


***TD 92/171A1 - Addendum - Income tax: capital gains: does the principal residence exemption extend to additional land acquired after the time of acquisition of the residence?***

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## Addendum

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### Taxation Determination

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

This Addendum amends Taxation Determination TD 92/171 to reflect the rewritten capital gains tax provisions in Part 3-1 of the *Income Tax Assessment Act 1997*.

**TD 92/171 is amended as follows:**

**1. Title**

Omit 'principal'; substitute 'main'.

**2. Paragraph 1**

(a) Omit 'subsections 160ZZQ(3) and 160ZZQ(4)'; substitute 'sections 118-120 and 118-165 of the *Income Tax Assessment Act 1997*'.

(b) After 'land' (first occurrence) insert ' (including the area of land on which the dwelling is built)'.

(c) Omit subparagraph 1(iv); substitute:

- (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).

**3. Example**

(a) In the first paragraph omit 'sole or principal'; substitute 'main'.

(b) Omit the second paragraph; substitute:

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.

(c) In the third paragraph omit 'full principal'; substitute 'full main'.

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## 4. Related Determinations

Omit 'TD 92/115'.

## 5. Subject references

Omit the subject references; substitute

adjacent land; CGT main residence exemption

## 6. Legislative references

Omit the legislative references; substitute:

ITAA 1997 118-120; ITAA 1997 118-165

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*.

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**Commissioner of Taxation**

21 April 2010

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ATO references

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