TD 46 - Capital Gains: What are the CGT consequences where a lessee affixes to the lessor's land an asset which continues to be owned by the lessee?

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CGT Determination Number 46

Capital Gains: What are the CGT consequences where a lessee affixes to the lessor's land an asset which continues to be owned by the lessee?

Determination

1. A lessee will be treated as continuing to be the owner of an asset which the lessee has affixed to the lessor's land where:

- the law of the relevant State or Territory provides for the ownership of the asset to remain with the lessee; or
- the lessee is regarded as being the owner of the asset within the terms of Taxation Ruling No IT 175.

2. In these circumstances, there is no disposal of the asset by the lessee when it is affixed to the land during the period of the lease, nor is it acquired by the lessor at that time.

COMMISSIONER OF TAXATION
5 March 1992

FOI INDEX DETAIL: Reference No. CGT 46

Subject Ref: Tenant's fixtures; disposal of asset; acquisition of asset

Legislative Ref: ATO Ref: N.O.88/3728-7; IT175; IT2519; CGT47; CGT48

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