


TD 50 - Capital Gains: Where post-CGT land has been held for more than 12 months, is indexation available in relation to the cost of a house built for investment purposes on the land and sold within 12 months of construction?

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 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

CGT Cell Determinations do not have the force of law, but can be relied upon as being the considered view of the ATO. Unless otherwise stated, the view expressed may be applied to transactions entered into both before and after the date of issue of the Determination.

CGT Determination Number 50

Capital Gains: Where post-CGT land has been held for more than 12 months, is indexation available in relation to the cost of a house built for investment purposes on the land and sold within 12 months of construction?

Determination

1. Land and a house constructed on that land are generally taken to be a single asset (subsection 160P(8)). Provided the house is not treated as a separate asset by any other provision of the Income Tax Assessment Act (the Act), the house is not taken to be a separate asset but an improvement to the land. Where capital expenditure on a house attracts allowances deductible under another provision of the Act, the house will be treated as an asset separate from the land on which it is constructed.

2. If the house and land are treated as a single asset, indexation is available in respect of the cost of the land and the cost of construction of the house, where the asset (being the house and land) has been held for more than 12 months. There will, however, be separate starting dates for indexation i.e. based on the acquisition of the land and on the construction of the house.

3. On the other hand, if the house is treated as a separate asset under another provision of the Act, the house will be deemed to be a separate asset for CGT purposes (subsection 160P(4)). If the house, in this case, is held for less than 12 months, indexation would not be available on the cost base of the house but would be available in respect of the cost base of the land.

Example:

A taxpayer buys a block of land for \$50,000 in July 1990 on which to build a house for investment purposes. The house is constructed during November and December 1990. The cost of construction, \$100,000, was incurred in December 1990. The house was not available for renting purposes at any time, and so is not treated as a separate asset for the purposes of Division 10D of Part III.

The taxpayer sells the house and land in September 1991. Indexation is available on the \$50,000 cost of the land from July 1990 and on the \$100,000 cost of construction from December 1990.

COMMISSIONER OF TAXATION

26 March 1992

FOI INDEX DETAIL: Reference No. CGT 50

Subject Ref: Indexation; house constructed on land

Legislative Ref: 160P(4); 160P(8); 160Z(3); Div 10D

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