




TD 96/32 - Income tax: capital gains: can an index number for a quarter of a year of income be estimated in calculating the indexation factor under subsection 160ZJ(5) or (5A) of the Income Tax Assessment Act 1936 ?

 This cover sheet is provided for information only. It does not form part of *TD 96/32 - Income tax: capital gains: can an index number for a quarter of a year of income be estimated in calculating the indexation factor under subsection 160ZJ(5) or (5A) 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 This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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: can an index number for a quarter of a year of income be estimated in calculating the indexation factor under subsection 160ZJ(5) or (5A) of the *Income Tax Assessment Act 1936*?

1. No.
2. In calculating the indexation factor for the purposes of subparagraph 160ZJ(3A)(a)(iii), paragraph 160ZJ(3A)(b) or subsection 160ZJ(4), the *Income Tax Assessment Act 1936* (subsection 160ZJ(5) or (5A)) requires that the 'index number' as defined in subsection 160ZJ(1) be used. Subsection 160ZJ(1) defines the expression 'index number' for use in section 160ZJ. It is defined for a quarter to mean the 'All Groups Consumer Price Index' (CPI) number (being the weighted average of the 8 capital cities) **published by the Australian Statistician** for the quarter. An estimated index number is not an 'index number' as defined in subsection 160ZJ(1). Section 160ZJ does not at any time, whether before or after the publication of the CPI number, permit an index number to be estimated and used to calculate the indexation factor. Nor does section 160ZJ permit the estimation of the indexation factor.
3. Until the index number for a particular quarter is published, it is not possible to calculate properly a capital gain on an asset disposed of during that quarter. For example, if an asset is disposed of during the June quarter of a year of income, and a taxpayer's year of income ends on 30 June, a taxpayer cannot legitimately use an estimated index number for that quarter in calculating a capital gain to include in an income tax return for that year.
4. It has come to our attention that certain managers and trustees of investments have been using estimated index numbers for the June quarter in order to provide capital gains advice to members as soon as possible after the end of the income year. We emphasise that such estimates do not accord with the requirements of the legislation. We neither accept, nor authorise, their use.

Note: The Australian Statistician usually publishes the All Groups CPI numbers for each quarter within four weeks after the close of the quarter. Individual taxpayers who prepare their own income tax returns do not have to lodge them, if the pattern of previous years' *Commonwealth Gazette* notices is followed, until four months after the end of a financial year (section 161). Managers and trustees of investments should await the publication by the Australian Statistician of the All Groups CPI number for each quarter rather than estimate the number for that quarter. When

published, the All Group CPI number can be obtained either by telephoning 0055 86401 or by contacting any local tax office.

Commissioner of Taxation

19 June 1996

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Not previously released in draft form

Related Determinations:

Related Rulings:

Subject Ref: consumer price index; estimate; indexation; indexation factor; index number; investments

Legislative Ref: ITAA 160ZJ; ITAA 160ZJ(1); ITAA 160ZJ(3A)(a)(iii); ITAA 160ZJ(3A)(b); ITAA 160ZJ(4);
ITAA 160ZJ(5); ITAA 160ZJ(5A); ITAA 161

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