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# Appendix 10: Taxation

## Capital Gains Tax (CGT)

For assets acquired after 19 September 1985 (where the asset has been held for at least 12 months) and disposed of after 21 September 1999, individuals have the option to elect the:

* Frozen indexation method (from the date of acquisition up to 30 September 1999, being the date of the last index number) or
* Discount method, where you elect to pay tax on 50% of the capital gain.

The method that gives the smaller capital gain should be chosen.

Where you have a capital loss, the loss can only be offset against a capital gain. However capital losses can be carried forward to future years (indefinitely).

If you are electing the discount method, you should offset a capital loss to a capital gain prior to applying the 50% discount.

Capital Gains Tax - Main Residence

A main residence is exempt from capital gains tax. In addition, the land around the home is exempt if it is used mainly for private and domestic purposes and does not exceed two hectares.

To qualify for the full exemption the home must have been the sole and main residence for the total period of ownership and must not have been used for income producing purposes. There are some exceptions from this rule, for instance electing to continue with the main residence status which is described below.

**Electing to continue main residence status**

A person does not have to live in their home for the whole period they own it to maintain the right to treat it as the main residence. In some cases, they can elect that a particular home continues to be treated as the main residence even though they have ceased to use it as such.

For the exemption to apply, an election must be made by the tax return lodgement date for the income year in which disposal of the home is made. The election should be kept with the tax records.

If it is not put to any income-producing use, the home can be regarded as the main residence for an unlimited period after moving out of it. If it is put to an income-producing use after moving out, then, for any period of absence, the total period of income-producing use cannot be more than six years.

If a person is absent more than once during the period of ownership, the six-year period of income-producing use will apply separately to each period of absence. However, the home must again become the main residence after each period of absence.

The continuing main residence status lasts only until a person moves back in or the home is disposed of or until the end of the six years of income-producing use, whichever occurs first. During this time the effect of the election is that no other home - even if actually lived in - is regarded as the main residence. The exemption is only for the home for which the election is made.

Please note that the above details are for information purposes. We recommend you speak with your accountant for further information.

## Small Business CGT Concessions

There are 4 small business capital gains tax (CGT) concessions available:

* **The small business 15-year exemption** – Provides a total exemption of a capital gain if the small business entity has continuously owned the CGT asset for at least 15 years, the relevant individual is at least 55 and retiring or is permanently incapacitated. Proceeds of up to $1,515,000 attributable to the 15-year exemption may be contributed to superannuation (lifetime limit – indexed). This limit applies in addition to the regular non-concessional caps.
* **The small business 50% active asset reduction** – provides a 50% reduction of a capital gain that would have been assessable for taxation. Where the general 50% CGT discount is available, this concession essentially reduces the original capital gain to 25%.
* **The small business retirement exemption** – provides an exemption of capital gains up to a lifetime limit of $500,000. If the recipient is under 55 an amount equal to the CGT retirement exemption amount must be rolled over into a complying superannuation fund (the amount is an ETP can counts towards the tax-free component). If the recipient is 55 or over, they have a choice as to whether to take the CGT exempt amount as a tax-free cash lump sum or roll it over into the superannuation environment.
* **The small business rollover relief** – A taxpayer can choose to rollover all or part of a capital gain. The concession provides a deferral of a capital gain provided that another active asset is acquired. The deferred capital gain may later crystallise if the replacement asset is disposed of (in addition to any capital gain made on the disposal of the replacement asset).

More than one concession may apply to the same capital gain if the conditions for each are satisfied, with the proviso that if the small business 15 year exemption is relevant it must be applied first because under this concession the capital gain will be entirely disregarded so there is no need to claim any further CGT concessions.

In addition, the CGT discount may be available to some entities (including individuals) that make a capital gain from a CGT asset owned for at least 12 months. Companies are ineligible for the CGT discount.

Where the CGT discount is claimed, capital losses must be offset against capital gains before applying the CGT discount which is then applied before the small business CGT concessions (apart from the small business 15-year exemption).

**The basic conditions for CGT concessions for small business**

To qualify for the small business CGT concessions there are several ‘basic conditions’ which must be satisfied that are common to all concessions.

