



TD 1999/65 - Income tax: capital gains: how do you calculate the cost base of a Wheat Industry Fund unit issued to a wheat levy payer from the Fund?

 This cover sheet is provided for information only. It does not form part of *TD 1999/65 - Income tax: capital gains: how do you calculate the cost base of a Wheat Industry Fund unit issued to a wheat levy payer from the Fund?*

 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: how do you calculate the cost base of a Wheat Industry Fund unit issued to a wheat levy payer from the Fund?

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. In the years 1990 to 1999 wheat levy payers acquired equity in the Wheat Industry Fund (WIF) based on the amount of their wheat levy contribution. Acquisition of WIF equity does not constitute a capital gain (or ordinary income) under the *Income Tax Assessment Act 1936* (ITAA 1936) or the *Income Tax Assessment Act 1997* (ITAA 1997). WIF equity is a CGT asset and is subject to the capital gains provisions.
2. During 1994 the WIF was unitised and a wheat levy payer's equity was recorded by the WIF as units. A wheat levy payer's WIF equity is represented by WIF units for all years.
3. The calculation of the cost base of a WIF unit for capital gains purposes depends on the time when the WIF unit (or the WIF equity it represents) is acquired, i.e., the time the wheat levy contribution was received by the WIF.
4. If a WIF unit (or the WIF equity it represents) was acquired at or before 7.30pm Australian Eastern Standard Time (AEST) on 13 May 1997, a wheat levy contribution giving rise to that WIF unit is included in the cost base of the WIF unit. The payment is subject to indexation from the time the liability for the levy arises, i.e., the date wheat was delivered by the grower to another person for sale, or for processing by or for the grower.
5. If a WIF unit (or the WIF equity it represents) was acquired after 7.30pm AEST on 13 May 1997, a wheat levy contribution giving rise to that WIF unit is excluded from the cost base of the

WIF unit but the indexed component of the payment calculated from the time the liability for the levy arises is included in the cost base of the WIF unit.

6. The date 13 May 1997 mentioned in paragraphs 4 and 5 above is critical as, broadly speaking, the law was amended to exclude from the cost base expenditure that has been deducted or can be deducted for an income year. The change in the law applies to expenditure in respect of a CGT asset acquired after 7.30 pm AEST on 13 May 1997.

7. Indexation only applies, for cost base calculations, where the WIF unit is held for at least 12 months or, on a CGT event happening to an AWB Limited share received by way of compensation for a compulsory acquisition, if the sum of the periods of ownership of the WIF unit and of the AWB Limited share is at least 12 months.

Example

8. *Allison is a wheat grower who was issued 1,000 WIF units on 30 September 1996 and 500 WIF units on 30 September 1998. Allison delivered her wheat on 12 April in both years and the wheat levy contribution for each WIF unit was \$1.*

What is the cost base as indexed of Allison's WIF units as at 1 July 1999?

(a) WIF units issued on 30 September 1996:

*1,000 units X \$1 levy contribution X indexation factor for 1 July 1999 (123.4)
indexation factor for April 1996 (119.8)*

equals a cost base as at 1 July 1999 of \$1030.05.

(b) WIF units issued on 30 September 1998:

As Allison's 1998 WIF units were acquired after 7.30pm AEST on 13 May 1997 the \$1 wheat levy contribution is excluded from the cost base.

*500 units X \$1 levy contribution X indexation factor for 1 July 1999 (123.4)
indexation factor for April 1998 (121.0)*

minus the \$500 levy contribution equals a cost base as at 1 July 1999 of \$9.91

Commissioner of Taxation

15 December 1999

Previous draft:

Previously released as TD 1999/D26

Related Rulings/Determinations:

TD 1999/64

Subject references:

capital gains; capital gains tax; CGT cost base; CGT roll-over; CGT retirement exemption; wheat growing

Legislative references:

ITAA36 Pt 111A Div 17A; ITAA36 Pt 111A Div 17B
ITAA97 Pt 3-1 Subdiv 118-F; ITAA97 Pt 3-3 Div 123

Case references:

ATO references:

NO NAT 99/7386-9

BO

FOI Index detail: I 1021041

ISSN: 1038-8982