

TD 2000/D12 - Income tax: capital gains: scrip for scrip roll-over: can a company 'increase' the percentage of voting shares that it owns in another company (an original entity), in terms of subparagraph 124-780(2)(a)(ii) of the Income Tax Assessment Act 1997 , as a result of an arrangement if it owned no shares in that company before the arrangement?

 This cover sheet is provided for information only. It does not form part of *TD 2000/D12 - Income tax: capital gains: scrip for scrip roll-over: can a company 'increase' the percentage of voting shares that it owns in another company (an original entity), in terms of subparagraph 124-780(2)(a)(ii) of the Income Tax Assessment Act 1997 , as a result of an arrangement if it owned no shares in that company before the arrangement?*

This document has been finalised by TD 2000/51.



Draft Taxation Determination

Income tax: capital gains: scrip for scrip roll-over: can a company ‘increase’ the percentage of voting shares that it owns in another company (an original entity), in terms of subparagraph 124-780(2)(a)(ii) of the *Income Tax Assessment Act 1997*, as a result of an arrangement if it owned no shares in that company before the arrangement?

Preamble

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

1. Yes. A company can **increase** the percentage of voting shares that it owns in an original entity even if it started out with no voting shares.

2. Subparagraph 124-780(2)(a)(ii) requires that the arrangement result in the company which is the acquiring entity increasing the percentage of voting shares that it owns in the original entity. The subparagraph therefore requires a comparison between the ownership of voting shares before the arrangement and after it commences. If the acquiring entity owns no voting shares in the original entity before the arrangement but as a result of the arrangement owns voting shares in the original entity, the acquiring entity will have increased the percentage of voting shares it owns in the original entity. In terms of subparagraph 124-780(2)(a)(ii), the arrangement will result in the acquiring entity increasing its percentage ownership of voting shares in the original entity.

Example

3. *B Co is a wholly owned subsidiary of A Co. B Co makes a takeover offer for all of the shares in T Co. Before the takeover B Co owned no shares in T Co. After the takeover B Co owns 85% of the shares in T Co. The takeover has resulted in B Co increasing the percentage of voting shares that it owns in T Co to 85%.*

Your comments

4. 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: 22 September 2000
Contact officer: Lyn Freshwater
E-mail address: Lyn.Freshwater@ato.gov.au
Telephone: (07) 3213 5554
Facsimile: (07) 3213 5971
Address: Lyn Freshwater
PO Box 9990
Brisbane QLD 4001

Commissioner of Taxation

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Previous draft:

Not previously issued in draft form.

Related Rulings/Determinations:

TD 2000/D11;

Subject references:

- arrangement
- capital gain
- company
- increase
- increasing
- shares
- scrip for scrip roll-over
- voting shares

Legislative references:

- ITAA 1997 124-780(2)(a)(ii)
-

ATO references:

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