TD 94/34 - Income tax: capital gains: can a premium constitute "an amount of money or other consideration" paid to acquire rights, or an interest in any rights, under a policy of life assurance for the purpose of subsection 160ZZI(3) of the Income Tax Assessment Act 1936 ?

This cover sheet is provided for information only. It does not form part of *TD 94/34 - Income tax: capital gains: can a premium constitute "an amount of money or other consideration" paid to acquire rights, or an interest in any rights, under a policy of life assurance for the purpose of subsection 160ZZI(3) of the Income Tax Assessment Act 1936 ?*

This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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

Australian Taxation Office

Taxation Determination TD 94/34

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: can a premium constitute "an amount of money or other consideration" paid to acquire rights, or an interest in any rights, under a policy of life assurance for the purpose of subsection 160ZZI(3) of the *Income Tax Assessment Act 1936*?

1. No. A premium (or an instalment of a premium) paid under a policy of life assurance does not constitute, **for the purposes of subsection 160ZZI(3),** an "amount of money or other consideration" paid to acquire rights, or an interest in any rights, under such a policy.

2. Where a person **did not** pay an amount of money or other consideration to a previous owner to acquire the rights, or an interest in any of the rights, under a policy of life assurance, any premium (or an instalment of any premium) paid by that person to the life company under such a policy does not then constitute, **for subsection 160ZZI(3) purposes**, an "amount of money or other consideration" paid for the acquisition of those rights or interests. Accordingly, the effect of subsections 160ZZI(2) and 160ZZI(3) in this situation is that Part IIIA does **not** apply to a subsequent disposal of those rights or interest .

3. On the other hand, where a person did pay an amount of money or other consideration to a previous owner to acquire those rights or interest, the effect of subsections 160ZZI(2) and 160ZZI(3) here is that Part IIIA **does** apply to a subsequent disposal of those rights or interest. The amount paid to the previous owner and any premium (or an instalment of any premium) paid to the life company are both included in the cost base, indexed cost base or reduced cost base of the asset being the rights or interest under the policy.

Commissioner of Taxation
21/4/94

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