



Assets and property

Information about assets and property.

Capital gains tax for business assets

Capital gains tax affects businesses when certain events happen, such as selling commercial premises or a business.

Property

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Build to rent development tax incentives

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Capital gains tax for business assets

Capital gains tax affects businesses when certain events happen, such as selling commercial premises or a business.

Last updated 4 August 2021

Capital gains tax (CGT) affects businesses when certain events happen, such as selling commercial premises or a business.

You can disregard or defer some or all of a capital gain from an active asset with the **small business CGT concessions**.

Depreciating assets, such as business equipment, are generally exempt from CGT unless you use them for a private or other non-taxable purpose.

You can find out more about CGT, including:

- what is CGT
- which assets are subject to or exempt from CGT
- what happens when you dispose of an asset
- how to calculate your CGT.

Depreciating assets and CGT



Explains when capital gains tax (CGT) applies, how it is calculated and the concessions and exemptions.

In detail



Detailed information about capital gains tax for business assets.

QC 66506

CGT and depreciating assets

Explains when capital gains tax (CGT) applies, how it is calculated and the concessions and exemptions.

Last updated 4 August 2021

The disposal of a depreciating asset you used for a private or other non-taxable purpose is subject to capital gains tax (CGT).

A depreciating asset used solely for business or other taxable purposes is not subject to CGT.

You calculate a capital gain or capital loss from a depreciating asset using the concepts of cost and termination value under the **uniform capital allowances system**. The capital allowances system is how you calculate deductions for the decline in value of depreciating assets.

When CGT applies

A depreciating asset may be used for both taxable and non-taxable (such as private) purposes. For example:

- the depreciating assets in a holiday home you rent out periodically
- using your business's truck to move your furniture.

If you have used a depreciating asset at some point for a non-taxable purpose, CGT applies when you:

- stop holding it – for example, you sell, lose or destroy it
- stop using it.

The point at which you stop holding or using a depreciating asset is called a 'balancing adjustment event'.

How CGT is calculated

Your capital gain or capital loss is the difference between the asset's cost and its termination value, reduced by the taxable use proportion.

You work out the asset's termination value as follows:

- **If you receive a payment for the asset** – for example, you sell it or receive an insurance payment – the termination value is:
 - the amount you received
 - less any costs of the transaction, such as broker fees or advertising expenses.
- **If you do not receive payment for the asset**, the termination value is its market value at the time you stopped holding or using it.

The formula you use to calculate your CGT depends on whether or not the asset was in a low-value pool.

Depreciating asset in a low-value pool

If the asset was in a low-value pool at the time you stopped holding or using it, use this formula to calculate your capital gain or loss:

$$(\text{termination value} - \text{cost}) \times (1 - \text{taxable use proportion})$$

If the result is:

- more than zero – this is your capital gain
- less than zero – this is your capital loss.

The taxable use proportion is the percentage that you reasonably estimated when you allocated it to the low-value pool.

Depreciating asset not in a low-value pool

If the asset was not a pooled asset at the time you stopped holding or using it, use this formula to calculate your capital gain or loss:

$$(\text{termination value} - \text{cost}) \times (\text{sum of reductions} \div \text{total decline})$$

In this formula:

- 'sum of reductions' is the total of the amounts by which you reduced your deductions for the asset's decline in value because those amounts were attributable to your non-taxable use of the asset
- 'total decline' is the depreciation (decline in value) of the asset during your ownership.

If the result is:

- more than zero – this is your capital gain
- less than zero – this is your capital loss.

Example: capital gain on depreciating asset that is not pooled

Larry bought a truck in August 2017 for \$5,000.

- He owned the truck for 2 years, during which time the book value of the truck declined in value by \$1,500.
- He sold it in June 2019 for \$7,000.
- He used the truck 10% of the time for private purposes.

