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.

Generated on: 27 November 2026, 12:28:43 AM

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
ATO Ref: 92/1427-5 (CGTDET36)

ISSN 1038 - 8982