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# Agreements for Sale and Purchase of Property Denominated in Foreign Currency: Discounted Value of Amounts Payable

Issued: 27 September 1996

G21A

This Determination may be cited as "Determination G21: Agreements for Sale and Purchase of Property Denominated in Foreign Currency: Discounted Value of Amounts Payable".

# 1 Explanation (which does not form part of the determination)

## What financial arrangements does this determination apply to?

1. This determination applies to any agreement for the sale and purchase of property (or "ASAP") which is subject to the accrual rules, if the price for the property is denominated in a foreign currency (a "foreign currency ASAP"), and certain other conditions are met. It does not apply to a short term ASAP or a private or domestic ASAP (as those terms are defined in the Act), because these agreements are excepted financial arrangements.

## General principles of taxation of foreign currency ASAPs

2. For all ASAPs (whether or not denominated in a foreign currency) which are subject to the accrual rules, you must calculate a core acquisition price. This is the total of
  - (a)
    - (i) the lowest price that you and the other party would have agreed upon for the property at the time the ASAP was entered into, on the basis of payment in full at the time the first right in the specified property is to be transferred; or
    - (ii) if there is no such lowest price, the discounted value of the amounts payable for the property as determined under a determination; or
    - (iii) if there is no such lowest price, and no applicable determination, the value of the property provided by the seller; and
  - (b) any other amounts paid by the seller to the buyer (for purposes of explanation, these can safely be ignored).
3. This determination prescribes the method for determining the discounted value, in the foreign currency, of the amounts payable for the property, as set out in paragraph (2)(a)(ii).
4. For these purposes any amount determined in a currency other than NZ\$ is required to be discounted using an interest rate appropriate to the currency. This determination requires the use of a foreign currency interest rate ascertained as at the rights date using a method consistent with Determination G13A: Prices or Yields — this interest rate is the interbank offer rate for the currency and the term of the foreign currency ASAP.

5. The amounts payable are then discounted to the rights date, using the interest rate so ascertained and present value calculation Method A in Determination G10B: Present Value Calculation Methods or an alternative method producing not materially different results.
6. Once this amount has been determined, you must convert it into NZ\$, using one of the following rates:
  - forward rate to rights date (Rate A);
  - forward rate to settlement date (Rate B);
  - spot rate at rights date (Rate C);
  - spot rate at contract date (Rate D); or
  - spot rate at settlement date (Rate E);

as set out in paragraph (5) of Method. Use of these rates is subject to certain restrictions, set out in paragraphs 3(2), (3), (4) and (5) below.

7. Having calculated the NZ\$ value of the core acquisition price, you must calculate your income or expenditure from the foreign currency ASAP using the corresponding method in Determination G29.
8. The NZ\$ value of the foreign currency lowest price is also the price at which the property is deemed to have been sold or acquired by you for income tax purposes (under section EH 8(2)).

## How does this determination differ from G21?

9. This determination differs from Determination G21 by:
  - (a) removing the option to discount future amounts payable under a foreign currency ASAP using a NZ\$ interest rate;
  - (b) removing the requirement to convert the discounted value of amounts payable using the spot rate on the rights date.

## 2 Reference

1. This determination is made pursuant to section 90(1)(h) of the Tax Administration Act 1994.

2. This determination rescinds and replaces Determination G21:Discounted Value of Amounts Payable in Relation to Deferred Property Settlements Denominated in a Foreign Currency, with effect from the 1996/97 income year.

### 3 Scope of Determination

1. Subject to paragraphs (2), (3), (4) and (5), this determination applies to the calculation of income or expenditure under any foreign currency ASAP:
  - (a) if there is no lowest price; and
  - (b) with respect to which you become a party in your 1996–97 income year or a subsequent income year.
2. This determination does not apply:
  - (a) To any deferred property settlement where more than 20% of the sum of all the amounts payable is due before 31 days prior to the rights date; or
  - (b) Where in relation to any deferred property settlement any amount payable, or the date on which any amount is payable, is not known at the first balance date of the person after the transfer date; or
  - (c) Where the term of the deferred property settlement is not known at the first balance date after the transfer date.
3. You may use Rate B only if the period between the rights date and the settlement date (date of final payment) of the foreign currency ASAP is not more than five years.
4. You may use Rates C and D only if the property that is the subject of the foreign currency ASAP is trading stock in relation to you, other than land or shares.
5. You may use Rate E only if the aggregate of your gross income (as defined in the Act) and that of all associated persons, in the income year you became a party to the foreign currency ASAP, does not exceed \$2,500,000. For this purpose, gross income should be adjusted by excluding any income from foreign currency ASAPs which are subject to section EH 1 in the income year.

### 4 Principle

1. Under the qualified accrual rules a foreign currency ASAP gives rise to income or expenditure equal to the difference between the NZ\$ value of the acquisition price of the ASAP and the NZ\$ value of the price.

2. The acquisition price is equal to the core acquisition price less (in the case of the holder) or plus (in the case of the issuer) any non-contingent fees paid by that party that qualify as item z in the definition of core acquisition price in the Act.
3. The core acquisition price is defined in section OB 1. In the case of an ASAP, the definition provides that in certain circumstances, the core acquisition price should be the discounted value of the amounts payable for the property, determined under a determination made by the Commissioner.
4. This determination provides for the determination of the discounted value of the amounts payable for the property under a foreign currency ASAP. The discounted value must be calculated.
  - (a) in the base currency as if it were New Zealand \$;
  - (b) using an interest rate appropriate for the currency, the rate being a rate ascertained using a method consistent with Determination G13A, Prices or Yields, that is the foreign interbank offer rate appropriate to the term of the foreign currency ASAP;
  - (c) by then converting that amount to NZ\$ using an appropriate rate as set out in paragraph (5) of Method.
5. You will have to spread any income or expenditure arising from the ASAP using the method in Determination G29 which is applicable to the rate you have used.

