

New Legislation for Claiming Depreciation on Investment Properties has now been passed

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[Investment Property Legislation, Investment Property Depreciation 2017, Changes To Investment Property Depreciation, Division 40 Ruling, Depreciating Plant And Equipment Ruling 2017](#)
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On the 15th November 2017, Senate passed the anticipated legislation that limits the ability of investors to claim depreciation on second hand assets acquired in investment properties purchased after May 9, 2017.

Whilst there are no surprises in the legislation that has finally passed, we are now in a position to be able to report definitively on the actual changes.

[Again, a reminder of who is affected by this amendment to legislation...](#)

Investors who have purchased an established (not brand new) residential investment property after 7.30pm, Tuesday 9th May 2017 are most likely affected by this change. Purchase being an exchange of contracts.

There is no change for...

- Investors claiming, or entitled to claim depreciation for an investment property they already own, or exchanged upon prior to 7.30pm, Tuesday 9th May 2017;
- Investors who purchase a newly-built investment property as the first owner;
- Investors who have engaged a builder to build their new investment property;
- Investors who move out of their principal place of residence, and convert it to an investment property prior to 1st July, 2017;
- Investors who purchase an established property and replace the acquired assets with new assets they purchase themselves (eg. renovate and replace old assets with new assets);
- Investors who own only commercial investment properties;
- Investors whose property is owned within a corporate tax entity, super fund (not including self managed super funds) or a managed investment trust or public unit trust;
- Investors who have purchased a property that has undergone such substantial renovations that it qualifies as 'new residential premises' in accordance with Section 40-75 of the GST Act – [see our further article here for more details about claiming depreciation on renovated properties.](#)

All of these investors will continue to claim depreciation for both Division 43 (Building) and Division 40 (Plant and Equipment assets) as they have previously. If these investors don't already have a depreciation schedule for their existing investment property, a schedule for these properties will still be prepared in accordance with the legislation that was in place when they purchased their property.

What is 'Plant and Equipment' or Division 40 assets?

Plant and equipment items are the assets within an investment property that are generally considered 'easily removable' or mechanical in nature (not structural). Examples of typical plant and equipment items include carpet, blinds, kitchen appliances, light shades, security systems, elevators, air conditioners, hot

water systems etc. These assets have individual values and effective lives and are one of 2 types of depreciation claimable by investor's, and form one component of an investors depreciation schedule.

How have these assets been treated to date?

Since the mid 80's an investor who purchased an established residential investment property (including it's second-hand plant and equipment assets), could claim for depreciation of those assets (including when depreciation may have been claimed by a previous owner as well). Assets could be assigned new residual values and new effective lives each time a property changed hands, and be depreciated by the new investor accordingly. For example, if an investor purchased a unit in a 5 year old apartment complex with an elevator (effective life of 30 years), this investor could still claim their share of the depreciation value of that lift over the remainder of it's 25 year effective life. The investor would claim depreciation on the lift going forward, as well as on all of the other plant and equipment items they acquired as part of the purchase of the unit.

What has changed with this amendment to the legislation?

Going forward, plant and equipment assets acquired when a property is purchased by a subsequent owner no longer qualify as depreciable assets for the new owner. Continuing the example above, the new owner is not entitled to claim any share of the depreciation value of the lift, or any other plant and equipment assets that were acquired as part of the purchase of the unit.

What about capital allowances/building write-off/Division 43 deductions?

All investors are still able to claim for the depreciation of qualifying built/constructed components of their investment properties.

Often referred to as capital allowance, building write off or Division 43 deductions. These could include:

- Original qualifying works;
- Kitchen upgrades;

- Bathroom works;
- Electrical and Plumbing works.

Buildings are written down at 2.5% per annum over a 40 year effective life. All investors remain eligible to claim for these deductions regardless of when they purchase their property.

The starting value for depreciation purposes is the construction cost of the building at the time it was built. For established properties, the construction cost (minus the value of the plant and equipment items) will need to be established in order to depreciate it accurately. Quantity surveyors are one of the few professions recognised by the ATO to estimate construction costs for new and previously constructed buildings.

Do affected investors no longer need a schedule for second hand Division 40 plant and equipment assets?

Second hand Division 40 plant and equipment assets are still eligible to be claimed, but not in the same way they were previously. The depreciation of these assets can now be deducted as an expense when calculating the capital gain of a property at sale, for tax purposes (CGT - Capital Gains Tax).

Effectively, claiming depreciation on these assets has simply been moved to the end of the ownership period rather than being claimable during ownership.

Tax Depreciation Schedules for affected properties are now more complex than they were previously. A schedule for an established property, should now include these components:

- Division 43 Capital Works that are qualifying:
 - the structural elements that are depreciated over 40 years
- Division 40 Plant and Equipment Assets (brand new) that have been added to the property by the investor:
 - these are depreciated annually whilst the property is held
- Division 40 Plant and Equipment Assets that were acquired second hand as part of the purchase:
 - these can be deducted as an expense for CGT purposes when selling the property

So which investors still need/benefit from a depreciation schedule?

In our team's experience (20 years producing depreciation schedules), the majority of properties we assess would still benefit from a depreciation schedule prepared by a quantity surveyor. The reasons being that most of the properties assessed are either:

- Brand new;
- Have undergone capital improvements/additions during the qualifying period that remain depreciable;
- Include new replacement plant and equipment items purchased by current owners.

Additionally, whilst investors purchasing second-hand property can no longer claim depreciation on the existing plant and equipment, they will be able to deduct that depreciation from the sale price at the time of sale, reducing capital gains tax.

No investor needs to miss out unnecessarily

Cash flow is critical for every property investor and nobody wants to leave their money on the table. For investors or advisers who don't feel certain about the depreciation benefits claimable for an investment property we urge you to contact our expert team. We can conduct a free desk-top assessment of your property and provide a professional and reliable estimate of the deductions claimable, allowing you to make a fully informed decision about the value of a depreciation schedule for your circumstances.

Contact our team today on 1300 922 220 or [request an estimate online here](#).



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