



TD 95/8 - Income tax: capital gains: can a subsection 160ZZQ(11A) election made for the purposes of subsection 160ZZQ(11) of the Income Tax Assessment Act 1936 cover more than one period of absence from a taxpayer's sole or principal residence (SPR)?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 20 April 1995

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: can a subsection 160ZZQ(11A) election made for the purposes of subsection 160ZZQ(11) of the *Income Tax Assessment Act 1936* cover more than one period of absence from a taxpayer's sole or principal residence (SPR)?

1. Yes. It is not necessary to make a separate election for each period of absence.
2. If a taxpayer has more than one period of absence from a SPR, the election may (at the taxpayer's option) specify any one or more (including all) of the periods of absence.

Example:

June's post CGT dwelling ceases to be her SPR and she rents it for two years. She later re-occupies the dwelling for four years, rents it for a further three years, then sells the dwelling.

Provided June satisfies the other requirements in subsection 160ZZQ(11), she only needs to make one election under subsection 160ZZQ(11A) to treat the dwelling as her SPR for the separate periods of absence.

Commissioner of Taxation
20/4/95

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