

# ***PR 2014/13A1 - Addendum - Income tax: CommInsure Protection - Split TPD Cover***

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## Addendum

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### Product Ruling

### Income tax: CommInsure Protection – Split TPD Cover

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Product Ruling PR 2014/13 to incorporate amendments to Division 118 of the *Income Tax Assessment Act 1997* in respect of compensation and insurance policy receipts.

#### **PR 2014/13 is amended as follows:**

##### **1. Subparagraph 16(b)**

Insert after the subparagraph:

- (ba) Any capital gain or capital loss made by a complying superannuation fund (including a SMSF that is a complying superannuation fund) resulting from the payment of the proceeds of a claim to them under a Split Super Policy is disregarded under section 118-300.

##### **2. Paragraph 47**

Insert after the paragraph:

#### ***Capital gain or loss from payments disregarded***

47A. Under subsection 108-5(1) a CGT asset is any kind of property or a legal or equitable right that is not property. The contractual rights of the policy owner under a Split Super Policy to which Split TPD Cover applies are legally enforceable rights and therefore a CGT asset according to the definition in subsection 108-5(1).

47B. Where CMLA makes a payment of the Split TPD Cover Benefit or death benefit, as relevant, in satisfaction of the policy owner's contractual rights under the Split Super Policy, their ownership of those rights is discharged or satisfied. The discharge or satisfaction of the contractual rights gives rise to CGT event C2 (paragraph 104-25(1)(b)).

47C. The policy owner makes a capital gain from this CGT event if their capital proceeds from the ending of the ownership of their asset are more than the asset's cost base or a capital loss if those capital proceeds are less than the asset's reduced cost base (subsection 104-25(3)).

47D. Item 7 of the table in subsection 118-300(1) provides that a capital gain or capital loss made from a CGT event happening in relation to a CGT asset that is an interest in rights under a policy of insurance against an individual suffering an illness or injury (such as a total and permanent disability) is disregarded where that CGT event happens to the trustee of a complying superannuation entity for the income year in which the CGT event happened.

47E. The trustee of the Colonial Super Retirement Fund (as policy owner of a Total Care Plan Super policy) and the trustee of a SMSF which is a complying superannuation fund (as policy owner of a SMSF Plan policy) are trustees of a complying superannuation entity. Such policy owners of a Split Super Policy will therefore be entitled under item 7 in the table in subsection 118-300(1) to disregard any capital gain or capital loss they make under section 104-25 from the receipt of the Split TPD Cover Benefit or death benefit from CMLA, as appropriate under the circumstances discussed at paragraph 41 of this Product Ruling.

### 3. Paragraph 60

Omit the first sentence.

### 4. Paragraphs 64 and 66

Omit 'paragraph 118-37(1)(b)'; substitute 'subparagraph 118-37(1)(a)(ii)'.

### 5. Appendix 2 – Detailed contents list

Insert:

<i>Capital gain or loss from payments disregarded</i>	47A
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### 6. Legislative references

Omit:

- ITAA 1997 118-37(1)(b)

Substitute:

- ITAA 1997 118-37(1)(a)(ii)

This Addendum applies on and from 1 July 2014.

ATO references

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