



Taxation Determination

Income tax: capital gains: for the purposes of Subdivision 124-B of the *Income Tax Assessment Act 1997*, can you purchase a replacement CGT asset before an Australian government agency has given you a formal notice of intention to compulsorily acquire a CGT asset?

Preamble

*The number, subject heading, date of effect and paragraphs 1 to 3 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally binding.*

Date of Effect

This Taxation Determination applies to years commencing both before and after its date of issue. However, it 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. Paragraph 124-70(1)(c) of the *Income Tax Assessment Act 1997* does not require that you purchase a replacement CGT asset after you receive the notice. It requires that you dispose of the original asset to an Australian government agency after the notice was served on you.
2. The timing requirements for roll-over under Subdivision 124-B are set out in subsection 124-75(3). They do not require that a notice be received before any acquisition of the replacement CGT asset. Under paragraph 124-75(3)(a), you can incur expenditure in acquiring a replacement CGT asset no earlier than one year before the original asset was compulsorily acquired (or within such further time as the Commissioner allows in special circumstances).
3. In this Taxation Determination a 'replacement CGT asset' is another CGT asset you incur expenditure in acquiring if you receive money for one of the roll-over events in subsection 124-70(1) happening to a CGT asset: see section 124-75.

Previous draft:

Previously issued as TD 1999/D54

Related Rulings/Determinations:

TD 2000/36; TD 2000/38; TD 2000/39; TD 2000/40; TD 2000/41; TD 2000/42; TD 2000/43;
TD 2000/44; TD 2000/45

Subject references:

- asset
- Australian government agency
- capital gain
- CGT asset
- compulsory acquisition
- replacement CGT asset
- roll-over

Legislative references:

- ITAA 1997 Subdivision 124-B
 - ITAA 1997 124-70(1)
 - ITAA 1997 124-70(1)(c)
 - ITAA 1997 124-75
 - ITAA 1997 124-75(3)
 - ITAA 1997 124-75(3)(a)
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ATO references:

NO 99/108592

BO

FOI No.: I 1022870

ISSN: 1038-8982