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

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Taxation Ruling IT 2664 is withdrawn with effect from today.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 As the law in respect of the issues dealt with in IT 2664 is now clear it is no longer necessary and is withdrawn.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

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