



***TD 2008/31A2 - Addendum - Income tax:
consolidation: capital gains: for the purposes of Part
3-90 of the Income Tax Assessment Act 1997, is the
CGT asset that an entity has contracted to sell to
another taxpayer an asset of the entity at a time it
joins or leaves a consolidated group, if the contract
is not completed at that time?***

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Addendum

Taxation Determination

Income tax: consolidation: capital gains: for the purposes of Part 3-90 of the *Income Tax Assessment Act 1997*, is the CGT asset that an entity has contracted to sell to another taxpayer an asset of the entity at a time it joins or leaves a consolidated group, if the contract is not completed at that time?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 2008/31 to reflect changes introduced by Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*.

TD 2008/31 is amended as follows:

1. Paragraph 2:

Omit the note after the paragraph; substitute:

Note: The timing of when certain CGT events are taken to have occurred has been amended by the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*. The Commissioner's view contained in this Taxation Determination is broadly that where a CGT event arises in relation to a CGT asset because a contract or agreement has been entered into, the CGT event is taken to have occurred at the earlier time when the contract was entered into.

Section 716-860 of the *Income Tax Assessment Act 1997* introduced by *Tax Laws Amendment (2010 Measures No. 1) Act 2010* modifies the CGT timing rules when an entity joins or leaves a consolidated group and the CGT event straddles the joining or leaving time. For contracts entered into after 8 May 2007, the time of the CGT event happening to the joining entity is not taken to be the time the contract was entered into but the time when the circumstances that gave rise to the CGT event first existed. That is when the change of beneficial ownership occurs.

To the extent that section 716-860 of the *Income Tax Assessment Act 1997* does not affect matters covered in this Taxation Determination, the Commissioner's view will continue to apply.

TD 2008/31

This Addendum applies to CGT events that happen after 8 May 2007, the date of application of the amendments to the *Income Tax Assessment Act 1997* by Part 17 of Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*.

Commissioner of Taxation

30 May 2012

ATO references

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Income Tax ~~ Consolidation ~~ capital gains tax

Income Tax ~~ Consolidation ~~ tax cost setting amount