Guide for small business operators

Guide to capital gains tax concessions for small business 2010–11

For more information visit **www.ato.gov.au**

NAT 8384-11.2011

Australian Government
Australian Taxation Office

OUR COMMITMENT TO YOU

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith we will not charge you interest.

If you make an honest mistake in trying to follow our information in this publication and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.

This publication was current at **November 2011**.

ABOUT THIS GUIDE

This guide provides general information about the capital gains tax (CGT) concessions available for small business. It is current for the 2010–11 income year. For CGT events that occurred in other years, see the version of this guide for that year in Publications.

The concessions may apply to CGT events that happen after 11.45am, by legal time in the Australian Capital Territory, on 21 September 1999.

Terms we use

When we refer to 'you' or 'your business' in this guide, we are referring to you conducting a small business as:

- an individual (such as a sole trader)
- a partner in a partnership
- a company or a trust.

When we refer to 'your child', in this guide, we mean your child under 18 years.

We assume you have a basic understanding of how the CGT system works.

This guide deals with the special CGT concessions available to you as a small business entity, not with your personal CGT obligations.

PUBLISHED BY

Australian Taxation Office
Canberra
November 2011

JS 21540

CONTENTS

05

ABOUT CAPITAL GAINS TAX

01

WHAT IS CAPITAL GAINS TAX?

Capital gains tax (CGT) is the tax you pay on any capital gain that you make. There is no separate tax on capital gains, rather the capital gains tax forms part of your income tax when you include that capital gain on your tax return. You are taxed on your net capital gain at your marginal tax rate.

Your net capital gain is the difference between your total capital gains for the year and your total capital losses (from your business and other assets), less any relevant CGT discount or concessions. You must include the net capital gain you make in an income year in your assessable income for that year.

CGT EVENTS

You make a capital gain or capital loss when certain events or transactions (called CGT events) happen. Most CGT events involve a CGT asset.

Some CGT events, such as the disposal of a CGT asset, happen often and affect many different taxpayers. Other CGT events are rare and affect only a few taxpayers, for example, events concerned directly with capital receipts and not involving a CGT asset.

CGT ASSETS

The most common CGT assets are:

- land and buildings
- shares in a company
- units in a unit trust.

Less well-known CGT assets include:

- contractual rights
- options
- foreign currency
- leases
- licences
- goodwill.

CAPITAL GAINS AND LOSSES

In general, you make a capital gain if you receive an amount from a CGT event (such as the sale of a CGT asset) that is more than your total costs associated with that event.

You make a capital loss if you receive an amount from a CGT event that is less than the total costs associated with that event.

In some cases, we take you to have received the market value of the CGT asset even if you received a different amount or nothing at all. This may be the case, for example, when you give an asset away.

You can use a capital loss only to reduce a capital gain. You cannot use a capital loss to reduce other income. You can generally carry forward any unused capital losses to a later income year and apply them against capital gains in that year.

Generally, you can disregard any capital gain or loss you made on an asset you acquired before 20 September 1985.

DEPRECIATING ASSETS

There are special rules that apply to depreciating assets. A depreciating asset is an asset that has a limited effective life and can reasonably be expected to decline in value over the time you use it. Plant and equipment you use in your business are examples of depreciating assets.

You make a capital gain or capital loss from a depreciating asset only to the extent you have used the depreciating asset for a non-taxable purpose (for example, for a private purpose).

02 WHAT CGT RECORDS DO YOU NEED TO KEEP?

You must keep records of everything that may be relevant to working out whether you have made a capital gain or capital loss from an asset.

This means you need records to substantiate the purchase and disposal of any asset, as well as other costs relating to the asset. Records can include contracts, valuations, and details of commissions and legal fees you paid.

The records must:

- show the nature of the act, transaction, event or circumstance, and the date it happened
- be in English, or in a form that can be readily translated into English
- be kept for five years after you sell or otherwise dispose of an asset, unless you keep a CGT asset register (see below).

> ! If you do not keep proper CGT records you might have to pay:
> - extra expenses to establish the cost of an asset when you dispose of it
> - more tax.

CGT ASSET REGISTER

You might find that a simpler way to keep records of assets is to keep a CGT asset register. This is a register of information about your CGT assets that you have transferred from your CGT records (for example, invoices, receipts and contracts).

For most assets this information includes:

- the date you acquired the asset
- the cost of the asset
- a description, amount and date for each cost associated with purchasing the asset (for example, stamp duty and legal fees)
- the date the asset was disposed of
- the amount you received when you disposed of the asset
- any other information relevant to working out your CGT obligation.

You can discard your CGT records five years after having an asset register entry certified if you meet all of the following:

- you enter all the necessary information about an asset in your CGT asset register
- the entry is in English and is certified in writing by an approved person (for example, a registered tax agent)
- the asset register entry is certified after 31 December 1997 (although you may have acquired the asset before this date).

If you do not keep an asset register, you generally have to keep CGT records for at least five years after you dispose of an asset. For example, if you hold an asset for 10 years and then sell it, you would have to keep the records for 15 years.

EXAMPLE 1: CGT asset register

Max bought a business property on 1 January 2000.

His tax agent advised him to transfer the relevant CGT information from his records to an asset register, namely the:

- date he purchased the property
- purchase price
- stamp duty.

Max did this and his agent certified the register on 1 July 2000.

Max sold the property on 15 September 2005.

Because Max had recorded the details of the property on an asset register, he had to keep records relating to the property only until 1 July 2005, rather than 15 September 2010.

CHANGES TO CONCESSIONS

Changes to the CGT concessions for small business over recent years have improved access and made it easier for you to work out whether you are eligible for the concessions. The most recent amendments are contained in *Tax Laws Amendment (2009 Measures No. 2) Act 2009* which received Royal Assent on 23 June 2009.

The changes apply to:

- payments and CGT events happening on or after 23 June 2009
- CGT events happening in 2006–07, 2007–08 and later income years.

We have incorporated these changes into this publication, where relevant.

The amendments that apply to payments and CGT events happening on or after 23 June 2009 involve changes to:

- enable certain liabilities to reduce an entity's net asset value in applying the $6 million maximum net asset value test
- ensure that you consider all uses of an asset (except certain personal uses and certain uses from which passive income is derived) to work out what its main use is
- the way the retirement exemption works to remove unintended consequences by
  - making sure the retirement exemption caters for CGT-exempt payments flowing through small business structures involving interposed entities
  - excluding small business retirement exemption payments you made to CGT concession stakeholders from the deemed dividend provisions of section 109 and Division 7A section 109C of the *Income Tax Assessment Act 1936*.

Other amendments were announced in the 2008 Budget that apply to CGT events happening in 2007–08 and later income years. The changes increase access to the CGT concessions for businesses with turnover of less than $2 million using the small business entity test, for:

- taxpayers owning a CGT asset used in a business by an affiliate or connected entity (passively-held assets)
- partners who own a CGT asset used in the partnership business (partner's assets).

