**8588. Can a taxpayer exclude gain on the sale of vacant land under the same principles that apply to excluding gain on the sale of a principal residence?**

A taxpayer may be able to exclude gain on a sale of vacant land made within two years of the sale of a residence if certain requirements are met. A sale of vacant land can piggy back onto the sale of a taxpayer’s principal residence provided (a) the vacant land is adjacent to a dwelling unit used by the taxpayer as the taxpayer’s principal residence; (b) the taxpayer owned and used the vacant land as part of the taxpayer’s principal residence; (c) the taxpayer sells the dwelling unit in a sale that meets the requirements of IRC Section 121 within two years before or two years after the date of the sale of the vacant land; and (d) the requirements of IRC Section 121 must have been otherwise met with respect to the land.[[1]](#footnote-1)

For purposes of excluding the gain on the sale of the vacant land, the sale of the land and the dwelling is treated as a single sale. Therefore, the taxpayer’s $250,000 ($500,000 for married couples) exclusion applies to the combined sale. If the sales take place in different tax years, gain on the sale of the dwelling unit is taken into account and excluded first. If after that, there is any of exclusion amount remaining it will be applied to the sale of the vacant land.[[2]](#footnote-2)

 *Example:*  In 2013, Asher, a single taxpayer who owns a primary residence with adjacent land sells the primary residence for $400,000 with respect to which there is a $100,000 gain. Assuming Asher meets all the requirements of IRC Section 121, the entire $100,000 gain is excluded from gross income. Because a single taxpayer can exclude up to $250,000 of gain, there is $150,000 of remaining available exclusion. In 2014, Asher sells the adjacent land for $300,000 and realizes a $200,000 gain. Again, assuming the requirements of IRC Section 121 are met, Asher can exclude $150,000 of the $200,000 gain. This is because the sale of the home and the vacant land are treated as a single transaction. Since the total gain was $300,000 ($100,000 on the home and $200,000 on the vacant land), the $100,000 gain on the sale of the home is excluded, $150,000 of the gain on the land is excluded and $50,000 of the gain in excess of $250,000 is included in gross income.

If the taxpayer sells the dwelling unit in a tax year that begins *after* the tax year in which the vacant land is sold, and *after* the due date for the tax return for that earlier year, the taxpayer must include in gross income any gain on the sale of the vacant land in the year it is sold. Then upon the later sale of the dwelling unit, the taxpayer is permitted to claim the appropriate IRC Section 121 exclusion with respect to the vacant land by filing an amended return.[[3]](#footnote-3)

1. . Treas. Reg. §1.121-1(b)(3)(i). [↑](#footnote-ref-1)
2. . Treas. Reg. §1.121-1(b)(3)(ii)(A). [↑](#footnote-ref-2)
3. . Treas. Reg. §1.121-1(b)(3)(ii)(C). [↑](#footnote-ref-3)