TD 2004/14W - Income tax: capital gains: does CGT event E2 in section 104-60 of the Income Tax Assessment Act 1997 happen if a CGT asset is transferred between two trusts and the beneficiaries and terms of both trusts are the same?

⚠ This cover sheet is provided for information only. It does not form part of *TD 2004/14W - Income tax: capital gains: does CGT event E2 in section 104-60 of the Income Tax Assessment Act 1997 happen if a CGT asset is transferred between two trusts and the beneficiaries and terms of both trusts are the same?*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *21 July 2010*

Notice of Withdrawal

Taxation Determination

Income tax: capital gains: does CGT event E2 in section 104-60 of the *Income Tax Assessment Act 1997* happen if a CGT asset is transferred between two trusts and the beneficiaries and terms of both trusts are the same?

Taxation Determination TD 2004/14 is withdrawn with effect from today.

1.   Taxation Determination TD 2004/14 explains that CGT event E2 in section 104-60 of the *Income Tax Assessment Act 1997* (ITAA 1997) does not happen in respect of the transfer of a CGT asset between two trusts if the beneficiaries and terms of both trusts are the same. In those circumstances, the exception in paragraph 104-60(5)(b) of the ITAA 1997 applies.

2.   However, that exception has been repealed by *Tax Laws Amendment (2009 Measures No. 6) Act 2010*. As a result, the exception is no longer available for CGT events happening on or after 1 November 2008.

3.   As TD 2004/14 is no longer current, it is withdrawn.

Commissioner of Taxation
21 July 2010