


TD 1999/D53 - Income tax: capital gains: is an entity (other than a Commonwealth, State or Territory authority) which is given authority to acquire a CGT asset under a Commonwealth, State or Territory Act an 'Australian government agency' for the purposes of Subdivision 124-B of the Income Tax Assessment Act 1997?

 This cover sheet is provided for information only. It does not form part of *TD 1999/D53 - Income tax: capital gains: is an entity (other than a Commonwealth, State or Territory authority) which is given authority to acquire a CGT asset under a Commonwealth, State or Territory Act an 'Australian government agency' for the purposes of Subdivision 124-B of the Income Tax Assessment Act 1997?*

This document has been finalised by [TD 2000/36](#).

Draft Taxation Determination

Income tax: capital gains: is an entity (other than a Commonwealth, State or Territory authority) which is given authority to acquire a CGT asset under a Commonwealth, State or Territory Act an 'Australian government agency' for the purposes of Subdivision 124-B of the *Income Tax Assessment Act 1997*?

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. For Subdivision 124-B of the *Income Tax Assessment Act 1997* to apply, the entity acquiring a CGT asset – not being the Commonwealth, a State or a Territory – must be an authority of the Commonwealth or of a State or of a Territory and not merely an entity which is given authority under a Commonwealth, State or Territory Act to acquire the asset. Nor does the Subdivision apply if the entity acquiring the asset is merely authorised to do so by a Commonwealth, State or Territory authority.
2. The expression 'Australian government agency' is defined in subsection 995-1(1) to mean the Commonwealth, a State or a Territory or an authority of the Commonwealth, a State or a Territory.

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/D53

Page 2 of 2

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Commissioner of Taxation

4 August 1999

Subject references:

Asset; Australian government agency; authority; capital gain; CGT asset; compulsory acquisition; Commonwealth; Commonwealth authority; entity; State; State authority; Territory; Territory authority

Legislative references:

ITAA 1997 995-1(1)
ITAA 1997 Subdivision 124-B

ATO references:

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