TD 93/82 - Income tax: is roll-over relief available under section 160ZZK of the Income Tax Assessment Act 1936 where a taxpayer is forced to dispose of an asset due to an adverse change in the taxpayer's financial circumstances?

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This document has changed over time. This is a consolidated version of the ruling which was published on *6 May 1993*

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This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: is roll-over relief available under section 160ZZK of the *Income Tax Assessment Act 1936* where a taxpayer is forced to dispose of an asset due to an adverse change in the taxpayer's financial circumstances?

1. No. The roll-over relief available under section 160ZZK only applies to an "involuntary" disposal brought about by the compulsory acquisition of the asset, or by the loss or destruction of, or damage to, the asset. While the taxpayer might consider such a disposal to be "involuntary", it did not result from a "compulsory acquisition".

2. "Compulsory acquisition" is defined in subsection 160ZZK(7C) to mean the compulsory acquisition of an asset by the Australian government or by an Australian government authority. (This includes a mutually negotiated disposal of an asset where the government or government authority reserves a right of compulsory acquisition. It also applies to situations where a taxpayer receives a payment for the non-renewal of a Crown lease).

Example :

A taxpayer acquires a block of land and plans to construct a building on it. The taxpayer loses his job and can no longer afford to proceed with the plan. He then decides to sell the land.

Roll-over relief is not available under section 160ZZK to the taxpayer in respect of the disposal of the land in these circumstances.

Commissioner of Taxation
6/5/93

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