

***TD 2006/70W - Income tax: capital gains: is a bank account or cash on hand included in the numerator of the '80% test' calculation in paragraph 152-40(3)(b) of the Income Tax Assessment Act 1997?***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *29 October 2008*



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## Notice of Withdrawal

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### Taxation Determination

Income tax: capital gains: is a bank account or cash on hand included in the numerator of the '80% test' calculation in paragraph 152-40(3)(b) of the *Income Tax Assessment Act 1997*?

Taxation Determination TD 2006/70 is withdrawn with effect from today.

1. Taxation Determination TD 2006/70 states that bank accounts and cash on hand are not included in the numerator of the '80% test' calculation (unless subparagraph 152-40(3)(b)(ii) of the *Income Tax Assessment Act 1997* (ITAA 1997) is satisfied) because they are not active assets. The '80% test' is used to determine whether the underlying interests in a company or trust are active assets. If the total of the market values of the active assets of the company or trust and certain capital proceeds received from CGT events happening to active assets held pending the acquisition of new active assets is 80% or more of the market value of all the assets of the company or trust, the underlying interests are active assets.
2. For CGT events happening in the 2006-07 income year or later income years, subparagraph 152-40(3)(b)(ii) of the ITAA 1997 has been repealed by *Tax Laws Amendment (2006 Measures No. 7) Act 2007* and new subparagraphs 152-40(3)(b)(ii) and (iii) of the ITAA 1997 inserted. The new subparagraphs include the market value of any financial instruments (including bank accounts) of the company or trust that are inherently connected with a business that the company or trust carries on and any cash of the company or trust that is inherently connected with such a business in the numerator of the '80 test'. The repealed subparagraph 152-40(3)(b)(ii) of the ITAA 1997, which included certain capital proceeds in the '80% test', is no longer necessary because the new inclusions for cash and financial instruments covers such capital proceeds.
3. Accordingly, the views expressed in TD 2006/70 do not reflect the law for CGT events that happen in the 2006-07 or later income years. TD 2006/70 is therefore withdrawn.

# TD 2006/70

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## Commissioner of Taxation

29 October 2008

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### ATO references

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