


TD 1999/D26 - Income tax: capital gains: what are the capital gains consequences for wheat levy payers who are allocated units from the Wheat Industry Fund (WIF)?

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This document has been finalised by TD 1999/65.

Draft Taxation Determination

Income tax: capital gains: what are the capital gains consequences for wheat levy payers who are allocated units from the Wheat Industry Fund (WIF)?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs should not be relied on; only final TDs are authoritative statements of the ATO.

1. WIF units are allocated to wheat levy payers by the WIF based on the amount of wheat levy contributions made by the levy payer. Receipt of a WIF unit does not give rise to a capital gain under the *Income Tax Assessment Act 1936* (ITAA 1936) or the *Income Tax Assessment Act 1997* (ITAA 1997). The WIF unit is a CGT asset and subject to the capital gains provisions if allocated after 19 September 1985.
2. Whether or not a WIF unit has a cost base and how a cost base is determined depend on the time when a taxpayer acquires and disposes of the unit.
3. For a WIF unit acquired at or before 7.30pm Australian Eastern Standard Time (AEST) on 13 May 1997 the wheat levy contribution is included in the cost base of the WIF unit. Indexation is available for the purposes of determining the indexed cost base of the unit.
4. For a WIF unit acquired after 7.30pm AEST on 13 May 1997 the wheat levy contribution is excluded from the cost base of the WIF unit. However, if a unit acquired after 7.30pm AEST on 13 May 1997 is disposed of before 1 July 1998 indexation is available for the purpose of calculating a capital gain, and the indexed cost base will be equal to the indexation component.
5. Indexation does not apply if a WIF unit acquired after 7.30pm AEST on 13 May 1997 is disposed of on or after 1 July 1998. The WIF unit will have a zero cost base and a zero indexed cost base.
6. The WIF units allocated to a wheat levy payer constitute active assets for the purposes of the small business roll-over relief and retirement exemption provisions currently in Division 17A and 17B of Part IIIA of the ITAA 1936. Wheat levy payers who dispose of their WIF units or whose units are cancelled or surrendered on or after 1 July 1997, and who meet the other conditions of the small business roll-over relief or retirement exemption provisions, may elect to defer capital gains tax liability or, alternatively, claim the retirement exemption. (For further information refer to the ATO booklet '*A Guide to Small Business Capital Gains Tax Rollover Relief and Retirement Exemption*', NAT 2685-6/1998.)

Example

7. Allison is a wheat grower who has acquired 1,500 WIF units as follows:
- | | | |
|--------------------|--------------|---|
| 1997 | 1,000 | (all units acquired on or before 12 May 1997) |
| 1999 | <u>500</u> | |
| Total of WIF units | <u>1,500</u> | |

The wheat levy contribution in respect of each WIF unit is \$4.

8. Allison sells her units on 31 May 1999 for \$6 per unit. Her assessable capital gain is calculated as follows:

WIF units acquired on or before 12 May 1997:

Capital proceeds on disposal (1,000 x \$6)	\$6,000
Less indexed cost base (\$4 x indexation factor [say 1.05] x 1000)	<u>\$4,200</u>
Capital gain	<u>\$1,800</u>

WIF units acquired in 1999:

As the units have a zero cost base the capital gain will equal the capital proceeds on disposal of \$3,000 (500 x \$6).

Allison is required to include the capital gain of \$4,800 (\$1,800 + \$3,000) in her assessable income for the year of income ended 30 June 1999.

9. However, each WIF unit is an active asset for Allison and she may elect to apply the small business roll-over relief or retirement exemption provisions in respect of the capital gain of \$4,800 from the disposal of the WIF units.

Your comments

10. If you wish to comment on this draft Taxation Determination, please send your comments by Wednesday 23 June 1999 to:

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Commissioner of Taxation

9 June 1999

Previous draft:

Not previously released to the public in draft form

Related Rulings/Determinations:

TD 1999/D27

Subject references:

capital gains; capital gains tax; CGT cost base; CGT indexed cost base; CGT rollover relief; CGT retirement exemption; wheat growing

Legislative references:

ITAA36 Pt IIIA; ITAA36 160ZH(1)(a); ITAA36 160ZH(2)(a); ITAA36 160ZJA; ITAA36 160ZJB; ITAA36 Div 17A, Pt IIIA; ITAA36 Div 17B, Pt IIIA; ITAA97 Pt 3-1; ITAA97 110-25(1); ITAA97 110-25(2); ITAA97 110-40; ITAA97 110-45; ITAA97 114-1; ITAA97 116-20(1)(b)

Case references:

ATO references:

NO NAT 99/7385-9

BO

FOI index detail:

ISSN: 1038-8982