


TD 92/171A1 - Addendum - 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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Addendum

Taxation Determination

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

This Addendum amends Taxation Determination TD 92/171 to reflect the rewritten capital gains tax provisions in Part 3-1 of the *Income Tax Assessment Act 1997*.

TD 92/171 is amended as follows:

1. Title

Omit 'principal'; substitute 'main'.

2. Paragraph 1

(a) Omit 'subsections 160ZZQ(3) and 160ZZQ(4)'; substitute 'sections 118-120 and 118-165 of the *Income Tax Assessment Act 1997*'.

(b) After 'land' (first occurrence) insert ' (including the area of land on which the dwelling is built)'.

(c) Omit subparagraph 1(iv); substitute:

(iv) the CGT event that happens in relation to the additional land also happens in relation to the dwelling (or your ownership interest in it).

3. Example

(a) In the first paragraph omit 'sole or principal'; substitute 'main'.

(b) Omit the second paragraph; substitute:

In 1989, they purchase the vacant block of land that adjoins the land on which their dwelling is situated and construct a private swimming pool. The total of the area of adjacent land and the area of the land on which the home is situated is less than 2 hectares. In 2001, they enter into a contract to sell the home with the adjoining block.

(c) In the third paragraph omit 'full principal'; substitute 'full main'.

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4. Related Determinations

Omit 'TD 92/115'.

5. Subject references

Omit the subject references; substitute

adjacent land; CGT main residence exemption

6. Legislative references

Omit the legislative references; substitute:

ITAA 1997 118-120; ITAA 1997 118-165

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

21 April 2010

ATO references

NO: 2006/20258

ISSN: 1038-8982

ATOLaw topic: Income Tax ~~ Capital Gains Tax ~~ main residence exemption