


TD 40 - Capital Gains: What is the treatment where units in a unit trust are issued or redeemed by the trustee?

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CGT Cell Determinations do not have the force of law, but can be relied upon as being the considered view of the ATO. Unless otherwise stated, the view expressed may be applied to transactions entered into both before and after the date of issue of the Determination.

CGT Determination Number 40

Capital Gains: What is the treatment where units in a unit trust are issued or redeemed by the trustee?

Determination

1. The treatment differs for the unitholders and the unit trust as follows:-

UNITHOLDERS

- | | |
|---------------------|---|
| Issue of units | - units issued to a unitholder are an acquisition by virtue of paragraph 160M(5)(aa). |
| Redemption of units | - the redemption of units would constitute a disposal by virtue of paragraph 160M(3)(b). Any proprietary or equitable interest conferred by the units would be extinguished at the time of redemption, thereby effectively extinguishing the units. |

UNIT TRUST

- | | |
|---------------------|--|
| Issue of units | - units issued in a unit trust are not a disposal by virtue of paragraph 160M(5)(aa). |
| Redemption of units | - there is no acquisition of units in a unit trust by the trustee as the units are extinguished when redeemed. |

COMMISSIONER OF TAXATION

31 January 1992

FOI INDEX DETAIL: Reference No. CGT 40

Subject Ref: Issue and redemption of units in a unit trust

Legislative Ref: 160M(5)(aa); 160M(3)(b) ATO Ref: ADV TVLLE

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