



Land and the Active Asset Test: Tested in Federal Court Case

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In an unwelcome “welcome back” to the New Year, the Federal Court has handed down a decision which appears to significantly narrow the requirements for land to be able to satisfy the active asset test.

The case involved a taxpayer with a building business who used land for storage and prep work. The land was adjacent to their home. There was no contention that the property was used in the taxpayer’s business however the court sided with the Tax Office’s interpretation that mere storage is not sufficient for the land to be considered “in the course of carrying on a business”. Rather, the land must serve a function in the actual conduct of the business.

What can that mean for you and your business you wonder? Having land successfully considered as “active” allows a small business to avoid significant Capital Gains Tax. Situations where considerable tax is avoided will always garner attention from the Tax Office therefore, it is important to consider speaking with your accountant before selling a capital asset.

Full information in relation to this case can be found [here](#).