


TD 2001/9 - Income tax: capital gains: if you receive compensation for a compulsory acquisition of part of a CGT asset which you own, how do you treat that compensation - for cost base purposes - to the extent to which it reflects a reduction in value of the remaining part of your asset?

 This cover sheet is provided for information only. It does not form part of *TD 2001/9 - Income tax: capital gains: if you receive compensation for a compulsory acquisition of part of a CGT asset which you own, how do you treat that compensation - for cost base purposes - to the extent to which it reflects a reduction in value of the remaining part of your asset?*



Taxation Determination

Income tax: capital gains: if you receive compensation for a compulsory acquisition of part of a CGT asset which you own, how do you treat that compensation - for cost base purposes - to the extent to which it reflects a reduction in value of the remaining part of your asset?

Preamble

*The number, subject heading, date of effect and paragraphs 1 to 7 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. The remainder of the Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally or administratively binding.*

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 determining the cost base of the part of the CGT asset compulsorily acquired, the compensation - to the extent to which it reflects the reduction in value of the remaining part of the CGT asset - forms part of the capital proceeds for the CGT event happening to the part of the CGT asset compulsorily acquired for the purposes of subsection 112-30(3) of the *Income Tax Assessment Act 1997*.
2. Part of a CGT asset can itself be a CGT asset: see paragraph 108-5(2)(a). The compulsory acquisition of the CGT asset representing the part of the asset acquired constitutes a disposal of the CGT asset in terms of CGT event A1 to which Subdivision 124-B applies. (The example in section 124-85 illustrates how to calculate a capital gain or capital loss in accordance with section 112-30 in these circumstances.)
3. Subsections 112-30(2), (3) and (4) provide for apportionment of the cost base of a CGT asset if a CGT event happens to part of the asset and not to the remainder of it. If part of a CGT asset is compulsorily acquired, CGT event A1 happens to the CGT asset representing that part. The cost base of the asset owned before the compulsory acquisition is apportioned in accordance with

subsection 112-30(3), having regard to the compensation received and the market value of the remaining part of the asset.

4. To apply subsection 112-30(3) you need to determine the capital proceeds for the CGT event happening on the compulsory acquisition. The capital proceeds - for CGT event A1 happening to the CGT asset representing the part of the asset compulsorily acquired – include the amount of the compensation for the compulsorily acquired part to the extent that it reflects the reduction in value of the part of the CGT asset retained.

5. If the market value of the remaining part of the CGT asset has been reduced by the compulsory acquisition, any consequential effect on the cost base of the part of the asset compulsorily acquired is reflected in the apportionment formula in subsection 112-30(3).

6. Once the cost base of the compulsorily acquired part of the CGT asset is worked out under subsection 112-30(3), the balance of the cost base of the CGT asset is attributed by subsection 112-30(4) to the remaining part of the asset.

Note

7. The question raised in this Determination does not involve a splitting of the CGT asset in terms of section 112-25 such as a subdivision of land. That section is predicated on no CGT event happening when a CGT asset is split as the original owner remains the beneficial owner of each new asset. Even if there is a splitting of a CGT asset to facilitate a compulsory acquisition of part of the asset, however, section 112-30 rather than section 112-25 is the relevant provision in determining the cost base of the part compulsorily acquired.

Example

8. *Lila has part of her wildlife park resumed, which seriously affects the value of the remaining land. The cost base of the entire land is \$600 000. The market value of the land remaining after the compulsory acquisition is \$1 million. Compensation paid for the compulsorily acquired land is \$1.1 million of which \$100 000 reflects the reduction in value of the remaining land caused by the compulsory acquisition.*

9. Applying the apportionment formula in subsection 112-30(3), the cost base of the part to which the CGT event happened (the compulsorily acquired part) is:

$$\begin{array}{rcl}
 \text{Cost base} & \times & \text{Capital } \underline{\text{proceeds for the compulsory acquisition of the acquired part}} \\
 & & \text{Proceeds + market value of the remaining part} \\
 \\
 \$600\,000 & \times & \frac{\$1\,100\,000}{\$1\,100\,000 + \$1\,000\,000} \\
 \\
 = & \$314\,286. &
 \end{array}$$

where

Proceeds = Capital proceeds (compensation) for the compulsory acquisition

$$\text{Market value} = \text{Market value of the remaining land (after taking into account the effect of the compulsory acquisition)}$$

10. The cost base of the compulsorily acquired part is \$314 286. The cost base of the part which remains is \$285 714 (being \$600,000 - \$314 286).

Previous draft

Previously released in draft form as TD 1999/D63

Related Rulings/Determinations

TD 2000/36; TD 2000/37; TD 2000/38; TD 2000/39; TD 2000/40; TD 2000/41; TD 2000/42;
TD 2000/43; TD 2000/44

Subject references

- asset;
- asset split;
- apportionment;
- capital proceeds;
- CGT event;
- CGT event A1;
- compensation;
- compulsory acquisition;
- cost base;
- market value;
- part of a CGT asset;
- split

Legislative references:

- ITAA 1997 108-5(2)(a)
- ITAA 1997 112-25
- ITAA 1997 112-30
- ITAA 1997 112-30(2)
- ITAA 1997 112-30(3)
- ITAA 1997 112-30(4)
- ITAA 1997 124-85
- ITAA 1997 Subdiv 124-B

ATO references:

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