


TD 93/D63 - Income tax: capital gains: under what circumstances will Divisions 10 and 11 of Part IIIA of the Income Tax Assessment Act 1936 apply to options or rights issued by a company to an existing shareholder?

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This document has been finalised by TD 93/78.

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: capital gains: under what circumstances will Divisions 10 and 11 of Part IIIA of the *Income Tax Assessment Act 1936* apply to options or rights issued by a company to an existing shareholder?

1. Divisions 10 and 11 of Part IIIA will apply to options or rights issued to a shareholder in respect of that shareholder's existing shares in the issuing company ie. Divisions 10 and 11 will only apply when options or rights are issued pro-rata to existing shareholders.

2. Divisions 10 and 11 of Part IIIA will not apply to options or rights issued other than in respect of existing shares in the issuing company.

Example:

A, B and C hold shares of the same class in G Ltd.

A placement of options is made by G Ltd to B as a gift. A and C are not offered any options.

The options issued to B are not issued to B in respect of B's existing shares in G Ltd. Accordingly, Division 11 will not apply to the options issued to B.

Commissioner of Taxation

18/3/93

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