

restricted to the fair proportional part of the amount that would be allowed if the intangible asset were wholly used to derive business income included in gross income.

(5) If an intangible asset is not used for the whole of the tax year in deriving business income included in gross income, the amortisation deduction for the year is computed according to the following formula –

$$A \times B/C$$

where –

- A** is the amortisation deduction computed under subsection (2) or (4), as the case may be;
- B** is the number of days in the tax year the intangible asset is used or available for use in deriving business income included in gross income; and
- C** is the number of days in the tax year.

(6) The total amortisation deductions allowed to a person under this section in the current tax year and all previous tax years in respect of an intangible asset shall not exceed the cost of the intangible asset.

(7) If a person disposes of an intangible asset in a tax year, there is no amortisation deduction for that year and –

- (a) if the consideration received by the person exceeds the written down value of the intangible asset at the time of disposal, the excess is business income included in the gross income of the person for that year; or
- (b) if the consideration received is less than the written down value of the intangible asset at the time of disposal, the difference is allowed as a deduction in computing the person's chargeable income for that year.

(8) For the purposes of subsection (7), the written down value of an intangible asset at the time of disposal-

- (a) is the cost of the intangible property reduced by the total amortisation deductions allowed to the person under this section in respect of the intangible property, or
- (b) is, if the intangible asset is not wholly used to derive business income included in gross income, the amount that would be allowed under this section if

the intangible asset were wholly so used.

(9) In this section -

"cost" means –

(a) in relation to an intangible asset referred to in paragraph (a) or (b) of the definition of "intangible asset", the total expenditure incurred in acquiring, creating, improving, and renewing the intangible asset; or

(b) in relation to an intangible asset referred to in paragraph (c) of the definition of "intangible asset", the amount of the expenditure; and

"intangible asset" means –

(a) a patent, an invention, a design or model, secret formula or process, trademark, copyright, or any other like property or right;

(b) a contractual right with a benefit for a period of more than one year; or

(c) an expenditure that provides an advantage or benefit for a period of more than one year, other than expenditure incurred to acquire a depreciable asset or unimproved land.

39. Pre-commencement expenditure

(1) A person is allowed a deduction for pre-commencement expenditure in the tax year in which the expenditure is incurred and in the following three tax years.

(2) The amount of the deduction allowed in each tax year is twenty-five *per cent* of the expenditure.

(3) In this section, "pre-commencement expenditure" means any expenditure incurred before the commencement of a business if the income to be derived by the business will be wholly and exclusively included in gross income-

- (a) including the cost of feasibility studies, construction of prototypes, and trial production activities; but
- (b) excluding any expenditure incurred in acquiring land, a depreciable asset to which section 36 applies, and an intangible asset to which section 38 applies.