The sum of his reductions relating to his private use is \$150 (10% of \$1,500). Using the formula above, Larry calculates his capital gain as follows:

- $(\$7,000 - \$5,000) \times (150 \div 1,500)$
- $= \$2,000 \times 0.1$
- $= \$200$

Larry's capital gain is \$200 (before applying any CGT discount).

CGT concessions and exemptions on depreciating assets

A capital gain from a depreciating asset:

- may be eligible for the CGT discount
- is not eligible for the small business CGT concessions. This is because the gain is generated from non-business use.

Some types of assets are exempt from CGT. These exemptions also apply to depreciating assets. For example, an asset is exempt if it was acquired before 20 September 1985.

In addition, you ignore a capital gain or loss from a depreciating asset if it is depreciated using simplified depreciation for small businesses.

You only include a balancing adjustment event that gives rise to a capital gain or capital loss under CGT event K7 (balancing adjustment events). However, capital proceeds received under other CGT events, such as CGT event D1 (creating contractual or other rights), may still be relevant for a depreciating asset as CGT events are not the equivalent of balancing adjustment events.

CGT on intellectual property

Intellectual property is a depreciating asset under the capital allowance rules.

If you grant or assign an interest in an item of intellectual property, you treat it as if you had stopped holding part of the item.

You need to determine the first element of the cost base (cost of acquisition) for both:

- the part you stopped holding
- the rest of the original item.

QC 17163

Build to rent development tax incentives

Learn about the build to rent (BTR) development tax incentives and eligibility criteria.

Last updated 18 February 2026

Overview

The build to rent (BTR) development tax incentives give owners and investors in eligible BTR developments access to:

- an [accelerated deduction](#) of 4% for capital works relating to BTR developments

- a [concessional final withholding tax rate](#) of 15% on eligible fund payments (amounts referable to rental income and capital gains from the BTR development).

To access these incentives, the owner must first [notify their choice](#) to opt in by lodging the **Build to rent development – notice of events** (NAT 75663) approved form, after they meet the eligibility criteria.

If a BTR development fails to meet the eligibility criteria in the 15-year period after making the choice, the [misuse tax](#) may apply.

Capital works accelerated deduction

The owner of a BTR development can claim a 4% deduction for capital expenditure incurred in constructing the development. This includes buildings, structural improvements and alterations.

To claim the **capital works deduction**, the activity must have a construction expenditure in that income year. The accelerated deduction is generally allowed once construction is complete and the owner [notifies us of their choice](#) to commence an active BTR development.

There are exceptions that allow eligibility to continue in some circumstances where a dwelling is not tenanted due to the construction of an extension, or an alteration or improvement to a dwelling or building.

Concessional withholding rate

A reduced withholding tax rate of 15% will apply to eligible fund payments made to a foreign resident of an **information exchange country**, from a managed investment trust (MIT).

A fund payment will not be MIT residential housing income (subject to a withholding tax rate of 30%) and can access the reduced withholding tax rate of 15% to the extent it is referable to any of the following amounts:

- A payment of rental income under a lease of the dwelling within the build to rent development (dwelling).
- The amount is attributable to a capital gain from a CGT event in relation to the dwelling.

- The amount is attributable to or part of a capital gain from a CGT event in relation to a membership interest in the owner of the BTR development.

Accessing the incentives

To access the BTR development tax incentives:

- a BTR development must first meet all the [eligibility criteria](#) below
- the owner must then [notify their choice](#) for the development to be an active BTR development.

To access the accelerated deduction of 4%, construction of the BTR development must have commenced after 7:30 pm AEDT on 9 May 2023.

A MIT that owns an active BTR development can access the 15% concessional withholding rate, irrespective of when the development was constructed.

Eligibility criteria

- The BTR development consists of 50 or more residential dwellings made available for rent to the general public.
- The dwellings are residential premises, taxable Australian real property, and not commercial residential premises.
- The dwellings in the BTR development (and common areas that are part of the BTR development) continue to be owned by a single entity, for at least 15 years.
 - The BTR development can be sold during this period to another single entity and remain eligible for the incentives.
 - Dwellings are tenanted or made available to the public to be tenanted by way of lease for a period of 5 years or more in accordance with any [relevant legislative instrument](#).

