


TD 27 - Capital Gains:What value is given to leased equipment for the purpose of section 160ZZS ?

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 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

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 27

Capital Gains: What value is given to leased equipment for the purpose of section 160ZZS ?

Determination

1. The appropriate value to be attributed to leased equipment is the market value of the lease and not the capitalised value of the underlying equipment.
2. The market value of the lease would be the amount for which the lessee could dispose of the lease at arm's length.

Note: 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 equipment at the expiry of the lease (IT 28).

Example:

In July 1985, a company enters into a (4) four year lease of equipment. The equipment is valued at \$800,000.

The company has no residual entitlement to the equipment at the end of the lease.

On 1 July 1988, upon change of the major shareholders in the company, section 160ZZS operates to deem assets of the company acquired before 20 September 1985 to have been acquired on 1 July 1988, at their market value (IT 2340).

The value of the underlying equipment at 1 July 1988 is \$1,000,000 and the market value of the lease is \$50,000.

The lease is deemed by section 160ZZS to be an asset acquired on 1 July 1988 with a cost base of \$50,000.

COMMISSIONER OF TAXATION

28 November 1991

FOI INDEX DETAIL: Reference No. CGT 27

Subject Ref: Leased equipment

Market value

Legislative Ref: 160ZZS

ATO Ref: CGT Cell; CGT Determination No 11; IT 28; IT 2340.