

TD 93/37 - Income tax: capital gains: where an asset owned by the deceased at the time of death passes to a remainderman on the death of a life tenant, what is the date of acquisition of the asset by the remainderman?

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! This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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: where an asset owned by the deceased at the time of death passes to a remainderman on the death of a life tenant, what is the date of acquisition of the asset by the remainderman?

1. A remainderman, who has a vested or contingent interest in an asset which formed part of the estate of a deceased person, is a beneficiary in that estate.
2. If the deceased died before 20 September 1985, the remainderman is taken to have acquired the asset before that date. (This is the case even if the asset does not pass to the remainderman until the life tenant dies on or after 20 September 1985) - subsection 160X(4) of the *Income Tax Assessment Act 1936*.
3. If the deceased dies on or after 20 September 1985, the remainderman is taken to have acquired the asset on the date of death of the deceased - subsection 160X(5).

Commissioner of Taxation

11/03/93