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?

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This document has been finalised by TD 93/38.

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.
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Related Determinations: TD93/D4; TD93/D5; TD93/D6
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