



TD 37W - 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 document has changed over time. This is a consolidated version of the ruling which was published on *12 May 2010*



Notice of Withdrawal

Taxation Determination

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

CGT Determination Number 37 is withdrawn with effect from today.

1. CGT Determination Number 37 (TD 37) states that if there is an extension or renewal of a statutory licence that was acquired pre-CGT and rollover relief is available, any capital improvement to that asset may be regarded as a separate asset. It explains that a capital improvement is taken to have been made to the asset if the fresh licence contains terms and conditions which make it more valuable.
2. TD 37 was issued prior to 1 July 1992 and is therefore not a public ruling for the purposes of Division 358 of the *Taxation Administration Act 1953*. It referred to provisions that were repealed by *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* with effect from 14 September 2006.
3. TD 37 involves a straight forward application of the law. Subdivision 124-C of the *Income Tax Assessment Act 1997* (ITAA 1997) deals with statutory licences where it provides there is a rollover if the conditions in subsection 124-140(1) of the ITAA 1997 are satisfied. Subdivision 108-D of the ITAA 1997 contains rules about when a capital improvement to a CGT asset is treated as a separate CGT asset. Capital improvement to a CGT asset that is a statutory licence for which a rollover may be available is dealt with in section 108-75 of the ITAA 1997.
4. As TD 37 is not interpretative in nature, this Determination is not considered necessary and is withdrawn.

Commissioner of Taxation

12 May 2010

ATO references

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ATOlaw topic: Income Tax ~~ Capital Gains Tax ~~ CGT events C1 to C3 – end of a CGT asset