


TD 1999/D55 - Income tax: capital gains: is roll-over available under Subdivision 124-B of the Income tax Assessment Act 1997 for the loss or destruction of a CGT asset if an asset is damaged?

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This document has been finalised by TD 2000/38.

Draft Taxation Determination

Income tax: capital gains: is roll-over available under Subdivision 124-B of the *Income tax Assessment Act 1997* for the loss or destruction of a CGT asset if an asset is damaged?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs should not be relied on; only final Taxation Determinations represent authoritative statements by the ATO.

1. No. Loss or destruction does not include damage. Subdivision 124-B of the *Income Tax Assessment Act 1997* does not apply to a damaged CGT asset unless the damage done to the asset is so extensive that the asset or a discrete part of the asset can be considered lost or destroyed.

Example 1:

2. *The keel of a yacht is destroyed. The yacht is damaged, though not destroyed. However, the keel, as a discrete part of the yacht, is destroyed and roll-over is available.*

Example 2:

3. *A holiday home is totally reduced to rubble as a result of a tropical cyclone. Roll-over is available for the destruction of the home. However, if only part of the house is damaged during the cyclone, roll-over is not available because the house has not been destroyed.*

Your comments

We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

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TD 1999/D55

Page 2 of 2

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Commissioner of Taxation

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Subject references:

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Legislative references:

ITAA 1997 Subdivision 124-B

ATO references:

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