

TD 94/77 - Income tax: capital gains: is rollover relief available under section 160ZZL of the Income Tax Assessment Act 1936 if a taxpayer receives a replacement asset(s) that is different from an asset that has been compulsorily acquired?

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! This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

! This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

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, 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: capital gains: is rollover relief available under section 160ZZL of the *Income Tax Assessment Act 1936* if a taxpayer receives a replacement asset(s) that is different from an asset that has been compulsorily acquired?

1. Yes, rollover relief is available provided the other requirements of section 160ZZL are satisfied.
2. Section 160ZZL does not require a replacement asset to be of the same nature, used for a similar purpose, or used in the same business as the original asset. The replacement asset need only be received by way of compensation for the compulsory acquisition of the original asset.
3. There is no restriction on the number of assets that can be acquired in replacement of an original asset.
4. Rollover relief is not available if the replacement asset is trading stock immediately after its acquisition (paragraph 160ZZL(1)(aa)).

Example:

A Ltd acquired land in 1988 that is compulsorily acquired by the State Government. By way of compensation, A Ltd receives within 12 months shares in a Government owned investment company. The shares are not trading stock of A Ltd immediately after their acquisition. The market value of the shares at the time they were acquired by A Ltd exceeded the indexed cost base of the land.

If A Ltd elects for section 160ZZL to apply, it is not regarded as having disposed of its land but is regarded as having acquired the shares for the indexed cost base of the resumed land.

Commissioner of Taxation

8/9/94

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