


TD 1999/D60 - Income tax: capital gains: if a CGT asset is owned by partners in partnership, how do the replacement asset tests in Subdivision 124-B of the Income Tax Assessment Act 1997 apply?

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This document has been finalised by TD 2000/43.

Draft Taxation Determination

Income tax: capital gains: if a CGT asset is owned by partners in partnership, how do the replacement asset tests in Subdivision 124-B of the *Income Tax Assessment Act 1997* apply?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs should not be relied on; only final Taxation Determinations represent authoritative statements by the ATO.

1. The replacement asset tests apply at the partner level and not at the level of the partnership.
2. An interest in an asset of a partnership is itself a CGT asset as defined in section 108-5 of the *Income Tax Assessment Act 1997*: see paragraph 108-5(2)(c). Each individual partner's interest in each asset of the partnership is the relevant CGT asset for a roll-over under Subdivision 124-B. A partner's interest in each partnership asset, for instance, may be compulsorily acquired by an Australian government agency in terms of paragraph 124-70(1)(a).
3. Each individual partner needs to satisfy the tests for their particular interest in each partnership CGT asset to qualify for a roll-over under Subdivision 124-B.

Your comments

We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments by Date:	1 September 1999
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Commissioner of Taxation

4 August 1999

Subject references:

Asset; CGT asset; interests; interests in partnership assets; partners; partnership; replacement asset; roll-over

Legislative references:

ITAA 1997 108-5, 108-5(2)(c), 124-70(1)(a)

ITAA 1997 Subdivision 124-B

ATO references:

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