IT 2664W - Notice of Withdrawal - Income tax: capital gains and losses: the transfer of assets to beneficiaries in deceased estates

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Notice of Withdrawal

Taxation Ruling

Income tax: capital gains and losses: the transfer of assets to beneficiaries in deceased estates

Taxation Ruling IT 2664 is withdrawn with effect from today.

- 1. IT 2664 explains when an asset passes to a beneficiary in the estate of a deceased person for the purposes of Part IIIA of the *Income Tax Assessment Act 1936* (ITAA 1936). It also explains the consequences of the passing of an asset. In this regard IT 2664 involves a straight forward application of the law as it existed at the time.
- 2. The provisions referred to in IT 2664 were rewritten into Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997* (ITAA 1997). When the law was rewritten amendments were made to make it clear that:
 - an asset can 'pass' to a beneficiary where it is not specifically bequeathed to them but is appropriated by the legal personal representative to satisfy an entitlement, and
 - an asset does not pass to a beneficiary if the beneficiary becomes the owner of the asset by exercise of a power of sale by the legal personal representative.
- 3. As the law in respect of the issues dealt with in IT 2664 is now clear it is no longer necessary and is withdrawn.

Commissioner of Taxation

7 April 2010

ATO references

NO: 2006/20258 ISSN: 0813-3662

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