



# ***TD 52 - Capital Gains: Does the principal residence exemption exempt monies received from a forfeited deposit?***

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## CGT Determination Number 52

**Capital Gains: Does the principal residence exemption exempt monies received from a forfeited deposit?**

### Determination

1. The principal residence exemption does **not** exempt monies received from a forfeited deposit, because in these cases, the asset disposed of is **not** the sole or principal residence.
2. The forfeited deposit is taken to have been paid in respect of the grant of an option which is not exercised (subsection 160ZZC(12)).
3. Accordingly, a capital gain may accrue to the person receiving the forfeited deposit. Any costs incurred by this person in connection with the purchase that has not gone ahead will be taken into account in working out whether there is a capital gain or capital loss.

#### *Example*

*A taxpayer enters into a contract to sell his or her principal residence. The prospective purchaser pays a \$1,000 non-refundable deposit.*

*The sale does not go ahead.*

*The taxpayer has a capital gain of \$1,000 (assuming he or she has incurred no costs in connection with the proposed sale).*

COMMISSIONER OF TAXATION

26 March 1992

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FOI INDEX DETAIL: Reference No. CGT 52

Subject Ref: Principal residence exemption; forfeited deposit

Legislative Ref: 160ZZC(12)      ATO Ref: CGT Cell PRE

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ISSN 1037 - 1419