GUIDE TO CAPITAL GAINS TAX

2002–03

Covers:

- Individuals who have sold their main residence
- Individuals with complex capital gains tax obligations
- Companies, trusts and funds

Australian Taxation Office

Lodge online with *e-tax* at www.ato.gov.au

NAT 4151—6.2003

How self-assessment affects most individuals

Self-assessment means the Australian Taxation Office (ATO) uses the information you give on your tax return to work out your refund or tax bill. You are required by law to make sure you have shown all your assessable income and claimed only the deductions and tax offsets to which you are entitled.

What are your responsibilities?

Even if someone else—including a tax agent—helps you to prepare your tax return, you are still legally responsible for the accuracy of the information.

What if you lodge an incorrect tax return?

Our systems continually check for missing or wrong information. We have audit programs designed to detect where taxpayers have not declared all their assessable income or where they have incorrectly claimed deductions or tax offsets. If you become aware that your tax return is incorrect, you must contact us straightaway.

Initiatives to complement self-assessment

There are a number of initiatives administered by the ATO which complement self-assessment. Examples include:

- a change in penalty provisions so that if you take reasonable care with your tax affairs, you will not receive a penalty for honest mistakes—but please note that a general interest charge on omitted income or overclaimed deductions and tax offsets could still be payable
- private rulings
- your entitlement to interest on early payment or overpayment of a tax debt
- the process of applying for an amendment if you find you left something out of your tax return.

Do you need to ask for a private ruling?

If you have a concern about the way a tax law applies to your personal tax affairs, you may want to ask for a private ruling.

A private ruling will relate just to your situation. Write to the ATO describing your situation in detail and ask for advice. To do this, complete an *Application for a private ruling for individuals* (NAT 4106—3.2001). You should lodge your tax return by the due date, even if you are waiting for the reply to your private ruling. You may need to request an amendment to your tax return once you have received the private ruling.

The ATO publishes on its website all private rulings issued. What we publish will not contain anything which could identify you.

You can ask for a review of a private ruling decision if you disagree with it, even if you have not received your assessment. Details of the review procedures are sent to you when the private ruling decision is made. For more information on private rulings, visit the ATO website at **www.ato.gov.au**

Feedback

Reader feedback helps us to improve the information we provide. If you have any comments to make about this publication, please write to:

The Editor
Personal Tax Publishing Group
Australian Taxation Office
PO Box 900
CIVIC SQUARE ACT 2608

As this is a publications area only, any tax matters will be passed on to a technical area; otherwise you can ring our Personal Tax Infoline **on 13 28 61** for help.

GUIDE TO CAPITAL GAINS TAX 2002–03

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 2002–03 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 2002–03, 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 are an individual and prefer to prepare and lodge your tax return electronically, you can use the *e-tax 2003* software package developed by the Australian Taxation Office (ATO). 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 2003* 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.

This publication is available free from the ATO. The ATO prohibits any party from selling it. We regularly revise our publications to take account of changes to the law.

If you have an enquiry relating to your circumstances which this publication does not cover, phone the Personal Tax Infoline on **13 28 61** or get help from a tax adviser.

Disclaimer and Commissioner's guarantee

The information in this publication is current at June 2003 and we have made every effort to ensure it is accurate.

As part of our commitment to produce accurate publications you will not be subject to penalties if you can demonstrate that you relied on something in this publication that was wrong or misleading. You may have to pay a general interest charge on omitted income or over-claimed deductions and tax offsets, depending on the circumstances of your case.

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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.

NOTE **New terms**

We may use some terms that are not familiar to you. These words are printed in **red** the first time they are used (for example, 'capital gain' below) and explained in **Explanation of terms** at the back of this guide. Generally they are also explained in more detail in the section where they first appear.

While we have sometimes used the word 'bought' rather than 'acquired', you may have acquired an asset without paying for it (for example, as a gift or through an inheritance). Similarly, we refer to 'selling' an asset when you may have 'disposed' of it in some other way (for example, by giving it away or transferring it to someone else). For the purposes of this guide, all of these 'disposals' are CGT events.

Your tax return

If you have a **capital gain** or **capital loss** for 2002–03, this guide will help you (as an individual) or an entity (company, trust or fund) complete the capital gains item on a paper-based tax return.

Worksheets

You may wish to use the 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 CGT '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 a company, trust or fund with total capital gains or capital losses of more than $10,000 this **income year**, you must complete a *Capital gains tax (CGT) schedule 2003* (CGT schedule). Partnerships and individual paper tax preparers 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 if required.

Consolidated income taxation of corporate groups

The *Consolidation reference manual* provides detailed information on the operation of consolidation. To get this manual and other consolidation products or if you have tax technical enquiries, phone the business tax reform infoline on **13 24 78** or visit the business tax reform section of **www.ato.gov.au**

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 **demerger** rules apply to owners of interests in a company or trust which are affected by a demerger of interests owned by that company or trust on or after 1 July 2002. Generally a **CGT event** will occur in respect of those interests.

  CGT relief is provided to:
  - the owners of the head entity of a demerger group, and
  - entities in the demerger group.

  Refer to page 31 for further details.
- Land owners who enter into a conservation covenant after 1 July 2002 and do not receive any **capital proceeds** for entering into it are taken to have disposed of part of their land if they are entitled to a deduction under Division 31 of the *Income Tax Assessment Act 1997*. The capital proceeds that the land owner is taken to have received is the amount they can deduct under Division 31.

  Also, the Government has announced that it will extend the tax concession for conservation covenants to include those entered into with government agencies on or after 1 July 2002 (Source: Joint media release of the Minister for the Environment and the Assistant Treasurer C008/03, 20 February 2003).
- The Government has introduced legislation into Parliament to change the tax treatment of **convertible notes** issued by a company after 14 May 2002 if the notes are traditional securities. Under the proposal:
  - gains made when these convertible notes are converted or exchanged for ordinary shares in

a company will not be ordinary income at the time of conversion and losses made will not be deductible. Instead gains will only be taxed when the shares are sold or disposed of
  - for ordinary investors, any gains or losses on the sale or disposal of the shares will be subject to CGT.
- As part of the *Ralph review of business taxation*, the Government announced measures to provide exemptions from Australian tax for individuals who are first time temporary residents of Australia. Under the proposed amendments any capital gains or capital losses made by such persons on the disposal of assets that do not have the necessary connection with Australia (except for the disposal of portfolio interests in publicly listed companies and resident **unit trusts**) will be disregarded if the CGT event happens on or after 1 July 2002. As at June 2003 the legislation for this measure has not been passed by parliament.
- The general value shifting regime (GVSR) replaces the value shifting rules in Divisions 138, 139 and 140 of the *Income Tax Assessment Act 1997*. Subject to transitional rules, the GVSR applies from 1 July 2002.

  Broadly, value shifting describes transactions and other arrangements that reduce the value of an asset and (usually) increase the value of another asset.

  The GVSR consists of direct value shifting (DVS) and indirect value shifting (IVS) rules that impact primarily on equity and loan interests in companies and trusts. There is also a DVS rule dealing with non-depreciating assets over which a right has been created.

  Where the rules apply to a value shift there may be a deemed gain (but not a loss), adjustments to adjustable values (for example, **cost bases**), or adjustments to losses or gains on realisation of assets.

  There are thresholds and exclusions that will minimise the cost of complying with the GVSR, particularly for small business. Entities dealing at arm's length or on market value terms are generally excluded from the GVSR.

  For more information, refer to the *Guide to the general value shifting regime* on our website at **www.ato.gov.au**

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.