



TD 13W - Capital Gains: Is there a change in ownership when property held in joint tenancy is converted into a tenancy in common?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *27 March 2013*



Notice of Withdrawal

Taxation Determination

Capital gains: is there a change in ownership when property held in joint tenancy is converted into a tenancy in common?

CGT Determination 13 is withdrawn with effect from today.

1. CGT Determination 13 explains that a conversion from a joint tenancy into a tenancy in common in equal shares does not amount to a disposal for the purposes of section 160M of the *Income Tax Assessment Act 1936* (ITAA 1936) provided there is no change in beneficial ownership. It also points out that the capital gains tax provisions apply as if joint tenants owned the relevant property as tenants in common in equal shares – see paragraph 160ZN(1)(a) of the ITAA 1936.
2. Subsection 160M(1) and subsection 160M(1A) of the ITAA 1936 were rewritten as subsection 104-10(2) of the *Income Tax Assessment Act 1997* (ITAA 1997) with effect from 22 June 1998, and paragraph 160ZN(1)(a) of the ITAA 1936 was rewritten as section 108-7 of the ITAA 1997 with effect from 22 June 1998. The two provisions of the ITAA 1936 were then repealed by the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* (Act No. 101 of 2006) with effect from 14 September 2006.
3. The rewritten provisions of the ITAA 1997 are clear and unambiguous and do not effect a change in the operation of the repealed provisions in the ITAA 1936. There is no interpretative issue in CGT Determination 13 within the meaning of paragraph 2 of PS LA 2003/3 and it was published in 1992 and does not constitute a Public Ruling. As CGT Determination 13 is no longer current and is unnecessary, it is withdrawn and will not be replaced.

Commissioner of Taxation

27 March 2013

ATO references

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