



Australian Government
Australian Taxation Office

Marriage or relationship breakdown and real estate transfers



If you transfer real estate to your spouse due to separation or divorce, you may qualify for a CGT rollover.

i Recent changes to capital gains tax (CGT) announced in the 2026–27 Federal Budget don't apply to Tax Time 2026. As this is a complex topic, it may not meet your individual circumstances. If you're uncertain, seek professional advice relevant to your circumstances.

Marriage or relationship breakdown rollover

Capital gains tax (CGT) generally applies to changes in ownership of an asset, such as real estate.

A [marriage or relationship breakdown rollover](#) may apply when the transfer of property results from a qualifying agreement.

This rollover means that you disregard any capital gain or loss made when you transfer the property to your spouse.

The **transferor** is the person, company or trustee of a trust transferring the property to their spouse because of a [court order or other formal agreement](#). The transferor:

- disregards any capital gain or loss
- reports the rollover in their tax return.

The **transferee spouse**:

- has the property and cost base transferred to them because of a court order or other formal agreement
- will make a capital gain or loss when they later sell or dispose of the property.

If the transferee spouse already had a legal interest in the property, they must calculate their capital gain or loss separately to the interest transferred from the transferor.

If the transferred property was acquired by the transferor (or a company or trustee) before 20 September 1985, CGT doesn't apply. However, if the transferor made a major capital improvement to the dwelling on or after 20 September 1985 the improvements are separate assets and may be subject to CGT.

How to include your relationship rollover in your tax return

If you are lodging your tax return using myTax, in the **Personalise** your return section:

- select **You had Australian interest, or other Australian income or losses from investments or property**
- select **Capital gains or losses that are not from a managed fund or Trust distribution**
- select **Add/edit** for the capital gains or losses section
- select **Yes** to *Have you applied an exemption/rollover or additional discount?*
- under the heading *Capital gains tax exemption, rollover or additional discount type code*, select **S: Same asset roll-overs (Division 126)** from the drop-down list.

If a rollover doesn't apply

The rollover doesn't apply to property that's transferred under a private or informal arrangement. This includes anything outside of a court order or binding financial or formal agreement.

The **transferor**:

- is the person, company or trustee of a trust transferring the property under a private or informal arrangement
- must consider any capital gain or loss made from the transfer and report this in their tax return for that year
- is taken to have received the market value of the property for CGT purposes where the dealings are not arm's length.

The **transferee spouse**:

- has the property transferred to them under a private or informal arrangement and is taken to have acquired it at the time of transfer
- will make a capital gain or loss when they later sell or dispose of the property
- is taken to have acquired the property at market value for CGT purposes where the dealings are not arm's length.

Note: An arm's length dealing is where each party acts independently and without influence or control over the other.

To determine the property's market value at the time of transfer, you should get a professional [market valuation](#).

Calculating CGT on a property received under a relationship breakdown rollover

When you sell or dispose of a property transferred to you under a relationship breakdown rollover, you need to calculate the CGT as though you had owned the property since your former spouse acquired it.

If the property was the main residence of you or your former spouse, you can generally claim a full or partial main residence exemption depending on your circumstances.

When working out your eligibility for the 50% CGT discount, include the period your former spouse owned the property when calculating the ownership period.

If the rollover property was acquired by your former spouse before 20 September 1985, it's not subject to CGT. However, any subsequent major capital improvements to the property are considered separate assets and are subject to CGT.

i For more information, see:

- ato.gov.au/CGTrollovercalc
- ato.gov.au/MREbreakdown

Record keeping

Keep records relating to your ownership and all costs of acquiring, owning, and disposing of property including:

- the court order or formal agreement relating to the property transfer
- contract of purchase and sale
- stamp duty
- major renovations.

Ensure you have records from your spouse, including records that show:

- how and when they acquired the property (or the interest in it)
- the [cost base](#) of the property when they transferred it to you
- the extent (if any) the property was used to produce income during their ownership period (for example, the periods when it was rented out or available for rent) and the portion used for that purpose
- the number of days (if any) it was their main residence during their ownership period.

You must hold records for at least 5 years after the sale of the property, or the year you declare a capital gain.

If you make a capital loss, once you've offset the loss against a capital gain, keep records for another 2 years.

Example: pre-CGT assets and main residence exemption

After marrying, Sergio and Nina bought a home on 1 February 1985 for \$175,000. They decided to convert their original home into a residential rental property and buy another home. They bought a larger home on 1 January 1996 for \$325,000, that became their main residence.

This means they each owned 50% of the interest in the following assets.

Table: CGT assets purchase price and date

Asset	Purchase price	Purchase date
Rental property	\$175,000	1 February 1985
Family home	\$325,000	1 January 1996

Sergio and Nina's marriage broke down and, on 1 April 2026 a court order was made:

- Nina transferred her interest in the rental property to Sergio
- Sergio transferred his interest in the family home to Nina.

After the court order, Nina continued living in the family home and Sergio moved into the rental property.

The CGT implications are as follows.

Rental property

As the couple acquired the property before the introduction of CGT on 20 September 1985, Sergio is taken to have acquired Nina's interest in the property before that date. As the property is a pre-CGT asset, there are no capital gain or loss obligations for either party, unless major capital improvements were made to the property after 19 September 1985.

Family home

Sergio and Nina lived here from the time of purchase until the court order. It remained Nina's main residence after Sergio transferred his interest to her.

As the property was transferred to Nina under a court order, Sergio is entitled to the relationship breakdown rollover and he doesn't have to record a capital gain or loss. Sergio will need to report a marriage or relationship rollover in his tax return.

Nina is taken to have acquired Sergio's interest in the family home. Nina's cost base includes Sergio's cost base at the time of transfer, as well as the cost base of her own original interest. This means, the full purchase price of the property (\$325,000) forms part of the cost base for Nina.

Nina considers how she and Sergio used the property during their respective ownership periods to determine if a main residence exemption applies. The property was their main residence since purchase and they didn't use it to produce income at any time, so Nina is entitled to the main residence exemption.

The property isn't subject to any CGT on sale.

Example: transferor is entitled to rollover

Sam and Alex jointly bought a holiday home on 1 March 2012 for \$400,000. The home was never used to produce assessable income or as their main residence.

Sam and Alex's relationship broke down and on 1 March 2022, Sam's ownership interest in the property was transferred to Alex under the terms of a binding agreement.

Alex moved into the property on 1 March 2022. He lived there until he sold it on 28 February 2026 for \$800,000.

During the ownership period, the property was used as shown below.

Table: Property ownership dates and interest percentage

Property classification	Dates	Ownership interest
Holiday home	1/03/2012 to 28/02/2022	50% by Sam and 50% by Alex
Alex's main residence	1/03/2022 to 27/02/2026	100% by Alex

Sam is entitled to the relationship breakdown rollover and doesn't have to report a capital gain or loss. However, he will need to report the roll over in his tax return.

Alex must consider how he and Sam used the property during their respective ownership periods to determine if a partial main residence exemption applies.

Alex calculates the capital gain on his original interest in the property separately to the interest Sam transferred to him.

i This is a general summary only.

For more information:

- see ato.gov.au/CGTinvdisposal
- download our Rental properties guide at ato.gov.au/RPguide
- read our Capital gains tax guide at ato.gov.au/CGTguide

