


TD 1999/D63 - Income tax: capital gains: if you receive compensation for the compulsory acquisition of part of a CGT asset that you own, how do you treat the compensation to the extent that it is attributable to the reduction in value of the remainder of your asset?

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This document has been finalised by TD 2001/9.

Draft Taxation Determination

Income tax: capital gains: if you receive compensation for the compulsory acquisition of part of a CGT asset that you own, how do you treat the compensation to the extent that it is attributable to the reduction in value of the remainder of your asset?

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. The compensation, to the extent to which it is attributable to the reduction in value of the remainder of the CGT asset which was compulsorily acquired, forms part of the capital proceeds for the part of the CGT asset compulsorily acquired.
2. The compulsory acquisition of that part of the CGT asset constitutes a part disposal of the asset to which Subdivision 124-B of the *Income Tax Assessment Act 1997* applies. [The example in section 124-85 illustrates the application of section 112-30 in these circumstances.]
3. Subsections 112-30(2), (3) and (4) require apportionment of the cost base of a CGT asset if a CGT event happens to part of the asset but not to the remainder of it. If part of a CGT asset is compulsorily acquired, the cost base of the asset before the compulsory acquisition is apportioned having regard to the compensation received and the market value of the remainder of the asset.
4. If the market value of the remainder of the asset has been reduced by the compulsory acquisition, it is necessary to calculate the cost base of the part of the CGT asset compulsorily acquired having regard to the total compensation received – being the capital proceeds for the CGT event happening to that part of the asset: subsection 112-30(3). The reduction in value of the remainder of the CGT asset caused by the compulsory acquisition is reflected in the market value of the remainder of the asset.
5. Once the cost base of the part of the CGT asset that is compulsorily acquired is worked out under subsection 112-30(3), no further reduction in the cost base of the remainder of the asset is necessary. The balance of the cost base of the CGT asset is attributed to the remaining part of that asset.

Example 1:

6. Lila has part of her wildlife park resumed, which seriously affects the value of the remaining land. The cost base of the entire land is \$600 000. The market value of the remaining land after the compulsory acquisition is \$1 million. Compensation paid for the compulsorily acquired land is \$1.5 million, which includes \$500 000 for the reduction in value of the remaining land caused by the compulsory acquisition.

7. Applying the apportionment formula in subsection 112-30(3), the cost base of the part to which the CGT event happened (the compulsorily acquired part) is:

$$\begin{array}{rcl} \text{Cost base} & \times & \frac{\text{Proceeds}}{\text{Proceeds} + \text{market value}} \\ \$600\,000 & \times & \frac{\$1\,500\,000}{\$1\,500\,000 + \$1\,000\,000} \\ & & = \$360\,000 \end{array}$$

where
Proceeds = Capital proceeds (compensation) for the compulsory acquisition
Market value = Market value of the remaining land (taking into account the effect of the compulsory acquisition)

8. The cost base of the compulsorily acquired part is \$360,000. The cost base of the part which remains is \$240,000 (being \$600,000 - \$360,000).

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

4 August 1999

Subject references:

asset; apportionment; CGT event; compensation; compulsory acquisition; market value; part of a CGT asset

Legislative references:

ITAA 1997 112-30, 112-30(2), 112-30(3), 112-30(4), 124-85
ITAA 1997 Subdivision 124-B

ATO references:

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