TD 93/182 - Income tax: capital gains: when will a building which is relocated to pre-CGT land be treated as a separate asset under subsection 160P(2)?

This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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

Taxation Determination

Income tax: capital gains: when will a building which is relocated to pre-CGT land be treated as a separate asset under subsection 160P(2)?

1. It will only be when the building was acquired post-CGT.

2. For subsection 160P(2) of the *Income Tax Assessment Act 1936* to apply, the building must have been:

(i) constructed on pre-CGT land (see TD 93/184)
&
(ii) acquired post-CGT.

3. Therefore, unless a building was acquired post-CGT, it would not be an asset separate from the land on which it stands for the purposes of subsection 160P(2).

Note: Any capital improvements on relocation will be treated as an asset separate from the land where the threshold tests in subsection 160P(6) are satisfied.

Example 1:

X acquired a building on Block A in 1979. In 1989 X relocated the building from Block A to Block B which X acquired in 1984. The building is not a separate asset from Block B and retains its pre-CGT status.

Example 2:

Y acquired a building on Block C in 1988. In 1992 Y relocated the building from Block C to Block D which Y acquired in 1983. The building is treated as an asset separate to Block D and retains its post-CGT status.

Commissioner of Taxation
9/9/93

FOI INDEX DETAIL: Reference No. I 1216140 Previously issued as Draft TD 93/D77

Related Determinations: TD 93/180; TD 93/181; TD 93/183; TD 93/184

Subject Ref: Building relocated to pre-CGT land; capital improvement; composite asset;separate asset;

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