

CGT Cell Determinations do not have the force of law, but can be relied upon as being the considered view of the ATO. Unless otherwise stated, the view expressed may be applied to transactions entered into both before and after the date of issue of the Determination.

CGT Determination Number 11

Capital Gains: What is the date of acquisition of an asset purchased at the expiry of a lease agreement?

Determination

1. If an arrangement is to be accepted as a lease for income tax purposes the lessee can have no right, express or implied, to purchase the leased asset at the expiry of the lease (Taxation Ruling IT 28).
2. The existence of such a right would result in the payments under the arrangement being treated as capital payments for purchase, rather than as lease rentals.
3. The purchase of a leased asset by a lessee at the end of a lease is therefore a separate transaction unrelated to any terms of the lease agreement.
4. The date of acquisition would be determined by the date on which this separate transaction was entered into.

Example:

A lessee entered into a lease agreement on 23 June 1984.

On 23 June 1988, the lessee purchased the leased asset for its residual value, and later sold it at a profit.

The date of acquisition of the leased asset is taken to be 23 June 1988.

Note: *The above should be distinguished from a Hire Purchase Agreement under which title in an asset will or may pass to the hirer at the end of the agreed period. In this case, the date of acquisition of this asset is the date the Hire Purchase Agreement was entered into.*

FOI INDEX DETAIL: Reference No. CGT 11

Subject Ref: Leased assets

Date of acquisition

Legislative Ref: ATO Ref: N.O. 12.87/6061-6

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