

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)?

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 This ruling contains references to repealed provisions, some of which may have been rewritten.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in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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 IVAAA 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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

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

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