TD 93/43 - Income tax: capital gains: what is the amount of the consideration received in respect of the disposal of an asset where the consideration consists of shares which will be delivered at a later date and decline in value prior to delivery?

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This document has changed over time. This is a consolidated version of the ruling which was published on *25 March 1993*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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: what is the amount of the consideration received in respect of the disposal of an asset where the consideration consists of shares which will be delivered at a later date and decline in value prior to delivery?

1. The consideration in respect of the disposal of such an asset is the market value of the shares on the date of disposal of the asset (paragraph 160ZD(1)(b) of the *Income Tax Assessment Act 1936*). In terms of subsection 160K(3), an entitlement to receive property includes an entitlement to receive property at a future date.

Note: It has been suggested that section 160ZF applies in this situation. This section does not apply because it is confined to situations where the whole or part of the consideration has not been and is not likely to be received. Section 160ZF also does not apply where the market value of property which forms the consideration falls before it is received.

Example:

On 1 January 1990, Anne contracts to sell her block of land valued at $50,000 for 10,000 shares in X Ltd to be delivered in 18 months time. At the time the land was sold, the shares had a market value of $5 each. At 1 July 1991, the market value of the shares had declined to $1.25 each.

The consideration for the disposal of the land is the market value of the shares at 1 January 1990 viz. $5 x 10,000 = $50,000.

Commissioner of Taxation
25/3/93

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