Each concession also has further requirements that you must satisfy for the concession to apply (except for the small business 50% active asset reduction, which applies if the basic conditions are satisfied).

The basic conditions for accessing the small business CGT concessions are:

* A CGT event occurs in a relation to a CGT asset which results in a capital gain.
* The CGT asset satisfies the active asset test.
* Either the tax payer is a “small business entity” or the taxpayer satisfies the maximum net asset value test.

An individual, partnership, company or trust is classified as a “small business entity” if it is carrying on a small business with turnover of no more than $6 million and satisfies the “$2 million aggregated turnover test”.

**Aggregated Turnover Test**

There are 3 ways to satisfy the $2 million aggregated turnover test:

* The entity’s aggregated turnover for the previous year was less than $2 million.
* The entity’s aggregated turnover for the current income year, worked out at the first day of the income year, is likely to be less than $2 million (not available if aggregated turnover in the previous 2 years was greater than $2 million).
* The entity’s aggregated turnover for the current income year, worked out as at the end of the current income year is actually less than $2 million.

In calculating a business’s aggregated turnover, it must count the annual turnover of the business plus the annual turnover of business’s affiliated or connected with the business.

**Maximum net asset value test**

When an entity does not satisfy the turnover test, the entity may still access the CGT concessions if it satisfies the maximum net asset value test of $6 million.

The maximum net asset value includes the following:

* The net value of the taxpayer’s CGT assets.
* The net value of the CGT assets of any entities connected with the taxpayer.
* The net value of the CGT assets of any affiliates of the taxpayer or entities connected with the taxpayer’s affiliates.

The net value of an entity’s CGT assets is the market value of those assets less the liabilities of the entity related to those assets (includes provisions for annual leave, long-service leave, unearned income and tax liabilities).

**CGT Concession Stakeholder Test & Significant Individual**

Where the CGT asset is a share in a company or an interest in a trust, then the taxpayer must be a CGT concession stakeholder in the company or trust, or alternatively the CGT concession stakeholders in the company or trust together (in an interposed entity) must have a Small Business Participation Percentage in the taxpayer of at least 90%.

A CGT concession stakeholder of a company or trust is:

* A “significant individual” in the company or trust.
* A spouse of a significant individual in the company or trust, if the spouse has a Small Business Participation Percentage in the company or trust at the time which is greater than 0% (held directly or indirectly through one or more interposed entities).

An individual is a significant individual in a company or trust if they have a small business participation percentage in the company or trust of at least 20% (direct or indirect).

If the entity is a company, the percentage relates to the voting power held, the dividends payable or the distribution of capital that the company may make (where the figures vary the lower percentage applies).

Where the entity is trust, the percentage relates to the distribution of income and capital.

**Active asset test**

An asset is active if it is used, or held ready for use, in carrying on a business by the taxpayer, the taxpayer’s small business CGT affiliate or a connected entity. This includes intangible assets (e.g. goodwill) as long as the asset is inherently connected with the business.

The active asset test requires the asset to be active for the lesser of 7½ years or half of the period of ownership. The asset does not need to be an active asset just before the CGT event.

An 80% look-through test is applied to the active assets of a company or trust to determine if shares in a company or interests in a trust qualify as active assets. Cash and financial instruments inherently connected with the business are counted towards the 80% requirement. This test does not need to be applied in circumstances where it is reasonable to conclude that the 80% test has been passed. The test is not failed because of a breach of the threshold that is only temporary in nature.

Please note that the above details are for information purposes only. We recommend you speak with your accountant to determine your potential capital gains tax position prior to the sale of your business.

## Salary Packaging

Fringe Benefit concessions are valued in a ‘Fringe Benefit Tax’ (FBT) year that commences on 31 March and runs for 12 months.

The value of benefits is grossed-up to calculate the FBT tax liability.

* ‘Type 1’ benefits are eligible for a GST credit and have a gross-up rate of 2.0802;
* ‘Type 2’ benefits are not eligible for a GST credit and have a gross-up rate of 1.8868.

