


TD 1999/D86 - Income tax: capital gains: if the requirements of section 126-5 or 126-15 of the Income Tax Assessment Act 1997 are satisfied, is the marriage breakdown roll-over provided by the section automatic?

 This cover sheet is provided for information only. It does not form part of *TD 1999/D86 - Income tax: capital gains: if the requirements of section 126-5 or 126-15 of the Income Tax Assessment Act 1997 are satisfied, is the marriage breakdown roll-over provided by the section automatic?*

This document has been finalised by TD 1999/60.

Draft Taxation Determination

Income tax: capital gains: if the requirements of section 126-5 or 126-15 of the *Income Tax Assessment Act 1997* are satisfied, is the marriage breakdown roll-over provided by the section automatic?

Preamble

Draft Taxation Determinations (DTDs) 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. Both sections 126-5 and 126-15 of the *Income Tax Assessment Act 1997* apply automatically once their requirements are satisfied. The provisions are clearly expressed in this respect and contain no scope for any election to be made. Parties to a marriage breakdown cannot agree not to apply the provisions if the requirements have been satisfied.

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:

election; marriage breakdown; spouse; roll-over

TD 1999/D86

Legislative references:

ITAA 1997 126-5; ITAA 1997 126-15

ATO references:

NO 99/19509-6

BO CGT marriage breakdown summit 1999

ISSN: 1038 - 8982