

## QUESTION WE'VE BEEN ASKED

QB 17/08

### Are proceeds from the sale of gold bullion income?

*This QWBA is about whether disposals of gold bullion will give rise to income under s CB 4. Amounts derived on the disposal of personal property are income under s CB 4 if the property was acquired for the dominant purpose of disposal.*

*While this QWBA discusses s CB 4 in the context of gold bullion, the same principles are relevant to the disposal of other personal property. Some of the issues discussed are particularly relevant to the disposal of non-income producing assets.*

#### Key provision

Section CB 4 of the Income Tax Act 2007

#### Key terms in this item

In the context of this QWBA, **gold bullion** refers to physical gold bars, coins, or certificates (allocated or unallocated), or direct units in gold (ie, units that give rise to ownership of a certain amount of gold, measured in physical units).

Gold may also be invested indirectly, for example through investment in a fund that owns commodities or benchmarks its return to commodities, or through other derivatives such as forwards, futures or options. Investments in gold in those or other forms not covered by this QWBA may still give rise to tax implications under s CB 4 or under other tax rules (for example under the financial arrangements rules).

## Question

**Are amounts derived on the sale of gold bullion income for tax purposes?**

## Answer

**As with any personal property, amounts derived on the disposal of gold will be income under s CB 4 if the gold was acquired for the dominant purpose of disposal.**

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## Explanation

1. While the test in s CB 4 is subjective, any assertion that property was not acquired for the dominant purpose of disposal needs to be assessed against the totality of the **circumstances**. These include the nature of the asset, the person's vocation, the circumstances of the purchase, the number of similar transactions, the length of time the property was held, and the circumstances of the use and disposal of the asset.
2. The nature of the asset is always an important consideration. In the case of gold bullion, the Commissioner considers that this is particularly so, as bullion does not provide annual returns or income while it is held, nor does it confer other benefits (which other investments that do not provide income while held might). The Commissioner therefore considers that, for gold bullion, the nature of the asset is a factor that strongly indicates that it was acquired for the dominant purpose of ultimately disposing of it.

3. In most cases, gold purchased in bullion form will be purchased for the dominant purpose of disposal. However, there may sometimes be situations where the Commissioner may accept that the dominant purpose in acquiring gold bullion was to retain it for reasons other than eventual disposal. For example, there may be circumstances where bullion is acquired for the dominant purpose of building up a diversified portfolio of property that the person will not necessarily realise, or as a long-term investment that the person will not necessarily realise. In such circumstances it may be that the taxpayer can show that the bullion was not purchased with the dominant purpose of disposal.
4. **Ascertaining what a person's subjective purpose was at the time they acquired property** is a very fact-specific assessment. The particular circumstances of the situation need to be carefully considered, and any assertion that gold was not acquired for the dominant purpose of disposal would need to be supported by clear and compelling evidence.
5. It is also important to bear in mind that merely describing property, or the reason for which it was acquired, in a particular way will not answer the question of whether there was a dominant purpose of disposal. For example, describing property as being acquired as a long-term investment, a hedge against inflation, for portfolio diversification, or as a store of value outside the monetary system is not sufficient to negate a dominant **purpose of disposal. The person's underlying motive should not be confused with their purpose. The key question is whether the person's objective in acquiring the gold is to be achieved through a course of action that will involve disposal at some point, such that, as a matter of fact, the person's dominant purpose is one of disposal. If a taxpayer asserts that they did not acquire gold bullion for the dominant purpose of disposal, the onus is on them to satisfactorily show that.**
6. When gold that was acquired for the purpose of disposal is sold, a deduction for the cost of the property is allowed, subject to the normal rules. Just as an increase in value will mean that any profits will be taxed, if gold has decreased in value and is sold for less than it cost, this will result in a deductible loss. Other expenditure may also be deductible, such as interest on money borrowed to purchase the gold, insurance premiums, and storage costs.

### What is the relevant taxing provision?

7. Section CB 4 provides that:

#### **CB 4 Personal property acquired for purpose of disposal**

An amount that a person derives from disposing of personal property is income of the person if they acquired the property for the purpose of disposing of it.

8. Amounts derived on the disposal of gold will therefore be income under s CB 4 if the gold was acquired for the purpose of disposal.