Other minor changes improve the way the concessions work by:

- increasing the circumstances and purposes for which a spouse or child under 18 years is taken to be an individual's affiliate
- removing unintended consequences for the retirement exemption by correcting the treatment of capital proceeds received in instalments.

Other changes introduced in the June 2009 amendments apply retrospectively for CGT events happening in 2006–07 and later income years, and mean:

- if you are a joint tenant or a trustee of a testamentary trust, you may be able to access the concessions where
  - a gain arises from an asset within two years of the individual's death, and
  - the deceased would have been entitled to the concessions
- you do not have to meet the basic conditions for the retirement exemption where you have not met the replacement asset conditions for the small business rollover (CGT events J5 and J6).

As the 2006–07 and 2007–08 changes are retrospective, you have additional time to make your choice to use the concessions where you become eligible as a result of the June 2009 amendments. The extra time to make a choice applies to CGT events happening before 23 June 2009.

You have until the later of:

- the day you lodge your tax return for the income year in which the relevant CGT event happened
- a later day allowed by the Commissioner.

> For more information, see *Capital gains tax (CGT) concessions for small business – more changes for the 2007–09 years.*

CHANGES TO TAX LAWS

Certain consequential amendments have also been made to the retirement exemption by the *Superannuation Legislation Amendment (Simplification) Act 2007*. These apply to the 2007–08 and later income years.

The effect of these changes on the retirement exemption mean that:

- a payment you make under the retirement exemption is no longer an eligible termination payment (ETP) or taken to be an ETP
- you do not have to report the payment for reasonable benefit limit (RBL) purposes.

ETPs and RBLs were abolished from 1 July 2007.

The government also made changes to the law in the *Tax Laws Amendment (Small Business) Act 2007* to make it easier for you to claim tax concessions from 1 July 2007.

If your aggregated turnover is less than $2 million a year, you are eligible to claim a range of tax concessions. This includes the capital gains tax concessions for small business.

The changes also mean that if your turnover is $2 million or more, you can access the capital gains tax concessions for small business if you meet the net asset test. The threshold for this test has increased to $6 million. However, you must meet certain conditions.

These changes:

- became law in June 2007
- apply to CGT events in the 2007–2008 and later income years
- are included in this guide.

> For more information about:
> - eligibility and the concessions available to small business entities, visit **www.ato.gov.au/SBconcessions**
> - how the changes specifically affect the CGT concessions, see *Changes to the capital gains tax (CGT) concessions for small business 2007–08*.

ABOUT CGT CONCESSIONS

03

If you made a capital gain from a CGT event that happened after 11.45am on 21 September 1999 (such as the disposal of a CGT asset), you may be able to reduce the capital gain using either or both of the following:

- the CGT discount
- one or more of the four CGT concessions available for small business.

CGT DISCOUNT

You may be eligible to use the CGT discount to work out your capital gain if you owned the relevant asset for at least 12 months.

The CGT discount is not limited to capital gains from business assets.

If you are an individual, a partner in partnership or a trust, the discount lets you reduce your capital gains by 50%. There are more rules for beneficiaries who are entitled to a share of a trust capital gain. The discount for complying superannuation funds is 33.33%.

> Companies cannot use the CGT discount.

WHEN TO APPLY THE CGT DISCOUNT

You apply the CGT discount after offsetting your capital losses against your capital gains, but before applying the small business CGT concessions (apart from the small business 15-year exemption).

SMALL BUSINESS CGT CONCESSIONS

The following four CGT concessions are available only for small business.

- **The small business 15-year exemption** provides a total exemption for a capital gain on a CGT asset if
  - you have continuously owned the asset for at least 15 years
  - the relevant individual is 55 years old or older and retiring or is permanently incapacitated.
- **The small business 50% active asset reduction** provides a 50% reduction of a capital gain.
- **The small business retirement exemption** provides an exemption for capital gains up to a lifetime limit of $500,000. If the individual is under 55 years old just before they make the choice, the amount must be paid into a superannuation (or similar) fund.
- **The small business rollover** allows you to defer all or part of a capital gain on a business asset for a minimum of two years. If you acquire a replacement asset or make a capital improvement to an existing asset within the period allowed, the gain is deferred until you
  - dispose of the replacement or improved asset
  - change its use in particular ways.

In this case, the deferred capital gain is in addition to any capital gain you make when you dispose of the replacement or improved asset.

HOW THE CGT CONCESSIONS WORK

To be eligible for any of the concessions, you must first meet several basic conditions, which are outlined in step 1 on page 9.

You must then meet any additional conditions that apply specifically to the individual concessions.

You can apply as many concessions as you are entitled to until the capital gain is reduced to nil. This choice allows you to achieve the best tax result for your circumstances.

There are rules about the order you apply:

- the CGT small business concessions
- any current year or prior year capital losses
- the CGT discount.

> See the flow chart on page 8.

> You may be able to apply either or both of the following to each capital gain:
>
> - more than one of the four concessions if you meet the conditions for each
> - the CGT discount if it also applies.
>
> If the small business 15-year exemption applies, you can disregard the entire capital gain and, therefore, you do not need to apply any further concessions.
>
> If you have more than one capital gain you can choose the order in which to reduce capital gains by capital losses.
>
> The CGT concessions for small businesses do not apply to gains from depreciating assets.

APPLYING THE CGT CONCESSIONS TO A CAPITAL GAIN FROM A SMALL BUSINESS ASSET

The flowchart on page 8 shows the order in which you apply capital losses and the CGT concessions to each capital gain.

You do not necessarily have to go through each step. For example, if you qualify for the small business 15-year exemption, you:

- can disregard the entire capital gain
- do not need to complete the remaining steps.

You can also choose not to apply the 50% active asset reduction and go straight to the small business retirement exemption or rollover.

CHOOSING THE CONCESSIONS

The way you prepare your tax return is evidence of the concessions you have chosen to use except if you are choosing the retirement exemption. If you choose that concession, you must make the choice in writing.

Generally, you need to make your choice by the latest of:

- the day you lodge your income tax return for the income year in which the relevant CGT event happened
- a later day allowed by the Commissioner.

If you became eligible for the concessions because of the June 2009 amendments, you may have more time to make your choice.

Throughout this guide we use the scenario of Lana, a sole trader, to illustrate how you can apply losses and the CGT concessions to a capital gain made by a small business entity.

Sole trader scenario

Lana operates a small manufacturing business as a sole trader. The net value of her CGT assets and those of certain other entities is less than $6 million.

Her husband Max carries on his own florist business, which is unrelated to Lana's manufacturing business.

Max owns the land and building from which Lana conducts her manufacturing business and leases it to her.

Max owns 100% of the shares in Maxaco Pty Ltd and Lana has no involvement in this company.

Max and Lana regularly consult with each other in relation to their respective businesses and act according to the other's directions or wishes in relation to their respective businesses.

