

TD 37 - Capital Gains: When does the grant of a new statutory licence to which section 160ZZPE applies constitute the acquisition of a separate asset?

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 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

CGT Cell Determinations do not have the force of law, but can be relied upon as being the considered view of the ATO. Unless otherwise stated, the view expressed may be applied to transactions entered into both before and after the date of issue of the Determination.

CGT Determination Number 37

Capital Gains: When does the grant of a new statutory licence to which section 160ZZPE applies constitute the acquisition of a separate asset?

Determination

1. When a statutory licence which was acquired pre-CGT is renewed or extended and roll-over relief is available under section 160ZZPE, any capital improvement to that asset could be regarded as a separate asset if section 160P(6A) applies.
2. A capital improvement could be taken to have been made to the asset if the fresh licence contains terms and conditions which make the fresh licence more valuable, for example, by conferring on the holder additional rights to those conferred by the original licence.
3. The capital improvement will be treated as a separate asset acquired after 19 September 1985 if its indexed cost base at the time of its disposal exceeds \$78,160 (in 1991/92, indexed in later years) and 5% of the consideration received on disposal (section 160P(6A)).

Note: This determination should be read in conjunction with CGT 35 and CGT 36.

Example:

A radio broadcaster acquired an original broadcasting licence in 1984. In 1989, the licence was renewed and qualified for roll-over relief under section 160ZZPE.

The fresh licence provided for one additional frequency to be employed. Roll-over relief is available because the new term is not substantially different to that of the original licence. An extra \$100,000 was paid in addition to the usual licence fee to secure the additional frequency. In 1991, the broadcasting licence was sold for \$2,000,000.

The new rights constitute a capital improvement to the pre-CGT licence and will be treated as a separate post-CGT asset on the disposal of the broadcasting licence.

COMMISSIONER OF TAXATION

19 December 1991

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