


***TD 1999/D96 - Income tax: capital gains: in what circumstances does the expression 'proceeds cannot be valued' in paragraph 116-30(2)(a) of the Income Tax Assessment Act 1997 (market value substitution rule) apply?***

 This cover sheet is provided for information only. It does not form part of *TD 1999/D96 - Income tax: capital gains: in what circumstances does the expression 'proceeds cannot be valued' in paragraph 116-30(2)(a) of the Income Tax Assessment Act 1997 (market value substitution rule) apply?*

This document has been finalised by TD 1999/84.



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## Draft Taxation Determination

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### **Income tax: capital gains: in what circumstances does the expression ‘proceeds cannot be valued’ in paragraph 116-30(2)(a) of the *Income Tax Assessment Act 1997* (market value substitution rule) apply?**

#### *Preamble*

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

1. The expression applies if capital proceeds cannot be valued at all. Situations where capital proceeds cannot be valued are likely to be rare. Paragraph 116-30(2)(a) of the *Income Tax Assessment Act 1997* does not apply if valuing capital proceeds is merely difficult, costly or inconvenient.
2. As a matter of policy it is inappropriate to apply the market value substitution rule to deem the market value of an asset being sold to constitute the capital proceeds from a CGT event if it is at all possible to value the capital proceeds given. The substitution of market value should, therefore, be used in these circumstances only as a last resort.

#### **Note**

3. The above analysis also applies to expenditure that cannot be valued in paragraph 112-20(1)(b) of the cost base market value substitution rule.

#### **Your comments**

4. **We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.**

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## Commissioner of Taxation

25 August 1999

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### *Previous draft:*

Not previously released in draft form

### *Related Rulings/Determinations:*

### *Subject references:*

asset; cannot be valued; capital gains; capital proceeds; CGT asset; CGT event; cost base; market value; market value substitution rule; valuation; value

### *Legislative references:*

ITAA 1997 112-20(1)(b); ITAA 1997 116-30(2)(a)

### *Case references:*

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### ATO references:

NO 99/11446-1

BO CGT disposal summit 1999; CPL99/81

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