

TD 51 - Capital Gains: What factors are taken into account in determining whether or not a dwelling is a taxpayer's sole or principal residence?

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CGT Determination Number 51

Capital Gains: What factors are taken into account in determining whether or not a dwelling is a taxpayer's sole or principal residence?

Determination

1. Whether a dwelling is a taxpayer's sole or principal residence is an issue which depends on the facts in each case.
2. Some relevant factors may include, but are not limited to:
 - (i) the length of time the taxpayer has lived in the dwelling
 - (ii) the place of residence of the taxpayer's family
 - (iii) whether the taxpayer has moved his or her personal belongings into the dwelling
 - (iv) the address to which the taxpayer has his or her mail delivered
 - (v) the taxpayer's address on the Electoral Roll
 - (vi) the connection of services such as telephone, gas and electricity
 - (vii) the taxpayer's intention in occupying the dwelling

The relevance and weight to be given to each of these or other factors will depend upon the circumstances of each particular case.

3. Mere intention to construct a dwelling or to occupy a dwelling as a sole or principal residence, but without actually doing so, is insufficient to obtain the exemption.

COMMISSIONER OF TAXATION

26 March 1992

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