


IT 2148 - Income tax : sale of rights to new share issue by trustees for shareholders

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TAXATION RULING NO. IT 2148

INCOME TAX : SALE OF RIGHTS TO NEW SHARE ISSUE BY
TRUSTEES FOR SHAREHOLDERS

F.O.I. EMBARGO: May be released

REF H.O. REF: 84/5785-9 DATE OF EFFECT: Immediate
B.O. REF: DATE ORIG. MEMO ISSUED: 15 March 1985

F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:

I 1174895 SHARE TRANSACTIONS - 26AAA
SALE OF RIGHTS
PROPERTY SOLD WITHIN
12 MONTHS - SALE OF
RIGHTS

OTHER RULINGS ON TOPIC IT 185

PREAMBLE The question to be decided was whether a profit assessable under section 26AAA arose out of a transaction whereby trustees for renouncing shareholders sold rights to a new share issue.

FACTS 2. The directors of a public company announced that the company would make an offer of new shares to the shareholders of the company on a 1 for 4 basis.

3. Notice was also given that shares not taken up by shareholders would be allotted to trustees who, it was said, would arrange for payment of the application moneys in respect of those shares and then sell the shares and distribute the net proceeds to the shareholders who failed to lodge valid acceptances.

4. Arrangements were made for the shares for which valid acceptances were not received to be transferred to a financial institution for a consideration considerably in excess of the application moneys payable on the new shares. The balance of the proceeds from the sale of the shares was distributed by the trustees to the shareholders who failed to lodge valid acceptances.

RULING 5. The trustees held the net proceeds of the sale of the shares for the benefit of shareholders who had failed to lodge valid acceptances, but they did not hold the shares for the benefit of those shareholders. The shareholders had failed to exercise their rights so that they had no right, legal or equitable, to the shares. They had an equitable right to the net proceeds only.

6. The shares were held by the trustees for the benefit of

the financial institution and were subsequently transferred to that institution.

7. On this analysis the trustees did not sell the shares at a profit and they have no liability for income tax in respect of this transaction. The shareholders who failed to exercise their rights will only be liable where they are share traders or come within the terms of section 25A. In this regard see Taxation Ruling No. IT 185.

COMMISSIONER OF TAXATION
29 March 1985

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