General Fringe Benefit Caps

For FBT-rebateable employees (which may include certain sporting clubs, charities, private schools, religious institutions, trade unions, employer associations) and Public Benevolent Institutions, they can receive benefits to a grossed-up value of $30,000.

Public & non-profit hospitals and ambulance services can receive benefits to a grossed-up value of $17,000.

Meals and Entertainment

FBT-taxable employees can only package:

* entertainment (by way of food/drink), accommodation or travel (that relates to the provision of food/drink)
* other entertaining ‘leasing’ expenses (eg. corporate box)

that are part of a remuneration agreement incorporating salary packaging. The value is based on the full ‘actual cost’ incurred and will typically result in salary packaging employees realising no net benefit.

There is also another cap for food, entertainment and entertainment facility leasing expenses to a grossed-up value of $5,000 which is additional to the general caps listed above. This cap acts to reduce the amount of any excess packaged meal and entertainment expenses beyond the relevant general cap.

Excluded Fringe benefits

The following benefits are not subject to FBT:

|  |  |
| --- | --- |
| **Excluded Benefit** | **Comment** |
| Meals & Entertainment | Provided by an employer but not under a salary packaging arrangement |
| Car parking | Does not include arrangements for which the employer just refunds expenses |
| Pooled or shared cars | If supplied for the private use of two or more employees |
| Remote Area benefits | Housing support, fuel, freight |
| Emergency Overseas Health Care | For a service not covered under Medicare while the employee is an overseas employee |
| Certain benefits to Police and Defence Force personnel | - |

Claiming the value of a Car

There are two methods that can be used by an employer:

* Flat statutory rate of 20%
* Operating Cost ($X): $X \* (100% -Business Use Percentage) – Recipient Payment

Which requires that a Logbook is kept for 12 weeks in the first year and then every five years thereafter

Providing a Loan

A loan is classed as a fringe benefit if it is provided ‘in respect of the employment of the employee’. It can include an inadvertent overpayment of salary that is not repaid or for which the employer allows a deferred repayment.

However, if the employee in under no obligation to repay, it is FBT exempt.

If the benefit is valued at less than $300, the overpayment is exempt.

* For advice which includes risk insurance solutions, please include all the below noted items.
* Risk Needs Analysis (if done and if not included in the Insurance Recommendations section of the SoA body.
* Copy of recommended premium quote as a minimum and ideally two other quotes as examples of the due diligence done.
* Copy of policy features for the product being recommended.
* Copy of level versus stepped premium (if needed).

# Background to Insurance Recommendations

## Risk Needs Analysis

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Requirement | **Life** | **TPD** | **Trauma** | **Income**  **Protection pa** | **Business**  **Expenses pa** |
| Capital Requirements |  |  |  |  |  |
| Liabilities to Clear | $ | $ | $ |  |  |
| Future Expenditure Required (1) | $ | $ | $ |  |  |
| Future Education Expenses | $ | $ | $ |  |  |
| Medical Costs/Recovery Income | $ | $ | $ |  |  |
| Provision for Tax | $ | $ | $ |  |  |
| <Other Provisions> | $ | $ | $ |  |  |
| <Other Provisions> | $ | $ | $ |  |  |
| **Total Capital Required** | $ | $ | $ | $ | $ |
| Capital Provisions |  |  |  |  |  |
| Disposable Assets | $ | $ | $ |  |  |
| Cash at Bank | $ | $ | $ |  |  |
| **Total Capital Available** | $ | $ | $ |  |  |
| Insurance Needs |  |  |  |  |  |
| Total Cover Required [2] | $ | $ | $ | $ | $ |
| less Existing Cover | $ | $ | $ | $ | $ |
| **Surplus/Shortfall** | $ | $ | $ | $ | $ |

Notes:

|  |  |
| --- | --- |
| [1] | Present value calculation (include annualised net income $, IRR% assumption, CPI% assumptions, number of years)  Take into account any future income sources eg. annuity to determine annualised net income. |
| [2] | Consider waiting periods. |

* If the amount of cover to be recommended varies from Needs Analysis results, prepare a rationale here

# Projections

* For advice which includes investment product solutions, please include all relevant projections here.
* Such projections may come from software (like Astute Wheel) or from research providers (such as Morningstar) or directly from product providers.

