TD 3 - Capital Gains: What are the CGT consequences for the borrower (debtor) when a debt is waived?

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This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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 3

Capital Gains: What are the CGT consequences for the borrower (debtor) when a debt is waived?

Determination

1. For CGT purposes, the borrower is not considered to have an asset. Accordingly, when the lender waives the debt, the borrower does not dispose of an asset and therefore makes no capital gain or loss.

2. No other CGT provisions apply to cause a capital gain or loss to the borrower when the lender waives the debt.

3. There may be cases where the waiver of the debt relates to the disposal of an asset by the borrower. In these cases, the amount of the debt will be taken into account in working out the disposal proceeds of the asset (section 160D).

Example

The borrower owes the lender $1,000. The borrower also owns an asset worth $ 2,500.

The lender buys the asset by paying $1,500 in cash and waiving the $1,000 debt.

The consideration received on the disposal of the asset is $2,500.

COMMISSIONER OF TAXATION
10 September 1991

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