



Taxation Determination

Income tax: capital gains: what does the word ‘incur’ in subsection 124-75(2) of the *Income Tax Assessment Act 1997* mean?

Preamble

*The number, subject heading, date of effect and paragraphs 1 and 2 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. The word ‘incur’ in the context of subsection 124-75(2) of the *Income Tax Assessment Act 1997* means, in relation to expenditure in acquiring a CGT asset, that you:
 - (a) outlay expenditure; or
 - (b) have definitively committed yourself, or have completely subjected yourself, to a presently existing liability to outlay the expenditure.

Note:

2. The word ‘incur’ has the same meaning in subsection 124-75(2) as it has in its context in the general deduction provision in subsection 8-1(1).

Commissioner of Taxation

13 September 2000

Previous draft:

Previously issued as TD 1999/D56

Related Rulings/Determinations:

TD 2000/36; TD 2000/37; TD 2000/38; TD 2000/40; TD 2000/41; TD 2000/42; TD 2000/43;
TD 2000/44; TD 2000/45

Subject references:

- acquisition
- asset
- CGT asset
- expenditure
- incur
- incurred

Legislative references:

- ITAA 1997 8-1(1)
 - ITAA 1997 124-75(2)
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ATO references:

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