

TD 93/D142 - Income tax: is the amount received from the sale of vendor shares by a bona fide prospector, who received the shares as consideration for the sale of mining tenements, exempt in terms of paragraph 23(pa) or subsection 160L(7) of the Income Tax Assessment Act 1936 ?

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This document has been finalised by TD 93/176.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: is the amount received from the sale of vendor shares by a bona fide prospector, who received the shares as consideration for the sale of mining tenements, exempt in terms of paragraph 23(pa) or subsection 160L(7) of the *Income Tax Assessment Act 1936*?

1. No. The provisions of paragraph 23(pa) or subsection 160L(7) do not apply to exempt the profit from the sale of vendor shares by the prospector.
2. Exemption under paragraph 23(pa) or sub section 160L(7) does apply in the case of income derived by a bona fide prospector from the sale, transfer or assignment of his or her rights to mine gold or any prescribed metal or mineral.

Example: Shawn Fox, a bona fide prospector, received 20,000 shares (par value \$1 per share) on the float of Mining Company Ltd in August 1989, as consideration for the sale of his mining tenements. In May 1991 Shawn sold those shares for \$27,000. Shawn had never owned shares in a company before. Shawn has made a capital gain of \$5240 on the sale.

cost base x indexation factor = indexed cost base
 $\$20,000 \times 1.088 = \$21,760$

proceeds from sale - indexed cost base = net capital gain
 $\$27,000 - \$21,760 = \$5240$

Commissioner of Taxation

3/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: TR 92/19

Subject Ref: Mining; Exempt income; Disposal of mining right

Legislative Ref: ITAA 23(pa); ITAA 160L(7)

Case Ref:

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