pty Ltd v FCT* 84 ATC 4,846 (FCFCA) at 4,850.

⁴⁵ *FCT v Veterinary Medical and Surgical Supplies Ltd* 88 ATC 4,642 (FCA) at 4,648.

an asset be able to function by itself (ie, it includes all the parts that are necessary for it to function) and, similarly, that subsidiary parts of an “integrated system” should be considered part of that system rather than assets in their own right.

46. And, after then considering *Auckland Gas* (CA), IS 10/01 concludes:

129. It can be seen from this⁴⁶ that Blanchard J focuses on the fact that one item (the low pressure system) is dependent on another for its function — that is, it is unable to function separately. This is a “completeness” test — that is, the relevant item includes all the physical things necessary for it to carry out its function and would be incomplete if one of the items necessary for it to function was not included.

47. Functional completeness is also mentioned in IS 12/03 at [65] where it refers to “a functional unit in its own right” and in IS0025 under the heading “Summary of the key principles taken from these cases”.

48. However, functional completeness, as described in the earlier guidance set out above, does not necessarily mean the relevant item is self-contained or separately used (eg, it may require power from an external source or be a machine in a manufacturing process). This follows from Australian decisions on a “unit of eligible property”. Fitzgerald J in *Tully* (FCA) referred to an item that requires power from an external source or a machine that is incorporated into a manufacturing process but capable of separate function. Fitzgerald J said:⁴⁷

I see no reason to doubt that there is, for present purposes, a unit of property if it is capable of independent existence, **not necessarily self-contained, e.g. it may require power from an external source, not necessarily separately used, e.g. it may be incorporated into an operating system such as a machine or complex of machinery in a manufacturing process, but capable either of separate function, or of function in conjunction with different parts, or in a different context, from its current user.** [Emphasis added]

49. In *Monier Colourtile* (NSWSC), Lee J said the test had regard to the unit and its purpose or function without regard to the fact it may become commercially useful or valuable only if some other equipment were also put to use according to its particular function. By way of example, Lee J referred to a television set and transmitter:⁴⁸

The test has regard to the unit and its purpose or function, without regard to the fact that that function may only become commercially useful or valuable to the holder of the property if some other equipment is also put to use according to its particular function. Such a state of affairs has always been commonplace, and modern technology increases the instances of interaction of

⁴⁶ *Auckland Gas* (CA) per Blanchard J at 15,019 cited in IS 10/01 at [128].

⁴⁷ At 4,506.

⁴⁸ At 4,407.

the functions of diverse pieces of property. **A television set is still a television set although the television station goes off the air. A transmitter remains a transmitter though there be no receiver.** Each can be separately replaced as required and separately paid for. Each can be separately located, remote from each other. [Emphasis added]

Varying the function of something else

50. An item of property that varies the function of another item of property (eg, it enables the other item to be used for a specialised purpose) will tend to remain a separate item of property. Generally, the two things will not combine to form a larger whole.
51. In *Tully* (QSC), Thomas J referred to a separate unit of eligible property could arise where the item varied the performance of something else:⁴⁹

In my opinion a component may be a unit of property for the purposes of sec. 82AB in the context of a manufacturing system, if it can be shown to perform a discrete function, or if it can be shown to vary the performance of that system.

52. And in *Monier Colourtile* (NSWSC), Lee J stated:⁵⁰

A "unit" is, as a matter of ordinary English, an entity, an entire thing in itself, and whether property is such can for the purposes of the Act be ascertained by reference to its capacity to perform a definable, identifiable function. The function test, furthermore, readily accommodates the case where any number of single items, each having a specific purpose, are brought together so as to create an item having its own function. A motor car for instance comprises multifarious parts, each having a specific function, but all in combination produce a readily identifiable unit with its own individual function, viz. a means of carriage of persons, a vehicle. **Such a case is of course always to be distinguished from the mere attachment together of items of property which themselves have a separate independent function.** No new unit of property is then created. ...

The test set out in *Tully*, however, also covers the case where some piece of property on being "attached" to a unit of property which has its own independent function varies the performance of that unit. In that event, the attachment and the original unit do not constitute a further unit of property but each remain as separate units of property. An illustration of this is to be found in *Wangaratta Woollen Mills Ltd. v. F.C. of T. McTiernan J. at ATC p. 4103; C.L.R. p. 13* said:

"Counsel for the Commissioner submitted that a sliver can with piston and spring is a 'unit of property' to which the words 'manufacturing plant' in subsec. (1) apply. He said that a piston and spring without the can were in the nature of spare parts for the 'unit of property', and that it was the policy of the section to encourage manufacturers to buy new plant, rather than to

⁴⁹ *Tully Co-operative Sugar Milling Association Limited v FCT* 82 ATC 4,454 (QSC) at 4,459.