Note: This requirement doesn't apply where a tenant requests a lease term shorter than 5 years, provided the owner offered a lease term of at least 5 years.

- At least 10% of the dwellings are available as [affordable dwellings](#).

- The number of comparable non-affordable dwellings is greater than or equal to the number of comparable affordable dwellings.

A dwelling that's not available to be tenanted as a result of repairs, construction of an extension, alteration or improvement to the dwelling or the building (in which the dwelling is located) will continue to be an eligible BTR development dwelling if it is expected the dwellings will satisfy the eligibility requirements once the construction or repairs are complete. An untenanted dwelling in this circumstance remains a dwelling in a BTR development.

Any eligibility requirements under state and territory BTR legislation do not impact on BTR developments satisfying the federal BTR eligibility requirements. The state and territory BTR regimes are separate from the federal BTR tax concessions.

If a BTR development fails to meet any of these criteria in the [15-year compliance period](#), after making the choice, the [misuse tax](#) may apply.

15-year compliance period

The BTR compliance period starts from when a development commences to be an active BTR development and ends 15 years later.

If dwellings are added to a BTR development as part of an expansion, the 15-year compliance period for those dwellings starts at that expansion date.

Affordable dwelling

A dwelling will be an affordable dwelling if it satisfies the requirements determined by the Minister in the relevant legislative instrument.

The [initial legislative instrument](#) [\[external link\]](#) applies for active BTR developments from 1 January 2025 and requires:

- the rent paid under the lease to be 74.9% or less of the market value of the right to occupy the dwelling
- that the dwelling is tenanted or available to be tenanted by a combination of adult, adults or adult(s) with a dependant child or children, subject to the specific taxable income thresholds.

The legislative instrument was amended with effect from the 27 March 2026. The [amended legislative instrument](#) [\[external link\]](#) will require that:

- the dwelling is either a moderate or lower-income dwelling
- at least 2% of the number of dwellings are lower-income dwellings
- where dwellings are tenanted, the tenant was identified by an eligible community housing provider (CHP) as a prospective tenant for the dwelling
- the CHP was engaged by the BTR owner to identify prospective tenants for affordable dwellings and ascertain whether the affordable dwellings satisfy the criteria.

Whether a dwelling is a lower or moderate-income dwelling is dependent on the combined taxable income of the tenants at the time of the assessing event. An assessing event includes a lease being entered, renewing the lease, or can include a change to the tenants of the affordable dwelling.

Rules and legislative instruments

The Australian Government announced that [build to rent rules](#) were to be made. These rules prevent no fault evictions and implement a [second tranche](#) of affordability standards.

The initial Legislative Instrument LI 2024/28 was made on 18 December 2024 and applies to assessing events for BTR developments from 1 January 2025 through to 26 March 2026.

The amended Legislative Instrument LI 2025/4 was made on 27 March 2025 and applies to assessing events for BTR developments from 27 March 2026.

Notify us of BTR development events

The owner or purchaser (depending on the event) of a BTR development must use the **Build to rent development – notice of events** (NAT 75663) approved form to notify us when any of the following events occur for the development:

- It [commences](#) to be an active BTR development
- It [expands](#)
- It is sold

- It is acquired
- It [ceases](#) to be an active BTR development.

The form must be lodged with us on or before 28 days after the event. The Commissioner does not have the discretion to extend the 28-day notification period.

Commencing an active BTR development

To access the incentives for an eligible BTR development, the owner must first notify their choice to opt in by lodging the **Build to rent development – notice of events (NAT 75663)** approved form.

If a commencement day is specified on the form, the form must be provided to us before that date. If a day isn't nominated on the form or the day nominated is before the form is received, then the choice will be treated as being made on the day the Commissioner received the approved form. A day in the past cannot be selected.

