

TD 50W - Capital gains: where post-CGT land has been held for more than 12 months, is indexation available in relation to the cost of a house built for investment purposes on the land and sold within 12 months of construction?

⚠ This cover sheet is provided for information only. It does not form part of *TD 50W - Capital gains: where post-CGT land has been held for more than 12 months, is indexation available in relation to the cost of a house built for investment purposes on the land and sold within 12 months of construction?*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *16 February 2011*



Notice of Withdrawal

Taxation Determination

Capital gains: where post-CGT land has been held for more than 12 months, is indexation available in relation to the cost of a house built for investment purposes on the land and sold within 12 months of construction?

CGT Determination Number 50 is withdrawn with effect from today.

1. CGT Determination Number 50 (TD 50) explains the effect of subsection 160P(4) of the *Income Tax Assessment Act 1936* (ITAA 1936) on the availability of indexation of the cost of construction of a house on post-CGT land where the land was held for more than 12 months but the house and land is sold within 12 months of construction of the house. The Determination discusses the different CGT treatment depending on whether the house is a separate asset.
2. When subsection 160P(4) of the ITAA 1936 was rewritten as section 108-55 of the *Income Tax Assessment Act 1997* by the *Tax Law Improvement Act (No. 1) 1998*, a change was made to reduce the range of assets that are treated as separate assets to those to which balancing adjustment provisions apply.
3. TD 50 was issued prior to 1 July 1992 and is therefore not a public ruling for the purposes of Division 358 of the *Taxation Administration Act 1953*. It refers to provisions that were repealed by *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* with effect from 14 September 2006.
4. TD 50 no longer reflects the current law in relation to the rules about 'separate CGT asset' treatment. Also, indexation has very limited application as it is available only for expenditure incurred on or before 21 September 1999 and in relation to CGT assets acquired on or before that date. There is no interpretative issue under the current law that requires clarification. Accordingly, this Determination is withdrawn.

Commissioner of Taxation

12 May 2010

TD 50

ATO references

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ATOlaw topic: Income Tax ~~ Capital Gains Tax ~~ miscellaneous