⁵⁰ At 4,405.

patch up the old. In my opinion it is not necessary to embark upon this consideration of policy. Sliver cans are used in the spinning factory for other purposes besides use with spring and piston to hold a sliver. For example they are commonly used to hold fibre bobbins on removal from the machine. **I therefore regard the can as one unit of property, and the spring and piston as another, as an additional attachment to enable the can to be used for a more specialised purpose. It is true that the spring and piston cannot be used without the can, but the same could be said of any attachment for a tractor such as a mower or post hole digger operated from a power take off.** [Emphasis added]

53. Lee J also referred to the Australian Board of Review *Case M98* where a tractor was held to be a separate unit of property from two items of equipment used with it (a carry-all and soil ripper).⁵¹ The tractor was held to have its own independent function – as a tractor. The items of equipment had purposes even though they needed the tractor to pull them. Lee J explained that the items of equipment enabled the tractor to be used for a specialised purpose:⁵²

A similar problem arose in *Case M98*, 80 ATC 689 dealt with by the Board of Review. There the taxpayer, a grazier, claimed an investment allowance with respect to a tractor and two items of equipment used with it, a carry-all which cost \$252 and a soil ripper, which cost \$164. The investment allowance was allowed in respect of the tractor but not in respect of the two items of equipment, each being less than \$500. The Board treated all three items as separate units. The tractor had its own independent function, as a tractor, and the carry-all and the ripper, in order to carry out their purposes, needed the tractor to pull them. The carry-all and the ripper, it could be said, applying the approach made by McTiernan J. in *Wangaratta Woollen Mills Ltd. v. F.C. of T. ...* enabled the tractor to be used for specialised purposes.

Indicators the item is not an item of property

Degree of physical connection or separateness

54. The indicators discussed in this statement can sometimes be seen as the inverse expression of other indicators. For instance, where a degree of physical connection exists with other items, there is, arguably, a lack of physical distinctness or separateness. On the other hand, a degree of physical connection between things does not necessarily make them a single item for depreciation purposes (such as, where the item varies the function of another item, as discussed from [50]). Also, a lack

⁵¹ *Case M98* 80 ATC 689.

⁵² At 4,405.

of physical connection does not necessarily make different items separate items of property (such as, where they are part of an integrated system, as discussed from [59]).

55. However, two Australian decisions, *Veterinary Medical* and *Monier Colourtile* (NSWSC), both concerning a “unit of eligible property”, provide an interesting contrast between situations where the absence or presence of physical connection may have been determinative. *Veterinary Medical* concerned whether a telephone system consisting of a central processing unit and seven physically connected handsets was considered a single unit. Pincus J said that Lee J’s decision in *Monier Colourtile* (NSWSC) (where each component of the two-way radio “system” was considered a separate unit) would suggest the telephone system under consideration in the case should also comprise multiple units of property.
56. However, despite this, Pincus J went on to find that the elements of the telephone system constituted one unit of property. Pincus J accepted the earlier finding in the tribunal that “no part of the system could operate without the integrity of the physical connection between the main equipment and the stations being preserved”.⁵³
57. The fact the elements of the telephone system were physically connected appears to have been a factor in Pincus J’s decision. Pincus J said:⁵⁴

The result of the radio system aspect of the *Monier Colourtile* case is at first sight consistent with the view that such a collection of items as is here in question constitutes as many units as there are items.

However, in *Tully Co-operative Sugar Milling Association Limited v. F.C. of T.* 82 ATC 4454 a conclusion was come to which some may find hard to reconcile with that in the later case. There the “mixed juice pumping station” dealt with by Thomas J. at p. 4457 et seq. consisted of a number of items, ...

...

The degree and permanence of physical connection differ in the cases I have mentioned: presumably it would be easier to disconnect the handsets in issue in this case than to take out the motors in the *Tully* case; **in *Monier Colourtile*, the various elements were not physically connected at all.** That factor appears, in the passages I have quoted above, to have weighed heavily with Lee J., but not necessarily with the Full Court. ...

... I doubt if one can satisfactorily explain the difference between the outcome of the *Tully* case, in so far as it related to the mixed juice pumping station, and the outcome of the *Monier Colourtile* case in so far as it related to the radio communication system, other than by reference to the lack of physical connection in the latter case. ...

⁵³ *Case U132 87 ATC 771 at 773.*

⁵⁴ At 4,648.

