



Taxation Determination

Income tax: capital gains: is there roll-over under section 126-5 or 126-15 of the *Income Tax Assessment Act 1997* if a CGT event happens because of a court order under the *Family Law Act 1975* made by consent?

Preamble

*This Taxation Determination is a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and is legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is legally binding on the Commissioner.*

Date of effect

This Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. Yes. An order made by consent is a 'court order' in terms of paragraphs 126-5(1)(a) and 126-15(1)(a) of the *Income Tax Assessment Act 1997* (ITAA 1997). If a CGT event happens because of a consent order under the *Family Law Act 1975*, there is roll-over under section 126-5 or 126-15 of the ITAA 1997.

Commissioner of Taxation

3 November 1999

Previous draft:

Previously issued in draft form as TD 1999/D73

Subject references:

CGT event; consent order; court order; roll-over

Legislative references:

ITAA 1997 126-5; ITAA 1997 126-5(1)(a); ITAA 1997 126-15; ITAA 1997 126-15(1)(a); FLA

ATO references:

NO 99/19509-6

BO CGT marriage breakdown summit 1999

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