TD 34W - Capital gains: what is meant by the term 'statutory licence' in section 160ZZPE?

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Australian Government
Australian Taxation Office

Notice of Withdrawal

Taxation Determination

Capital gains: what is meant by the term 'statutory licence' in section 160ZZPE?

CGT Determination Number 34 is withdrawn with effect from today.

1.   CGT Determination Number 34 (TD 34) discussed the meaning of the term 'statutory licence' in section 160ZZPE of the *Income Tax Assessment Act 1936* (ITAA 1936). The term was defined in subsection 160ZZPE(4) of the ITAA 1936. The Determination provided examples of the type of licences granted by government bodies as part of the management of certain industries which would fall under that definition.

2.   Section 160ZZPE of the ITAA 1936 was rewritten as Subdivision 124-C of the *Income Tax Assessment Act 1997* (ITAA 1997). Relevantly, subsection 124-140(3) of the ITAA 1997 provides for a definition of the term 'statutory licence'. Subsequent amendments to Subdivision 124-C of the ITAA 1997 by *Taxation Laws Amendment (2007 Measures No. 5) Act 2007* with effect from the 2006-07 income year did not change the definition of 'statutory licence'.

3.   As the term 'statutory licence' is defined in the ITAA 1997, section 160ZZPE of the ITAA 1936 has been repealed by *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* with effect from 14 September 2006. As TD 34 is not interpretative in nature, it is considered that this Determination is no longer required.

4.   Accordingly, TD 34 is therefore withdrawn.

Commissioner of Taxation
19 November 2008