TD 93/86 - Income tax: capital gains: are the totality of rights under a contract considered to be the one asset, or is each right considered to be a separate asset for CGT purposes?

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This document has changed over time. This is a consolidated version of the ruling which was published on *20 May 1993*

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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: are the totality of rights under a contract considered to be the one asset, or is each right considered to be a separate asset for CGT purposes?

1. Whether all the rights comprise one single asset, or each right is a separate asset, will depend on the facts of each case. Generally, however, the initial approach will be to regard the totality of rights as the one asset for the purposes of Part IIIA of the *Income Tax Assessment Act 1936*.

2. Depending upon the circumstances of each particular case, an assignment of one of the rights contained in a contract is usually treated as a disposal of part of the asset (i.e. the contractal rights); the individual right that is severed from the contract is, if it continues to exist, regarded as a separate asset for CGT purposes.

Note: These views are confined to the subject matter of contracts and arrangements of a similar nature.

Example:

Widget Ltd grants to Maria the right to market a particular product within Australia. The totality of Maria's rights under the marketing agreement is regarded as a single asset for CGT purposes.

Maria assigns to Peter her rights to market the product in Western Australia, South Australia and the Northern Territory. Maria has disposed of part of her asset. The rights acquired by Peter (to market the product in Western Australia, South Australia and the Northern Territory) are a single asset in his hands, separate from the asset Maria continues to own (the rights to market the product elsewhere in Australia, being the rights she did not assign to Peter).

Note: The amount received by Maria may be income under ordinary concepts.

Commissioner of Taxation
20/5/93

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