

# ***TD 95/43 - Income tax: capital gains: is a sum obtained by a taxpayer under a trauma insurance policy an exempt capital gain under subsection 160ZB(1) of the Income Tax Assessment Act 1936 ?***

! This cover sheet is provided for information only. It does not form part of *TD 95/43 - Income tax: capital gains: is a sum obtained by a taxpayer under a trauma insurance policy an exempt capital gain under subsection 160ZB(1) of the Income Tax Assessment Act 1936 ?*

! This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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 a sum obtained by a taxpayer under a trauma insurance policy an exempt capital gain under subsection 160ZB(1) of the *Income Tax Assessment Act 1936*?**

1. If the taxpayer who obtained the sum is either
  - (a) the person insured under the policy; or
  - (b) the spouse of the person insured under the policy

the exemption under subsection 160ZB(1) applies.

2. The taxpayer has obtained a sum by way of compensation for an injury suffered by the taxpayer to his or her person. We accept that a specified illness in a trauma insurance policy is an 'injury' for the purpose of subsection 160ZB(1).

### Commissioner of Taxation

9 August 1995

---

FOI INDEX DETAIL: Reference No. I 1014495

Previously issued as Draft TD 94/D53

Related Determinations: TD 95/39; TD 95/40; TD 95/41; TD 95/42

Related Rulings:

Subject Ref: accident and disability insurance policies; capital gains; life assurance companies; trauma insurance policies

Legislative Ref: ITAA 160ZB(1)

Case Ref:

ATO Ref: Insurance Industry Cell; NAT 95/5952-3

---

ISSN 1038 - 8982