# *TD 93/D4 - Income tax: capital gains: where an asset owned by the deceased at the time of death passes to a remainderman on the death of a life tenant, what is the date of acquisition of the asset by the remainderman?*

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This document has been finalised by TD 93/37.

**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: where an asset owned by the deceased at the time of death passes to a remainderman on the death of a life tenant, what is the date of acquisition of the asset by the remainderman?

1. A remainderman, who has a vested or contingent interest in an asset which formed part of the estate of a deceased person, is a beneficiary in that estate.

2. If the deceased died before 20 September 1985, the remainderman is taken to have acquired the asset before that date. (This is the case even if the asset does not pass to the remainderman until the life tenant dies on or after 20 September 1985) - subsection 160X(4) of the *Income Tax Assessment Act 1936*.

3. If the deceased dies on or after 20 September 1985, the remainderman is taken to have acquired the asset on the date of death of the deceased - subsection 160X(5).

**Commissioner of Taxation**
21/1/93

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