

Capital Gain Tax Concessions for Small Business

Capital Gains Tax (CGT)

Capital gains tax is the tax that you pay on any realised capital gains from the sale of capital assets such as stocks, bonds or real estate. CGT is not a separate tax; instead it is included as a portion of your income tax.

Small Business

You may be eligible to reduce your capital gain and therefore your tax applied on that gain by using one of the four CGT concessions available for small businesses.

In order to apply one of the concessions to your capital gain, you have to be classified as a small business by meeting the following criteria:

1. The Maximum Net Asset Value Test
 - In order for you to pass this test your combined entities cannot own assets with a total net value of more than \$6 million. This test takes place just before the CGT event that resulted in the capital gain. The net value of your assets is equal to the market value of your assets less any liabilities outstanding that relate to the ownership of the capital gain asset. As an individual your personal use assets are not to be included in the calculation of your assets net value.
2. The Active Asset Test
 - If you have owned your asset for less than 15 years, the CGT asset must be considered an active asset just before the CGT event and for at least half the ownership period in order to pass this test.
 - If the asset has been owned for more than 15 years, it has to be an active asset for at least half of the 15 year period only.
 - To be considered an active asset the asset must be owned and used or ready for use by you in relation to carrying on your business. In tangible assets that are in relation with you carrying on your business such as goodwill are also active assets.
3. The Controlling Individual/CGT Concession Stakeholder Test
 - This test only applies if the asset from which the capital gain was made is a share in a company or an interest in a trust.
 - To pass this test, a company or a trust must have at least one controlling individual just before the CGT event.
 - To be a controlling individual in a company the individual must hold shares in the company that have the right to exercise at least 50% of the voting power in the company and the right to receive at least 50% of any distribution of income and capital that the company earns.
 - For fixed trusts, there is no rule that constitutes a controlling individual.

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Capital Gain Tax Concessions

Small business CGT concessions that may be available to you include:

1. The small business 15 year exemption
This CGT exemption allows you to fully disregard your capital gain made. It only applies to CGT assets owned for at least 15 years and you are aged 55 years or over and retiring, or are permanently incapacitated.
2. The small business 50% active asset reduction
To qualify for this concession you only need to pass the basic tests for small business classification set out above. This concession allows you to reduce your capital gain by 50%.
3. The small business retirement exemption
An exemption for capital gains of up to a lifetime limit of \$500,000 can be applied if you qualify for this exemption. This exemption can be applied to the remaining 50% capital gain after using the small business active asset reduction.
To qualify for this exemption you must satisfy the basic conditions set out in classifying as a small business. You must also keep a written record of the amount you have chosen to exempt.
If the individual is under 55 years of age the exempt amount has to be paid into a superannuation fund.
4. The small business rollover
Under the small business rollover concession you can defer a capital gain to later income years if a replacement asset is required.
To qualify for this concession you must satisfy the basic conditions set out in qualifying as a small business. You must acquire the replacement asset within the same period as the rollover.

If you have any questions or require any further information please feel free to contact your Client Manager and they will be happy to assist you.

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