



Taxation Determination

Income tax: capital gains: can property or a right, the 'market value' of which is nil, be a 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. Property or a right can be a CGT asset even if its market value is nil.
2. The existence of a CGT asset is not dependent on its having a market value greater than nil. The definition of 'CGT asset' in subsection 108-5(1) of the *Income Tax Assessment Act 1997* does not impose any such condition.

Commissioner of Taxation

13 September 2000

Previous draft:

Previously issued as TD 1999/D70

Related Rulings/Determinations

IT 2540 para 13;

Subject references

- CGT asset
- market value
- property
- rights

Legislative references:

- ITAA 1997 108-5(1)

ATO references:

NO 99/10671-9

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FOI Index Detail: I 1022789

ISSN: 1038-8982