### What types of disposals fall within the scope of s CB 4?

#### *No requirement for purpose of disposal at a profit*

9. Before the provision taxing the disposal of personal property acquired for the purpose of disposal was introduced, there was a provision in the tax legislation that taxed disposals of land acquired for the purpose of selling or otherwise disposing of it at a profit. When that provision was expanded to include personal property, one of the changes made was that the property only needed to be acquired for the purpose of sale or disposition (rather than sale or disposition **at a profit**). It is therefore clear that for s CB 4 to apply the purpose in acquiring the property does not need to be sale or disposal **at a profit**.

### *Purpose of disposal by way of sale or similar*

10. However, the Commissioner considers that s CB 4 is limited to situations where there was a purpose of disposal by way of **sale or similar** (eg, by way of barter). While the legislation simply refers to property acquired for the purpose of disposal, prior to the Act being re-written for simplicity and improved clarity (which was done progressively from 1994) the provision stated that it applied to disposals of personal property that was **“acquired for the purpose of selling or otherwise disposing of it”**. The Commissioner considers that in the pre-rewrite wording, “selling” coloured the words **“or otherwise disposing of it”**, indicating that the provision would apply where the purpose in acquiring the property was disposal by way of **sale or similar**. To read the provision more broadly would mean that any personal property acquired to be gifted would be within the tax base, which was clearly not intended and would be absurd. There was no intention to broaden the scope of s CB 4 when the Act was re-written – the provision was intended to continue to have the same effect.<sup>1</sup> As such, the wording of the provision before the Act was re-written must be used to determine the correct meaning of s CB 4.<sup>2</sup> The Commissioner therefore considers that the correct interpretation of s CB 4 is that it will apply to disposals of personal property acquired for the purpose of disposal by way of **sale or similar**.
11. This means that s CB 4 would not apply to disposals of property acquired for the purpose of disposal by way of gift, for example. But it should be noted that if property was acquired for the purpose of disposal by sale or similar and is then gifted, such a disposal would give rise to income under s CB 4. **It is the person’s purpose at the time they acquire the property that is relevant, not how they ultimately dispose of the property.** And subpart FC of the Act ensures that tax-base property cannot be gifted outside of the tax base.
12. Similarly, s CB 4 would not apply to disposals of property acquired for the purpose of being passed to heirs on death. But if property was acquired for the purpose of disposal by sale or similar and ends up being transferred on death, there may be tax consequences arising from that transfer or from a subsequent disposal.<sup>3</sup>

### **Section CB 4 – main principles**

13. The leading case on s CB 4 is *CIR v National Distributors Ltd* (1989) 11 NZTC 6,346 (CA). This was a case about whether various parcels of shares were acquired for the purpose of selling or otherwise disposing of them, so that the proceeds on the sales would be taxable under what is now s CB 4. In discussing the provision, Richardson J noted that:

Section 65(2) [now s CB 4] is expressed as a deeming provision. The assessable income of the taxpayer is deemed to include profits derived from transactions coming within the respective limb of para (e). The second limb has been in the legislation since 1916. **It brings within the tax net particular transactions which might otherwise escape liability. It does not perpetuate the theoretical distinction between capital and income. It is not to be read down by any preconceptions as to the nature of a tax on income or by importing a requirement that the acquisitions to which it refers should have a business overlay.** The words used must be given their natural and ordinary meaning (see *Lowe v Commissioner of Inland Revenue* [1981] 1 NZLR 326, 342).

[Emphasis added]

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<sup>1</sup> Section YA 3(3) of the Income Tax Act 2004 and schedule 22A (Identified policy changes) to that Act, and s ZA 3(3) of the Income Tax Act 2007 and schedule 51 (Identified changes in legislation) to that Act.

<sup>2</sup> Section YA 3(4) of the Income Tax Act 2004 and s ZA 3(4) of the Income Tax Act 2007.

<sup>3</sup> The specific rules in the Act dealing with property that is transferred on a person’s death, or on a distribution by an executor, administrator or trustee of a deceased’s estate to a beneficiary are in subpart FC of the Act.

14. The main principles on the application of s CB 4 that can be drawn from *National Distributors* are as follows:
- There is no business overlay to s CB 4; the distinction between capital and revenue is not relevant.
  - All that is required is that the property be acquired **for the dominant purpose of disposal**.
  - The onus is on the taxpayer to show that they did not acquire the property with the dominant purpose of disposal.
  - **The test of purpose is subjective, but the taxpayer's assertions as to their purpose** need to be assessed against the totality of the circumstances. These will include the nature of the asset, the vocation of the taxpayer, the circumstances of the purchase, the number of similar transactions, the length of time the property was held, and the circumstances of the use and disposal of the asset.
  - **It is important to bear in mind the distinction between motive and purpose; the reason why the taxpayer decided to acquire property with a view to disposal in due course is not relevant** to the statutory inquiry. If the taxpayer's dominant purpose in acquiring the property is to dispose of it in the future, the provision will apply.
  - If at the time the property was acquired the taxpayer did not expect to hold the property forever and contemplated the possibility of sale, this alone would not bring the sale within s CB 4. The property must have been acquired for the dominant purpose of disposal.
  - If the property was acquired for a number of purposes, disposal must be the predominant one for s CB 4 to apply.
  - If the taxpayer can establish that they had no clear purpose in mind when acquiring an asset, s CB 4 will not apply.

