

EXTENDING THE SCOPE OF INVOLUNTARY DISPOSAL ROLLOVERS

The Government will amend the existing law to extend the scope of what is defined as an involuntary disposal for capital gains tax and depreciable plant balancing charge rollover purposes. This extension will:

- correct an inequity in the tax system;
- establish the same treatment for a compulsory acquisition whether by a private or public acquirer; and
- provide greater flexibility for landowners whose land is compulsorily subject to a mining lease.

Key features

- This amendment will provide rollover to a replacement asset of a capital gain or balancing charge for depreciable plant where a private acquirer compulsorily acquires the asset through recourse to a statutory power.
 - It will not, however, apply to compulsory acquisitions of minority interests under the Corporations Law.
- Rollover will also apply where there is a negotiated sale of an asset to a private acquirer who has recourse to a statutory power compulsorily to acquire the asset if the negotiations are unsuccessful.
 - The private acquirer will have to satisfy the same conditions as apply to an Australian government agency for the negotiated sale to be treated as an involuntary disposal.
- Rollover will also apply where a landowner whose land is compulsorily subject to a mining lease sells the land to the mining company and acquires a replacement asset where the mining operation would significantly affect the landowner's use of the land.
 - Any negotiations between the landowner and the mining company are not subject to the conditions applicable to the negotiated sale mentioned above.

Commencement

The measure applies to involuntary disposals after 1pm, Australian eastern summer time, 11 November 1999.

Current arrangements

If a taxpayer's asset is compulsorily acquired by a private acquirer, the taxpayer is unable to rollover any gain or balancing charge on the original asset to a replacement asset.

If a landowner whose land is compulsorily subject to a mining lease sells the land to the mining company, the landowner is unable to rollover the gain on the original asset to a replacement asset.

Why change is needed

It is inequitable that rollover does not apply where a private acquirer has recourse to a statutory power compulsorily to acquire the asset. Moreover, from the asset holder's viewpoint, it is a compulsory acquisition irrespective of whether the acquirer is public or private.

Where a taxpayer sells land and acquires a replacement asset rather than have a mining lease exercised on it, there is a sufficient degree of compulsion in the sale, for it to be treated as an involuntary disposal.