



TD 1999/64 - Income tax: capital gains: what are the consequences for taxpayers who make a capital gain on the conversion of their Wheat Industry Fund units to shares in AWB Limited?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *15 December 1999*

Taxation Determination

Income tax: capital gains: what are the consequences for taxpayers who make a capital gain on the conversion of their Wheat Industry Fund units to shares in AWB Limited?

Preamble

*This Taxation Determination is a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and is legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is legally binding on the Commissioner.*

Date of effect

This determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. The business operations of the Australian Wheat Board have been restructured from a statutory marketing authority to a grower owned company, AWB Limited, from 1 July 1999. Prior to 1 July 1999 growers held Wheat Industry Fund (WIF) units in the Australian Wheat Board. On 1 July 1999 the units were extinguished and B class shares in AWB Limited were issued as compensation. The extinguishment of a WIF unit represents a CGT event C1 (about loss or destruction of a CGT asset) in section 104-20 of the *Income Tax Assessment Act 1997* (ITAA 1997) and the time of this event is 1 July 1999 when compensation was received.
2. Each B class AWB Limited share issued represents the acquisition of a CGT asset on 1 July 1999 for capital gains purposes.
3. Where the market value of a B class AWB Limited share as at 1 July 1999 exceeds the cost base of a WIF unit as at that date a WIF unitholder makes a capital gain on the WIF unit.
4. However, a WIF unit holder whose units are extinguished on 1 July 1999 is eligible to choose a roll-over on any such capital gain under Subdivision 124-B of the ITAA 1997. The effect of the roll-over is that the capital gain made from the WIF units is disregarded.
5. In a sense, a roll-over is automatically available. By not returning a capital gain in the year of income ended 30 June 2000, a taxpayer will have chosen a roll-over under Subdivision 124-B.

6. If Subdivision 124-B roll-over is chosen, the cost base of a B class AWB Limited share includes an amount equal to the cost base of the equivalent WIF unit as at 1 July 1999.

7. Alternatively, taxpayers who, because of their individual circumstances, choose not to claim a roll-over under Subdivision 124-B and who meet the conditions of the small business roll-over or retirement exemption provisions in Division 123 of Part 3-3 and Subdivision 118-F of Part 3-1 of the ITAA 1997, may choose to defer the capital gains tax liability or, alternatively, claim the retirement exemption. In this regard, the WIF units allocated to a wheat levy payer constitute active assets. (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).

8. The B class AWB Limited shares are not active assets. Therefore, the small business roll-over and the retirement exemption provisions do not apply to any capital gains arising on a CGT event happening to those shares.

Commissioner of Taxation
15 December 1999

Previous draft:

Previously released as TD 1999/D27

Related Rulings/Determinations:

TD 1999/65

Subject references:

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

Legislative references:

ITAA97 104-20; ITAA97 Pt 3-1 Subdiv 118-F; ITAA97 Pt 3-3 Div 123; ITAA97 Subdiv 124-B

Case references:

ATO references:

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