


TD 2006/78A2 - Addendum - Income tax: capital gains: are there any circumstances in which the premises used in a business of providing accommodation for reward may satisfy the active asset test in section 152-35 of the Income Tax Assessment Act 1997 notwithstanding the exclusion in paragraph 152-40(4)(e) of the Income Tax Assessment Act 1997 for assets whose main use is to derive rent?

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Addendum

Taxation Determination

Income tax: capital gains: are there any circumstances in which the premises used in a business of providing accommodation for reward may satisfy the active asset test in section 152-35 of the *Income Tax Assessment Act 1997* notwithstanding the exclusion in paragraph 152-40(4)(e) of the *Income Tax Assessment Act 1997* for assets whose main use is to derive rent?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 2006/78 to reflect changes in the law as set out below.

For CGT events happening in the 2007-08 or later income years

Taxation Laws Amendment (Small Business) Act 2007 has replaced the term 'small business CGT affiliate' with 'affiliate', as well as changing its meaning in some respects and moving the definition from section 152-25 of the *Income Tax Assessment Act 1997* (ITAA 1997) to section 328-130 of the ITAA 1997.

TD 2006/78 is amended as follows:

1. Paragraph 17A

Omit the paragraph; substitute:

17A. The amendments applied to this consolidated Determination apply to CGT events happening in the 2007-08 income year or later income years.

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2. Paragraph 19

- (a) In the first dot point omit 'a small business CGT affiliate of yours'; substitute 'your affiliate';
- (b) In the second dot point omit 'your small business CGT affiliate'; substitute 'your affiliate'.

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

Commissioner of Taxation

18 December 2012

ATO references

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Income Tax ~~ Capital Gains Tax ~~ small business relief - basic conditions for relief