


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?

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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.

Taxation Determination

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

FOI INDEX DETAIL: Reference No.

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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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