... it appears to me that where a system consisting of diverse elements is bought as a system intended to function as a whole and each element interacts with at least one other, one should find unity in the function of the whole system, **at least where the elements are physically connected.** [Emphasis added]

58. The degree of physical connection between items is also discussed in IS 10/01⁵⁵ and in IS 12/03.⁵⁶

Is part of an integrated system

59. A thing that combines with other things to create a larger whole with a unified function will generally be regarded as not having a separate function. The thing will not be functionally distinct.
60. As mentioned in IS 12/03 (see [33]), “subsidiary parts of an integrated system should be considered part of that system rather than assets in their own right”. IS 10/01 also refers to this indicator.⁵⁷ The view is supported by the decisions in *Poverty Bay Electric Power Board*, *Hawkes Bay Power* and *Auckland Gas* (CA).
61. In *Veterinary Medical*, Pincus J concluded that, in addition to being physically connected, the elements of the telephone system constituted one unit of property because they were part of a system intended to function as a whole.⁵⁸

It is preferable to apply the function test here by denying that an individual handset has a separate function for present purposes, and affirming that each element should be treated as part of a system intended to function as a whole. A handset can do nothing by itself.

Entirely separate questions arise where (as in the first branch of the *Monier Colourtile case*) one is dealing with elements which are not permanent parts of the system, or dealing with later additions to an initial installation. Leaving those special cases aside, **it appears to me that where a system consisting of diverse elements is bought as a system intended to function as a whole and each element interacts with at least one other, one should find unity in the function of the whole system, at least where the elements are physically connected.** [Emphasis added]

62. In *Tully* (FCA) Lockhart J said there may not be a unit until a number of parts have been integrated into a complete system (see [40]).

⁵⁵ At [131] and [134] and step 3 of the three-step test set out in that statement.

⁵⁶ At [59] and [85] – [86] (in relation to *Case N8* where items were separate items when the only physical connection between them was electrical wiring) and in the summary at [97].

⁵⁷ See also at [122] – [124] [140] – [141] and [152].

⁵⁸ At 4,648.

63. In *Monier Colourtile* (NSWSC), Lee J said that the “function test” readily accommodated a case where several single items, each having a specific purpose, were brought together to create an item having its own function. By way of example, Lee J referred to the parts of a motor car, each having a specific function, but all in combination producing a readily identifiable unit with its own individual function (see [52]).
64. The fact elements of a system are interchangeable or can be used elsewhere does not stop the whole system being treated as an item of property. In *Veterinary Medical*, Pincus J said as long as the elements interacted with each other, it did not matter that they were interchangeable:⁵⁹

There was debate before me about the interchangeability of elements and the possibility of using some elements elsewhere than in the system in question. Handsets could be taken away, or additional handsets could be incorporated into the system. ...

It does not appear to me, however, that it is consistent with the result arrived at in the *Tully* case to hold that the existence of these possibilities precludes the whole system's being treated as one unit. As long as the elements interact with one another, I do not think it matters whether their interaction is immutable; ...

65. Whether an integrated system exists and the extent to which various items are included in it is a question of fact and degree to be determined on a case-by-case basis. Any single item of property may be made up of interdependent parts, but there is “a danger of distortion if too large or too small a subject matter is identified” as the relevant item of property.⁶⁰
66. Where several items are acquired at the same time this may be indicative of the existence of an integrated system (whether or not they are acquired as part of the same transaction or from the same supplier). However, timing alone is not determinative as items acquired at different times may still be part of an integrated system. Conversely, items may be acquired at the same time but not constitute an integrated system.

Is a necessary part of completing some other item

67. Incompleteness or its converse, completeness, covers a variety of differently expressed factors that cross-over with other indicators discussed above. In IS 10/01 they are discussed as follows:

140. Completeness involves a consideration of whether the item is:

⁵⁹ At 4,648.

⁶⁰ *Poverty Bay Electric Power Board* at 15,006.

- an integral part of the asset (*Auckland Trotting, Hawkes Bay Power*);
- a subsidiary part of something else or can be independently installed without recourse to other items (*Lindsay, Hawkes Bay Power*);
- necessary for the asset to function (*Lindsay, Hawkes Bay Power, Auckland Gas (CA)*);
- capable of separate operation or whether it is part of an integrated system (*Poverty Bay, Auckland Gas (CA)*);
- clearly distinguishable (*Poverty Bay*).

141. It is considered that all of these factors are directed to a similar enquiry. For example, whether an item is an integral part of an asset, is the same question as whether the item is necessary for the asset to function. Whether the item is a subsidiary part of something else is asking the question another way — that is, if it is a whole standalone asset that can function by itself, it is less likely to be a subsidiary part of something else. However, where an item is an integral part of the asset in question, then it will be a subsidiary part of that asset. Similarly, whether the item is capable of separate operation or whether it is part of an integrated system is making the same enquiry.

