


TD 1999/D27 - Income tax: capital gains: what are the capital gains consequences for taxpayers whose Wheat Industry Fund (WIF) units are converted to shares in AWB Ltd?

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This document has been finalised by TD 1999/64.

Draft Taxation Determination

Income tax: capital gains: what are the capital gains consequences for taxpayers whose Wheat Industry Fund (WIF) units are converted to shares in AWB Ltd?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs should not be relied on; only final TDs are authoritative statements of the ATO.

1. The Australian Wheat Board is being restructured from a statutory marketing authority to a grower owned company, the AWB Ltd. This restructuring will result in WIF unit holders converting their WIF units to shares in the AWB Ltd on 1 July 1999. Under Subdivision 104-C of the *Income Tax Assessment Act 1997* (ITAA 1997) the conversion of a WIF unit into an AWB Ltd share represents a CGT event C2 (i.e., the cancellation or surrender of an asset) and the acquisition of another asset, the share in AWB Ltd. Any capital gain on the cancellation or surrender of a WIF unit on 1 July 1999 will be the excess of the market value of the AWB Ltd share at the time of acquisition over the indexed cost base of that WIF unit at the time of disposal. The cost base of each AWB Ltd share will be the market value of that share at the time of its acquisition.

2. The WIF units allocated to a wheat levy payer constitute active assets for the purposes of the small business roll-over relief and retirement exemption provisions currently in Divisions 17A and 17B of Part IIIA of the *Income Tax Assessment Act 1936*. Wheat levy payers who dispose of their WIF units or whose units are cancelled or surrendered on or after 1 July 1997, and who meet the other conditions of the small business roll-over relief or retirement exemption provisions, may elect to defer capital gains tax liability or, alternatively, claim the retirement exemption. (For further information refer to the ATO booklet '*A Guide to Small Business Capital Gains Tax Rollover Relief and Retirement Exemption*', NAT 2685-6/1998.)

3. If elected, small business roll-over relief may apply to the capital gains arising on the cancellation or surrender of the WIF units on 1 July 1999 provided an eligible replacement asset or assets are acquired in the period beginning one year before and ending two years after the date on which the units are redeemed or cancelled (i.e., 1 July 1999). If roll-over relief is available, the amount of the capital gain is not treated as assessable income but is deferred until the replacement asset or assets are eventually disposed of. The AWB Ltd shares acquired on conversion of the WIF units do not constitute eligible replacement assets.

4. Alternatively, if elected, the small business retirement exemption provisions may apply to the capital gains arising on the cancellation or surrender of the WIF units on 1 July 1999. The result

where the conditions for retirement exemption eligibility are satisfied is that some or all of the capital gain will be exempt from assessable income.

5. Another option available for WIF unit holders whose units are converted to shares in the AWB Ltd is that they may be eligible to choose roll-over relief under subdivision 124-B of the ITAA 1997 when the units are converted to AWB Ltd shares. Choosing this roll-over relief means the capital gain on the conversion of the WIF units can be deferred until the AWB Ltd shares are disposed of.

6. For the purposes of roll-over relief under Subdivision 124-B an AWB Ltd share is deemed to have been acquired for an amount equal to the cost base of the equivalent WIF unit.

7. A capital gain arising on the disposal of the AWB Ltd shares is not eligible for the small business roll-over relief or the retirement exemption as shares do not constitute active assets.

Your comments

8. If you wish to comment on this draft Taxation Determination, please send your comments by Friday 9 July 1999 to:

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Commissioner of Taxation

9 June 1999

Previous draft:

Not previously released to the public in draft form

Related Rulings/Determinations:

TD 1999/D26

Subject references:

capital gains; capital gains tax; CGT cost base; CGT indexed cost base; CGT rollover relief; CGT retirement exemption; wheat growing

Legislative references:

ITAA36 Pt IIIA; ITAA36 160ZH(1)(a); ITAA36 160ZH(2)(a); IITAA36 Div 17A, Pt IIIA; ITAA36 Div 17B, Pt IIIA; ITAA97 Pt 3-1; ITAA97 104-25(1)(a); ITAA97 110-25(1); ITAA97 110-25(2); ITAA97 114-1; ITAA97 116-20(1)(b); ITAA97 124-B

Case references:

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