TR 1999/16A - Addendum - Income tax: capital gains: goodwill of a business

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Addendum

Income tax: capital gains: goodwill of a business

1. This addendum updates Taxation Ruling TR 1999/16 for CGT events happening after 11.45 am, by legal time in the Australian Capital Territory (ACT), on 21 September 1999 ('the start time') to reflect the repeal of the goodwill partial exemption previously contained in Subdivision 118-C (about goodwill) of the *Income Tax Assessment Act 1997* and the enactment of Division 152 (about small business relief).

2. The views expressed in TR 1999/16 in relation to goodwill in the context of the former Subdivision 118-C apply, adapted as necessary, in relation to goodwill in the context of Division 152. In particular, references in TR 1999/16 to section 118-250 should be read bearing in mind that that section has been repealed and has been replaced, for CGT events happening after the start time, with the small business 50% active asset reduction in Subdivision 152-C.

3. A capital gain attributable to goodwill may now qualify for the small business CGT concessions in Division 152, including the small business 50% active asset reduction in Subdivision 152-C. For these concessions to apply, for example, to enable a small business entity to reduce a capital gain, a basic condition is that a CGT event must happen in relation to a CGT asset of the entity that is an active asset. By paragraph 152-40(1)(b) the goodwill of a business is an active asset because it is an intangible asset that is inherently connected with that business.

4. A capital gain attributable to goodwill may also qualify for the CGT discount in Division 115 for a CGT event that happens after the start time if the capital gain is made by an eligible entity and satisfies all of the other conditions in that Division.

5. It should also be noted that Subdivision 118-F (the small business retirement exemption) and Division 123 (the small business roll-over), which are referred to in paragraph (3)(c) and the table in paragraph (6) in TR 1999/16, have also been repealed and those concessions have been re-enacted in Subdivisions 152-D and 152-E respectively.

Note:

6. This addendum is incorporated into, and is to be read as one with, TR 1999/16. This addendum is a 'public ruling' for the purposes of Part IVAAA of the *Taxation Administration Act 1953* and is legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.

Commissioner of Taxation
28 November 2001

ATO references:
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