



TD 95/53 - Income tax: capital gains: how are the date of acquisition and the acquisition cost of bonus shares determined if the bonus shares are issued in respect of shares held by the deceased at the date of death and are issued after the date of death?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *27 September 1995*

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 are the date of acquisition and the acquisition cost of bonus shares determined if the bonus shares are issued in respect of shares held by the deceased at the date of death and are issued after the date of death?

1. The date of acquisition and the acquisition cost of the bonus shares are determined having regard to the provisions of either Division 8 or 8A of Part IIIA of the *Income Tax Assessment Act 1936* as applicable, as well as the general provisions of Part IIIA.
2. Section 160X does not apply to the acquisition of the bonus shares, because they were not assets owned by the deceased at the time of death and therefore did not form part of the estate of the deceased (Taxation Determination TD 93/38).

Example 1

Paid-up value of bonus shares is a dividend: (Division 8A applies for bonus shares issued after 30 June 1987):

On 6 January 1990, Donald purchased 1,000 \$2 shares in BAM Ltd for \$2000. Donald died on 15 April 1991 and the 1,000 shares in BAM Ltd formed part of the deceased estate.

On 10 May 1991, BAM Ltd issued 50 fully paid \$2 bonus shares and their paid-up value of \$2 per share (\$100 in total) was a dividend.

*(i) **Acquisition date of the bonus shares.** The bonus shares are acquired for CGT purposes by the legal personal representative ('LPR') or beneficiary on 10 May 1991. The bonus shares are acquired at the time of their allotment.*

*(ii) **Acquisition cost of the bonus shares.** The acquisition cost of the bonus shares is the amount of \$100 (or \$2 per bonus share) assessed as a dividend (section 160ZYHC; Division 8A). No part of the cost of the original 1,000 shares (i.e., from Donald's estate) is apportioned to the bonus shares (Taxation Ruling IT 2603, paragraphs 31 to 38).*

Example 2***Paid-up value of bonus shares is not a dividend: (Division 8 applies):***

Assume that the facts in Example 1 are unchanged, except that the 50 bonus shares in BAM Ltd issued to the LPR or beneficiary on 10 May 1991 are fully paid-up by debits made to a genuine share premium account of the company. In this case, the paid-up value of the bonus shares is not a dividend (paragraph (d) of the definition of 'dividend' in subsection 6(1)).

*(i) **Acquisition date of the bonus shares.** The bonus shares are deemed to be acquired when the LPR or the beneficiary (being 'the shareholder', for the purposes of paragraph 160ZYG(b), when the bonus shares were issued) acquired the original shares (paragraph 160ZYG(b)). The original shares are deemed to have been acquired by the LPR or beneficiary at the date of Donald's death, i.e., 15 April 1991 (paragraph 160X(5)(b)). Thus, the bonus shares are also deemed to have been acquired on 15 April 1991.*

*(ii) **Acquisition cost of the bonus shares.** Section 160ZYH and subsection 6BA(3) combine to determine the acquisition cost of the bonus (and original) shares. It is appropriate in this case for the acquisition cost of the original shares to be spread evenly over the original and bonus shares.*

The acquisition cost of the original shares is determined in accordance with paragraph 160X(5)(b). In effect, the \$2,000 cost (or indexed cost as applicable) of the original shares to Donald is apportioned over the 1,050 shares (i.e., \$1.90 per share).

The acquisition cost of each original share is therefore \$1.90 and, because no amount was actually paid by the LPR or the beneficiary for the bonus shares, the acquisition cost of each bonus share is also \$1.90.

Commissioner of Taxation

27/9/95

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Related Determinations: TD 93/38

Related Rulings: IT 2603

Subject Ref: acquisition; acquisition cost; acquisition date; bonus shares; deceased; deceased estate; shares

Legislative Ref: ITAA PT IIIA; ITAA Pt IIIA Div 8; ITAA Pt IIIA Div 8A; ITAA 6(1); ITAA 6BA(3); ITAA 160X; ITAA 160X(5)(b); ITAA 160ZYG(b); ITAA 160ZYH; ITAA 160ZYHC

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