



TD 2000/4W - Income tax: capital gains: if a genuine prospector sells shares received as proceeds from the sale of rights to mine: is any ordinary income derived from the sale of the shares exempt under section 330-60 of the Income Tax Assessment Act 1997 ; or is any capital gain (or capital loss) made on the sale of the shares disregarded under section 118-45?

 This cover sheet is provided for information only. It does not form part of *TD 2000/4W - Income tax: capital gains: if a genuine prospector sells shares received as proceeds from the sale of rights to mine: is any ordinary income derived from the sale of the shares exempt under section 330-60 of the Income Tax Assessment Act 1997 ; or is any capital gain (or capital loss) made on the sale of the shares disregarded under section 118-45?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *2 March 2005*



Notice of Withdrawal

Taxation Determination

Income tax: capital gains: if a genuine prospector sells shares received as proceeds from the sale of rights to mine:

- is any ordinary income derived from the sale of the shares exempt under section 330-60 of the *Income Tax Assessment Act 1997*; or
- is any capital gain (or capital loss) made on the sale of the shares disregarded under section 118-45?

Taxation Determination TD 2000/4 is withdrawn with effect from today.

1. Taxation Determination TD 2000/4, which issued on 19 January 2000, states that if a genuine prospector sells shares received as proceeds from the sale of rights to mine, any ordinary income derived is not exempt under section 330-60 of the *Income Tax Assessment Act 1997* (ITAA 1997) as that section does not exempt ordinary income derived from the sale of shares. Any capital gain (or capital loss) made is not disregarded under section 118-45 of the ITAA 1997 as that section does not apply to the sale of shares and there is no income exempt under section 330-60.

2. Section 330-60 of the ITAA 1997 provided that ordinary income derived by a genuine prospector from the sale, transfer or assignment of their rights to mine gold or certain minerals or ores was exempt. Section 118-45 of the ITAA 1997 disregarded a capital gain (or capital loss) made from the sale, transfer or assignment of rights to mine if the prospector had income for the income year from the sale, transfer or assignment which was exempt because of section 330-60.

3. Division 330 of the ITAA 1997 was repealed with effect from 1 July 2001. The rules in former Division 330 of the ITAA 1997 were effectively replaced with the uniform capital allowance regime contained in Division 40 of the ITAA 1997. Under section 40-825 of the *Income Tax (Transitional Provisions) Act 1997*, the exemption under former section 330-60 only applies to ordinary income derived before 20 August 2001.

TD 2000/4

4. Under Division 40 of the ITAA 1997, there is no equivalent provision to former section 330-60 of the ITAA 1997.
5. As the exemption of income provided by section 330-60 of the ITAA 1997 is no longer available Taxation Determination TD 2000/4 has no further application and is withdrawn.

Commissioner of Taxation
2 March 2005

ATO references
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