


IT 183 - Section 26AAA - sale of matrimonial home within 12 months of death of spouse

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TAXATION RULING NO. IT 183

SECTION 26AAA - SALE OF MATRIMONIAL HOME WITHIN 12
MONTHS OF DEATH OF SPOUSE

F.O.I. EMBARGO: May be released

REF

H.O. REF: J.153/117/13 P3 F20

DATE OF EFFECT:

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F.O.I. INDEX DETAIL

REFERENCE NO:

SUBJECT REFS:

LEGISLAT. REFS:

I 1102164

PROPERTY SOLD WITHIN 26AAA(1)(f)
12 MONTHS
DECEASED ESTATE
MATRIMONIAL HOME
SALE BY EXECUTOR
RECEIPT BY BENEFICIARY

OTHER RULING ON TOPIC

IT 122

PREAMBLE

Representations were received from a firm of solicitors seeking clarification of the application of section 26AAA where the matrimonial home is sold within 12 months of the death of the husband.

RULING

2. The first situation concerns a sale of the matrimonial home by a widow within 12 months of the death of her husband, with whom she had jointly owned the home. In this situation, section 26AAA(1)(f) does not extend to deem an interest in jointly owned property that passes to the surviving co-owner to have been sold by the deceased or purchased by the survivor.

3. Section 26AAA does not apply in relation to property owned by a taxpayer at the time of his death which becomes vested in the executor or administrator of his estate (e.g. on the grant of probate). Accordingly, where such property is realised by the deceased's executor or administrator in the course of administering the estate, section 26AAA itself would have no application to any profit arising on the sale. Whether any amount would be assessable under other and more general provisions of the law would, of course, depend upon the circumstances of the particular case.

4. The section also has no application where a person receives property or an interest in property as a beneficiary under a will or intestacy even though the beneficiary disposes of that property or interest within 12 months of receiving it.

COMMISSIONER OF TAXATION