


TD 92/129A1 - Addendum - Income tax: capital gains: if a person builds a principal residence straddling two post-CGT blocks acquired at different times, what is the 'relevant commencing date' for the purposes of subsection 160ZZQ(5AA) of the Income Tax Assessment Act 1936?

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Addendum

Taxation Determination

Income tax: capital gains: if a person builds a principal residence straddling two post-CGT blocks acquired at different times, what is the 'relevant commencing date' for the purposes of subsection 160ZZQ(5AA) of the *Income Tax Assessment Act 1936*?

This Addendum amends Taxation Determination TD 92/129 to reflect the rewritten capital gains tax provisions in Part 3-1 of the *Income Tax Assessment Act 1997*.

Taxation Determination TD 92/129 is amended as follows:

1. Title

Omit the title; substitute:

Income tax: capital gains: when do you acquire your ownership interest in land for the purposes of paragraph 118-150(4)(b) of the *Income Tax Assessment Act 1997* if you acquired ownership interests in the land at different times after 19 September 1985?

2. Paragraph 1

Omit the paragraph; substitute:

1. For the purpose of applying paragraph 118-150(4)(b) of the *Income Tax Assessment Act 1997* (ITAA 1997)¹ you acquire your ownership interest in the land when the earliest interest was acquired.

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

3. Example

- (a) Omit the fourth sentence; substitute:

On 1 July 1991, the taxpayer moved into this dwelling as his or her main residence, and continued to reside there until the dwelling was disposed of.

- (b) Omit the second paragraph; substitute:

If the taxpayer chooses for section 118-150 to apply, the taxpayer is taken to have acquired their ownership interest in the land for the purposes of paragraph 118-150(4)(b) on 1 October 1985. As the period from this date until the dwelling became the taxpayer's main residence is greater than 4 years, paragraph 118-150(4)(a) applies to treat the dwelling as the taxpayer's main residence only from 1 July 1987 to 30 June 1991.

- (c) Omit the Note.

4. Subject references

Omit the references; substitute:

capital gains; CGT main residence exemption

5. Legislative references

Omit the legislative references; substitute:

ITAA 1997; ITAA 1997 118-150; ITAA 1997 118-150(4)(a); ITAA 1997 118-150(4)(b)

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 Taxation

24 March 2010

ATO references

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