



Taxation Determination

Income tax: capital gains: for capital gains purposes is the unit held by a unit holder in a unit trust the relevant CGT asset?

Preamble

*The number, subject heading, date of effect and paragraphs 1 and 2 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally binding.*

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. Yes. The unit in the unit trust is the relevant CGT asset irrespective of any interest the unit holder has in the property of the unit trust.
2. The scheme of the *Income Tax Assessment Act 1997* is to treat units in a unit trust as the relevant asset for capital gains purposes rather than any interest a unit holder might have in the underlying property of the unit trust. Note 1 to section 108-5 specifically identifies units in a unit trust as examples of CGT assets.

Commissioner of Taxation

13 September 2000

Previous draft

Previously issued as TD 1999/D68

Subject references

- capital gain
- CGT asset
- interest in property
- unit
- unit holder
- unit trust

Legislative references

- ITAA 1997 108-5

ATO references:

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