Lana has also owned a small parcel of nearby land for three years and has used it in her business for the last two years. She decides to sell the land and makes a capital gain of $17,000 when she disposes of it.

In the same year as Lana makes the $17,000 capital gain on the sale of the land, she also makes a capital loss of $3,000 from the sale of another asset.

FLOW CHART: Capital gains you made during an income year

CAPITAL GAINS MADE DURING AN INCOME YEAR

You make a capital gain from a depreciating asset only to the extent you have used the depreciating asset for a non-taxable purpose.

Step 1: Determine whether you satisfy the basic conditions for the small business CGT concessions.

NO → You don't qualify for any of the small business CGT concessions. You may be eligible for the CGT discount.

YES ↓

Step 2: Determine whether you qualify for the small business 15-year exemption (not relevant to capital gains from depreciating assets).

NO → **Step 3**: Offset any capital losses against the capital gain.

YES ↓

Disregard the entire capital gain. You don't need to apply any of the other CGT concessions.

Step 4: Determine whether you are eligible for the CGT discount. If so, reduce the remaining capital gain.

Step 5: Determine whether the capital gain is from a depreciating asset used at least partly for a non-taxable purpose.

If so, you are not eligible for any other concessions and can't reduce your capital gain any further.

Step 6: If you satisfy the basic conditions for the small business CGT concessions (see Step 1), you qualify for the small business 50% active asset reduction. If so, reduce the remaining capital gain.

> ! You can choose not to apply the 50% active asset reduction and go straight to the small business retirement exemption or rollover in step 7.

Step 7: Determine whether you qualify for the small business retirement exemption or rollover. If so, reduce the remaining capital gain.

Amount remaining equals the net capital gain to be included in your assessable income for the year.

> ! Keep the necessary CGT records.

MEETING THE BASIC CONDITIONS FOR THE CONCESSIONS

04

STEP 1: WORK OUT WHETHER YOU MEET THE BASIC CONDITIONS

You may qualify for one or more of the small business CGT concessions if you:

- are a small business entity
- do not carry on business (other than as a partner) but your asset is used in business by a small business entity that is your affiliate or is connected with you (passively-held assets)
- are a partner in a partnership that is a small business entity and the CGT asset is
  - your interest in a partnership asset (partnership assets), or
  - an asset you own that is not an interest in a partnership asset (partner's assets)
- meet the maximum net asset value test.

From the 2007–08 income year, you have better access to the small business CGT concessions if you are:

- a taxpayer who owns a CGT asset used in the business of an affiliate or connected entity (passively-held assets)
- a partner who owns a CGT asset used in the partnership business (partner's assets).

Also, the asset must meet the active asset test.

If the CGT asset is a share in a company or an interest in a trust, one of these additional basic conditions must be satisfied just before the CGT event:

- you must be a CGT concession stakeholder in the company or trust
- the entity that owns the share or interest satisfies the 90% test.

In working out whether you are a small business entity, you need to consider whether you have any affiliates or connected entities (relevant entities).

Working out whether you have relevant entities

Relevant entities are:

- your affiliates
- any entity connected with you.

An individual or company is your affiliate if, in relation to their business affairs, they act or could reasonably be expected to act in either of the following ways:

- according to your directions or wishes
- in concert with you.

An entity is 'connected with' another entity if either of the following applies:

- either entity controls the other
- both entities are controlled by the same third entity.

In certain situations:

- your spouse or child under 18 years may be taken to be your affiliate
- an entity can be taken to be your affiliate or connected with you in some circumstances (see 'Passively-held assets' on page 10 and 'Partner's assets' on page 11).

Spouse and child affiliates

Where you own an asset that your spouse or child under 18 years uses in their business, they will be taken to be your affiliate.

This applies for the purposes of the:

- active asset test
- $6 million maximum net asset value test
- $2 million aggregated turnover test.

Your spouse or child under 18 years may also be taken to be your affiliate where an asset is owned by one entity but used in a business carried on by another entity.

An entity may also be taken to be connected with you or with your entity because of your spouse or child under 18 years.

> There have been some changes to the treatment of spouses and children as affiliates. If you would not be entitled to the concessions by treating your spouse or child under 18 years as your affiliate, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

Working out whether you are a small business

You are a small business if you are an individual, partnership, company or trust that:

- is carrying on a business
- has an aggregated turnover of less than $2 million.

Aggregated turnover is your annual turnover plus the annual turnovers of any businesses that are connected with you or that are your affiliates ('relevant entities'). See 'Working out any relevant entities' on page 9.

There are three alternative methods to work out whether you are a small business for the current year. However, most businesses will only need to consider the 'Previous year turnover' method.

Previous year turnover

If your aggregated turnover for the previous income year was less than $2 million, you are a small business entity.

Estimate your current year turnover

If you estimate that your aggregated turnover for the current year (worked out as at the first day of the income year) is likely to be less than $2 million, you are a small business entity for the current year. However, you cannot use this method if your aggregated turnover for the two previous income years was $2 million or more.

Actual current year turnover

If you cannot use the first two methods, you will need to calculate your aggregated turnover as at the end of the income year. If your actual aggregated turnover is less than $2 million, you are a small business for that year.

> For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

EXAMPLE 2: Aggregated turnover

When Lana is working out her aggregated turnover, she includes:
- Max's turnover because Max is Lana's affiliate
- Maxaco's turnover because she is connected to the company through her affiliate (Max).

Lana does not include any income from her transactions with Max or Maxaco.

When Max is working out his aggregated turnover, he includes:
- Lana's turnover because Lana is Max's affiliate
- Maxaco's turnover because he is connected with the company.

Max does not include any income from his transactions with Lana or Maxaco.

Passively-held assets

This basic condition allows you to access the concessions for a CGT asset you own where you are not carrying on a business, but the CGT asset is used in one of the following:
- your affiliate's business
- the business of an entity connected with you.

It can also apply where your asset is held ready for use in, or is inherently connected with, one of these.

In the year the CGT event happens to your asset, your affiliate or the business of an entity connected with you must be:
- using your asset in their business
- a small business entity.

If you carry on a business in partnership, the CGT asset cannot be your interest in a partnership asset.

There is a special rule for working out aggregated turnover where your asset is used by:
- your affiliate's business
- the business of an entity connected with you.

This rule deems an entity that is your affiliate or is connected with you is an affiliate or is connected with the business entity that uses your asset. This rule only applies if the entity is not already an affiliate or connected with the partnership.

In working out the aggregated turnover of the entity that uses your asset, you must include the turnovers of entities that are deemed to be your affiliates or connected with you. Otherwise, working out the aggregated turnover is the same.

There is a special affiliate rule for spouses and children under 18 years of age that applies in these cases (see 'Spouse and child affiliates' on page 9).

