

TD 2006/71A - Addendum - Income tax: capital gains: small business concessions: is the part of a payment which is a small business 50% reduction amount a non-assessable part under CGT event E4 in section 104-70 of the Income Tax Assessment Act 1997?

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Addendum

Taxation Determination

Income tax: capital gains: small business concessions: is the part of a payment which is a small business 50% reduction amount a non-assessable part under CGT event E4 in section 104-70 of the *Income Tax Assessment Act 1997*?

This Addendum amends Taxation Determination TD 2006/71 in minor respects to reflect amendments to the law that replaced the 50% controlling individual test with the 20% significant individual test and modified the basic conditions.

For CGT events happening in the 2006-07 income year or later income years:

- *Tax Laws Amendment (2006 Measures No. 7) Act 2007* replaced the 50% controlling individual test with a 20% significant individual test (sections 152-50 to 152-75 of the *Income Tax Assessment Act 1997* (ITAA 1997) and modified the additional basic conditions in subsection 152-10(2) of the ITAA 1997.

TD 2006/71 is amended as follows:

1. Paragraph 2

Omit 'controlling individuals'; substitute 'significant individuals'.

2. Paragraph 4

Insert after the paragraph:

Note 1

4A. The amendments applied to this consolidated Determination apply to CGT events happening in the 2006-07 income year or later income years.

3. Paragraph 9

Omit the paragraph (including note); substitute:

9. The small business 50% reduction may apply to the CGT event E4 capital gain if the basic conditions in Subdivision 152-A are satisfied. In particular, paragraph 152-10(1)(a) is satisfied as CGT event E4 happens in relation to the unit in the trust. The maximum net asset value test, the active asset test (incorporating the 80% test) and the additional basic conditions (concession stakeholder tests) in subsection 152-10(2) must also be satisfied.

Note 2

9A. CGT event E4 does not happen to payments made to certain beneficiaries: see Taxation Determination TD 2003/28.

4. Paragraph 10

Omit the heading; substitute:

Note 3

Commissioner of Taxation

29 October 2008

ATO references

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ATOlaw topic: Income Tax ~ Capital Gains Tax ~ small business relief - 50% reduction

Income Tax ~ Capital Gains Tax ~ CGT events E1 to E9 - trusts

Income Tax ~ Capital Gains Tax ~ discount capital gains