TD 94/32 - Income tax: capital gains: where no amount of money or other consideration is given for the acquisition of any of the rights, or an interest in any of the rights, under a policy of life assurance, and the person acquiring such rights is not the original beneficial owner, will subsection 160ZH(9) of the Income Tax Assessment Act 1936 deem market value consideration in subsection 160ZZI(3) ?

• This cover sheet is provided for information only. It does not form part of *TD 94/32* - *Income tax: capital gains: where no amount of money or other consideration is given for the acquisition of any of the rights, or an interest in any of the rights, under a policy of life assurance, and the person acquiring such rights is not the original beneficial owner, will subsection 160ZH(9) of the Income Tax Assessment Act 1936 deem market value consideration in subsection 160ZI(3) ?* 

This document has changed over time. This is a consolidated version of the ruling which was published on 21 April 1994



## FOI Status: may be released

Page 1 of 2

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 no amount of money or other consideration is given for the acquisition of any of the rights, or an interest in any of the rights, under a policy of life assurance, and the person acquiring such rights is not the original beneficial owner, will subsection 160ZH(9) of the *Income Tax Assessment Act 1936* deem market value consideration in subsection 160ZI(3) ?

1. No. Subsection 160ZH(9) will not deem market value consideration to have been paid so as to trigger subsection 160ZZI(3).

2. In the context of section 160ZZI, Part IIIA is only intended to apply where the person making the disposal of any of the rights, or an interest in any of the rights, under a policy of life assurance is not the original beneficial owner and acquired such rights or interest for an **actual** amount of money or other consideration.

3. Market value consideration will not be deemed, for example, where any rights or an any interest in any rights under a policy of life assurance:

- (i) are inherited from a deceased estate; or
- (ii) are assigned by way of gift; or
- (iii) come to be owned outright by a joint tenant following the death of the other joint tenant.

## Example:

In July 1990, George took out a 10 year endowment life assurance policy. George is the original beneficial owner of the rights under the policy.

In December 1992, George disposed of his rights under the policy to his wife, Joan, who did not pay an amount of money or give any other consideration in respect of the acquisition.

	TD 94/32
FOI Status: may be released	Page 2 of 2

Subsection 160ZZI(2) will apply to any subsequent disposal by Joan of the rights under the policy.

**Commissioner of Taxation** 21/4/94

FOI INDEX DETAIL: Reference No. I 1217263Previously issued as Draft Draft TD 93/D286Related Determinations: TD 94/31; TD 94/33; TD 94/34Subject Ref: exemption; life assurance policy; market value; original beneficial ownerLegislative Ref: ITAA 160ZH(9); ITAA ZZI; ITAA 160ZZI(2); ITAA 160ZZI(3)ATO Ref: CGT Cell CGTDET92

ISSN 1038 - 8982