Partner in a partnership: small business entity test

The CGT rules operate on the basis that a partner in a partnership carries on the partnership business collectively with the other partners. A partner cannot be a small business entity – it is the partnership that must meet the turnover test to qualify as a small business entity.

If the relevant conditions are met, a partner may be eligible for the small business CGT concessions using the turnover test for either of the following:
- their interest in a partnership asset
- an asset that is not a partnership asset that is used in the business of the partnership.

In either case, the partner does not have to be connected with the partnership.

The maximum net asset value test applies differently. For this test you use the individual partners in the partnership, not the partnership itself, to work out whether they are eligible for the small business CGT concessions.

Partnership assets

An asset is a partnership asset if the partners own the asset according to their respective interests in the partnership as specified in the partnership agreement.

Partners may be eligible for the concessions if, in the year the CGT event happens to their asset, both of the following apply:
- the asset is the partner's interest in a partnership asset
- the partnership is a small business entity.

Partner's assets

A partner may also be eligible for the concessions for a CGT asset they own (that is not an interest in a partnership asset). They may be eligible if the following conditions are met in the income year in which the CGT event happens to their CGT asset:

- they are a partner in a partnership
- the partnership uses the asset in carrying on the partnership business
- the partnership is a small business entity
- the only business the partner carries on is as a partner in a partnership.

There is a special rule for working out aggregated turnover where your asset is used in the business carried on by the partnership. This rule says an entity that is your affiliate or is connected with you is an affiliate of, or is connected with, the partnership that uses your asset. This rule only applies if the entity is not already an affiliate of, or connected with, the partnership.

In working out the aggregated turnover of the partnership, the turnover of entities that are deemed to be affiliates or connected entities must be included. Otherwise, working out the aggregated turnover is the same.

There is another special rule for working out aggregated turnover where:

- you are a partner in more than one partnership, and
- the asset is used in more than one partnership's business.

Each of these partnerships are treated as being connected with the partnership that is trying to work out if it is a small business entity (the test entity). When working out the aggregated turnover of the test partnership, you must include the turnover of any of these other partnerships.

If your business is winding up

The basic conditions for passively-held assets and partner's assets require that:

- the asset is used in the business of your affiliate, connected entity or partnership, at a time in the income year that the CGT event happens, and
- the entity is a small business entity in the year that the event happens.

If the business has stopped operating, there are special rules that apply to allow you to meet these requirements.

For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

The maximum net asset value test

To pass this test, the total net value of your CGT assets must not exceed $6 million. To work out the total net value of your CGT assets, you must add together the value of net assets for the following entities:

- you
- entities connected with you
- your affiliates
- entities connected with your affiliates.

You must meet the test just before the CGT event that results in the capital gain.

The net value of the CGT assets of an entity is the total market value of its assets less any liabilities relating to those assets. This value can be positive, negative or nil. The $6 million limit is not indexed for inflation.

Under the maximum net asset value test, you can reduce your net asset value by provisions for annual leave, long service leave, unearned income and tax liabilities.

If you are a partner in a partnership and the CGT event happens in relation to a CGT asset of the partnership (for example, the disposal of a partnership asset), you:

- count the assets of each relevant partner
- do not count the assets of the partnership as a whole.

However, if you are connected with the partnership, you:

- count all the partnership assets
- do not count the value of your interest in the partnership.

Assets that are not included

Do not include the following assets when working out the net value of your CGT assets:

- shares, units or other interests (apart from debt) held in any entities connected with you or your affiliates (because you have already included the net value of connected entities' CGT assets)
- any assets of an affiliate or an entity connected with an affiliate unless they are used, or held ready for use, in a business you carry on or an entity connected with you carries on
- if you are an individual
  - assets that are solely for your personal use (or for your affiliates' personal use) or superannuation assets
  - your own home, provided the home has never had any income producing use. If you have used part of the home to produce assessable income, you must make a reasonable apportionment having regard to the length of time and the percentage of income producing use. You multiply the percentage of private use by the current market value and do not include this amount.

EXAMPLE 3: Calculating the net value of assets

The market value of Lana's CGT assets is:

Land used in business	$50,000
Business goodwill	$200,000
Trading stock	$100,000
Plant	$50,000
Boat (used solely for personal use)	$50,000
Home	$600,000
	$1,050,000

Lana borrowed $20,000 to buy the boat.

When working out the net value of her CGT assets, Lana does not include:
- the market value of her boat ($50,000)
- the liability for the boat.

Lana used her home 50% of the time for income producing activity. She includes 50% of the value of her home, representing the income producing percentage and does not include the other 50% ($300,000).

Therefore, the net value of her CGT assets is:
$1,050,000 – $350,000 = $700,000

Even though gains from depreciating assets may be treated as income (rather than a capital gain), depreciating assets are CGT assets and you must consider them for the maximum net asset value test.

EXAMPLE 4: The maximum net asset value test

For the maximum net asset value test, Lana includes the market value of the land and building owned by her affiliate, Max ($500,000), less any related liability ($400,000 mortgage). She does this because she uses the land and building in her manufacturing business.

However, she does not include:
- Max's other assets (those he uses in his florist business) because she does not use them in her manufacturing business
- Maxaco's assets because she does not use the assets in her business and she is only connected to the company because of her affiliate, Max.

Accordingly, the net value of Max's CGT assets Lana includes is:
$500,000 – $400,000 = $100,000

There are no other entities connected with Lana.

As the net value of Lana's CGT assets and those of her affiliates and connected entities does not exceed $6 million, she meets the maximum net asset value test.

For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

The active asset test

For this test, the CGT asset must be an active asset for either of the following:
- 7.5 years if you have owned it for more than 15 years
- half of the test period if you have owned it for 15 years or less.

The asset does not need to be an active asset just before the CGT event.

The test period begins when you acquire the asset and ends at the earlier of:
- the time of the CGT event
- when the business stopped (if that happened within 12 months of the event or within a longer timeframe allowed by the Commissioner).

There are modified rules for CGT assets you acquired or transferred under the rollover provisions for assets:
- compulsorily acquired
- lost or destroyed
- relating to a marriage breakdown.

A CGT asset is an active asset if you own it and:

- you use it or hold ready for use in the course of carrying on a business (whether alone or in partnership)
- it is an intangible asset (for example, goodwill) inherently connected with a business you carry on (whether alone or in partnership).

It is still an active asset if you own it and it is used or held ready for use in the course of carrying on a business (whether alone or in partnership) by any of the following:

- your affiliate
- your spouse or child under 18 years
- an entity connected with you.

However, certain CGT assets cannot be active assets, even if they are used or held ready for use in the course of carrying on a business, for example, assets whose main use is to derive rent (unless the asset was rented to an affiliate or connected entity for use in their business). Generally a rental property will not be an active asset.

The June 2009 amendments ensure you consider all uses of an asset to work out the asset's main use to determine whether it is an active asset.

However, you do not consider your personal use of an asset you own, or its use by an individual who is your affiliate, to work out the main use of the asset.

