

TD 94/32 - Income tax: capital gains: where no amount of money or other consideration is given for the acquisition of any of the rights, or an interest in any of the rights, under a policy of life assurance, and the person acquiring such rights is not the original beneficial owner, will subsection 160ZH(9) of the Income Tax Assessment Act 1936 deem market value consideration in subsection 160ZZI(3) ?

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! This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

! This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: capital gains: where no amount of money or other consideration is given for the acquisition of any of the rights, or an interest in any of the rights, under a policy of life assurance, and the person acquiring such rights is not the original beneficial owner, will subsection 160ZH(9) of the *Income Tax Assessment Act 1936* deem market value consideration in subsection 160ZZI(3) ?

1. No. Subsection 160ZH(9) will not deem market value consideration to have been paid so as to trigger subsection 160ZZI(3).
2. In the context of section 160ZZI, Part IIIA is only intended to apply where the person making the disposal of any of the rights, or an interest in any of the rights, under a policy of life assurance is not the original beneficial owner and acquired such rights or interest for an **actual** amount of money or other consideration.
3. Market value consideration will not be deemed, for example, where any rights or an any interest in any rights under a policy of life assurance:
 - (i) are inherited from a deceased estate; or
 - (ii) are assigned by way of gift; or
 - (iii) come to be owned outright by a joint tenant following the death of the other joint tenant.

Example:

In July 1990, George took out a 10 year endowment life assurance policy. George is the original beneficial owner of the rights under the policy.

In December 1992, George disposed of his rights under the policy to his wife, Joan, who did not pay an amount of money or give any other consideration in respect of the acquisition.

Subsection 160ZZI(2) will apply to any subsequent disposal by Joan of the rights under the policy.

Commissioner of Taxation

21/4/94

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Subject Ref: exemption; life assurance policy; market value; original beneficial owner

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