

TD 35W - Capital gains: what is meant by the term 'renewal of a statutory licence' in section 160ZZPE?

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Notice of Withdrawal

Taxation Determination

Capital gains: what is meant by the term 'renewal of a statutory licence' in section 160ZZPE?

CGT Determination Number 35 is withdrawn with effect from today.

1. CGT Determination Number 35 (TD 35) clarified that the term 'renewal of a statutory licence' as used in former section 160ZZPE of the *Income Tax Assessment Act 1936* (ITAA 1936) meant that there would be capital gains tax (CGT) rollover if the replacement licence was granted with terms and conditions not substantially different to those contained in the original licence and the underlying activity authorised by the licence has not changed.
2. Section 160ZZPE of the ITAA 1936 was rewritten as Subdivision 124-C of the *Income Tax Assessment Act 1997*. Subsequent amendments to Subdivision 124-C by *Taxation Laws Amendment (2007 Measures No. 5) Act 2007* with effect from the 2006-07 income year changed the conditions for CGT rollover. Consequently, the meaning of the term 'renewal of a statutory licence' is no longer relevant.
3. Accordingly, TD 35 has no future application and is therefore withdrawn.

Commissioner of Taxation

15 October 2008

ATO references

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