The amendments apply to CGT events that happen on or after 23 June 2009.

For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

Spouses and children under 18 years

For an asset to be an active asset, it must be used or held ready for use in, or inherently connected with:

- your business
- a business your affiliate or an entity connected with you carries on.

Where you own an asset that your spouse or child under 18 years uses in their business, they are your affiliate for the purposes of the:

- active asset test
- $6 million maximum net asset value test
- $2 million aggregated turnover test.

Your spouse or child may also be your affiliate where one of the following applies:

- you own an asset that is used in a business carried on by an entity that your spouse or child owns or has an interest in
- an entity you own or have an interest in, owns an asset that is used in a business which your spouse or child carries on, or an entity that your spouse or child owns or has an interest in.

Treat your spouse or child as your affiliate when working out whether the entity that owns the asset is:

- an affiliate
- connected with the entity that uses the asset in their business.

This may allow your asset to be an active asset.

If this would result in you being ineligible for the concessions, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

Shares and interests in trusts

In some circumstances, a share in a company or an interest in a trust can also be an active asset.

EXAMPLE 5: The active asset test

Lana has used the land in her business for at least half the period she owned it, that is, for two out of the three years she owned it.

Therefore, Lana meets the active asset test.

Additional conditions: shares and interests

If the CGT asset is a share in a company or an interest in a trust, you must meet one of these additional basic conditions just before the CGT event:

- you must be a CGT concession stakeholder in the company or trust
- you must pass the 90% test.

CGT concession stakeholder

An individual is a CGT concession stakeholder of a company or trust if they are one of the following:

- a significant individual
- the spouse of a significant individual where the spouse has a small business participation percentage in the company or trust (see 'Significant individual test' on page 14).

This participation percentage can be held directly or indirectly through one or more interposed entities. You work out the percentages in the same way as for the significant individual test.

Significant individual test

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%. The 20% can be made up of direct and indirect percentages.

An entity's direct small business participation percentage in a company is the percentage of:

- its voting power
- any dividend payment it is entitled to receive
- any capital distribution it is entitled to receive.

If an entity has different percentages in a company, their participation percentage is the smaller or smallest percentage. The same applies for a trust.

> The significant individual test is different from the control tests used to work out if an entity is connected with another entity for the purposes of the $6 million maximum net asset value test or the $2 million aggregated turnover test.

EXAMPLE 6: A significant individual

> Lana has shares that entitle her to 30% of any dividends and capital distributions of Bean Co. The shares do not carry any voting rights.
>
> Lana's direct small business participation percentage in Bean Co is 0% because although she is entitled to 30% of dividends and capital distributions her percentage in the voting rights is nil and she must use the smallest percentage to calculate her small business participation percentage.

To work out an entity's indirect small business participation percentage in a company or trust, you multiply the entity's direct participation percentage in an interposed entity with the interposed entity's total participation percentage (both direct and indirect) in the company or trust.

> You can hold an indirect interest through one or more interposed entities.

There are also rules about when an individual is a significant individual of a fixed trust (for example, unit trust) or a discretionary trust.

90% test

This test only applies if there is an interposed entity between the CGT concession stakeholders and the company or trust in which the shares or interests are held.

The interposed entity satisfies the test if 90% of the participation percentages in that entity are held by CGT concessions stakeholders of the company or trust in which the shares or interests are held.

> As with the significant individual test, the participation percentage can be held directly or indirectly through multiple interposed entities.

> For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

Death and the small business CGT concessions

If you are one of the following you may be eligible for the concessions to the same extent that the deceased would have been just before their death:

- a beneficiary of a deceased estate
- a legal person representing the deceased (executor)
- a surviving joint tenant
- a trustee or beneficiary of a testamentary trust (a trust that is created by the will of the deceased).

You will be eligible for the concessions where the CGT event happens within two years of the individual's death. Some of the conditions within each concession are modified in these cases. We may extend this two-year period.

> For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

STEP 2:
WORK OUT WHETHER YOU QUALIFY FOR THE 15-YEAR EXEMPTION

If you qualify for the small business 15-year exemption, you can disregard the capital gain entirely and you do not need to apply any further concessions. There is no need to apply capital losses before you apply the 15-year exemption. This means you may use these capital losses to offset other capital gains.

> ! If the capital gain is from a depreciating asset, you cannot use the 15-year exemption.

Do you qualify?

You qualify for the small business 15-year exemption if you:

- meet the basic conditions for the small business CGT concessions, including the active asset test (in this case the asset must have been an active asset for at least 7.5 years during your period of ownership)
- continuously owned the CGT asset for the 15-year period ending just before the CGT event, where you are
  – an individual in business and at the time of the CGT event you were 55 years old or older and the event was connected with your retirement or you were permanently incapacitated
  – an individual in business and your CGT asset is a share in a company or an interest in a trust and the company or trust had a significant individual, for periods totalling at least 15 years, during which the individual owned the shares or trust interests (not necessarily the same individual for the whole period), or
  – a company or trust and the company or trust had a significant individual for at least 15 of the years they owned the asset (not necessarily the same individual for the whole period) and at the time of the CGT event the significant individual was 55 years old or older and the event was connected with their retirement, or they must have been permanently incapacitated.

For CGT assets acquired or transferred under the rollover provisions relating to assets compulsorily acquired, lost or destroyed, or those relating to marriage breakdown, there are modified rules about the requirement that the asset be continuously owned for at least 15 years.

Superannuation consequences

From 1 July 2007, if you are contributing a 15-year exemption amount to a superannuation fund or retirement savings account (RSA), the amount is generally a non-concessional contribution. To exclude the amount from your non-concessional contributions cap and have it count towards your $1 million (indexed annually from 2007–08) superannuation CGT cap instead, you must notify the fund on the *Capital gains tax cap election* (NAT 71161). You must complete this election by no later than the time you make the contribution.

> For more information about the superannuation contributions caps, see *Super contributions – too much super can mean extra tax*.

EXAMPLE 7: Small business 15-year exemption

Lana does not qualify for the small business 15-year exemption as she has owned the land for only three years. However, she does have a capital loss and may qualify for the CGT discount and one or more of the other small business CGT concessions.

On the other hand, Lana's friends Ruth and Geoff do qualify for the exemption. They are partners in a partnership that conducts a farming business on land they purchased in 1986 and have owned continuously since that time. The net value of their CGT assets for the purpose of the maximum net asset value test is less than $6 million.

Ruth and Geoff decide to retire as they are both over 60. They sell the land (the major asset of the farming business) in 2003 for a total capital gain of $100,000.

As Ruth and Geoff qualify for the small business 15-year exemption for the capital gain, they can disregard the entire gain. They do not need to apply any other concessions.

> ! If you make a capital loss from the CGT event, you can use the loss to reduce other capital gains.

