


TD 98/11 - Income tax: capital gains: when are shares acquired, and instalments paid, under the Commonwealth Bank of Australia (CBA) and Telstra public share offers?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *27 May 1998*



Taxation Determination

Income tax: capital gains: when are shares acquired, and instalments paid, under the Commonwealth Bank of Australia (CBA) and Telstra public share offers?

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, it 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).

Class of person/arrangement

1. Investors in the CBA and Telstra public share offers were invited by the Commonwealth to make offers to purchase shares in the respective companies. Payment for the shares was to be made in two instalments. In both cases, the first instalment was to accompany the application with a final instalment to be made on a later specified date. In the Telstra offer, some investors were guaranteed an entitlement to a certain number of shares at the time that their offer to purchase shares was received by the Commonwealth. In the public share offer documents subscribers were advised that indexation of the cost base will apply to the amount of the first and final instalments from the dates they are paid. In this Taxation Determination we express our view on when the shares are acquired and when the instalments are paid, for purposes of Part IIIA of the *Income Tax Assessment Act 1936*.

Date of acquisition of shares and time of payment of the first instalment

2. For capital gains tax purposes, the date of acquisition of the shares is the date on which shares are allocated to an investor (whether or not the allocation was previously guaranteed). This is the date on which the offer to purchase the shares is accepted and the contract for the purchase of the shares is made.

3. It is only on acceptance of the investor's offer and the allocation of shares by the Commonwealth that the parties were contractually bound by the terms of the share sale. Payment of the first instalment occurred at that time. Despite the requirement that the offer to purchase shares be accompanied by the first instalment, no obligation to pay any amount by way of consideration arose prior to creation of the contractual relationship. Indexation of the first instalment amount is available from the date on which shares are allocated to an investor. For the

CBA share sale, allocation occurred on 13 July 1996. For the Telstra share sale, allocation occurred on 15 November 1997.

Time of payment of the final instalment

4. The final instalment will be taken to have been paid when it is received by the relevant trustee on behalf of the Commonwealth as vendor. Indexation of the final instalment amount is available from that time.

5. For the CBA share sale, receipt of payment by the trustee occurred on:

- (a) on or around 14 November 1997; or
- (b) the earlier date on which a discounted sum paid in satisfaction of the final instalment was received by the trustee.

6. For the Telstra share sale, receipt of payment by the trustee and transfer of title to the sale shares will occur on or around 17 November 1998 when the final instalment is due for payment.

7. For convenience, the information above is summarised in the following table:

Table

| | Commonwealth Bank of Australia (CBA) | Telstra |
|---|--|--|
| First instalment paid and indexation applies | Date of allocation of shares - 13 July 1996. | Date of allocation of shares - 15 November 1997. |
| Final instalment paid and indexation applies | The date of receipt by the trustee: (a) of the payment due on 14 November 1997; or (b) of the discounted sum paid earlier. | Date of receipt by the trustee of the payment due on 17 November 1998. |

Commissioner of Taxation

27 May 1998

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Related Determinations:

Related Rulings:

Subject Ref: acquisition of shares; capital gains; capital gains tax; indexation; instalments; sale shares; shares

Legislative Ref: ITAA36 Part IIIA

Case Ref:

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