


TD 93/D28 - Income tax: capital gains: what is the amount of the consideration received in respect of the disposal of an asset where the consideration consists of shares which will be delivered at a later date and decline in value prior to delivery?

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This document has been finalised by TD 93/43.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: capital gains: what is the amount of the consideration received in respect of the disposal of an asset where the consideration consists of shares which will be delivered at a later date and decline in value prior to delivery?

1. The consideration in respect of the disposal of such an asset is the market value of the shares on the date of disposal of the asset (paragraph 160ZD(1)(b) of the *Income Tax Assessment Act 1936*).

Note: It has been suggested that section 160ZF applies in this situation. This section does not apply because it is confined to situations where the whole or part of the consideration has not been and is not likely to be received.

Example:

On 1 January 1990, Anne sells her block of land valued at \$50,000 for 10,000 shares in X Ltd to be delivered in 18 months time. At the time the land was sold, the shares had a market value of \$5 each. At 1 July 1991, the market value of the shares had declined to \$1.25 each.

The consideration for the disposal of the land is the market value of the shares at 1 January 1990 viz. \$5 x 10,000 = \$50,000.

Commissioner of Taxation
18/2/93

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Related Determinations: TD 93/D15; TD 93/D29

Subject Ref: consideration not in cash; disposal of asset; market value; shares delivered at a later date

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