


TD 94/D98 - Income tax: capital gains: can an election made for the purposes of subsection 160ZZQ(11) of the Income Tax Assessment Act 1936 cover more than one period of absence from a taxpayer's sole or principal residence (SPR)?

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This document has been finalised by TD 95/8.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: capital gains: can an election made for the purposes of subsection 160ZZQ(11) of the *Income Tax Assessment Act 1936* cover more than one period of absence from a taxpayer's sole or principal residence (SPR)?

1. Yes. An election under subsection 160ZZQ(11A) made for the purposes of subsection 160ZZQ(11) may cover more than one period of absence from an SPR.
2. It is not necessary to make a separate election for each period of absence.

Example

June's post CGT dwelling ceases to be her SPR and she rents it for two years. She later re-occupies the dwelling for four years, rents it for a further three years, then sells the dwelling.

Provided June satisfies the other requirements in subsection 160ZZQ(11), she only needs to make one election under subsection 160ZZQ(11A) to treat the dwelling as her SPR for the separate periods of absence.

Commissioner of Taxation

15/9/94

FOI INDEX DETAIL: Reference No.

Related Determinations: TD 94/D99

Subject Ref: elections; period of absence; principal residence exemption

Legislative Ref: ITAA 160ZZQ(11); ITAA 160ZZQ(11A)

ATO Ref: CGT CELL PRE (CGTDET16)

ISSN 1038 - 8982