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AUTHOR D'Angelo, Sandro  
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SECTION 45(1)  
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Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA. Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Whether there is a deemed disposition where real estate that is held by an individual is converted from inventory to capital property which is a principal residence?

POSITION: No

REASONS: The law

XXXXXXXXXX  
2015-059692  
Sandro D'Angelo

September 25, 2015

Dear XXXXXXXXXXXX:

Re: Change in Use of Real Property

This is in reply to your letter of June 23, 2015 wherein you requested our views on whether the rules in subsection 45(1) of the Income Tax Act ("Act") would apply in a situation where an individual, who carries on a business of building and selling homes, commences to use a real property that was initially held as inventory for his own personal use.

You refer to document 9335765, which addressed a similar situation, and wherein the CRA indicated that the rules in subsection 45(1) would not apply where real estate held by an individual as inventory is permanently converted to a capital property that is personal use property ("PUP"). That document also indicated that the treatment of any gain on the ultimate sale of the particular PUP would not give rise to a gain or loss on income account. However, you also referred to document 2013-0493811C6, which discussed the CRA's views on C.A.E. Inc. v. The Queen, 2013 FCA 92, and asked for confirmation that the position described in document 9335765 continues to represent the CRA's views.

Our Comments

This technical interpretation provides general comments about the provisions of the Act and related legislation. It does not confirm the income tax treatment of a particular situation but is intended to assist you in making that determination. The income tax treatment of transactions will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R5, "Advance Income Tax Rulings".

**We can confirm that the position described in document 9335765 continues to represent the CRA's views.**

We trust our comments are of assistance.

Michael Cooke, C.P.A., C.A.  
Manager  
Business Income and Capital Transaction Section  
Business and Employment Division  
Income Tax Rulings Directorate