# Superannuation Comparisons

Summary of Your Existing Plan(s)

| Plan | **Current**  **Balance** | **SGC**  **Contribution** | **Salary Sacrifice**  **Contribution** | **Non-Concess.**  **Contribution** |
| --- | --- | --- | --- | --- |
| [Name] | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ |
| [Name] | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ |
| **Total** | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ |

| Name | **Allocated**  **%** | **Allocated**  **$** | **ICR**  **%** | **ICR**  **$ (pa)** |
| --- | --- | --- | --- | --- |
| [Fund Name] |  |  |  |  |
| [Investment Option] | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| [Investment Option] | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| **Total** | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ |

Summary of Proposed Plans

| Plan | **Current**  **Balance** | **SGC**  **Contribution** | **Salary Sacrifice**  **Contribution** | **Non-Concess.**  **Contribution** |
| --- | --- | --- | --- | --- |
| [Name] | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ |
| [Name] | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ | $\_\_\_,\_\_\_.\_\_ |
| **Total** | **$\_\_\_,\_\_\_.\_\_** | **$\_\_\_,\_\_\_.\_\_** | **$\_\_\_,\_\_\_.\_\_** | **$\_\_\_,\_\_\_.\_\_** |

| Name | **Allocated**  **%** | **Allocated**  **$** | **ICR**  **%** | **ICR**  **$ (pa)** |
| --- | --- | --- | --- | --- |
| [Fund Name] |  |  |  |  |
| [Investment Option] | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| [Investment Option] | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_\_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| **Total** | **\_\_.\_\_%** | **$\_\_\_,\_\_\_.\_\_** | **\_\_.\_\_%** | **$\_\_\_,\_\_\_.\_\_** |

Costs

**Initial One-Off Costs**

| Fee Type | Relating To | Payment Method | **%** | **$** |
| --- | --- | --- | --- | --- |
| Advice Preparation Fee | This SoA | [Invoiced Separately] | N/App | $\_\_\_,\_\_\_.\_\_ |
| Advice Implementation Fee | [Client Name] | [Fund Name] | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
|  |  |  | **Total** | $\_\_\_,\_\_\_.\_\_ |

**Initial Product Commission**

| Fee Type | Relating To | Payment Method | **%** | **$** |
| --- | --- | --- | --- | --- |
| Upfront Commission [1] | [Client Name] | [Fund Name] | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| Upfront Commission [1] | [Client Name] | [Fund Name] | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
|  |  |  | **Total** | $\_\_\_,\_\_\_.\_\_ |

Notes:

|  |  |
| --- | --- |
| [1] | This is the amount that the product provider pays us. |

**On-Going Costs**

| Fee Type | Relating To | Payment Method | **%** | **$** |
| --- | --- | --- | --- | --- |
| Adviser Service Fee | [Client Name] | [Fund Name] | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| Trail Commission | [Client Name] | [Fund Name] | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
| Contribution Fee | [Client Name] | [Fund Name] | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ |
|  |  |  | **Total** | $\_\_\_,\_\_\_.\_\_ |

**Ongoing Cost Comparison (pa)**

|  | | **Existing**  **Plans** |  | **Proposed**  **Plans** |  |
| --- | --- | --- | --- | --- | --- |
|  | Ongoing Costs | | | |  |
| Administration Fees | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Adviser Service Fee | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Contribution Fee | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Expense Recovery Fee | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Indirect Cost Ratio (ICR) | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Membership Fee | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Membership Protection | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Performance Fees | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Trustee Fees | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| **Gross Ongoing Costs (pa)** | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
|  | Rebate | | | |  |
| Portfolio Balance Rebate | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Investment Rebate | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Contribution Commission Rebate | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Trail Commission Rebate | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Other Rebates | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| Total Rebates | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| **Net Ongoing Costs (pa)** | | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |
| **Change in Ongoing Costs (pa)** | |  |  | $\_\_\_,\_\_\_.\_\_ | \_.\_\_% |

# Product Research

* For advice which includes insurance or investment product solutions, please include all relevant product information here.
* Such product information may come from research providers (such as Morningstar) or directly from product providers.