TD 93/79 - Income tax: capital gains: if a taxpayer owns pre-CGT land and trees and after 19 September 1985 the taxpayer cuts the trees, are there any CGT consequences arising from the subsequent sale of the timber by the taxpayer?

This cover sheet is provided for information only. It does not form part of *TD 93/79 - Income tax: capital gains: if a taxpayer owns pre-CGT land and trees and after 19 September 1985 the taxpayer cuts the trees, are there any CGT consequences arising from the subsequent sale of the timber by the taxpayer?*

This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

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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: if a taxpayer owns pre-CGT land and trees and after 19 September 1985 the taxpayer cuts the trees, are there any CGT consequences arising from the subsequent sale of the timber by the taxpayer?

1. No. The sale of the timber in these circumstances will not be subject to CGT.

2. While attached to the land, the trees and the land are considered to be a single pre-CGT asset owned by the taxpayer. After the trees are cut, the taxpayer still retains ownership of the timber (now a chattel). From this point, the timber is no longer part of the land. In effect, the original asset has been split into two pre-CGT assets.

3. There has been no change in the ownership of any asset as a result of the cutting of the trees. Accordingly, there is no disposal for CGT purposes (section 160M of the *Income Tax Assessment Act 1936*).

4. If the taxpayer later sells the timber, the sale of this asset (a chattel) will not be subject to CGT as the taxpayer will be disposing of a pre-CGT asset.

Note: The sale proceeds may be income under ordinary concepts.

Commissioner of Taxation
6/5/93

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