TD 1999/D46 - Income tax: capital gains: are shares acquired under a dividend reinvestment plan 'bonus shares' for the purposes of Subdivision 130-A of the Income Tax Assessment Act 1997?

This document has been finalised by TD 2000/3.

Draft Taxation Determination

Income tax: capital gains: are shares acquired under a dividend reinvestment plan 'bonus shares' for the purposes of Subdivision 130-A of the *Income Tax Assessment Act 1997*?

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 Taxation Determinations represent authoritative statements by the ATO.

1. No. Dividend reinvestment plans enable shareholders to elect to have amounts payable to them as dividends applied to acquire new shares in the company. The relevant transactions involve a constructive payment by the company of a dividend to the shareholder, followed by an application by the shareholder of the dividend to acquire the new shares.

2. Subdivision 130-A of the *Income Tax Assessment Act 1997* ('the 1997 Act') applies if a company issues other shares (bonus shares) to a shareholder in relation to their original shares. Shares acquired under a dividend reinvestment plan are not issued in relation to the shareholder's original shares.

3. If a shareholder acquires a share under a dividend reinvestment plan the first element of the cost base of that share includes the amount of the dividend applied by the shareholder to acquire the share - refer to subsection 110-25(2) of the 1997 Act.

***Example*:**

4. X, an Australian resident individual, owns 100 shares in A Ltd, an Australian resident public company. A Ltd declares a dividend of 5 cents per share, entitling X to a dividend of $5. The market value of shares in A Ltd at that time is $2.50 each. X elects under the company's dividend reinvestment plan to apply the whole of the dividend to acquire 2 shares in A Ltd. The first element of the cost base to X of each of those two shares includes an acquisition cost of $2.50. X is also taken to have received a dividend of $5, which is assessable under section 44 of the Income Tax Assessment Act 1936.

Note 1:

5. This Determination does not apply to scrip dividend arrangements of the type discussed in Taxation Ruling IT 2603.

Note 2:

6. This Taxation Determination rewrites and replaces Taxation Determination 55. There is no material change in this Taxation Determination to the views expressed in TD 55 apart from updating it with the rewritten income tax law in the 1997 Act.

7. Subdivision 130-A and subsection 110-25(2) of the 1997 Act, to which this Determination refers, express the same ideas, respectively, as Divisions 8 and 8A and subsection160ZH(4) of the Income Tax Assessment Act 1936.

Your comments

We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments by Date: **1 September 1999**
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Commissioner of Taxation
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Previous draft:
Not previously released in draft form
Related Rulings/Determinations:
IT 2603

Subject references:
bonus shares; cost base; dividend; dividend reinvestments plans; shares

Legislative references:
ITAA 1997 Subdivision 130-A ; Subsection 110-25(2)
ITAA 1936 Division 8; Division 8A; Subsection 160ZH(4)

Case references:

ATO references:
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