

TD 93/176 - Income tax: is the amount received from the sale of vendor shares by a bona-fide prospector, who received the shares as consideration for the sale of mining tenements, exempt in terms of sub paragraph 23(pa) or subsection 160L(7) of the Income Tax Assessment Act 1936?

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! This document has changed over time. This is a consolidated version of the ruling which was published on 9 September 1993

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, 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 a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: is the amount received from the sale of vendor shares by a bona-fide prospector, who received the shares as consideration for the sale of mining tenements, exempt in terms of sub paragraph 23(pa) or subsection 160L(7) of the *Income Tax Assessment Act 1936*?

1. No. The provisions of paragraph 23(pa) or paragraph 160L(7) do not apply to exempt the profit from the sale of vendor shares by the prospector.
2. Exemption under paragraph 23(pa) or subsection 160L(7) does apply in the case of income derived by a bona fide prospector from the sale, transfer or assignment of his or her rights to mine gold or any prescribed metal or mineral.

Example: Shawn Fox, a bona fide prospector, received 20,000 shares (par value \$1 per share) on the float of Mining Company Ltd in August 1989, as consideration for the sale of his mining tenements. In May 1991 Shawn sold those shares for \$27,000. Shawn had never owned shares in a company before. Shawn has made a capital gain of \$5240 on the sale.

cost base x indexation factor = indexed cost base
 $\$20,000 \times 1.088 = \21760

proceed from sale - indexed cost base = net capital gain
 $27,000 - \$21,760 = \5240

Commissioner of Taxation
9/9/93

FOI INDEX DETAIL: Reference No. I 1216064

Previously issued as Draft TD 93/D142

Related Determinations:

Related Rulings: TR 92/19

Subject Ref: Mining; Exempt income; Disposal of mining right

Legislative Ref: ITAA 23(pa); ITAA 160L(7)

Case Ref:

ATO Ref: CNN J32/1/6 PART1