

# ***TD 92/195 - Income tax: can the making of a gift under the Taxation Incentives for the Arts Scheme create or increase a carry-forward loss?***

 This cover sheet is provided for information only. It does not form part of *TD 92/195 - Income tax: can the making of a gift under the Taxation Incentives for the Arts Scheme create or increase a carry-forward loss?*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

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## Taxation Determination

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### **Income tax: can the making of a gift under the Taxation Incentives for the Arts Scheme create or increase a carry-forward loss?**

1. No. Section 79C of the *Income Tax Assessment Act 1936* (*the Act*) provides that the making of any gift under section 78 of the Act - which includes a gift made under the Taxation Incentives for the Arts Scheme - can neither create nor increase a loss for carrying forward to a subsequent income tax year.

*Example:*

*Z has assessable income of \$30,000 during a particular year of income. During the same year Z donated a painting valued at \$35,000 to a public art gallery under the Taxation Incentives for the Arts Scheme. The painting was from Z's private collection and did not form part of Z's trading stock. Z had no other deductible expenses for that year of income.*

*Z's taxable income for the particular year of income would be reduced to nil. The unused balance of \$5,000 cannot be carried forward to a subsequent year.*

**Commissioner of Taxation**

26/11/92

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FOI INDEX DETAIL: Reference No.

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Previously issued as Draft TD92/D122

Related Determinations:

Related Rulings:

Subject Ref: carry-forward loss; donation; gift; Taxation Incentives for the Arts Scheme

Legislative Ref: ITAA 78(1)(aa); ITAA 79C

Case Ref:

ATO Ref: CAN AC752 pt3

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