TD 2002/25 - Income tax: capital gains: is Australian currency a CGT asset under section 108-5 of the Income Tax Assessment Act 1997 (ITAA 1997) if it is used as legal tender to facilitate a transaction?

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Taxation Determination

Income tax: capital gains: is Australian currency a CGT asset under section 108-5 of the *Income Tax Assessment Act 1997* (ITAA 1997) if it is used as legal tender to facilitate a transaction?

Preamble

The number, subject heading, date of effect and paragraphs 1and 2 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the ***Taxation Administration Act 1953*** *and are legally binding on the Commissioner. The remainder of the Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally or administratively binding.*

Date of effect

This Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. No. Australian currency, being Australian notes issued by the Reserve Bank of Australia or Australian coins issued on the authority of the Federal Treasurer, is not a CGT asset under section 108-5 of the ITAA 1997 when it is used as legal tender. In this circumstance, Australian currency serves as a medium of exchange to facilitate a transaction.

2. Accordingly, no capital gain or capital loss arises from Australian currency when it is used as legal tender.

Example

3. *Grant pays $10,000 in Australian notes to purchase a painting from Debbie. The tendering of the notes is a legal tender that facilitates the sale/purchase of the painting. The tendered notes would not be CGT assets. Grant will not make a capital gain or capital loss from the notes.*

4. This Determination does not deal with the question whether Australian currency is a CGT asset in other circumstances.

Note: Section 36 of the *Reserve Bank Act 1959* provides that Australian notes, as defined in section 32 of that Act, are a legal tender throughout Australia. Section 16 of the *Currency Act 1965* specifies when a tender of coins is a legal tender.

Commissioner of Taxation
20 November 2002

Previous draft:
Previously released in draft form as TD 1999/D65

Related Rulings/Determinations:
TR 92/1; TR 92/20; TR 97/16

Subject references:
- acquisition
- capital gain
- CGT asset
- CGT event
- currency

Legislative references:
- TAA 1953 Pt IVAAA
- ITAA 1997 108-5(1)
- *Reserve Bank Act 1959* Section 32
- *Reserve Bank Act 1959* Section 36
- *Currency Act 1965* Section 16

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