



***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 108-55(2) of the Income Tax Assessment Act 1997 ?***

 This cover sheet is provided for information only. It does not form part of *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 108-55(2) of the Income Tax Assessment Act 1997 ?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *21 April 2010*

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).

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

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## Taxation Determination

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### **Income tax: capital gains: when will a building which is relocated to pre-CGT land be treated as a separate asset under subsection 108-55(2) of the *Income Tax Assessment Act 1997*?**

1. It will only be when the building was acquired post-CGT.
2. For subsection 108-55(2) of the *Income Tax Assessment Act* (ITAA 1997) 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 108-55(2).

**Note:** Any capital improvements on relocation will be treated as an asset separate from the land where the threshold tests in subsections 108-70(2) and (3) are satisfied.

*Example 1:*

*X acquired a building on Block A in 1979. In 1999 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 2002 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: CGT assets; CGT composite assets; CGT separate assets; pre-CGT assets

Legislative Ref: ITAA 1997 108-55(2); ITAA 1997 108-70(2) and (3)

ATO Ref: TD/92/0027/PAR (CGTDET 60)

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ISSN 1038 - 8982