142. **Consequently, it is considered that all of the above factors can be combined into one enquiry along the lines of: is the item in question part of a larger asset that would be considered incomplete or unable to function without the item in question?** In this regard, if the item is complete and capable of separate operation on its own this will point towards the smaller item not being a necessary part of a larger item. [Emphasis added]

68. In *Tully*, completeness was referred in the following terms:⁶¹

It is not necessary that [a unit of eligible property is] functionally operative though in many circumstances this may be called for. For example, if five parts are installed in an assembly line and all that is needed to render the line operative is a sixth part, but until that part is installed no part may function or operate, the **functional incompleteness does not necessarily deprive each of the five units of its character as “a unit of eligible property” for the purposes of the Assessment Act. It depends on the facts of the case. Yet, at other times a “unit” may not come into being until all the components have been assembled.** For example, a farm fence is made up of a number of posts and rails or wires. It is difficult to conceive of any “unit” coming into being until the fence is erected. [Emphasis added]

⁶¹ At 4,504.

69. In *Monier Colourtile*, the Full Federal Court of Australia cited the passage from *Tully* shown above, and concluded:⁶²

The trial Judge found as a fact that each of the mobile stations was functionally complete in itself and each had a separate independent existence. He noted that it was stressed by the taxpayer that the base station was useless without one or more mobile stations and vice versa. Whilst he acknowledged that this was true in a commercial sense as far as the user was concerned, he regarded this circumstance as no basis for a conclusion that the entirety was to be regarded as one unit for the purposes of sec. 82AB. In his view each was capable of independent operation although such operation was not the operation for which the taxpayer acquired the property.

In our opinion there is no reason to disturb this finding of the trial Judge.
[Emphasis added]

70. Functional completeness is also referred to in IS 22/04 in relation to the characteristics of a "building".⁶³

Summary of the indicators

71. An indicator that the item under consideration **is** an item of property includes where the item is physically and functionally distinct from a wider asset of which the item might be a part. This requires considering whether the item can be separately identified by physical factors (eg, location or size). It also requires determining the item's function (ie, the practical use to which it is put) and considering whether this is integral to the physical functioning of a wider asset of which the item may be part.
72. Other indicators that the item under consideration **is** an item of property include whether the item is (to some degree) functionally complete or where the item varies the function of something else. Functional completeness is about whether the item can function on its own, although this does not necessarily mean the item needs to be self-contained or used separately.
73. Where the item under consideration varies the function of another item it will tend to remain a separate item and the two things are not considered to be combined to form a larger item of property. For example, two items will tend to remain separate items where one item varies the function of another item, enabling it to perform a more specialised function such as a mechanised rear blade attachment for a tractor.

⁶² At 4,849.

⁶³ At [32].

74. Indicators suggesting the item under consideration **is not** an item of property are where the item has a physical connection with other items, is part of an integrated system or is a necessary part to complete something else.
75. Where a degree of physical connection exists between the item under consideration and other items, this may indicate the item is not a separate item of property. This may indicate the item is not physically distinct from a wider item.
76. However, a lack of physical connection does not necessarily mean the item is a separate item of property where the item is part of an integrated system designed to function as a whole. In that case, the item may lack functional distinctiveness.
77. An item under consideration will tend not to be a separate item of property if it is a necessary part to complete some other item. This relates to the concept of completeness and whether the other item would be considered incomplete or unable to function without the item under consideration.
78. Determining the item of property in each case requires considering all the circumstances and weighing up the various indicators. It is always a question of fact and degree.

Examples | Tauria

The following seven examples illustrate how the indicators discussed above help to identify the relevant item of property for depreciation purposes.

Example | Tauria 1: Utility vehicle and trailer



Tow and Mow Services Ltd recently acquired a second-hand utility vehicle and a trailer for its garden maintenance business. Tow and Mow acquired the vehicle and trailer from the same vendor at the same time. It wants to know whether the trailer is a separate item of property or part of the vehicle for depreciation purposes.

The vehicle and trailer are separate items of property for depreciation purposes for the following reasons:

- The trailer has a separate function from the vehicle. The function of the vehicle is primarily to transport people, whereas the trailer transports things.
- The trailer functions to transport things as a supplement to the vehicle where those things could not be suitably transported by the vehicle (eg, large items of equipment, large volumes of raw materials or garden waste). Accordingly, the trailer varies the function of the vehicle, which suggests they are separate items of property despite having, at times, a degree of physical connection.
- The vehicle is functionally complete – it can function without the trailer (ie, the trailer is not required to complete the vehicle). While the trailer cannot transport things unless towed by a vehicle, the trailer is functionally complete in that it includes all that is necessary to fulfil the particular notion of a “trailer”.

- Both the vehicle and the trailer are physically distinct and can be located separately.
- The vehicle and trailer are not parts of an integrated system (either together or together with other items) such as to suggest they are not separate items of property.

While a limited degree of physical connection exists between the vehicle and the trailer, this arises only when the trailer is in use, and they are easily separated without damage to either. This physical connection on its own is not sufficient to prevent the vehicle and the trailer each being considered an entirety and a separate item of property.

