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## Addendum

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### Taxation Determination

Income tax: consolidation: capital gains: does the determination of a capital gain or loss under section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* require a full reconstruction of the allocable cost amount in relation to the relevant liability?

This Addendum amends Taxation Determination TD 2004/67 to take into account the changes introduced by Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*.

**TD 2004/67 is amended as follows:**

**1. Heading and paragraph 1**

Omit all occurrences of 'gain or'.

**2. Paragraph 4**

Omit the last two sentences; substitute:

A capital loss will arise if the ACA would have been greater had the realised amount been taken into account in working it out.

**3. Paragraph 6**

Omit the last two sentences; substitute:

An example is where the realised amount is more than the amount of the liability reflected in the original ACA and there would have been a decrease in the tax payable because of a decrease in the taxable income arising from an increase in the liability. In this case, the reconstructed step 2 amount should reflect the realised amount of the liability and a reduction in the liability to income tax.

# TD 2004/67

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## 4. Paragraphs 7 and 8

Omit all occurrences of 'gain or'.

## 5. Paragraph 10 and heading

Omit the paragraph and heading.

## 6. Paragraph 11

Omit 'years commencing both before and after its date of issue'; substitute 'a capital loss under CGT event L7 that arises on or after 1 July 2002 and before 10 February 2010.'.

This Addendum applies on and after 1 July 2002, the date of application of the amendments to the *Income Tax Assessment Act 1997* made by Part 12 of Schedule 5 to *Tax Laws Amendment (2010 Measures No. 1) Act 2010*. The effect of the amendments is that TD 2004/67 will only apply where a capital loss arises under CGT event L7 before 10 February 2010.

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**Commissioner of Taxation**

22 June 2011

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### ATO references

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