STEP 3: WORK OUT WHETHER YOU HAVE ANY CAPITAL LOSSES

If you have any capital losses for the current year or losses carried forward from a previous year, you must use them to reduce the capital gain before applying any of the remaining concessions.

EXAMPLE 8: Capital losses

In the same year as Lana made the $17,000 capital gain on the sale of land, she also made a capital loss of $3,000 from the sale of another asset.

She must offset the loss against the gain before applying any of the remaining concessions, as follows:

$17,000 – $3,000 = $14,000

Lana may be able to reduce her capital gain further using the CGT discount and one or more of the other small business CGT concessions.

STEP 4: WORK OUT WHETHER YOU MAY CLAIM THE CGT DISCOUNT

The CGT discount allows individuals (including partners in partnerships) and trusts to reduce their capital gain by 50%. Superannuation funds can reduce their gain by 33.33%. There are more rules for beneficiaries who are entitled to a share of a trust capital gain. Companies are not eligible for the CGT discount.

The discount is not limited to small business capital gains, but can also be applied to personal capital gains.

Capital gains and depreciating assets

You make a capital gain from a depreciating asset only to the extent you have used the depreciating asset for a non-taxable purpose (for example, for private purposes). Such a gain may be eligible for the CGT discount.

Are you eligible?

To be eligible for the CGT discount you must meet both of the following:

- be an individual, trust or complying superannuation fund
- have owned the asset involved for at least 12 months.

Certain CGT events, such as where new assets are created, do not qualify for the CGT discount because the 12-month rule would not be satisfied.

If you are eligible for the CGT discount, reduce the capital gain by 50% (or 33.33% for complying superannuation funds).

EXAMPLE 9: CGT discount

After offsetting her $3,000 capital losses against her $17,000 capital gain, Lana is left with a capital gain of $14,000. As she is eligible for the CGT discount, she can reduce the remaining capital gain by 50%, as follows:

$14,000 – (50% × $14,000) = $7,000

Lana may be able to reduce her capital gain further using one or more of the other small business CGT concessions.

STEP 5: WORK OUT WHETHER THE GAIN IS FROM A DEPRECIATING ASSET

You can make a capital gain or capital loss from the disposal of a depreciating asset only to the extent that you use the depreciating asset for a non-taxable purpose (for example, for private purposes).

If the capital gain is from a depreciating asset, you cannot use any of the small business CGT concessions to reduce the gain any further. If it is not from a depreciating asset, you may be able to reduce your capital gain further under the remaining small business CGT concessions.

EXAMPLE 10: Depreciating assets

The land that Lana disposed of was not a depreciating asset, so she can use the remaining small business CGT concessions to reduce her capital gain if she meets the relevant conditions.

STEP 6: WORK OUT WHETHER YOU MAY CLAIM THE 50% ACTIVE ASSET REDUCTION

! You may choose not to apply the 50% active asset reduction and go straight to the small business retirement exemption or rollover.

To qualify for the small business 50% active asset reduction on a capital gain, you need to meet only the basic conditions (see step 1).

This means that, if you meet the basic conditions, you may reduce the capital gain by 50% after applying in the following order, any:

- current year capital losses
- unapplied net capital losses from a previous year.

If you are an individual or trust and both the CGT discount and the small business 50% active asset reduction apply, you reduce the capital gain by 50%, then 50% of the remainder, that is, a total of 75%.

EXAMPLE 11: Small business 50% active asset reduction

Lana qualifies for the small business 50% reduction because she meets the basic conditions. Therefore, she can reduce her capital gain by a further 50%, as follows:

$7,000 – (50% × $7,000) = $3,500

Lana may be able to reduce her capital gain further using the small business retirement exemption or the small business rollover.

STEP 7: WORK OUT WHETHER YOU QUALIFY FOR THE SMALL BUSINESS RETIREMENT EXEMPTION OR ROLLOVER

You may choose the small business retirement exemption or the small business rollover for the remaining amount of capital gain if you meet the conditions. Alternatively, you may choose both concessions for different parts of the remaining capital gain.

Small business retirement exemption

You can use your small business retirement exemption to disregard all or part of a capital gain. You can choose to apply the retirement exemption to any amount of capital gain remaining after you have applied the other concessions or before any other concessions.

The amount you choose to disregard is called the exempt amount. The amount of any capital gain that exceeds the CGT exempt amount does not qualify for this exemption. The exempt amount must not exceed your CGT retirement exemption limit. This is a lifetime limit of $500,000.

Working out whether you qualify

Individuals in business

If you are an individual in business, you can use the small business retirement exemption to disregard all or part of a capital gain remaining after you have applied the other concessions if:

- you meet the basic conditions (see step 1)
- you keep a written record of the amount you have chosen to disregard (the exempt amount)
- where you were less than 55 years old just before you made the choice to use the retirement exemption, you made a payment equal to the exempt amount to a complying superannuation fund or retirement savings account (RSA).

You must make the contribution to a complying superannuation fund or RSA when:

- you make the choice to use the retirement exemption or when you received the proceeds (whichever is later)
- you made the choice to use the retirement exemption if the relevant event is CGT event J2, J5 or J6.

If you are 55 years old or older when you make the choice to access the retirement exemption, you do not have to pay any amount to a complying superannuation fund or RSA, even though you may have been under 55 years old when you received the capital proceeds.

If you receive the capital proceeds in instalments, the requirement to contribute an amount by a particular date applies to each instalment (up to the asset's CGT exempt amount).

If you make the gain as a result of CGT events J5 or J6, you can choose the retirement exemption for those gains without having to meet the basic conditions again. This is because you would have already met the basic conditions at the time you chose the rollover.

Companies and trusts

If you are a company or trust (other than a public entity), you can also use the small business retirement exemption to disregard all or part of a capital gain remaining, after you have applied the other concessions, if all of the following are met:

- you meet the basic conditions (see step 1)
- you meet the significant individual test
- you keep a written record of the amount you have chosen to disregard (the exempt amount) and, where there is more than one CGT concession stakeholder, of each stakeholder's percentage of the exempt amount (one may be nil, but together they must add up to 100%)
- you make a payment to at least one of your CGT concession stakeholders where you have chosen to use the retirement exemption
- where you make a payment to a CGT concession stakeholder, the payment is equal to the exempt amount or the amount of capital proceeds, whichever is less
- where you receive the capital proceeds in instalments, you make a payment to a CGT concession stakeholder for each instalment in succession (up to the asset's CGT exempt amount).

In the instance where you make a payment to more than one CGT concession stakeholder, you work out the amount by referring to each individual's percentage of the exempt amount.

You must make your payment by either of the following:

- seven days after you choose to disregard the capital gain if you choose the retirement exemption for a J2, J5 or J6 event
- in any other case, by the later of seven days after you
  - choose to disregard the capital gain, or
  - receive the capital proceeds from the CGT event.