### Will amounts derived on the disposal of gold bullion be income?

15. While the test of purpose for s CB 4 is subjective, as noted above, any assertion that property was not acquired for the purpose of disposal needs to be assessed against the totality of the circumstances.
16. As noted by Richardson J in *National Distributors*, the nature of the asset is always an important consideration. Assets acquired for private use and enjoyment clearly fall outside the scope of s CB 4. In other situations there may be an element of private use and enjoyment as well as economic reward, and it will be necessary to determine what the dominant purpose on acquisition was. But in some situations it will be clear that the asset is not intended for private use and enjoyment. In that case, it might generally be expected that the asset was acquired for the purpose of deriving income from it while it is held, or with the aim of realising a profit on its disposal sooner or later.
17. In the case of gold bullion, the Commissioner considers that the nature of the asset is a significant consideration in deciding if it was acquired for the dominant purpose of disposal, as bullion does not provide annual returns or income while it is held. Other investments may similarly not provide income while held, for example shares that do not pay dividends, but may confer other benefits such as voting rights. The Commissioner therefore considers that, for gold bullion, the nature of the asset is a factor that strongly indicates that it was acquired for the purpose of ultimately disposing of it.
18. In most cases, gold purchased in bullion form will be purchased for the dominant purpose of disposal. However, there may sometimes be situations where the Commissioner may accept that the dominant purpose in acquiring gold bullion was to retain it for reasons

other than eventual disposal. For example, there may be circumstances where bullion is acquired for the dominant purpose of building up a diversified portfolio of property that the person will not necessarily realise, or as a long-term investment that the person will not necessarily realise. In such circumstances it may be that the taxpayer can show that the bullion was not purchased with the dominant purpose of disposal.

19. This will always be a very fact-specific call, and would require consideration of what the person had in mind at the time they acquired the property. Relevant factors to consider **in testing this might be things such as the person's means** at the time they acquired the property, whether at that time they expect to or are likely to need to realise their investments in the future, and the circumstances surrounding the disposal. Other factors such as the number of similar transactions and the length of time the property was held **would also be relevant in testing the veracity of the taxpayer's assertion. Any assertion** that gold was not acquired for the dominant purpose of disposal would need to be supported by clear and compelling evidence.
20. It is important to bear in mind that merely describing property or the reason for which it was acquired in a particular way will not answer the question of whether there was a dominant purpose of disposal. For example, describing property as being acquired as a long-term investment, a hedge against inflation, for portfolio diversification, or as a store of value outside the monetary system is not sufficient to negate a dominant purpose of disposal. **The person's underlying motive should not be confused** with their purpose. **The key question is whether the person's objective in acquiring the gold is to be achieved** through a course of action that will involve disposal at some point, such that, as a matter of fact, **the person's dominant purpose is one of disposal**. If a taxpayer asserts that they did not acquire gold bullion for the dominant purpose of disposal, the onus is on them to satisfactorily show that.
21. The table on the following two pages summarises a number of overseas cases that have considered the taxability of gold and silver bullion. While the provisions considered in those cases are not identical to s CB 4, in most cases the tax outcomes would be the same in New Zealand, and they are useful fact scenarios to consider. The table also sets **out the Commissioner's view of whether s CB 4 would apply on the same facts, and, if the result would be different in New Zealand, explains why**. There are other overseas cases considering the taxability of non-income producing commodities, but the cases set out in the table below<sup>4</sup> are considered the most relevant as they deal with gold or silver bullion.

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<sup>4</sup> *Wisdom v Chamberlain (Inspector of Taxes)* [1969] 1 All ER 332 (CA), *Southco Holdings and Management Ltd et al v MNR* 75 DTC 162 (Tax Review Board), *Case P27* 82 ATC 117 (Board of Review), *Case Q109* 83 ATC 560 (Board of Review), *Victor Harms v MNR* 84 DTC 1666 (TCC), and *Case U145* 87 ATC 844 (AAT).