Example | Taura 2: Vehicle GPS unit



Jim Fargo owns a courier delivery business. He recently bought a larger vehicle to accommodate increased demand for his services. The vehicle did not come with a factory-fitted global positioning system (GPS), so Jim bought a portable GPS unit.

The GPS unit has the option of being plugged into the vehicle's power supply and can be easily mounted on the dashboard. Jim wants to know whether the GPS unit is a separate item of property or whether it is part of the vehicle.

The delivery vehicle and GPS unit are separate items of property for depreciation purposes for the following reasons:

- The GPS unit has a separate function from the delivery vehicle. The function of the delivery vehicle is to transport people and things whereas the GPS unit provides information to assist with navigation.

- The GPS varies the function of the vehicle. It enables the vehicle to be used more efficiently for a specialised purpose of delivering goods.
- The functional aspects of the items suggest they are separate items of property despite having a degree of physical connection.
- The delivery vehicle is functionally complete – it can function without the GPS unit (ie, the GPS unit is not required to complete the delivery vehicle).
- Although the GPS unit is unable to function without being wired into the vehicle's power supply, this alone does not deprive it of its status as a separate item of property for depreciation purposes. It is functionally complete in that it includes all that is necessary to fulfil the particular notion of a "GPS unit".
- The delivery vehicle and GPS unit are not parts of an integrated system (either together or together with other items) such as to suggest they are not separate items of property.

The delivery vehicle and GPS unit do have a reasonable degree of physical connection, which could suggest they should be treated as a single item. However, the manner of their physical connection is such that they can be physically separated at any time without damage to either item. This factor alone is not determinative, and all other factors must be considered as a whole.

On balance, the vehicle and the GPS unit can each be considered an entirety, and each is a separate item of property.

The conclusion in this example might be different if Jim purchased a GPS unit that needed to be installed into the vehicle for it to function. That is, the GPS unit needed to be hardwired into the vehicle's power supply and permanently affixed into the vehicle's dashboard.

Example | Tauria 3: Desktop computer package



DeskJobs Ltd buys a desktop computer package consisting of a computer (which integrates a monitor, processor and data-storage unit into a single unit) plus a wireless keyboard and mouse.

DeskJobs wants to know whether the computer, keyboard and mouse are separate items of property for depreciation purposes or components of a single item.

The computer, keyboard, and mouse are one item of property for depreciation purposes for the following reasons:

- The function of the desktop computer package is the processing, storing and display of digital content created or accessed or both using the computer, keyboard and mouse together. The desktop computer package is unable to perform its function without the computer, keyboard, and mouse. While this functional completeness might be less evident if the computer had a touchscreen, in many practical applications (including in this example) the touchscreen has not entirely replaced the need for the additional functionality of a keyboard or a mouse or both.

- While each part (the computer, keyboard and mouse) performs a function of its own, these functions are not independent functions but are integral or subsidiary functions in terms of the practical use to which the desktop computer is put (ie, the package's function).
- The computer, keyboard or mouse has no practical purpose or use without the other components.
- While the computer, keyboard and mouse are physically distinct, they are components intended to function together as a single integrated system.
- The fact the computer, keyboard and mouse may each be interchangeable in that they could be used with other compatible items does not prevent them being part of a single item for depreciation purposes.

On these facts, the computer, keyboard and mouse cannot be considered entireties by themselves and separate items of property. Together, they comprise a single item of property.

The cost of any subsequent additions to the computer package (eg, an ergonomic mouse or another screen) are treated as an addition to the cost of the package, rather than as the cost of a separate item of property.

However, if DeskJobs Ltd purchased a wireless-capable multifunctional printer at the same time as the desktop computer package, the printer could be a separate item of property for depreciation purposes for the following reasons:

- The desktop computer package can function without the printer.
- The printer has a separate function of printing, copying and scanning documents. It supplements or varies the function of the desktop computer package.
- The functional aspects of the items suggest the printer is a separate item of property.
- Although the printer is unable to perform its printing function without the desktop computer package, this does not deprive it of its status as a separate item of property for depreciation purposes. It is functionally complete in that it includes all that is necessary to fulfil the particular notion of a "printer".
- The printer is also physically distinct from the desktop computer package. While, because of wireless capabilities, the printer is not unique in this, the same could be said of the components of the desktop computer package. However, the printer is not an essential part of the desktop computer package system in the same way as, say, the wireless mouse.

If the printer has a cost of not more than the threshold set in s EE 38 (currently \$1,000) it may be able to be depreciated at the rate of 100%, provided the other requirements of that section are met.

Example | Taura 4: Network computer system



Furniture Ltd is a nationwide chain of furniture retail stores. It acquires and sets up a new computer system with a central data processing and storage server and a network of remote “thin client” terminals located in its stores throughout Aotearoa New Zealand. The central server receives, processes and displays sales and other data sent to it over the network from the remote terminals. The terminals are simple low performance computers that are designed for remote connection with a server with limited capacity for operating independently of the server.

