



# ***TD 92/171 - Income tax: capital gains : does the main residence exemption extend to additional land acquired after the time of acquisition of the residence?***

 This cover sheet is provided for information only. It does not form part of *TD 92/171 - Income tax: capital gains : does the main residence exemption extend to additional land acquired after the time of acquisition of the residence?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *21 April 2010*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

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## Taxation Determination

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### **Income tax: capital gains: does the main residence exemption extend to additional land acquired after the time of acquisition of the residence?**

1. Yes. The exemption is available provided the following requirements of sections 118-120 and 118-165 of the *Income Tax Assessment Act 1997* are satisfied:

- (i) the additional land (including the area of land on which the dwelling is built) is adjacent to that on which the dwelling is situated;
- (ii) the total area of land is not greater than 2 hectares;
- (iii) the additional land is used primarily for private or domestic purposes in association with the dwelling; and
- (iv) the CGT event that happens in relation to the additional land also happens in relation to the dwelling (or your ownership interest in it).

**Note:** The exemption applies whether or not the dwelling is a pre or post-CGT dwelling.

*Example:*

*Tom and Mary purchase a home in 1987 and occupy it as their main residence. The home has never been used for income producing purposes.*

*In 1989, they purchase the vacant block of land that adjoins the land on which their dwelling is situated and construct a private swimming pool. The total of the area of adjacent land and the area of the land on which the home is situated is less than 2 hectares. In 2001, they enter into a contract to sell the home with the adjoining block.*

*A full main residence exemption is available.*

**Commissioner of Taxation**  
22/10/92

Subject Ref: adjacent land; CGT main residence exemption

Legislative Ref: ITAA 1997 118-120; ITAA 1997 118-165

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