


TD 93/36A1 - Addendum - Income tax: capital gains: what are the capital gains tax consequences where a legal personal representative (LPR) purchases an asset to satisfy a general legacy?

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Addendum

Taxation Determination

Income tax: capital gains: what are the capital gains tax consequences where a legal personal representative (LPR) purchases an asset to satisfy a general legacy?

This Addendum amends Taxation Determination TD 93/36 to reflect the rewritten capital gains tax provisions in Part 3-1 of the *Income Tax Assessment Act 1997*.

TD 93/36 is amended as follows:

1. Paragraph 2

Omit the second sentence; substitute:

Accordingly, the acts of the LPR are taken to be the acts of the beneficiary (section 106-50 of the *Income Tax Assessment Act 1997* (ITAA 1997)).¹

2. Paragraph 3

Omit the paragraph; substitute:

3. No CGT event happens when legal ownership of the asset is transferred from the LPR to the beneficiary because section 106-50 effectively treats the beneficiary as having transferred the asset to themselves. That is, section 106-50 treats the transfer to the beneficiary as an act done by the beneficiary’.

3. Example

Omit ‘1992’; substitute: ‘2008’ (both occurrences).

4. Related Determinations

Omit related determinations (including heading).

¹ All subsequent legislative references are to the ITAA 1997 unless indicated otherwise.

5. Subject References

Omit the subject references; substitute:

CGT assets; CGT cost base; CGT deceased estates; CGT events; legal personal representatives; trust beneficiaries

6. Legislative References

Omit the legislative references; substitute:

ITAA 1997 106-50

This Addendum applies from 14 September 2006, the date of effect of the repeal of the former capital gains tax provisions in Part IIIA of the *Income Tax Assessment Act 1936* by *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.

Commissioner of Taxation

21 April 2010

ATO references

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ATOlaw topic: Income Tax ~~ Capital Gains Tax ~~ CGT events E1 to E9 - trusts