Furniture Ltd wants to know whether each remote terminal is a separate item of property for depreciation purposes or part of a single item of property being the network computer system.

The central server and the remote terminals are a single item of property for depreciation purposes for the following reasons:

- The function of the central server is to receive, process and display data received from the remote terminals. The central server cannot function without the remote terminals.

- The terminals serve no practical purpose or use without the central server. That is, the terminals are not functionally distinct from each other or the central server.
- While the terminals and central server perform a function of their own, these functions are not independent functions but are integral or subsidiary functions in terms of the practical purpose to which the computer network is put. The central server and remote terminals are integrated into a system that is intended to function together.
- The fact each terminal and the central server may be interchangeable in that they could be used with other compatible items does not prevent them being part of a single item for depreciation purposes.

The terminals and the central server cannot be considered entireties by themselves and separate items of property. Together, they comprise a single item of property.

The conclusion in this example might be different if the terminals were more capable of independent operation from the central server (ie, "thick client" terminals).

Example | Tauria 5: Marine fender system



Port Operator Ltd installed a fender system on a wharf generally used by container ships at the coastal port it operates. The fender system provides a buffer between the wharf and ships to prevent damage to the wharf and ships.

Port Operator installed the fender system because the port needs to cope with larger container ships. The wharf comprises steel piles, concrete beams and a concrete deck. The fender system comprises 29 assemblies spaced along the wharf, generally 5 metres apart. The number and spacing of the assemblies have been determined to ensure the fender system withstands and absorbs the energy generated by large ships. All 29 assemblies are required for the fender system to function.

Each assembly comprises:

- a large conical rubber fender;
- a low-frictional panel that contacts the ship's hull; and
- steel framing and galvanised chains to support the rubber fender and low-frictional panel.

Each assembly is fixed to the wharf with stainless steel bolts.

The fender system is designed for large container or cargo ships. It may not be suitable for differently configured vessels, which are usually required to provide their own fenders.

Port Operator wants to know whether the fender system is a separate item of property from the wharf for depreciation purposes. Both wharves and marine fender systems can be depreciable property, but the latter attracts a higher depreciation rate.

The fender system is a separate item of property for depreciation purposes for the following reasons:

- The fender system and wharf are physically distinct from each other in terms of relative size and ease of relocation (ie, the fender system is capable of being relocated to another wharf).
- The fender system has a separate function from that of the wharf. The function of the fender system is to provide a buffer between large container ships and the wharf. The function of the wharf is to provide a stable and level mooring for all vessels to facilitate the loading and unloading of cargo.
- The wharf is functionally complete – it can still function as a wharf without the fender system. While the fender system cannot function without the wharf it is functionally complete in that it includes all that is necessary to fulfil the particular notion of a “fender system”.

- The separate functions and completeness of the wharf and the fender system suggest they are separate items of property.
- The fender system varies the performance of the wharf. It enables it to be used for a specialised purpose, namely the loading and unloading of container ships. This also suggests they are separate items of property.

A high degree of physical attachment exists between the fenders and wharf. However, having regard to all other relevant facts and circumstances, this does not, of itself, make them one item of property for depreciation purposes.

The fender system and wharf can each be considered an entirety, and each is a separate item of property.

Note that each of the 29 assemblies comprising the fender system is designed to work as part of an integrated system and does not have a discrete function when considered in isolation. Therefore, each assembly is not considered to be a separate item of property.

Example | Taura 6: Drone used in aerial photography business



Photo Ltd recently acquired a remote-control drone for use in its aerial photography business. The drone has a built-in camera that cannot be purchased separately from the drone.

Photo Ltd wants to know whether the camera is a separate item of property for depreciation purposes or part of the drone. It also wants to know whether the drone's

remote-control handset is a separate item of property for depreciation purposes or part of the drone.

On these facts, the built-in camera, drone, and remote-control handset are one item of property for depreciation purposes for the following reasons:

- Neither the built-in camera nor the handset has a practical purpose or use without the drone.
- The camera is unable to function separately from the drone and handset.
- Physically separating the camera from the drone is not possible without damage to both.
- The drone cannot function without the handset.
- The drone with the built-in camera and the handset is an integrated system with the drone, camera and handset all intended to function together.

The lack of physical distinctness in this situation is particularly suggestive of the drone and the camera being (or being part of, with the handset) a single item of property.

If the drone had no built-in camera and had an action camera attached to it instead, the drone and the action camera would be separate items of property for depreciation purposes for the following reasons:

- The drone has a separate function from that of the camera and each is able to fulfil that function without the other. The drone functions as a remotely controlled aircraft. The action camera functions as a photographic device.
- The action camera would vary the performance of the drone. It would enable it to be used for a specialised purpose of taking aerial photographs or videos.
- The drone and the camera are each functionally complete and each separately fulfils the notion of a "drone" and "camera".

