

Taxation Determination

Income tax: capital gains: in what circumstances does the expression ‘proceeds cannot be valued’ in paragraph 116-30(2)(a) of the *Income Tax Assessment Act 1997* (market value substitution rule) apply?

Preamble

*This Taxation Determination is a ‘public ruling’ for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and is legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is legally binding on the Commissioner.*

Date of effect

This Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. The expression applies if capital proceeds cannot be valued at all. Situations where capital proceeds cannot be valued are likely to be rare. Paragraph 116-30(2)(a) of the *Income Tax Assessment Act 1997* (the capital proceeds market substitution rule) does not apply if valuing capital proceeds is merely difficult, costly or inconvenient.

2. As a matter of policy, it is inappropriate to apply the market value substitution rule to deem the market value of an asset to constitute the capital proceeds from a CGT event if it is at all possible to value the capital proceeds received. The substitution of market value should, therefore, be used in these circumstances only as a last resort.

Note

3. The above analysis also applies to expenditure that cannot be valued in paragraph 112-20(1)(b) (the cost base market value substitution rule).

Last Determination

This is the last Taxation Determination for the 1999 calendar year. The next Determination will be Taxation Determination TD 2000/1.

Commissioner of Taxation

15 December 1999

Previous draft:

Previously released as TD 1999/D96

Subject references:

asset; cannot be valued; capital gains; capital proceeds; CGT asset; CGT event; cost base; market value; market value substitution rule; value

Legislative references:

ITAA 1997 112-20(1)(b); ITAA 1997 116-30(2)(a)

ATO references:

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