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?

This cover sheet is provided for information only. It does not form part of 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?

This document has been finalised by TD 93/38.

Taxation Determination TD 93/D3

FOI Status: draft only - for comment

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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

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