While a limited degree of physical connection exists between the drone and the camera this arises only when the drone is in use for aerial photography purposes. They are easily separated without damage to either. This physical connection on its own is not sufficient to prevent the drone and camera each being considered an entirety and each a separate item of property.

Example | Tauria 7: Solid-fill puncture-proof tyres



Contractor Ltd replaced the tyres on its front-end loader with solid-fill puncture-proof tyres. These are tyres that have been injected with a liquid that cures to form a soft rubber core. This eliminates flat tyres and blowouts, and the tyre pressure remains constant for the life of the tyres.

Contractor wants to know whether the solid-fill tyres are separate items of property from the front-end loader for depreciation purposes.

The solid fill tyres and the front-end loader are not separate items of property for depreciation purposes for the following reasons:

- The function of the front-end loader is that of a specialised wheeled vehicle for picking up and moving large quantities of materials, such as earth or sand. The tyres do not perform a different function, and do not vary the function of the loader.
- The front-end loader is unable to function without the tyres, whether treated with solid fill or not. The tyres do not have any practical purpose or use on their own.
- The tyres perform a function that is an integral or subsidiary part of the loader's function.
- The lack of a functional distinction between the loader and the tyres suggests they are not separate items of property.

- The tyres are firmly attached to the wheels and the wheels and loader are physically connected and are part of an integrated system of connected components intended to function together.
- The lack of a physical distinction between the loader and the tyres also suggests they are not separate items of property.

The front-end loader and the solid-fill tyres cannot be considered as entireties and separate items of property. Together, they comprise a single item of property.

The tyres' superior performance over the conventional tyres replaced indicate the tyres are a capital improvement to the front-end loader. These are matters beyond the scope of this statement (see the discussion of s EE 37 (Improvements) in IS 10/01).

Draft items produced by the Tax Counsel Office represent the preliminary, though considered, views of the Commissioner of Inland Revenue.

In draft form these items may not be relied on by taxation officers, taxpayers, or practitioners. Only finalised items represent authoritative statements by Inland Revenue of its stance on the particular issues covered.

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki
public.consultation@ird.govt.nz

References | Tohutoro

Legislative References | Tohutoro whakatureture

Income Tax Act 1976, s 108

Income Tax Act 2007, subpart EE (specifically, ss EE 1(2), EE 2 to EE 5, EE 6 to EE 11, EE 37, EE 38), s YA 1 ("commercial fit-out", "utilities distribution asset", "utilities distribution network", "utilities distribution network operator"), schedule 13.

Case References | Tohutoro kēhi

Auckland Gas Co Ltd v CIR (2000) 19 NZTC 15,702 (PC)

Auckland Trotting Club v CIR [1968] NZLR 967 (CA)

Case F67 (1983) 6 NZTC 59,897 (TRA)

Case M98 80 ATC 689

Case N8 (1991) 13 NZTC 3,052 (TRA)

Case U132 87 ATC 771

CIR v Auckland Gas Co Ltd (1999) 19 NZTC 15,011 (CA)

FCT v Tully Co-operative Sugar Milling Association Ltd 83 ATC 4,495 (FCA)

FCT v Veterinary Medical and Surgical Supplies Ltd 88 ATC 4,642 (FCA)

Hawkes Bay Power Distribution Ltd v CIR (1998) 18 NZTC 13,685 (HC)

Lindsay v FCT (1961) 106 CLR 377 (FCHCA)

Margrett v The Lowestoft Water & Gas Co (1935) 19 TC 481

Monier Colourtile Pty Ltd v FCT 83 ATC 4,399 (NSWSC)

Monier Colourtile Pty Ltd v FCT 84 ATC 4,846 (FCFCA)

Phillips v Whieldon Sanitary Potteries Ltd (1952) TC 213

Poverty Bay Electric Power Board v CIR (1999) 19 NZTC 15,001 (CA)

Queenstown Airport Corporation Ltd v CIR [2017] NZCA 20

Tully Co-operative Sugar Milling Association Limited v FCT 82 ATC 4,454 (QSC)

Other references | Tohutoro anō

Depreciation: A guide for business – IR260 (guide, Inland Revenue, April 2023)
ird.govt.nz/IR260

Healthy homes (webpage, Tenancy Services, 2024)
www.tenancy.govt.nz/healthy-homes

IS 10/01: Residential rental properties – depreciation of items of depreciable property *Tax Information Bulletin* Vol 22, No 4 (May 2010): 16

www.taxtechnical.ird.govt.nz/interpretation-statements/is1001-residential-rental-properties-depreciation-of-items-of-depreciable-property

