


IT 2539 - Income tax: capital gains provisions: antiques

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TAXATION RULING NO. IT 2539

INCOME TAX: CAPITAL GAINS PROVISIONS: ANTIQUES

F.O.I. EMBARGO: May be released

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CAPITAL GAINS
- ANTIQUES

160B

PREAMBLE

Part IIIA of the Income Tax Assessment Act (the Act) imposes tax on any real gain made on the disposal of an asset which was acquired on or after 20 September 1985. However, particular rules apply to a special class of assets known as personal-use assets.

2. Personal-use assets are those that are kept primarily for the use and personal enjoyment of a person or his or her associates. Furniture and household goods are examples of personal use assets. An asset of this kind that is sold for \$5000 or less is excluded from the usual rules that apply in respect of the disposal of assets unless it is within a category of personal-use assets defined as "listed personal-use" assets.

3. A listed personal-use asset is an asset that has an acquisition cost exceeding \$100 and includes such items as paintings, drawings, sculpture, jewellery, postage stamps, coins and antiques. With one exception, the normal rules for calculating liability to taxation upon the disposal of assets also apply in respect of listed personal-use assets. The exception relates to a capital loss incurred on the disposal of a listed personal-use asset. Such a loss can only be offset against gains made in the same or later years on the disposal of other listed personal-use assets.

4. This Ruling considers whether an asset constitutes an antique for the purposes of the definition of listed personal-use asset in subsection 160B(2) of the Act.

RULING

5. The word "antique" is not defined in the Act. Accordingly, whether an asset constitutes an antique for the purposes of the Act is to be determined according to ordinary concepts and usages. It is generally recognised that an antique is an object of artistic and historical significance that is of an age exceeding 100 years. This description is accepted and used for Sales Tax and Customs Tariff purposes. It is considered appropriate for the purposes of the Income Tax Assessment Act.

6. It follows that an item of property may have some of the characteristics of an antique but may not be more than 100 years

old at the time of its disposal. It is accepted that such an item is not antique within the meaning of subsection 160B(2) of the Act. On the other hand, where an item has all the characteristics of an antique at the time of its disposal, it will be treated as a listed personal-use asset even though it did not meet the above description at its date of acquisition.

COMMISSIONER OF TAXATION

15 June 1989