

TD 94/33 - Income tax: capital gains: is exemption under section 160ZZI of the Income Tax Assessment Act 1936 limited to the disposal of the right under a policy of life assurance that results from those acts, transactions or events listed in subsection 160ZZI(4)?

 This cover sheet is provided for information only. It does not form part of *TD 94/33 - Income tax: capital gains: is exemption under section 160ZZI of the Income Tax Assessment Act 1936 limited to the disposal of the right under a policy of life assurance that results from those acts, transactions or events listed in subsection 160ZZI(4)?*

 This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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: is exemption under section 160ZZI of the *Income Tax Assessment Act 1936* limited to the disposal of the right under a policy of life assurance that results from those acts, transactions or events listed in subsection 160ZZI(4)?

1. No. Subsection 160ZZI(4) merely clarifies the application of section 160M and does not have the effect of limiting "disposals" for the purpose of section 160ZZI to those listed in subsection 160ZZI(4).
2. Accordingly, the exemption provided by subsection 160ZZI(2) is available:
 - to an original beneficial owner of rights under a policy of life assurance, or
 - to a person who did not acquire the rights or interest in such a policy for money or other consideration,

on any gain or loss realised **either** on a disposal constituted by an act, transaction or event listed in subsection 160ZZI(4) **or** by a change of ownership of rights or interest deemed generally by section 160M to be a disposal.

Example 1:

In July 1987, Mary took out a 10 year endowment life assurance policy with AJAX Insurance. Mary is the original beneficial owner of the rights under the policy.

In July 1993, Mary surrenders the policy and receives \$5,000 from AJAX Insurance being payment of the surrender value of the policy.

By paragraph 160ZZI(4)(c), Mary is taken to have disposed of her rights under the policy. She is not subject to CGT by virtue of subsection 160ZZI(2).

Note: Section 26AH may apply to the amount received by Mary in these circumstances.

Example 2:

In September 1990, Adrian took out a 10 year endowment life assurance policy with AJAX Insurance. Adrian is the original beneficial owner of the rights under the policy.

In December 1992, Adrian assigns the rights under the policy to Brian for \$10,000.

By subsection 160M(1), Adrian is taken to have disposed of his rights under the policy. He is not subject to CGT by virtue of subsection 160ZZI(2).

Note: Section 26AH may apply to the amount received by Adrian in these circumstances.

Commissioner of Taxation

21/4/94

FOI INDEX DETAIL: Reference No. I 1217279

Previously issued as Draft Draft TD 93/D287

Related Determinations: TD 94/31; TD 94/32; TD 94/34

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

Legislative Ref: ITAA 26AH; ITAA 160M; ITAA 160ZZI; ITAA 160ZZI(2); ITAA 160ZZI(4); ITAA 160ZZI(4)(c)

ATO Ref: CGT Cell CGTDET93

ISSN 1038 - 8982