

***TD 59W - Capital Gains: Where a dwelling is erected on pre-CGT land, is an election required under subsection 160ZZQ(5) to get the principal residence exemption for the time during which construction takes place?***

⚠ This cover sheet is provided for information only. It does not form part of *TD 59W - Capital Gains: Where a dwelling is erected on pre-CGT land, is an election required under subsection 160ZZQ(5) to get the principal residence exemption for the time during which construction takes place?*

⚠ TD 59 has been withdrawn under the ATO's Project Refresh initiative. Under Project Refresh, we are reviewing public rulings that have not been updated in more than 5 years. We are retaining, updating, rewriting, consolidating and, where no longer relevant, withdrawing these rulings. Project Refresh is not changing any current ATO views.

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *17 May 2017*



---

## Notice of Withdrawal

---

### Capital Gains Tax Determination

Capital Gains: Where a dwelling is erected on pre-CGT land, is an election required under subsection 160ZZQ(5) to get the principal residence exemption for the time during which construction takes place?

Capital Gains Tax Determination TD 59 is withdrawn with effect from today.

1. TD 59 is replaced by Taxation Determination TD 2017/13 *Income tax: capital gains: if you build a dwelling on land that you acquired before 20 September 1985 ('pre-CGT'), are you required to make a choice under section 118-150 of the Income Tax Assessment Act 1997 (ITAA 1997)*<sup>1</sup> to get the main residence exemption? which issued on 17 May 2017.

---

**Commissioner of Taxation**

17 May 2017

---

ATO references

NO: 1-9N72KXS  
ISSN: 2205-6211

---

**© AUSTRALIAN TAXATION OFFICE FOR THE  
COMMONWEALTH OF AUSTRALIA**

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).

---

<sup>1</sup> All legislative references are to the ITAA 1997.