

TD 92/171 - 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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! This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part 4VAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

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

1. Yes. The exemption is available provided the following requirements of subsections 160ZZQ(3) and 160ZZQ(4) are satisfied:

- (i) the additional land is adjacent to that on which the dwelling is situated;
- (ii) the total area of land is not greater than 2 hectares;
- (iii) the additional land is used primarily for private or domestic purposes in association with the dwelling; and
- (iv) the additional land is not sold separately from the dwelling.

Note: The exemption applies whether or not the dwelling is a pre or post-CGT dwelling.

Example:

Tom and Mary purchase a home in 1987 and occupy it as their sole or principal residence. The home has never been used for income producing purposes.

In 1989, they purchase the adjoining vacant block of land on which they construct a private swimming pool. The total of the area of additional land and the area of the land on which the home is situated is less than 2 hectares. In 1991, they enter into a contract to sell the home with the adjoining block.

A full principal residence exemption is available.

Commissioner of Taxation
22/10/92

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Related Determinations: TD92/115

Subject Ref: Principal residence exemption; adjacent land; separately acquired land

Legislative Ref: ITAA 160ZZQ(3); ITAA160ZZQ(4)

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