


# ***TD 93/D292 - Income tax: capital gains: how are net capital losses unrecouped by a taxpayer at the date of his or her death treated?***

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This document has been finalised by TD 95/49.

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.

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## Draft Taxation Determination

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### **Income tax: capital gains: how are net capital losses unrecouped by a taxpayer at the date of his or her death treated?**

1. Unrecouped net capital losses lapse on death.
2. These losses cannot be:-
  - (a) offset against other income in the final individual income tax return of the deceased;
  - (b) carried forward into the first income tax return of the trust estate to be offset against future capital gains made by the trust estate; or
  - (c) distributed to the beneficiaries of the deceased estate.

**Commissioner of Taxation**

16/12/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Subject Ref: date of death; unrecouped net capital losses; capital gains tax

Legislative Ref: ITAA Part IIIA

ATO Ref: CGTDET98

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