


# ***TD 40 - Capital Gains: What is the treatment where units in a unit trust are issued or redeemed by the trustee?***

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## CGT Determination Number 40

**Capital Gains: What is the treatment where units in a unit trust are issued or redeemed by the trustee?**

### Determination

1. The treatment differs for the unitholders and the unit trust as follows:-

#### UNITHOLDERS

- |                     |   |
|---------------------|---|
| Issue of units      | - units issued to a unitholder are an acquisition by virtue of paragraph 160M(5)(aa).   |
| Redemption of units | - the redemption of units would constitute a disposal by virtue of paragraph 160M(3)(b). Any proprietary or equitable interest conferred by the units would be extinguished at the time of redemption, thereby effectively extinguishing the units. |

#### UNIT TRUST

- |                     |  |
|---------------------|--|
| Issue of units      | - units issued in a unit trust are not a disposal by virtue of paragraph 160M(5)(aa).                          |
| Redemption of units | - there is no acquisition of units in a unit trust by the trustee as the units are extinguished when redeemed. |

COMMISSIONER OF TAXATION

31 January 1992

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FOI INDEX DETAIL: Reference No. CGT 40

Subject Ref: Issue and redemption of units in a unit trust

Legislative Ref: 160M(5)(aa); 160M(3)(b)    ATO Ref: ADV TVLLE

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