Guide to capital gains tax

Australian Taxation Office
Canberra

About this guide

This guide is designed for individuals, companies, trusts and funds completing paper-based income tax returns. It explains how capital gains tax works and will help you calculate your net capital gain or net capital loss for 2001–02 so you can meet your capital gains tax obligations. There are worksheets at the back of the guide to help you do this.

Individuals may prefer to use the shorter, simpler *Personal investors guide to capital gains tax* if, during 2001–02, they:

- sold some shares
- sold some units in a managed fund and/or
- received a distribution of a capital gain from a managed fund.

If you prefer to prepare and lodge your tax return electronically, you can use the *e-tax 2002* software package developed by the Australian Taxation Office. The capital gains tax module includes a calculator for capital gains and capital losses and can be downloaded from the Internet at <**www.ato.gov.au**>.

Included in this guide is the *Capital gains tax (CGT) schedule 2002* which must be completed by companies, trusts and superannuation funds with capital gains tax obligations over a certain threshold. A CGT schedule has been included at the back of this guide for your entity's use if required. Use part C of this guide to find out how to complete your worksheets, tax return labels and (if you are over the threshold) the CGT schedule.

If you are a small business taxpayer, you should get the publication *Capital gains tax concessions for small business* from the sources listed at the back of this guide.

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Introduction

This guide is designed to help you work out whether any of the assets you own (or may own in the future), and whether other events that happen to you will be subject to capital gains tax (CGT). It tells you how to work out your capital gain or capital loss. It also covers what records you need to keep.

Your tax return

If you have a capital gain or capital loss for 2001–02, this guide will help you (as an individual) or your entity (company, trust or fund) complete the capital gains item on your paper-based tax return.

Worksheets

You may wish to use CGT worksheets to help you keep track of your records and make sure you pay no more CGT than necessary.

There is a *Capital gain or capital loss worksheet* provided at the back of this guide that you may wish to use to work out your capital gain or capital loss for each capital gains tax 'event'. There is also a *CGT summary worksheet* that helps you summarise your capital gains and capital losses to produce the final net amount you need to include on your tax return. You can tear out these forms and complete them as you work through the guide.

Capital gains tax schedule

If you are an entity (for example, a company, trust or fund) with total capital gains or capital losses of more than $10 000 this income year, you need to complete a *Capital gains tax (CGT) schedule 2002* (CGT schedule). You can transfer the relevant amounts from your worksheets to your tax return and your CGT schedule. Partnerships and individual paper tax prepayers are not required to lodge a schedule.

The CGT schedule is explained in detail in part C and is provided at the back of this guide for your entity's use if required. The schedule replaces several return form labels used on earlier tax returns.

Capital gains tax and goods and services tax

If you are a company, trust or fund, you need to consider how CGT interacts with the goods and services tax (GST) introduced on 1 July 2000.

If your entity is registered for GST

Your GST registration may affect your calculation of a capital gain or capital loss.

Although you are generally entitled to input tax credits on the things you acquire for your business, GST is left out of CGT calculations where it does not represent a real cost or benefit. This is in line with the ordinary income tax rules. The cost base of an asset does not include amounts of corresponding input tax credits to which you are entitled.

You may occasionally need to make adjustments to GST you have collected on assets you have disposed of or to GST you have claimed as input tax credits (for example, where there is a change in a creditable purpose).

If your entity is not registered for GST

If your entity is not registered for GST, any GST you incur when acquiring an asset will be included in your cost base since you are not entitled to claim any associated input tax credits. As you do not include GST in the price of things you sell, your capital proceeds will not require any adjustment for GST.

More information about GST

For more information about how GST affects your entity and whether you should be registered for GST, have your tax file number handy and ring **13 2478**.

What's new

The following is a summary of recent CGT changes and proposed changes to remember when calculating your capital gain or capital loss:

- New CGT rules provide concessional treatment to land owners who enter into conservation covenants. From 15 June 2000, a land owner who receives capital proceeds for entering into a conservation covenant will be treated as if they had disposed of part of their land. New rules will also operate from 1 July 2002 for land owners who do not receive any capital proceeds for entering into a conservation covenant.

- Changes to the way that CGT event E4 operates when a trustee makes a non-assessable payment to a beneficiary of the trust:
  - prevent CGT event E4 applying when a trustee makes a payment to a beneficiary out of the CGT discount amount
  - treat a payment by a trustee to a beneficiary of an amount associated with building allowances as a non-assessable amount to which CGT event E4 applies.
- A new concession for shareholders in listed investment companies (LICs) has been introduced to ensure that investors in LICs are placed in a similar tax position to investors in managed funds in relation to discount capital gains made by these entities. Certain shareholders will be entitled to an income tax deduction where dividends paid to them include an LIC capital gain amount. As this measure does not affect the shareholders' capital gains or capital losses, it is not included in this guide. You can find more information in the publication *You and your shares*. To find out how to get this publication, see the sources listed at the back of this guide.
- Changes to the treatment of depreciating assets will now result in a capital gain or capital loss arising to the extent that a depreciating asset has been used for a non-taxable purpose (for example, used privately). New CGT event K7 happens if a balancing adjustment event occurs for a depreciating asset if, at some time during the period it was held, the depreciating asset was used for a purpose other than a taxable purpose. A balancing adjustment event most commonly occurs for a depreciating asset if a taxpayer stops holding it—for example, it is sold, lost or destroyed.

  A capital gain or capital loss under CGT event K7 is calculated using the uniform capital allowance system concepts of 'cost' and 'termination value' and not the concepts found in the CGT provisions (cost base and capital proceeds).

  A capital gain made from CGT event K7 may qualify for the CGT discount if the conditions in Division 115 of the *Income Tax Assessment Act 1997* (ITAA 1997) are satisfied. The small business CGT concessions do not apply to a capital gain from CGT event K7.

  The introduction of the uniform capital allowance regime also saw the repeal of CGT event K1 (about partial realisation of intellectual property).

  For more information about the uniform capital allowance regime, see the *Guide to depreciating assets*. To find out how to get this publication, see the sources listed at the back of this guide.
- Changes that operate from 15 May 2001 ensure that there are no adverse tax consequences from the Commonwealth HIH rescue package. Payments under other arrangements established by State and Territory Governments will receive identical tax treatment if they are listed in the income tax regulations.

  The provisions ensure that:
  - HIH rescue payments are treated as insurance payments by an HIH company
  - any capital gain or capital loss that would otherwise arise from the assignment of a right in relation to a general insurance policy held with an HIH company to the Commonwealth, the trustee of the HIH trust or a prescribed entity is disregarded.
- In October 2001, the Treasurer announced a new CGT roll-over would be available for fixed trusts that transfer their assets to a company. In *Press release No. 77* of 2001, the Treasurer indicated that this roll-over would apply to asset transfers from 11 November 1999. The new roll-over will facilitate the transfer of assets from a fixed trust to a company increasing commercial flexibility to suit the needs of businesses. The roll-over will apply to the trust as well as to members' interests in the trust. To date the legislation for this measure has not been introduced into Parliament.

More information

If you need more information or would like any of the publications mentioned in this guide, refer to the sources listed at the back.