


TD 94/D104 - Income tax: capital gains: if there is more than one increased value share in a share value shift, can the formulas in Division 19B of Part IIIA of the Income Tax Assessment Act 1936 be applied to just one of the increased value shares?

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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: if there is more than one increased value share in a share value shift, can the formulas in Division 19B of Part IIIA of the *Income Tax Assessment Act 1936* be applied to just one of the increased value shares?

1. No. The formulas contained in sections 160ZZRP and 160ZZRQ have to be applied in turn to **each** of the increased value shares.

2. Subsection 160ZZRP(1) applies (assuming the requirements of section 160ZZRL are satisfied) if ‘a particular increased value share’ is a pre-CGT share. If there is more than one increased value share which is a pre-CGT share, the formulas contained in section 160ZZRP have to be applied to each of those shares in turn. Similarly, subsection 160ZZRQ(1) refers to ‘a particular increased value share’ which is a post-CGT share so that, if there is more than one such share, the formulas in section 160ZZRQ have to be applied to each one.

Example

The controller of a company has two classes of shares:

- *100 Class A shares which are post-CGT shares (i.e. acquired after 19 September 1985) worth \$100 each with an indexed cost base of \$80; and*
- *50 Class B shares which are pre-CGT shares.*

There is a share value shift by changing the dividend rights attached to the two classes. As a result of the shift, each Class A share decreases in value by \$15 and each Class B share increases by \$30.

Section 160ZZRP applies because a particular increased value share (i.e. each of the Class B shares) is a pre-CGT share. The formulas in the section apply as follows.

If a part of each Class A share was disposed of for a consideration calculated under subparagraph 160ZZRP(2)(a)(ii), the consideration would be:

$$\frac{\text{Increase in market value of each Class B share}}{\text{Total market value increase of all Class B shares}} \times \text{Decrease in market value of the Class A share}$$

$$\text{i.e. } \frac{\$30}{\$1500} \times \$15 = 30 \text{ cents}$$

The indexed cost base used against this consideration is calculated under subparagraph 160ZZRP(2)(a)(iii) as follows:

$$\$80 \times \frac{30 \text{ cents}}{\$100} = 24 \text{ cents}$$

Therefore, the capital gain taken to accrue to the holder of each Class A share in respect of the part of each Class A share in relation to the value shift to each Class B share is:

$$30 \text{ cents} - 24 \text{ cents} = 6 \text{ cents}$$

However, there are 50 Class B shares which means that the formulas in section 160ZZRP have to be applied 50 times. This results in a total capital gain in respect of the part of each Class A share in relation to the value shift to all Class B shares of:

$$6 \text{ cents} \times 50 \text{ shares} = \$3.00$$

The indexed cost base of each Class A share (\$80) is to be reduced under subsection 160ZZRP(3) by the following fraction:

$$\frac{\text{Increase in market value of each Class B share}}{\text{Total market value increase of all Class B shares}} \times \frac{\text{Decrease in market value of the Class A share}}{\text{Market value of Class A share before the decrease}}$$

$$\text{i.e. } \frac{\$30}{\$1500} \times \frac{\$15}{\$100}$$

Therefore the indexed cost base of each Class A share is to be reduced by 3/1000 in relation to the value shift to each Class B share.

Because there are a total of 50 Class B shares, the indexed cost base of each Class A share is to be reduced by:

$$\$80 \times (3/1000 \times 50) = \$12$$

Commissioner of Taxation

24/11/94

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Related Determinations:

Related Rulings:

Subject Ref: formulas; increased value share; share value shift

Legislative Ref: ITAA Pt IIIA Div 19B; ITAA 160ZZRL; ITAA 160ZZRP; ITAA 160ZZRP(1); ITAA 160ZZRP(2)(a)(ii); ITAA 160ZZRP(2)(a)(iii); ITAA 160ZZRP(3); ITAA 160ZZRQ; ITAA 160ZZRQ(1)

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