

TD 93/239 - Income tax: capital gains: where section 160ZZT of the Income Tax Assessment Act 1936 applies to deem that a capital gain has accrued in regard to the disposal of a share in a private company or an interest in a private trust estate, can subsection 160ZD(2) operate to deem that the consideration received in respect of the disposal is an amount equivalent to market value?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 16 December 1993

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, 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 a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: capital gains: where section 160ZZT of the *Income Tax Assessment Act 1936* applies to deem that a capital gain has accrued in regard to the disposal of a share in a private company or an interest in a private trust estate, can subsection 160ZD(2) operate to deem that the consideration received in respect of the disposal is an amount equivalent to market value?

1. Yes. Provided the conditions for its operation are satisfied, subsection 160ZD(2) can apply to deem that the appropriate consideration to be apportioned in terms of section 160ZZT is an amount equivalent to the market value of the share or interest at the date of disposal.
2. Section 160ZZT will apply where there is a disposal, under the general provisions of Part IIIA, of shares in a private company or an interest in a private trust estate and the 'net worth' test in paragraph 160ZZT(1)(d) is satisfied. The consideration in respect of the disposal must then be apportioned to determine the amount by which the value of the share or interest has increased because of post-CGT acquisitions by the company or trust estate. It is this portion of the deemed consideration that is the capital gain.

Commissioner of Taxation
16/12/93