

TECHNICAL DECISION SUMMARY > PRIVATE RULING

WHAKARĀPOPOTO WHAKATAU HANGARAU > WHAKATAUNGA
TŪMATAITI

Sale and subdivision of land

Decision date | Rā o te Whakatau: 30 September 2025

Issue date | Rā Tuku: 9 April 2026

TDS 26/03

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Subjects | Kaupapa

This item summarises a private ruling about a sale and subdivision of land, a “lowest price” clause in the sale and purchase agreement, and whether there was any financial arrangement income or loss.

Taxation laws | Ture tāke

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

Summary of facts | Whakarāpopoto o meka

1. The arrangement is an agreement for the sale and purchase of land.
2. The sale was structured as a staged subdivision, with settlement and payment for each lot occurring in eight stages over 8 years.
3. The sale and purchase agreement (SPA) included a “lowest price” clause, stating that the agreed price is the lowest price for tax purposes under s EW 32(3).

Issues | Take

4. The main issue considered in this ruling was whether the consideration payable under the SPA was the “lowest price” for the purposes of s EW 32(3) and, therefore, whether there was any financial arrangement income under subpart EW.

Decisions | Whakataau

5. The Tax Counsel Office (TCO) decided that the value of the land for the purposes of s EW 32(3) was the purchase price agreed in the SPA. Therefore, there was no financial arrangement income or loss under subpart EW.

Reasons for decisions | Pūnga o ngā whakatau

Issue 1 | Take tuatahi: Financial arrangement and lowest price

Financial arrangement

6. TCO concluded that the SPA was a “financial arrangement” as defined in s EW 3. This was due to the deferred settlement and payment structure, where both parties promised to provide money or money’s worth (property) in the future.
7. The SPA was not an “excepted financial arrangement” under s EW 5. This was because it was not a private or domestic agreement for the sale and purchase of property or services.
8. The SPA was not for private or domestic purposes, the purchase price was above the statutory threshold, and settlement was not within 365 days. Therefore, it was also not a “short-term agreement for sale and purchase”.

Application of s EW 32(3) – “lowest price”

9. Where an agreement for the sale and purchase of property or services is a financial arrangement, s EW 32 applies to calculate the amount of consideration paid in property (the land) for the purposes of the financial arrangements rules. If the amount determined by s EW 32 is less than the amount paid in money, the taxpayer is treated as deriving financial arrangement interest income.
10. Essentially s EW 32(3) provides that the value of property in a financial arrangement is the lowest price the parties would have agreed on if payment had been required in full at the time the first right in the property was transferred. This provision is designed to isolate any interest component in deferred settlement arrangements.
11. The determination of the lowest price, and thus the interest component of a deferred property settlement, is a matter of negotiation between the parties. As confirmed in *Lyttelton Port Company Ltd v Commissioner of Inland Revenue* (1996) 17 NZTC 12,556, this is a subjective test. The Commissioner will not impute interest where it is genuinely agreed between the parties that no interest will be paid.
12. There was nothing to suggest that the lowest price clause set out by the parties in the SPA was other than a genuine agreement. The lowest price clause reflected the fact that payment and settlement of each lot occurred at the same time. No interest

should be imputed because economically a buyer would not pay the full purchase price on day one for land delivered in eight lots over 8 years.

13. Inland Revenue may consider objective facts to determine whether or not the parties have genuinely agreed to the price they assert. However, there was nothing to suggest on the facts of the arrangement and considering the specific terms of the SPA that an interest component had been disguised.

Conclusion

14. TCO concluded that the SPA was a financial arrangement, but the value of the land for the purposes of s EW 32(3) was the purchase price as agreed in the SPA.
15. Therefore, there was no financial arrangement income or loss under subpart EW.