Case	Summary of facts	Decision	Reasons for decision	CIR's view of whether s CB 4 would apply
<p><b>Wisdom v Chamberlain</b></p> <p>Court of Appeal (England)</p>	<p>The taxpayer had invested in silver as a hedge against expected devaluation of the British pound. When the pound recovered, and the risk of devaluation was gone, the taxpayer sold the silver bars at a profit.</p>	<p>The sales of the silver were an adventure or concern in the nature of trade.</p>	<p>The fact that the silver was acquired as a hedge against devaluation did not detract from the transactions being in the nature of trade. Although the investment was a hedge, the transactions were nonetheless entered into on a short-term basis for the purpose of making a profit.</p>	<p>The amount derived on the sale would similarly be income under s CB 4.</p> <p>This is because while the taxpayer's motivation in acquiring the silver was to protect against expected devaluation of the pound, that aim was to be achieved either by re-sale at a profit if devaluation occurred, or by re-sale if the danger of devaluation passed.</p>
<p><b>Southco Holdings v MNR</b></p> <p>Tax Review Board (Canada)</p>	<p>The taxpayer acquired large quantities of gold bullion over a seven-year period. The representative of the taxpayer company explained that the company was forced to sell the gold to help its parent company pay a substantial tax bill.</p>	<p>The profits arising from the sales were income from an adventure in the nature of trade, and so income.</p>	<p>The taxpayers were not in the business of processing gold to make a profit. The gold was therefore only of value to them in that it could be exchanged for money, and it was inconceivable that the taxpayer would buy such a commodity in such a quantity without the intention of reselling it at a profit. The explanation for the sale was not convincing enough to prove that there was a unique reason for the sale which might have supported a conclusion that the transactions were not an adventure in the nature of trade.</p>	<p>The amount derived on the sale would similarly be income under s CB 4.</p> <p>This is because it was clear (and admitted by the taxpayer) that the gold, which was acquired for peace of mind and as security against inflation, was of no benefit unless it was sold. In the most profitable transactions, the gold was sold after about 15 months, and the reasons given for the sales did not suggest there had been some purpose other than eventual sale at a profit.</p>
<p><b>Case P27</b></p> <p>Board of Review (Australia)</p>	<p>The taxpayer received an early discharge from the army after suffering an injury, and then worked as a public servant. He invested his payout from the army in gold and silver bullion as he wanted to preserve its purchasing power, so that it would more closely approximate what he would have received had he stayed in the army until age 55. It was accepted by the taxpayer in his evidence that to achieve this purpose the bullion had to be sold eventually in whole or in part. The taxpayer ended up selling the gold some two and a half years later to purchase a rural property. His instructions for the sale were given within two hours of hearing a radio message concerning the price of bullion on that day.</p>	<p>The profits were taxable as the taxpayer acquired the bullion with the dominant purpose of selling it at a profit.</p>	<p>While the taxpayer's motive in acquiring bullion was as a hedge against inflation, his dominant purpose was to sell it at a profit when he reached age 55.</p>	<p>The amount derived on the sale would similarly be income under s CB 4.</p> <p>This is because while the taxpayer's motivation was to secure the value of his payout from the army, his purpose was always to sell the gold and silver.</p>

