


***TD 2002/D11 - Income tax: capital gains: in the first element of the cost base of a CGT asset in subsection 110-25(2) of the Income Tax Assessment Act 1997, does money or property necessarily have to be paid or given to the entity that caused a CGT event (for example a disposal) to happen to the asset?***

 This cover sheet is provided for information only. It does not form part of *TD 2002/D11 - Income tax: capital gains: in the first element of the cost base of a CGT asset in subsection 110-25(2) of the Income Tax Assessment Act 1997, does money or property necessarily have to be paid or given to the entity that caused a CGT event (for example a disposal) to happen to the asset?*

This document has been finalised by TD 2003/1.

---

## Draft Taxation Determination

---

**Income tax: capital gains: in the first element of the cost base of a CGT asset in subsection 110-25(2) of the *Income Tax Assessment Act 1997*, does money or property necessarily have to be paid or given to the entity that caused a CGT event (for example a disposal) to happen to the asset?**

### *Preamble*

*Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office. DTDs should not be relied on; only final Taxation Determinations represent authoritative statements by the Australian Taxation Office.*

1. No. The money does not have to be paid or given to the entity which disposed of the CGT asset. However, the money or property still needs to have been paid or given in respect of the acquisition of the asset.

**Example:** *Bill sells an asset to James for \$100,000. The terms of the sale are that James must pay the \$100,000 to an entity nominated by Bill. Even though James does not pay the money to Bill, the person who disposed of the asset, James pays it 'in respect of acquiring' the asset and the amount therefore can be included in the first element of the asset's cost base.*

### **Your comments**

2. We invite you to comment on this draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

# TD 2002/D11

Page 2 of 2

FOI status: **draft only - for comment**

**Comments by Date:** 4 December 2002  
**Contact Officer:** Elizabeth Terry  
**E-mail address:** elizabeth.terry@ato.gov.au  
**Telephone:** 07 3213 5774  
**Facsimile:** 07 3213 5971  
**Address:** Level 20  
140 Creek Street  
Brisbane QLD 4000

---

## Commissioner of Taxation

6 November 2002

---

*Previous draft:*

Not previously issued in draft form

*Subject references:*

- acquisition
- asset
- CGT asset
- cost base
- disposed
- entity
- first element
- give
- giving
- money
- pay
- property

*Legislative references:*

- ITAA 1997 110-25(2)

---

### ATO References

NO: 2002/016939

ISSN: 1038-8982