

IT 185 - Section 26aaa - sale of rights or sale of shares allotted on taking up of rights

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TAXATION RULING NO. IT 185

SECTION 26AAA - SALE OF RIGHTS OR SALE OF SHARES
ALLOTTED ON TAKING UP OF RIGHTS

F.O.I. EMBARGO: May be released

REF

H.O. REF: 78/3872

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 07.12.78

F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1102190

SHARES SOLD WITHIN
12 MONTHS

26AAA
26(a)

SALE OF RIGHTS
DEEMED PURCHASE OF SHARES
IDENTIFICATION OF SHARES

PREAMBLE

The advice below was given concerning the identification of shares sold and the assessability of profit arising from the sale of shares within 12 months of purchase following an enquiry on these matters.

RULING

2. With regard to the identification of shares sold, share numbers allocated to individual shares or parcels of shares represent the accepted form of identification for the purposes of determining a profit assessable under section 26AAA. Where identification by this means is not possible and in the absence of other indicative factors such as distinctive rights or obligations attached to the shares, a first-in-first-out basis of identification would be accepted as reasonable.

3. A taxpayer is not assessable under section 26AAA upon any profit arising from the sale within 12 months of rights issued to him by virtue of an existing holding of shares in that or another company. Rights accruing to the taxpayer in these circumstances are not regarded as having been 'purchased' by him in terms of section 26AAA. That is not to say, of course, that such a profit could not be assessable in appropriate circumstances in accordance with section 25 or 26(a).

4. Shares allotted to the taxpayer in consequence of the taking up of such rights are deemed to have been purchased by the taxpayer by virtue of section 26AAA(1)(d). The date of purchase of such shares is the date of the taxpayer's acceptance of the company's unconditional offer. In determining the amount of any profit assessable under section 26AAA to the taxpayer on the subsequent sale of the shares, the cost of his acquisition of the shares will, of course, comprise the value of the consideration given for them. That cost will include the market value of the saleable rights taken up to acquire the shares as at the day on which the taxpayer accepted the company's unconditional offer. However, the position may be different in the case where the existing holding of shares giving rise to the rights in the new issue had been acquired by the taxpayer for the purpose of

profit-making by sale or in the course of a profit-making undertaking or scheme or a share-trading business.

COMMISSIONER OF TAXATION