TD 39 - Capital Gains:What is the cost base of shares acquired by a taxpayer on acceptance of a takeover offer?

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CGT Determination Number 39

Capital Gains:What is the cost base of shares acquired by a taxpayer on acceptance of a takeover offer ?

Determination

1. Where the consideration given in respect of the acquisition of an asset is property other than money, the consideration is the market value of that property at the time of acquisition (paragraph 160ZH(4)(b)).

2. Accordingly, where a taxpayer accepts an offer from a "takeover" company for the taxpayer's shares in a "target" company, and the consideration on disposal of these "target" company shares is shares in the "takeover" company, the taxpayer is taken to have acquired the "takeover" company shares for the market value of the "target" company shares .

3. The "target" company shares are to be valued at the time the "takeover" company shares are acquired i.e. on the day the takeover offer is accepted, unless the offer is conditional (e.g. on a certain level of acceptances).

Example:

A taxpayer owns 100 shares in XYZ Ltd. These shares are worth $2.25 each.

ABC Ltd offers to acquire the shares in XYZ Ltd for a consideration of 50 shares in ABC Ltd. Each share in ABC Ltd is worth $4.50.

The cost base of each share in ABC Ltd includes the acquisition consideration of $4.50 - the taxpayer gives two (2) XYZ Ltd shares to acquire each ABC Ltd share.

The consideration received by the taxpayer for the disposal of the shares in XYZ Ltd is $2.25 - section 160ZD.

COMMISSIONER OF TAXATION
31 January 1992

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