Case	Summary of facts	Decision	Reasons for decision	CIR's view of whether s CB 4 would apply
<p><b>Case Q109</b></p> <p>Board of Review (Australia)</p>	<p>The taxpayers were Asian immigrants to Australia. Against the backdrop of the husband's ill health, they purchased the silver bullion to protect their capital, and to provide for their children's financial futures. This was in keeping with their cultural custom. It was considered that silver or gold would best withstand fluctuations in value over an indefinite period. The price of silver rose unpredictably and substantially. At that time, the taxpayers decided to take advantage of the extraordinary rise in the value of silver and sell some.</p>	<p>The profits on the sale of the bullion were not income under ordinary concepts, and were not derived from the carrying on or carrying out of a profit-making undertaking or scheme. The bullion was not acquired for the purpose of profit-making by sale.</p>	<p>The evidence indicated that the taxpayers' financial position was sound at the time the bullion was acquired, and neither of them could foresee a future situation where it might be necessary for them to sell all or some of the bullion for their personal benefit. Further, at the time of acquisition, it was probably not feasible for anyone to have confidently (if at all) predicted the remarkable rise in the value of silver, particularly over a short period of time.</p>	<p>The amount derived on the sale would not be income under s CB 4.</p> <p>This is because s CB 4 is limited to situations where there was a purpose of sale <i>or some other similar disposal</i>. In this case, the taxpayers acquired the gold to gift to their children at maturity, in accordance with their cultural custom.</p>
<p><b>Victor Harms v MNR</b></p> <p>Tax Court of Canada</p>	<p>The taxpayer had purchased gold bars and coins with the aim of preserving his capital in the event of what he considered the imminent collapse of the economy, and emergence of a barter system. In the event that this happened, the taxpayer considered that gold would maintain its purchasing power. The taxpayer ended up selling the gold bars and coins when there were indications of economic deflation.</p>	<p>The profits were not considered to be from an adventure in the nature of trade. The gains the taxpayer made on the sales were held to be capital, <b>not</b> income.</p>	<p>There was nothing to indicate that the taxpayer had acquired the gold with the intention of selling it. There was nothing to suggest that the transactions were entered into on a short-term basis or that the taxpayer intended to sell the gold at an opportune time. The court was satisfied that the taxpayer was convinced the economy was going to collapse and that gold would serve as the basis of any barter system that would emerge.</p>	<p>The amount derived on the disposal would be taxed under s CB 4. What is required is a dominant purpose of disposal – which the CIR considers means by way of sale or similar. In this case, the taxpayer acquired the gold for the purpose of disposing of it either by way of barter in the event of economic collapse, or by selling it if a particular scenario eventuated. Either of those alternatives amount to a purpose of disposal by way of sale or similar, so s CB 4 would apply.</p>
<p><b>Case U145</b></p> <p>AAT (Australia)</p>	<p>The taxpayer was a 63 year old bookmaker, with a portfolio of long-term investments including some gold bullion. He bought the bullion to extend and diversify his portfolio, and hoped it would be a good long-term investment. The AAT accepted that he did not acquire the gold intending to sell it, but merely for it to be part of his portfolio which could be used if the taxpayer became unable to work. The taxpayer wanted to work for as long as he could, and gave evidence of a bookmaker who was still working at age 89. The taxpayer ended up selling the gold due to a business liquidity issue, and a large tax liability. He also sold shares, most of them at a loss.</p>	<p>The taxpayer did not acquire the gold with the predominant purpose of profit-making by sale, so the proceeds were not taxable.</p>	<p>At the time the taxpayer acquired the gold, its sale was a possibility that depended on a number of contingencies which were contrary to the taxpayer's expectations (ie, the need to retire). It was also noted that even if such contingencies arose and the sale of part of the taxpayer's portfolio was required, this would not necessarily have included the gold.</p> <p>The AAT considered that it was apparent that the weakest of the taxpayer's shareholdings (together with the remaining gold) were sold to fund the tax liability.</p>	<p>The amount derived on the sale would not be income under s CB 4. The taxpayer's particular circumstances show that the dominant purpose on the acquisition of the bullion was not disposal.</p>

22. **As can be seen, ascertaining what a person's subjective purpose was at the time they acquired property is a very fact-specific assessment. The particular circumstances of the situation need to be carefully considered, and as noted above, the person's motives need to be distinguished from their purposes in acquiring the property.**

*What if a person has no purpose in acquiring gold bullion?*

23. As noted at [14], if someone can establish that they had no clear purpose in mind when acquiring an asset, s CB 4 will not apply (**National Distributors**). The Commissioner considers it unlikely that someone could satisfactorily show that they purchased gold bullion with no clear purpose in mind.

*What if gold bullion is purchased as part of a business?*

24. Section CB 4 would not be relevant where a taxpayer sells or exchanges gold bullion in the ordinary course of their business, or has the bullion for use in producing stock for sale or exchange (for example, a jeweller who converts gold bullion into other forms for sale). In those situations, the commodity would be **the taxpayer's "trading stock"** (s EB 2). Business income is taxed under s CB 1, and the timing of deductions for the value of trading stock is determined under the trading stock rules (see in particular s DB 49(2)).

