


TD 97/3A1 - Addendum - Income tax: capital gains: if a parcel of land acquired after 19 September 1985 is subdivided into lots ('blocks'), does Part IIIA of the Income Tax Assessment Act 1936 treat a disposal of a block of the subdivided land as the disposal of part of an asset (the original land parcel) or the disposal of an asset in its own right (the subdivided block)?

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Addendum

Taxation Determination

Income tax: capital gains: if a parcel of land acquired after 19 September 1985 is subdivided into lots ('blocks'), does Part IIIA of the *Income Tax Assessment Act 1936* treat a disposal of a block of the subdivided land as the disposal of part of an asset (the original land parcel) or the disposal of an asset in its own right (the subdivided block)?

This Addendum amends Taxation Determination TD 97/3 to reflect the rewritten capital gains tax provisions in Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*.

TD 97/3 is amended as follows:

1. Title

Omit 'does Part IIIA of the *Income Tax Assessment Act 1936*'; substitute 'do Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*'.

2. First paragraph

(a) Omit 'Part IIIA'; substitute 'Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997* (ITAA 1997)¹'.

(b) Omit 'section 160ZH' where occurring; substitute 'section 112-25'.

(c) Omit 'section 160ZI' where occurring; substitute 'section 112-30'.

(d) Insert 'and reduced cost base' after 'cost base'.

3. Paragraph 2

Omit 'Part IIIA purposes'; substitute 'the purposes of Parts 3-1 and 3-3'.

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

TD 97/3

4. Paragraph 4

Omit the paragraph; substitute:

4. If an original land parcel is split into two or more blocks, and you are the beneficial owner of the original land parcel and each of the new blocks, section 112-25 provides that each element of the cost base and reduced cost base of the original asset (worked out at the time of the split) is apportioned in a reasonable way and included in the corresponding element of the cost base and reduced cost base of each new asset.

5. Paragraph 5 (including note)

- (a) Omit the third sentence.
- (b) Omit 'sections 160R and section 160ZI apply'; substitute 'section 112-30 applies'.
- (c) Omit 'subsections 160ZH(12) and (13)'; substitute 'section 112-25'.
- (d) Omit 'the amount of the relevant cost base of the original land parcel to the relevant cost bases of the subdivided blocks'; substitute 'each element of the cost base and reduced cost base of the original land to the corresponding element of the cost base and reduced cost base of each new block'.

6. Example 1 (including note)

- (a) Omit the fifth sentence; substitute:

Albert would make a capital gain of \$170,000 on the disposal of the block that is, \$200,000 less \$30,000 (assuming no other amounts are included in the cost base of the asset).
- (b) Omit 'subsection 25(1)'; substitute 'section 6-5'.

7. Example 3

Omit '1995'; substitute '2007'.

8. Subject references

Omit the references; insert:

capital gains tax; CGT assets; CGT cost base; CGT cost base modification rules; CGT cost base modification rules – split; changed or merged asset rule; CGT subdivision of land; CGT reduced cost base; original assets

9. Legislative references

Omit the references; insert:

ITAA 1997; ITAA 1997 6-5; ITAA 1997 Part 3-1; ITAA 1997 Part 3-3; ITAA 1997 112-25; ITAA 1997 112-30

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 Taxation19 May 2010

ATO references

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