



***TD 2000/5 - Income tax: capital gains: does the requirement to disregard capital losses in Step 2 of the method statement in paragraph 47(1A)(b) of the Income Tax Assessment Act 1936 affect the application of the Archer Brothers principle(?)***

 This cover sheet is provided for information only. It does not form part of *TD 2000/5 - Income tax: capital gains: does the requirement to disregard capital losses in Step 2 of the method statement in paragraph 47(1A)(b) of the Income Tax Assessment Act 1936 affect the application of the Archer Brothers principle(?)*

 This Ruling has been reviewed as part of a project to review public rulings. The ATO view expressed in this Ruling is current as of 30 January 2018.



# TD 2000/5

distributions are not made in accordance with the Archer Brothers principle, the subsection 47(1) implications are shown in column three. It is assumed that the liquidator distributes all the available funds as one final distribution.

4. In the table below, the following abbreviations are used:

- **SCA:** the balance of the share capital account of XYZ Ltd
- **CG/CL:** a capital gain (loss) made by the company on the disposal of an asset acquired after 19 September 1985 (after allowing for tax where relevant but, in the case of gains, ignoring indexation)
- **Pre CG:** a non-assessable capital gain on the disposal of an asset acquired before 20 September 1985
- **DF:** distributable funds.

<i>Items shown in the company accounts</i>	<i>Appropriations made from specific funds/profits - (applying the Archer Bros principle)</i>	<i>No specific appropriations made</i>
SCA ..... \$1,000 CG ..... \$100 CL ..... \$(75) DF ..... \$1,025	<i>If the liquidator appropriates \$1000 from SCA, this is not a deemed dividend under subsection 47(1). Although the notional subsection 47(1A) amount is \$100, there is only \$25 DF remaining and the deemed subsection 47(1) dividend is limited to this amount.</i>	<i>The notional subsection 47(1A) amount is \$100. The deemed dividend under subsection 47(1) is \$100, with the balance of \$925 treated as a non-dividend return from the SCA.</i>
SCA ..... \$1,000 Pre CG..... \$100 CG ..... \$100 CL ..... \$(75) DF ..... \$1,125	<i>If the liquidator appropriates \$1,000 from SCA and \$100 from Pre CG, these amounts will not be deemed dividends under subsection 47(1). Again, because of a shortfall in DF, the deemed dividend is limited to \$25.</i>	<i>Again, the notional subsection 47(1A) amount is \$100. The deemed dividend under subsection 47(1) is \$100. The balance of \$1,025 must relate to the Pre CG and SCA and is not a deemed dividend.</i>
SCA ..... \$1,000 CG ..... \$3,000 CL ..... \$(3,000) DF ..... \$1,000	<i>If the liquidator appropriates the \$1,000 from SCA, there is no deemed subsection 47(1) dividend in this case.</i>	<i>The notional subsection 47(1A) amount is \$3,000. The deemed dividend under subsection 47(1) is \$1,000.</i>

**Note:**

5. This Taxation Determination rewrites and replaces Taxation Determination TD 95/11. There is no material change in this Taxation Determination to the views expressed in TD 95/11 apart from updating it with a recent *Corporations Law* change.

**Commissioner of Taxation**

19 January 2000

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*Previous draft:*

Previously issued as Draft TD 1999/D48

*Related Rulings/Determinations:*

TD 95/10; TD 95/11

*Subject references:*

capital gains; capital losses; distributions; dividends; liquidation; shares

*Legislative references:*

ITAA 36 47(1); ITAA 36 47(1A); ITAA 36 47(1A)(b)

*Case reference:*

Archer Brothers Pty Ltd (in vol liq) v. FC of T; (1953) 90 CLR 140; (1953) 10 ATD 192;  
(1953) 5 AITR 528

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ATO references:

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