**What deductions can be claimed?**

25. Property that, if disposed of for valuable consideration, would produce income for a person is generally<sup>5</sup> "revenue account property" (as defined in s YA 1). Personal property that is acquired for the purpose of disposal is therefore revenue account property.
26. Section DB 23 allows a deduction for the cost of revenue account property. This is **subject to the "general permission" (s DA 1)** being satisfied. The general permission requires a nexus between the expenditure and the derivation of assessable and/or excluded income, or for the expenditure to have been incurred in the course of the person carrying on a business for the purpose of deriving assessable and/or excluded income.
27. Where gold bullion was acquired for the dominant purpose of disposal it will be revenue account property, and the cost of the gold will be deductible under s DB 23. The deduction is allocated to the earlier of the income year in which the property is disposed of or ceases to exist (s EA 2). Just as an increase in value will mean that the profits are taxed, if the gold has decreased in value, and is sold for less than it cost, that would result in a deductible loss.
28. Where gold bullion is acquired for the purpose of being disposed of, the taxpayer would also be able to deduct expenditure (subject to the normal rules) such as interest on money borrowed to purchase the gold, insurance premiums, storage costs, etc, (ss DA 1, DB 6 and DB 7).
29. **As noted above, where gold bullion is a taxpayer's trading stock, the timing of deductions for the value of the trading stock is determined under the trading stock rules (see in particular s DB 49(2)).**

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<sup>5</sup> The exceptions to this are not relevant for present purposes.



## Example

**The following example is included to assist in explaining how the law applies.**

***In addition to this example, the table on pages 6 and 7 above sets out the Commissioner's view of whether s CB 4 would apply on the same facts as in the cases set out in the table, and includes examples of situations where s CB 4 would not apply.***

30. Between late 2007 and early 2008, Zoë, who lives in New Zealand, purchased gold and silver units issued by an Australian mint. The units gave rise to ownership of a total of 57.986 ounces of gold (purchased for a total of NZD59,585.25) and 879.098 ounces of silver (purchased for a total of NZD18,606.99). Zoë was concerned about volatility in the share market, the economic uncertainty at the time, and the safety of the banking system. She considered that gold and silver provided a stable and low-risk investment option. Zoë did not have any particular timeframe in mind for holding the gold and silver units, as it depended in part on what happened with the equities and commodities markets, but ultimately she hoped to make a profit and so increase her retirement fund.
31. Zoë sold the gold units in mid-2016 to help fund the purchase of a larger residential property. Those units were sold for NZD100,354.05. Zoë sold the silver units later in 2016 to fund her wedding. Those units were sold for NZD20,632.43.
32. Amounts derived on the disposal of personal property are income under s CB 4 if the property was acquired for the dominant purpose of disposal. The Commissioner considers that the amounts Zoë derived on the sales of the gold and silver units are income under s CB 4, because those units were acquired for the dominant purpose of ultimately being disposed of. The units did not provide annual returns or income while being held, and Zoë acquired them with the aim of realising a profit on their disposal sooner or later. There is nothing to suggest that Zoë did not anticipate selling the units at some point. **Zoë's aim** in acquiring the units was to make a profit on their disposal. In the circumstances, the fact that Zoë had concerns about the share market and considered the units to be a stable investment does not suggest that they were not acquired for the purpose of ultimately being disposed of. The events that prompted Zoë to sell the units are not relevant to the application of s CB 4.
33. Under s CB 4, the amounts derived on the sales of the gold units (NZD100,354.05) and silver units (NZD20,632.43) are therefore income to Zoë in the 2016-2017 income year. Because the gold and silver units are revenue account property, and there is the necessary nexus between the expenditure incurred in purchasing the units and the derivation of income, Zoë is able to deduct the cost of that property under s DB 23. Zoë can therefore deduct NZD59,585.25 (the cost of the gold units) and NZD18,606.99 (the cost of the silver units) in the 2016-2017 income year. She can also deduct other expenditure incurred in deriving the income, for example forex charges or bank transaction fees.

## References

### Subject references

Income tax, revenue account property, property acquired for the purpose of disposal, gold

### Legislative references

Income Tax Act 2007 – ss CB 1, CB 4, DA 1, DB 6, DB 7, DB 23, DB 49(2), EA 2, EB 2, ZA 3(3) and ZA 3(4), subpart FC, **the definition of “revenue account property” in s YA 1**, and schedule 51 (Identified changes in legislation)

Income Tax Act 2004 – ss YA 3(3) and YA 3(4), and schedule 22A (Identified policy changes)

### Case references

*Case P27* 82 ATC 117 (Board of Review)

*Case Q109* 83 ATC 560 (Board of Review)

*Case U145* 87 ATC 844 (AAT)

*CIR v National Distributors Ltd* (1989) 11 NZTC 6,346 (CA)

*Southco Holdings and Management Ltd et al v MNR* 75 DTC 162 (Tax Review Board)

*Victor Harms v MNR* 84 DTC 1666 (TCC)

*Wisdom v Chamberlain (Inspector of Taxes)* [1969] 1 All ER 332 (CA)