

TD 33 - Capital Gains: How do you identify individual shares within a holding of identical shares?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *29 September 1994*

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.

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

CGT Determination Number 33

Capital Gains: How do you identify individual shares within a holding of identical shares?

Determination

1. Where a disposal of shares occurs and those shares are able to be individually distinguished e.g. by reference to share numbers or other distinctive rights or obligations attached to them, those shares are identifiable; their date of acquisition and cost base will be a matter of fact.

2. However, on the disposal of shares which form part of a holding of identical shares i.e. of the same class and in the same company, which are acquired over a period of time, it may not always be possible for a taxpayer to distinguish or identify the particular shares that have been disposed of.

3. In these circumstances, the taxpayer will need to decide which particular shares are being disposed of. Taxpayers in this situation will need to keep adequate records of the transaction so that the decision can be supported should the income tax return be subject to Tax Office scrutiny at a later date.

4. In the past, where unidentifiable shares have been disposed of, the Commissioner has accepted 'first-in first-out' as a reasonable basis of identification. For CGT purposes, the Commissioner will also accept the taxpayer's selection of the identity of shares disposed of.

5. Average cost is not an acceptable method to work out the acquisition cost of shares unless the shares satisfy all of the following requirements:

- (a) they are in the same company; and
- (b) they are acquired on the same day; and
- (c) they confer identical rights and impose identical obligations.

Any shares for which subsection 160ZH(9) deems a market value cost of acquisition need to be excluded from the average cost calculation.

Note: (i) This Determination will also apply to disposal of other assets which form part of a holding of identical assets where the assets are not able to be individually distinguished e.g. coins, stamps and units in a unit trust.

(ii) This Determination does not apply to assets owned by Life Insurance companies.

COMMISSIONER OF TAXATION

19 December 1991

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