Where a stakeholder is under 55 years old just before receiving the payment, you must immediately contribute that amount to a complying superannuation fund or retirement savings account (RSA) and advise the trustee of the fund or the RSA that a contribution has been in accordance with the relevant section.

> If you must make a retirement exemption payment through one or more interposed entities to a CGT concession stakeholder, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

If you made your gain because of CGT events J5 or J6 happening, you can choose the retirement exemption for those gains without having to meet the basic conditions again. This is because you would have already satisfied the basic conditions at the time you chose the rollover.

The exempt amount must not exceed the $500,000 CGT retirement exemption limit of each individual receiving an eligible termination payment. As this is a lifetime limit, you must consider any previous retirement exemption payments to make sure you do not exceed the limit.

> Choosing the retirement exemption for a capital gain (subject to the $500,000 limit) without first applying the 50% active asset reduction might allow a company or trust to make larger tax-free payments to the CGT concession stakeholders of the company or trust.

EXAMPLE 12: Small business retirement exemption

After offsetting her capital losses and applying the CGT discount and the small business 50% active asset reduction, Lana has a capital gain of $3,500.

Lana could choose the small business retirement exemption but, as she is younger than 55 years old, she would need to pay the amount into a superannuation (or similar) fund.

Lana decides she needs the funds to reinvest in the business and so does not choose the retirement exemption.

Termination of employment not required

If you choose the retirement exemption, you do not have to:

- end any activity
- wind up your business.

Where you are a company or trust and you make payments to a CGT concession stakeholder who is not an employee, the stakeholder does not have to end any activity or office holding.

> For more information, see *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359).

Consequences of choosing the exemption

If you choose this exemption, you disregard the amount of the capital gain you have chosen as the CGT exempt amount.

Payments you make to a CGT concession stakeholder

If you are a CGT concession stakeholder, a payment you receive from a company or trust to meet the retirement exemption requirements is exempt from income tax. This has implications for any tax losses from prior years (not capital losses) you are entitled to claim as a deduction.

If you are a company or trust making the payment, you cannot deduct this amount from your assessable income.

Superannuation consequences

From 1 July 2007, if you are contributing a retirement exemption amount to a superannuation fund or RSA, the amount is generally a non-concessional contribution. To exclude the amount from your non-concessional contributions cap and have it count towards your $1 million (indexed annually from 2007–08) superannuation CGT cap instead, you must notify the fund on *Capital gains tax cap election* (NAT 71161). You must complete this form by no later than the time you make the contribution.

> For more information about the superannuation contributions caps, see *Super contributions – too much super can mean extra tax* on our website at **www.ato.gov.au**

Under superannuation laws, ETPs and RBLs (reasonable benefit limits) were abolished from 1 July 2007.

For the 2006–07 and earlier years, exempt amounts that were taken to be ETPs (for small business individuals) or paid as ETPs (for companies and trusts) were not subject to tax in the hands of the individual unless they exceeded the recipient's RBL.

Small business rollover

The small business rollover allows you to defer all or part of a capital gain for two years or longer if you do either of the following:

- acquire a replacement asset
- incur expenditure on making capital improvements to an existing asset.

You must meet certain rollover conditions to defer the gain for longer than two years.

> ! If you apply the small business rollover after the small business 50% active asset reduction, you apply it to the remaining 50% of the gain. If you have also applied the CGT discount, you apply the rollover to the remaining 25% of the capital gain.

You can use this concession for any gain remaining before or after you have applied any other concessions.

Do you qualify?

Your business qualifies to roll over a capital gain if you meet the basic conditions (see step 1). There are rollover conditions that must also be met by the end of the replacement asset period. This period starts one year before and ends two years after the last CGT event that occurs in the income year for which you choose the rollover.

Rollover conditions

To extend the rollover beyond two years, the following conditions must be met by the end of the replacement asset period:

- you must acquire a replacement asset or make a capital improvement to an existing asset, or do both, within the replacement asset period
- the replacement asset must be an active asset by the end of the replacement asset period
- if the replacement asset is a share in a company or an interest in a trust, by the end of the replacement asset period
  - you or an entity connected with you must be a CGT concession stakeholder in that company or trust, or
  - CGT concession stakeholders in the company or trust must have a small business participation percentage in the entity of at least 90%
- the cost of the replacement asset must be equal to or greater than the gain you deferred.

> ! You can choose the rollover even if you have not yet acquired a replacement asset or made a capital improvement to an existing asset, but a new capital gain will rise if the any of the following happens:
>
> - you do not acquire an active asset, or make a capital improvement to an existing active asset by the end of the replacement asset period
> - by the end of the replacement asset period the cost of the replacement active asset or capital improvement (including incidental costs) is less than the amount of the capital gain that you disregarded
> - a change happens to the replacement (or capital improved) asset after the replacement asset period (for example, you sell it or stop using it in your business).
>
> If a new capital gain arises because you have not met the rollover conditions by the end of the replacement asset period (two years) you can choose the retirement exemption instead. For those gains you do not need to meet the basic conditions again but you must meet the retirement exemption conditions.

EXAMPLE 13: Small business rollover

Instead of choosing the retirement exemption, Lana decides that she will search for a suitable replacement asset to use in her business. As she meets all basic conditions, she qualifies for the small business rollover.

This means she can reduce her capital gain remaining after all other concessions have applied ($3,500) to nil.

After six months, Lana acquires another small parcel of land immediately adjoining the main business premises to use in her business. The replacement land costs $10,000, and it was her active asset before the end of the replacement asset period, so she meets the rollover conditions.

> ! The $3,500 remaining capital gain disregarded under the small business rollover is only a deferral of the capital gain. This deferred capital gain may later become assessable if Lana does all of the following:
>
> - sells the land
> - stops using it in her business.
>
> However, she could then choose a further small business rollover if she acquired another replacement active asset. Alternatively, Lana could choose the retirement exemption.

DEFINITIONS

Active asset
A CGT asset is an active asset if you own it and it is:
- used or held ready for use in the course of carrying on a business (whether alone or in partnership) by any of the following
  - you
  - your affiliate
  - your spouse
  - your child under 18
  - an entity connected with you
- an intangible asset inherently connected with a business carried on (whether alone or in partnership) by
  - you
  - your affiliate
  - your spouse
  - your child under 18
  - an entity connected with you.

Goodwill is an example of an intangible asset.

Active asset test
This test requires the CGT asset to be an active asset for half a particular period. It is one of the tests you must pass to meet the basic conditions for the small business CGT concessions.

Affiliate
An affiliate is any person who, in relation to their own business affairs, acts or could reasonably be expected to act in either of the following ways:
- according to your directions or wishes
- in concert with you.

Aggregated turnover
Aggregated turnover is your annual turnover plus the annual turnovers of any entities you are connected with or that are your affiliates. We call these 'relevant' entities.

Assessable income
This is all the income you have received that you must include in your income tax return. Generally, it does not include non-assessable payments from a unit trust, including a managed fund.