IS 12/03: Income tax – deductibility of repairs and maintenance expenditure – general principles *Tax Information Bulletin* Vol 24, No 7 (August 2012): 68

www.taxtechnical.ird.govt.nz/interpretation-statements/is-1203-income-tax-deductibility-of-repairs-and-maintenance-expenditure-general-principles

IS 22/04: Claiming depreciation on buildings *Tax Information Bulletin* Vol 34, No 8 (September 2022): 9

www.taxtechnical.ird.govt.nz/interpretation-statements/2022/is-22-04

IS0025: Dairy farming – deductibility of certain expenditure *Tax Information Bulletin* Vol 12, No 2 (February 2000): 10

www.taxtechnical.ird.govt.nz/interpretation-statements/is0025-dairy-farming-deductibility-of-certain-expenditure

QB 15/03: Income tax – changing to a different depreciation rate for an item of depreciable property *Tax Information Bulletin* Vol 27, No 4 (May 2015): 30

www.taxtechnical.ird.govt.nz/questions-we-ve-been-asked/2015/qb-1503-income-tax-changing-to-a-different-depreciation-rate-for-an-item-of-depreciable-property

QB 20/01: Can owners of existing residential rental properties claim deductions for costs incurred to meet Healthy Homes standards? *Tax Information Bulletin* Vol 32, No 7 (August 2020): 126.

www.taxtechnical.ird.govt.nz/questions-we-ve-been-asked/2020/qb-20-01

Te hekenga wāriu: Depreciation (webpage, Inland Revenue, last updated 5 October 2023)

www.ird.govt.nz/income-tax/income-tax-for-businesses-and-organisations/types-of-business-expenses/depreciation

About this document | Mō tēnei tuhinga

Interpretation statements are issued by the Tax Counsel Office. They set out the Commissioner's view of the taxation laws for specific situations when a binding public ruling is not appropriate.

Appendix – Legislation | Āpitianga – Whakature

EE 1 What this subpart does

...

When amount of depreciation loss arises

- (2) A person has an amount of **depreciation loss** for an item for an income year if—
- (a) the person owns an item of property, as described in sections EE 2 to EE 5; and
 - (b) the item is depreciable property, as described in sections EE 6 to EE 8; and
 - (c) the item is used, or is available for use, by the person in the income year; and
 - (d) the amount of depreciation loss is calculated for the person, the item, and the income year under sections EE 9 to EE 11.

...

EE 6 What is depreciable property?

Description

- (1) Depreciable property is property that, in normal circumstances, might reasonably be expected to decline in value while it is used or available for use—
- (a) in deriving assessable income; or
 - (b) in carrying on a business for the purpose of deriving assessable income; or
 - (c) in deriving exempt income, and it is used in performing research and development activities.

Subsections (2) to (4) expand on this subsection.

Property: tangible

- (2) An item of tangible property is depreciable property if—
- (a) it is described by subsection (1); and
 - (b) it is not described by section EE 7.

Property: utilities distribution assets

- (2B) For the purposes of this subpart, utilities distribution assets are separate items of property.

Property: intangible

- (3) An item of intangible property is depreciable property if—
- (a) it is within the definition of depreciable intangible property; and
 - (b) it is described by subsection (1); and
 - (c) it is not described by section EE 7.

Property: geothermal wells

- (4) For the purposes of this subpart, a person who owns a geothermal well is, for the geothermal energy proving period, treated as acquiring the well as property that declines in value and is to be available for use in carrying on a business for the purpose of deriving assessable income.

EE 7 What is not depreciable property?

The following property is not **depreciable property**:

- (a) Land other than depreciable intangible property, although buildings, fixtures, and the improvements listed in schedule 13 (Depreciable land improvements) are depreciable property if they are described by section EE 6(1):
 - (ab) a lease of land with a perpetual right of renewal:
 - (b) trading stock:
 - (c) livestock to which subpar EC (Valuation of livestock) applies:
 - (d) financial arrangements:
 - (e) excepted financial arrangements other than depreciable intangible property:
 - (f) property that will not decline in value, as far as its owner is concerned, because, when they dispose of it, they have a right to be compensated for any decline in its value:
- (fb) property that is a piece of an item of depreciable property that is an aircraft or an aircraft engine, if the expenditure on the piece is treated under section DW 5(8) (Aircraft operators: aircraft engines and aircraft engine overhauls) as being expenditure incurred in carrying out an aircraft engine overhaul:
- (fc) a utilities distribution network, to the extent to which it is treated as an item of property separate from the relevant utilities distribution assets:
- (g) property that its owner chooses, under section EE 8, to treat as not depreciable:
- (h) property that its owner chooses, under section EE 38, to deal with under that section:
- (i) property for whose cost a person other than the property's owner is allowed a deduction:
- (j) property for whose cost a person is allowed a deduction under a provision of this Act outside this subpart or under a provision of an earlier Act.