

## 170. Receiving: s 433

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### 170.1 Legislation

[Last reviewed: March 2025]

*Criminal Code*

[Section 432](#) – What is *tainted property* for ch 41

[Section 433](#) – Receiving tainted property

### 170.2 Commentary

[Last reviewed: March 2025]

The Defendant must have:

- (1) Received property;
- (2) Which is 'tainted'; and
- (3) Had reason to believe it was tainted property.

The maximum penalty for the offence depends on the circumstances of the receiving and the nature of the property received: s 433(1)(a)-(d).

'Tainted property' means a thing that was obtained by way of an act constituting an indictable offence. Tainted property also includes the property into which tainted property was converted or the proceeds of a mortgage, pledge or exchange of tainted property: s 432(1). Property stops being tainted property after a person acquires a lawful title to it: s 432(2).

This offence is a prescribed offence under s 161Q of the *Penalties and Sentences Act 1992* (Qld), so a serious organised crime circumstance of aggravation is applicable.

### 170.3 Suggested Direction

[Last reviewed: March 2025]

**The prosecution must prove beyond reasonable doubt that:**

1. **The Defendant received the property.**

**The prosecution can prove that the Defendant received the property if it establishes that, either alone or jointly with some other person, [he/she] had it in [his/her] possession [or he/she aided in concealing it or disposing of it].**

**A person possesses something if:**

**(a) [he/she] has it in [his/her] physical custody; or**

**(b) [he/she] knowingly has it under [his/her] control.**

- 2. The property was tainted property; that is, it was obtained by way of stealing [or some other act constituting an indictable offence; or it is the property into which tainted property was converted or is the proceeds of a mortgage, pledge or exchange of tainted property].**

**Property is stolen if it is taken from the owner, without the owner's consent and with an intent to permanently deprive the owner of it.**

- 3. At the time the Defendant received the property [he/she] had reason to believe that the property was stolen.**

**The Defendant's state of mind as to the property being stolen must be more than suspicion, but it does not require the Defendant to have actually seen the property being stolen, nor does it require the Defendant to know when and by whom the property was stolen.**

**It is sufficient for the prosecution to prove that the circumstances surrounding the Defendant's receipt of the property were such that [he/she] had reason to believe that the property was stolen.**

**Mere negligence, or carelessness or even recklessness in not realising that the property was stolen is not enough. However, if you think that the facts known to the Defendant would have put a reasonable person on inquiry that would be a relevant factor when you are considering whether [he/she] had reason to believe it was stolen.**