Expanding a development

An owner of an active BTR development may choose to expand the BTR development by adding new eligible dwellings later. Those new dwellings, together with the existing dwellings, need to satisfy the [eligibility criteria](#). Another notice needs to be lodged regarding the expansion.

Ceasing an active BTR development

If an active BTR development fails any eligibility criteria, the development will cease to be an active BTR development and loses access to the incentives.

The BTR owner can request the exercise of the [Commissioner's discretion](#) to reinstate access to the incentives where certain criteria are failed. To do this the owner will need to submit a **private ruling** request.

Misuse tax

The BTR owner is liable to pay the misuse tax where an active BTR development it owns ceases to be an active BTR development during

the 15-year compliance period. The misuse tax aims to recover tax incentives claimed during that period.

The misuse tax is the total of the [capital works deduction](#) and [BTR withholding amounts](#).

Where there has been more than one owner, the owner who causes the cessation event is liable for the misuse tax for the whole of the 15-year compliance period up to the cessation event.

A BTR owner cannot claim a deduction for misuse tax paid.

Capital works deduction amount

The capital works deduction amount of the misuse tax is the accelerated capital works deduction claimed for the BTR development up to the cessation event, plus 8% of that amount.

The capital works deduction is calculated by:

- identifying the years the development was an active BTR development
- identifying the construction expenditure area for the BTR development for each of those years – to do this
 - identify the portion of the construction expenditure attributable to the BTR development
 - determine the days used in the 4% manner
 - multiply the portion of the construction expenditure and days used, then divide by 365
- reducing the amount previously calculated by the extent to which the active BTR part was used only partly for the purpose of producing assessable income
- adding up the amounts for each year for each construction expenditure area
- adding up the amounts calculated in the prior step for each year
- multiplying the last step by the applicable tax rate, then multiply that amount by 1.08.

BTR withholding amount

The BTR withholding amount for the misuse tax is:

- the total fund payments made by all owners of the BTR development up until the cessation event, that are referable to rental income from the leases of dwellings in the BTR development
- any capital gains from a CGT event in relation to a dwelling in a BTR development.

The BTR withholding amount is calculated by:

- identifying each income year the development was an active BTR development
- for each of those identified years, identifying each fund payment (or part of) that the owner of the BTR development makes that is referable to
 - payment of rental income under a lease of a dwelling that is part of an active BTR development
 - a capital gain from a CGT event in relation to a dwelling of the active BTR development
- adding up the amounts identified above then multiply these amounts by 1.08.

Commissioner's discretion

A BTR owner may apply for the Commissioner to exercise their discretion to determine that dwellings of a BTR development satisfy the criteria, where a BTR development fails any of the following criteria:

- Offering a lease to the public or tenanting the dwelling for a period of at least 5 years.
- Requirement that at least 10% of dwellings in the BTR development are affordable dwellings.
- The comparable dwellings requirement.

The BTR owner can request the Commissioner to exercise their discretion to reinstate access to the incentives, by submitting a **private ruling** request.

The Commissioner may exercise their discretion for these limited situations only, if they are satisfied that:

- the dwelling did not satisfy the eligibility criteria at all times during the particular period due to events outside the BTR owner's control
- the BTR owner took all reasonable steps to satisfy the eligibility criteria as soon as practicable
- at the time a determination is sought, the dwellings satisfy the eligibility criteria
- the BTR owner intends that the BTR development will satisfy the eligibility criteria for the remainder of the 15-year compliance period.

Cessation after the 15-year compliance period

The misuse tax doesn't apply if the BTR development ceases to be an active BTR development after the 15-year compliance period.

If a development ceases to be an active BTR development after the 15-year period, any non-compliance is addressed through amended assessments. For example, if the tax incentives are claimed after the cessation event, recoupment of these tax incentives is by way of amended assessment.

Further information

For further information on the BTR development tax incentives, email PGBuildtoRent@ato.gov.au with the subject line: **Further information BTR developments.**

QC 103635

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If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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