



Taxation Determination

Income tax: capital gains: does the expression ‘a court order’ in sections 126-5 and 126-15 of the *Income Tax Assessment Act 1997* encompass an original order and any later order made by a court varying or cancelling an earlier order of the court?

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. The expression ‘a court order’ in paragraphs 126-5(1)(a), 126-5(1)(c), 126-15(1)(a) and 126-15(1)(c) of the *Income Tax Assessment Act 1997* is not restricted to an original order made by a court. It extends to any later order made by the court varying or cancelling an earlier order of the court.

Commissioner of Taxation

3 November 1999

Previous draft:

Previously issued in draft form as TD 1999/D76

Subject references:

court order

Legislative references:

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

ATO references:

NO 99/19509-6

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