Capital gain
You may make a capital gain (or profit) as a result of a CGT event, for example, when you sell an asset for more than you paid for it. You can also make a capital gain if a managed fund or other unit trust distributes a capital gain to you.

Capital gains tax
Capital gains tax (CGT) is the tax you pay on any capital gain you make and include in your annual income tax return. For example, when you sell (or otherwise dispose of) an asset, you may be subject to CGT.

Capital loss
Generally, you make a capital loss because of a CGT event if you sell an asset for less than you paid for it (including incidental costs).

Capital proceeds
Capital proceeds is the term used to describe the amount of money or the value of any property you receive or are entitled to receive as a result of a CGT event. For shares or units, capital proceeds may be any of the following:
- the amount you receive from the purchaser
- the amount you receive from a liquidator
- the amount you receive on a merger or takeover
- their market value if you give them away.

CGT asset
CGT assets include shares, units in a unit trust, collectables (such as jewellery), assets for personal use (such as furniture or a boat) and other assets (such as an investment property).

CGT asset register
This is a register of information about your CGT assets that you have transferred from your CGT records (for example, invoices, receipts and contracts).

CGT concession stakeholder
A CGT concession stakeholder of a company or trust means either of the following:
- a significant individual of the company or trust
- the spouse of a significant individual where the spouse has a small business participation percentage in the company or trust.

CGT discount
The CGT discount allows eligible individuals (including partners in partnerships) and trusts to reduce their capital gain by 50%. There are more rules for beneficiaries who are entitled to a share of a trust capital gain. Companies cannot use the CGT discount.

CGT event
A CGT event happens when a transaction takes place, such as the sale or purchase of a CGT asset. The result is usually a capital gain or capital loss.

Connected with
A business is connected with you if either of the following apply:
- you control or are controlled by that entity
- both you and that entity are controlled by a third entity.

Depreciating asset
A depreciating asset is an asset that has a limited effective life and can reasonably be expected to decline in value over the time it is used. Depreciating assets include computers, electric tools, furniture and motor vehicles.

Maximum net asset value test
To pass this test, you and certain other entities must not own assets with a total net value of more than $6 million just before the CGT event that results in the capital gain. It is one of the tests you must pass to meet the basic conditions for the small business CGT concessions.

NAT number
Most of our publications have a NAT number (our catalogue number), which we generally show in brackets after the title of the publication, for example, *Tax basics for small business* (NAT 1908).

Net capital gain
The net capital gain is the difference between your total capital gains for the year and your total capital losses (including net capital losses from prior years), less any CGT discount or other concessions you are entitled to.

Net value
The net value of the CGT assets of an entity is the total market value of its assets (whether positive, negative or nil), less any liabilities relating to those assets.

Relevant entity
Relevant entities include any:
- of your affiliates
- entities connected with you.

Replacement asset period
This period starts one year before and ends two years after the last CGT event that occurs in the income year for which you choose the rollover.

Significant individual
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%.

Small business
You are a small business entity if you are a sole trader, partnership, company or trust that meets both of the following:
- is carrying on a business
- has an aggregated turnover of less than $2 million.

Small business 15-year exemption
This is one of the CGT concessions available to small business. Generally, it allows you to disregard the capital gain you made on an asset you have owned for 15 years if you meet all the conditions.

Small business 50% reduction
This is one of the CGT concessions available to small business. Generally, it allows you to reduce your capital gain by 50% if you meet the basic conditions.

Small business retirement exemption
This is one of the CGT concessions available to small business. Generally, it provides an exemption of capital gains up to a lifetime limit of $500,000 if you meet all the conditions. If you are under 55 years old when you choose the exemption, you must pay the amount into a superannuation (or similar) fund.

Small business rollover
This is one of the CGT concessions available to small business. Generally, it allows you to defer all or part of a capital gain from a CGT event that happens in relation to a small business asset for two years or longer if you do one of the following:
- acquire a replacement asset
- make an improvement to an existing asset and meet certain conditions.

MORE INFORMATION

INTERNET

Visit:

- **www.ato.gov.au/SBconcessions** to find out more about all the concessions available to small business entities
- **www.ato.gov.au/businessCGT** to find out more about the CGT concessions for small business entities
- **www.ato.gov.au/onlineservices** to find out about our range of online services, including the Business Portal
- **www.business.gov.au** for easy access to business information, services and transactions with government. There are links to ATO applications to
  - register for an Australian business number (ABN)
  - register for goods and services tax (GST)
  - apply for a tax file number.

PHONE

Phone us on:

- **13 28 66** for general business enquiries, for information about most small business tax matters, including
  - GST
  - ABN
  - pay as you go (PAYG) instalments
  - amounts withheld from wages
  - business deductions
  - lodging and paying activity statements
  - activity statement accounts
  - wine equalisation tax
  - luxury car tax
  - fringe benefits tax
  - matters for non-profit organisations
- **13 10 20** for superannuation enquiries, for information about
  - superannuation guarantee
  - choice of superannuation fund
  - superannuation co-contribution
- **13 28 61** for general personal tax enquiries, for information about individual income tax
- **1300 720 092** to order our publications.

PUBLICATIONS

For more publications about how capital gains tax works, see:

- *Advanced guide to capital gains tax concessions for small business 2010–11* (NAT 3359)
- *Capital gains tax: CGT discount – questions and answers* (NAT 5456)
- *Guide to capital gains tax 2010–11* (NAT 4151)
- *Guide to depreciating assets 2010–11* (NAT 1996)
- Taxation Ruling TR 2002/10 Income tax: capital gains tax: asset register
- *Guide to capital gains tax concessions for small business 2005–06*
- *Advanced guide to capital gains tax concessions for small business 2005–06*
- *Guide to capital gains tax concessions for small business 2006–07*
- *Advanced guide to capital gains tax concessions for small business 2006–07*
- *Guide to capital gains tax concessions for small business 2007–08*
- *Advanced guide to capital gains tax concessions for small business 2007–08*
- *Guide to capital gains tax concessions for small business 2008–09*
- *Advanced guide to capital gains tax concessions for small business 2008–09.*

FREE SEMINARS

We run small business seminars on a range of topics, including GST, PAYG, activity statements and record keeping.

To find a seminar near you or to make a booking:

- see Introductory sessions for small business
- phone **1300 661 104**.

Alternatively, you may also want to discuss your capital gains tax situation with your tax advisor.

OTHER SERVICES

If you do not speak English well and need help from us, phone the Translating and Interpreting Service on **13 14 50**.

If you are deaf, or have a hearing or speech impairment, phone us through the National Relay Service (NRS) on the numbers listed below:

- TTY users, phone **13 36 77** and ask for the ATO number you need
- Speak and Listen (speech-to-speech relay) users, phone **1300 555 727** and ask for the ATO number you need
- internet relay users, connect to the NRS on **www.relayservice.com.au** and ask for the ATO number you need.