


***TD 1999/D73 - Income tax: capital gains: is there roll-over under section 126-5 or 126-15 of the Income Tax Assessment Act 1997 if a CGT event happens because of a court order under the Family Law Act 1975 made by consent?***

 This cover sheet is provided for information only. It does not form part of *TD 1999/D73 - Income tax: capital gains: is there roll-over under section 126-5 or 126-15 of the Income Tax Assessment Act 1997 if a CGT event happens because of a court order under the Family Law Act 1975 made by consent?*

This document has been finalised by TD 1999/47.



Draft Taxation Determination  
**TD 1999/D73**

FOI status: draft only - for comment

Page 1 of 2

---

## Draft Taxation Determination

---

**Income tax: capital gains: is there roll-over under section 126-5 or 126-15 of the *Income Tax Assessment Act 1997* if a CGT event happens because of a court order under the *Family Law Act 1975* made by consent?**

### Preamble

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

1. Yes. An order made by consent is a 'court order' in terms of paragraphs 126-5(1)(a) and 126-15(1)(a) of the *Income Tax Assessment Act 1997* (ITAA 1997). If a CGT event happens because of a consent order under the *Family Law Act 1975*, there is roll-over under section 126-5 or 126-15 of the ITAA 1997.

### Your comments

2. 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.

Comments by date:	15 September 1999
Contact officer:	Brian Hayes
E-mail address:	BrianL.Hayes@ato.gov.au
Telephone:	(07) 3213 5898
Facsimile:	(07) 3213 5030
Address:	Australian Taxation Office 140 Creek Street BRISBANE QLD 4000.

### Commissioner of Taxation

18 August 1999

---

*Subject references:*

CGT event; consent order; court order; roll-over

# TD 1999/D73

---

Page 2 of 2

FOI status: draft only - for comment

---

*Legislative references:*

ITAA 1997 126-5; ITAA 1997 126-5(1)(a); ITAA 1997 126-15; ITAA 1997 126-15(1)(a)  
FLA 1975

---

ATO references:

NO 99/19509-6  
BO CGT marriage breakdown summit 1999  
ISSN: 1038 - 8982