TD 93/2 - Income tax: capital gains: how is the 'net value' of a business determined for the purposes of section 160ZZR?

Taxation Determination **TD 93/2**

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: capital gains: how is the 'net value' of a business determined for the purposes of section 160ZZR?

1. For the purposes of section 160ZZR of the Income Tax Assessment Act 1936, 'net value' is a reference to the value of the assets of a business less the amount of liabilities of the business (paragraph 160ZZR(2)(b)).

2. The value of an asset is its market value which may or may not be its 'book value'.

Example:

On 1 July 1992, a taxpayer disposes of a business including goodwill.

At the date of disposal, the net assets of the business are recorded in the accounts (based on historical cost) at $2,200,000. The market value of the business assets including goodwill is $2,600,000 while the liabilities of the business amount to $300,000.

The 'net value' of the business for the purposes of section 160ZZR is taken to be $2,300,000 i.e. $2,600,000 less $300,000.

Note: As the 'net value' exceeds $2,000,000 (subsection160ZZRAA(2)), no relief can be provided by the section in respect of any capital gain accruing to the taxpayer on the disposal of the goodwill.

Commissioner of Taxation
21/01/93

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