


***TD 93/D64 - Income tax: capital gains: how will Divisions 10 and 11 of Part IIIA of the Income Tax Assessment Act 1936 apply to options or rights issued by a company to shareholders, if the existing shares in respect of which the options or rights are issued consist of pre- and post-CGT shares?***

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This document has been finalised by TD 93/80.

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.

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## Draft Taxation Determination

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**Income tax: capital gains: how will Divisions 10 and 11 of Part IIIA of the *Income Tax Assessment Act 1936* apply to options or rights issued by a company to shareholders, if the existing shares in respect of which the options or rights are issued consist of pre- and post-CGT shares?**

1. As the options or rights issued in respect of existing shares are deemed to be acquired on the date the existing shares were acquired, the options or rights must be apportioned between the pre- and post-CGT shares.

*Example:*

*G Ltd issues options to all its shareholders. Shareholder A is issued 60,000 options for nil consideration.*

*A's existing shares were originally acquired as follows:*

*10,000 shares acquired 30 July 1985 (1/3 of total existing shares: pre-CGT)  
20,000 shares acquired 30 November 1987 (2/3 of total existing shares: post-CGT)*

*Accordingly, the 60,000 options will be deemed to have been acquired as follows:*

*20,000 options (1/3 of 60,000) deemed to have been acquired 30 July 1985 (pre-CGT)  
40,000 options (2/3 of 60,000) deemed to have been acquired 30 November 1987 (post-CGT)*

**Commissioner of Taxation**

18/3/93

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Legislative Ref: ITAA Part IIIA Divisions 10 & 11

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