


TD 92/129A1 - Addendum - Income tax: capital gains: if a person builds a principal residence straddling two post-CGT blocks acquired at different times, what is the 'relevant commencing date' for the purposes of subsection 160ZZQ(5AA) of the Income Tax Assessment Act 1936?

 This cover sheet is provided for information only. It does not form part of *TD 92/129A1 - Addendum - Income tax: capital gains: if a person builds a principal residence straddling two post-CGT blocks acquired at different times, what is the 'relevant commencing date' for the purposes of subsection 160ZZQ(5AA) of the Income Tax Assessment Act 1936?*

 View the [consolidated version](#) for this notice.



Addendum

Taxation Determination

Income tax: capital gains: if a person builds a principal residence straddling two post-CGT blocks acquired at different times, what is the 'relevant commencing date' for the purposes of subsection 160ZZQ(5AA) of the *Income Tax Assessment Act 1936*?

This Addendum amends Taxation Determination TD 92/129 to reflect the rewritten capital gains tax provisions in Part 3-1 of the *Income Tax Assessment Act 1997*.

Taxation Determination TD 92/129 is amended as follows:

1. Title

Omit the title; substitute:

Income tax: capital gains: when do you acquire your ownership interest in land for the purposes of paragraph 118-150(4)(b) of the *Income Tax Assessment Act 1997* if you acquired ownership interests in the land at different times after 19 September 1985?

2. Paragraph 1

Omit the paragraph; substitute:

1. For the purpose of applying paragraph 118-150(4)(b) of the *Income Tax Assessment Act 1997* (ITAA 1997)¹ you acquire your ownership interest in the land when the earliest interest was acquired.

¹ All legislative references are to the ITAA 1997 unless indicated otherwise.

3. Example

(a) Omit the fourth sentence; substitute:

On 1 July 1991, the taxpayer moved into this dwelling as his or her main residence, and continued to reside there until the dwelling was disposed of.

(b) Omit the second paragraph; substitute:

If the taxpayer chooses for section 118-150 to apply, the taxpayer is taken to have acquired their ownership interest in the land for the purposes of paragraph 118-150(4)(b) on 1 October 1985. As the period from this date until the dwelling became the taxpayer's main residence is greater than 4 years, paragraph 118-150(4)(a) applies to treat the dwelling as the taxpayer's main residence only from 1 July 1987 to 30 June 1991.

(c) Omit the Note.

4. Subject references

Omit the references; substitute:

capital gains; CGT main residence exemption

5. Legislative references

Omit the legislative references; substitute:

ITAA 1997; ITAA 1997 118-150; ITAA 1997 118-150(4)(a); ITAA 1997 118-150(4)(b)

This Addendum applies from 14 September 2006, the date of effect of the repeal of the former capital gains tax provisions in Part IIIA of the *Income Tax Assessment Act 1936* by *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.

Commissioner of Taxation

24 March 2010

ATO references

NO: 2006/20258

ISSN: 1038-8982

ATOlaw topic: Income Tax ~ Capital Gains Tax ~ main residence exemption