TD 30 - Capital Gains: Is the term 'sum' in subsection 160ZB(1) limited to a cash sum?

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CGT Cell Determinations do not have the force of law, but can be relied upon as being the considered view of the ATO. Unless otherwise stated, the view expressed may be applied to transactions entered into both before and after the date of issue of the Determination.

CGT Determination Number 30

Capital Gains: Is the term 'sum' in subsection 160ZB(1) limited to a cash sum?

Determination

1. No. The 'sum' referred to in subsection 160ZB(1) is taken to include not only amounts of money but also the money value of property or other consideration obtained by a taxpayer in the circumstances outlined in that subsection.

2. Cash or property, for instance, is merely obtained by a taxpayer *in satisfaction of* the sum determined by a Court or the sum agreed to by the parties on settlement of the taxpayer's action.

Example:

A well known footballer took out defamation action on 1 July 1989 against a local TV station as a result of comments made on a sports program.

The footballer subsequently won his case and was awarded $100,000 damages by a Court.

In accepting the Court's decision, the TV station offered and the footballer accepted shares in the station's holding company to the value of $100,000.

The footballer would be exempt from any capital gain that may arise on the receipt of the shares. However, when the shares are disposed of , the acquisition cost ,for CGT purposes, will be taken to be $100,000.

COMMISSIONER OF TAXATION
28 November 1991

Subject Ref: Exemption; sum

Legislative Ref: 160ZB(1) ATO Ref: LAF BRIS

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