


***TD 2006/68A1 - Addendum - Income tax: capital gains: small business concessions: can trustees or members of a complying superannuation fund 'control' the superannuation fund in the way described in section 328-125 of the Income Tax Assessment Act 1997?***

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## Addendum

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### Taxation Determination

Income tax: capital gains: small business  
concessions: can trustees or members of a complying  
superannuation fund 'control' the superannuation fund  
in the way described in section 152-30 of the *Income  
Tax Assessment Act 1997*?

This Addendum amends Taxation Determination TD 2006/68 to reflect changes in the law as set out below.

For CGT events happening in the 2007-08 income year or later income years *Tax Laws Amendment (Small Business) Act 2007*:

- moved the control/connected entity provisions contained in section 152-30 of the *Income Tax Assessment Act 1997* (ITAA 1997) to section 328-125 of the ITAA 1997; and
- replaced the term 'small business CGT affiliate' with 'affiliate', moved its definition from section 152-25 of the ITAA 1997 to section 328-130 of the ITAA 1997 and changed its meaning in some respects.

#### **TD 2006/68 is amended as follows:**

##### **1. Title and Paragraphs 1, 5 and 13**

Omit all occurrences of 'section 152-30'; substitute 'section 328-125'.

##### **2. Paragraph 8**

- (a) Omit 'subsection 152-30(1)'; substitute 'subsection 328-125(1)'.
- (b) Omit 'section 152-30'; substitute 'section 328-125 of the ITAA 1997'.

##### **3. Paragraph 9**

- (a) Omit 'paragraph 152-30(2)(a)'; substitute 'paragraph 328-125(2)(a)'.
- (b) Omit 'small business CGT'.

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## 4. Paragraph 10

- (a) Omit 'paragraph 152-30(2)(a)'; substitute 'paragraph 328-125(2)(a)'.
- (b) Omit 'paragraph 152-30(1)(a)'; substitute 'paragraph 328-125(1)(a)'.

## 5. Paragraph 11

Omit 'paragraph 152-30(1)(b)'; substitute 'paragraph 328-125(1)(b)'.

## 6. Paragraph 12

- (a) Omit 'small business CGT'.
- (b) Omit 'paragraph 152-25(1)(b); substitute 'subsection 328-130(1)'.
- (c) Omit 'TD 2006/D34'; substitute 'TD 2006/79'.
- (d) Omit 'subsection 152-30(2)'; substitute 'subsection 328-125(2)'.
- (e) Omit 'paragraph 152-30(1)(a)'; substitute 'paragraph 328-125(1)(a)'.

## 7. Related Rulings/Determinations

Omit 'TD 2006/D34'; substitute 'TD 2006/79'.

## 8. Legislative references

Omit all legislative references; substitute:

- ITAA 1997 152-15
- ITAA 1997 152-35
- ITAA 1997 328-125
- ITAA 1997 328-125(1)
- ITAA 1997 328-125(1)(a)
- ITAA 1997 328-125(1)(b)
- ITAA 1997 328-125(2)
- ITAA 1997 328-125(2)(a)
- ITAA 1997 328-130
- TAA 1953

This Addendum applies to CGT events happening in the 2007-08 income year or later income years.

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**Commissioner of Taxation**

19 December 2012

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ATO references

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ATOlaw topic: Income Tax ~~ Capital Gains Tax ~~ small business relief - basic conditions for relief  
Income Tax ~~ Capital Gains Tax ~~ small business relief - 'active asset test'  
Income Tax ~~ Capital Gains Tax ~~ small business relief - 'maximum net asset value test'