## 5 Interpretation

In this determination:

1. a reference to the "Act" is a reference to the Income Tax Act 1994;
2. "Acceptable present value calculation method" means calculation Method A in Determination G10B: Present Value Calculation Methods, or an alternative method producing not materially different results:

"ASAP" means an agreement for sale and purchase of property which is subject to the accrual rules;

"Foreign currency ASAP" means an ASAP under which the price for the property the subject of the ASAP is denominated in a foreign currency;

"Forward rate" means the rate for a forward contract as defined in paragraph 6(4) of Determination G6D: Foreign Currency Rates;

"Interbank offer rate" in relation to a term means the rate at which a bank makes funds available to another bank which is a highly reliable credit risk and a trader in the market for such funds and for such a term; and includes, according to the circumstance, the rates collectively referred to as "LIBOR" and "SIBOR";

"Lowest price" is the lowest price referred to in paragraph (c) of the definition of "core acquisition price";

"Price" means the Foreign Currency price agreed to be paid in consideration for the property under an ASAP, including any agreed interest charges;

"Rights date" is the day on which the first Right in the specified property subject to an ASAP is to be transferred;

"Specified property" means property that is acquired or sold pursuant to a deferred property settlement:

"Spot rate" means the exchange rate for a spot contract as defined in Determination G6D: Foreign Currency Rates;

3. all other terms used have the same meaning given to them for the purposes of the qualified accruals rules in the Act.

*As an aid to interpretation only, and not as a definitive list, the following are the terms defined in the Act that are of particular note: right in the specified property, agreement for the sale and purchase of property.*

## 6 Method

1. For the purposes of paragraph (ii) of the definition of "w" in the definition of the core acquisition price in section OB 1, you must calculate the discounted value of the foreign currency amounts payable for the property subject to a foreign currency ASAP to which this determination applies by summing—
  - (a) Every amount payable to or, as the case may be, by you for the property on or before the rights date expressed in the foreign currency; and
  - (b) The amount of foreign currency equal in value to the present value as at the rights date of amounts payable to or, as the case may be, by the person for the property after the rights date.
2. For the purposes of this determination, the present value as at rights date of amounts payable shall be calculated by applying an acceptable present value calculation method to the interest rate determined under subclause (3).

3. The annual rate of interest at which the present value of the amounts payable is required to be calculated shall be: the interbank offer rate for the currency and the term of the foreign currency ASAP at rights date, being a market yield determined in a manner consistent with Determination G13A: Prices or Yields. For this purpose the spot rate and the forward rate are to be determined in accordance with Determination G6D: Foreign Currency Rates.
4. The present value of the amounts payable together with any deposit or other amounts paid on or before the rights date is the amount "w" to be used to calculate the core acquisition price.
5. This amount is then converted to NZ\$ using one of the following rates as appropriate;
  - (a) the rate, on the contract date, available to the taxpayer from a New Zealand registered bank for the exchange of NZ\$ for that foreign currency on the rights date (Rate A); or
  - (b) the rate, on the contract date, available to the taxpayer from a New Zealand registered bank for the exchange of NZ\$ for that foreign currency on the settlement date (Rate B); or
  - (c) Spot rate on the rights date (Rate C)
  - (d) Spot rate on the contract date (Rate D)
  - (e) Spot rate on payment (Rate E).
6. The core acquisition price shall be used to determine the acquisition price of a foreign currency ASAP in accordance with section OB 1.
7. In a year before the year in which you are required to do a base price adjustment for the foreign currency ASAP, calculate your income or expenditure by applying the Method in Determination G29 which corresponds with the rate you use to determine the NZ\$ value of the core acquisition price.

## 7 Example

1. A commercial property is sold for US\$1,400,000 under a sale and purchase agreement subject to certain repairs being made to the building. An initial deposit of \$140,000 is made on 1 February 1989. On 1 March 1989 repairs on the building are complete and the sale becomes unconditional. The balance of US\$ 1,260,000 is due six months after the date possession passes. Possession of the property passes on 15 March 1989. Therefore the term of the arrangement is 15 March 1989 to 15 September 1989 — 184 days.

The purchaser's balance date is 31 March.

The USD/NZD exchange rates for the various dates are—

1 February 1989	0.5600
15 March 1989	0.5800
31 March 1989	0.5750
15 September 1989	0.5700

In this case the purchaser is the "issuer" for the purposes of the accruals legislation.

2. The US interbank offer rate on 15 March 1989 for a period of six months is 8.0 percent ascertained using a method consistent with Determination G13A: Prices or Yields.
3. Method A of Determination G10B: Present Value Calculation Methods, is applied to calculate the present value as at 15 March 1989 (the "specified date") as follows—

$$\begin{aligned}
 R &= 8.0 \text{ percent (the specified rate)} \\
 N &= 2 \text{ (since the payments are at half yearly intervals)} \\
 F &= \frac{R}{100 \times N} \\
 &= 0.04
 \end{aligned}$$

(a) At 15 March 1989:

$$A = 0$$

$$B = \$1,260,000$$

$$C = 0$$

Therefore present value at 15 March 1989

$$\begin{aligned}
 &= \frac{A + B - C}{1 + F} \\
 &= \text{US\$1,211,538}
 \end{aligned}$$

(b) To this total must be added US\$140,000 deposit, giving a total present value of US\$1,351,538, which is the item "w" used in calculating the core acquisition price.



## About this document

General determinations set out the Commissioner's view on how the financial arrangements rules apply to a specific type of financial arrangement. All general determinations are binding on the Commissioner and some are also binding on taxpayers.