


***TD 2006/78A2 - Addendum - Income tax: capital gains: are there any circumstances in which the premises used in a business of providing accommodation for reward may satisfy the active asset test in section 152-35 of the Income Tax Assessment Act 1997 notwithstanding the exclusion in paragraph 152-40(4)(e) of the Income Tax Assessment Act 1997 for assets whose main use is to derive rent?***

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## Addendum

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### Taxation Determination

Income tax: capital gains: are there any circumstances in which the premises used in a business of providing accommodation for reward may satisfy the active asset test in section 152-35 of the *Income Tax Assessment Act 1997* notwithstanding the exclusion in paragraph 152-40(4)(e) of the *Income Tax Assessment Act 1997* for assets whose main use is to derive rent?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 2006/78 to reflect changes in the law as set out below.

#### For CGT events happening in the 2007-08 or later income years

*Taxation Laws Amendment (Small Business) Act 2007* has replaced the term 'small business CGT affiliate' with 'affiliate', as well as changing its meaning in some respects and moving the definition from section 152-25 of the *Income Tax Assessment Act 1997* (ITAA 1997) to section 328-130 of the ITAA 1997.

#### TD 2006/78 is amended as follows:

##### 1. Paragraph 17A

Omit the paragraph; substitute:

17A. The amendments applied to this consolidated Determination apply to CGT events happening in the 2007-08 income year or later income years.

# TD 2006/78

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## 2. Paragraph 19

- (a) In the first dot point omit 'a small business CGT affiliate of yours'; substitute 'your affiliate';
- (b) In the second dot point omit 'your small business CGT affiliate'; substitute 'your affiliate'.

This Addendum applies to CGT events happening in the 2007-08 income year or later income years.

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**Commissioner of Taxation**

18 December 2012

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### ATO references

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Income Tax ~ Capital Gains Tax ~ small business relief - basic conditions for relief