

***TD 93/D3 - Income tax: capital gains: does section 160X of the Income Tax Assessment Act 1936 apply to assets acquired by a legal personal representative which were not owned by the deceased at the date of death?***



TD 93/38.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

---

---

## Draft Taxation Determination

---

---

**Income tax: capital gains: does section 160X of the *Income Tax Assessment Act 1936* apply to assets acquired by a legal personal representative which were not owned by the deceased at the date of death?**

1. No. The roll-over relief provided by section 160X of the *Income Tax Assessment Act 1936* only applies to assets owned by a person at the time of the death of that person.
2. Section 160X applies where an asset which formed part of the estate of the deceased *passes to* a legal personal representative. In the context of the section, we consider that this refers only to assets owned by the deceased at the time of death.

**Commissioner of Taxation**

21/1/93

---

FOI INDEX DETAIL: Reference No.

Related Ruling: IT 2664

Related Determinations: TD93/D4; TD93/D5; TD93/D6

Subject Ref: death; deceased estates; legal personal representative; assets

Legislative Ref: 160X

ATO Ref: 92/1427-5 (CGTDET36)

---

ISSN 1038 - 8982