

TD 1999/D54 - Income tax: capital gains: for the purposes of Subdivision 124-B of the Income Tax Assessment Act 1997, can you purchase a replacement asset before an Australian government agency has given you a formal notice of intention to compulsorily acquire a CGT asset?

 This cover sheet is provided for information only. It does not form part of *TD 1999/D54 - Income tax: capital gains: for the purposes of Subdivision 124-B of the Income Tax Assessment Act 1997, can you purchase a replacement asset before an Australian government agency has given you a formal notice of intention to compulsorily acquire a CGT asset?*

This document has been finalised by TD 2000/37.

Draft Taxation Determination

Income tax: capital gains: for the purposes of Subdivision 124-B of the *Income Tax Assessment Act 1997*, can you purchase a replacement asset before an Australian government agency has given you a formal notice of intention to compulsorily acquire a CGT asset?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs should not be relied on; only final Taxation Determinations represent authoritative statements by the ATO.

1. Yes. Paragraph 124-70(1)(c) of the *Income Tax Assessment Act 1997* does not require that you purchase a replacement CGT asset after you receive the notice. It requires that you dispose of the original asset to an Australian government agency after the notice was served on you.
2. The timing requirements for roll-over under Subdivision 124-B are set out in subsection 124-75(3). They do not require that a notice be received before any acquisition of the replacement asset. Under paragraph 124-75(3)(a), you can incur expenditure in acquiring a replacement asset no earlier than one year before the original asset was compulsorily acquired (or within such further time as the Commissioner allows in special circumstances).

Your comments

We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

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Commissioner of Taxation

4 August 1999

Subject references:

Asset; Australian government agency; capital gain; CGT asset; compulsory acquisition; replacement asset; roll-over

Legislative references:

ITAA 1997 124-70(1)(c), 124-75(3)(a)
ITAA 1997 Subdivision 124-B

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