TD 93/80 - Income tax: capital gains: how will Divisions 10 and 11 of Part IIIA of the Income Tax Assessment Act 1936 apply to options or rights issued by a company to shareholders, if the existing shares in respect of which the options or rights are issued consist of pre-CGT and post-CGT shares?

This cover sheet is provided for information only. It does not form part of *TD 93/80 - Income tax: capital gains: how will Divisions 10 and 11 of Part IIIA of the Income Tax Assessment Act 1936 apply to options or rights issued by a company to shareholders, if the existing shares in respect of which the options or rights are issued consist of pre-CGT and post-CGT shares?*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of PartáIVAAA 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: how will Divisions 10 and 11 of Part IIIA of the *Income Tax Assessment Act 1936* apply to options or rights issued by a company to shareholders, if the existing shares in respect of which the options or rights are issued consist of pre-CGT and post-CGT shares?

1. As the options or rights issued in respect of existing shares are deemed to be acquired on the date the existing shares were acquired, the options or rights must be apportioned between the pre- and post-CGT shares.

Example:

G Ltd issues options to all its shareholders. Shareholder A is issued 60,000 options for nil consideration.

A's existing shares were originally acquired as follows:

10,000 shares acquired 30 July 1985 (1/3 of total existing shares: pre-CGT)
20,000 shares acquired 30 November 1987 (2/3 of total existing shares: post-CGT)

Accordingly, the 60,000 options will be deemed to have been acquired as follows:

20,000 options (1/3 of 60,000) deemed to have been acquired 30 July 1985 (pre-CGT)
40,000 options (2/3 of 60,000) deemed to have been acquired 30 November 1987 (post-CGT)

Commissioner of Taxation
6/5/93

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