

TD 93/D77 - Income tax: capital gains: when will a building which is relocated to pre-CGT land be treated as a separate asset under subsection 160P(2)?

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This document has been finalised by TD 93/182.

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Draft Taxation Determination

Income tax: capital gains: when will a building which is relocated to pre-CGT land be treated as a separate asset under subsection 160P(2)?

1. It will only be when the building was acquired post-CGT.
2. For subsection 160P(2) of the *Income Tax Assessment Act 1936* to apply, the building must have been:
 - (i) constructed on pre-CGT land (see TD 93/D79)
 - and**
 - (ii) acquired post-CGT.
3. Therefore, unless a building was acquired post-CGT, it would not be an asset separate from the land on which it stands.

Note: Any capital improvements on relocation may be treated as an asset separate from the land under subsection 160P(6).

Example 1:

X acquired a building on Block A in 1979. In 1989 X relocated the building from Block A to Block B which X acquired in 1984. The building is not a separate asset from Block B and retains its pre-CGT status.

Example 2:

Y acquired a building on Block C in 1988. In 1992 Y relocated the building from Block C to Block D which Y acquired in 1983. The building is treated as an asset separate to Block D and retains its post-CGT status.

Commissioner of Taxation
1/4/93

FOI INDEX DETAIL: Reference No.

Related Determinations: TD 93/D75; TD 93/76; TD 93/D78; TD 93/D79

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