TD 93/37W - 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 changed over time. This is a consolidated version of the ruling which was published on *9 February 2011*

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Notice of Withdrawal

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?

[Note: This is a consolidated version of this document. Refer to the ATO Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

Taxation Determination TD 93/37 is withdrawn with effect from today.

1. Taxation Determination TD 93/37 explains that an asset owned by a deceased is effectively taken to have been acquired by a remainderman on the date of death of the deceased under section 160X of the *Income Tax Assessment Act 1936* (ITAA 1936).

2. Subsections 160X(4) and 160X(5) of the ITAA 1936 were rewritten as section 128-15 of the *Income Tax Assessment Act 1997* (ITAA 1997). Subsections 160X(4) and 160X(5) of the ITAA 1936 were repealed by the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* (Act No. 101 of 2006), with effect from 14 September 2006.

3. The CGT treatment of life tenants and remaindermen is explained comprehensively in Taxation Ruling TR 2006/14. The issue dealt with in this Determination is included in Example 1 (see in particular paragraph 126 of TR 2006/14). As TD 93/37 is no longer current, it is withdrawn.

Commissioner of Taxation
7 April 2010

ATO references
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