



Notice of Withdrawal

Taxation Determination

Income tax: capital gains: if all or part of the final distribution by a liquidator in the course of winding up a company is assessable to a shareholder as a dividend which is franked, is any notional capital gain accruing to the shareholder on the disposal of the shares reduced under subsection 160ZA(4) by the imputation credit included in assessable income by section 160AQT?

1. Taxation Determination TD 95/15 provides that subsection 160ZA(4) of the *Income Tax Assessment Act 1936* does not operate to reduce any capital gain by the amount of an imputation credit included in assessable income by section 160AQT.

2. The issue dealt with by TD 95/15 was clarified in respect of assessments for the 1998-99 and later income years by *Tax Law Improvement Act (No. 1) 1998*. That Act introduced paragraph 118-20(1B)(b) of the *Income Tax Assessment Act 1997* which provides that a capital gain is not reduced by an amount included in assessable income under section 160AQT of the *Income Tax Assessment Act 1936*.

For the reasons set out above, Taxation Determination TD 95/15 is withdrawn with effect from today in respect of assessments for the 1998-99 and later income years.

Commissioner of Taxation
5 November 2003

ATO references
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