


# ***LCR 2018/9A1 - Addendum - Housing affordability measures: contributing the proceeds of downsizing to superannuation***

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# Addendum

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## Law Companion Ruling

### Housing affordability measures: contributing the proceeds of downsizing to superannuation

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Law Companion Ruling LCR 2018/9 to reflect amendments to the law made by the:

- *Treasury Laws Amendment (2019 Measures No. 3) Act 2020*
- *Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Act 2022*, and
- *Treasury Laws Amendment (2022 Measures No. 2) Act 2022*.

LCR 2018/9 is amended as follows:

#### 1. Preamble

(a) Omit the first sentence; substitute:

‘This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.’

(b) In the second sentence, after ‘Ruling is’, insert ‘a’.

(c) In the last sentence of the second paragraph, after ‘However’, omit ‘If’; substitute ‘if’.

#### 2. Table of contents

After the entry ‘What this Ruling is about’, insert:

Date of effect	4A
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#### 3. Paragraph 1

After ‘measure’ omit ‘introduces’; substitute ‘introduced’.

#### 4. Paragraph 4

After the paragraph, insert new paragraphs 4A, 4B and 4C (including heading):

##### **Date of effect**

4A. This Ruling applies from 1 July 2018.

4B. Changes made to this Ruling by an addendum have been incorporated into this version of the Ruling. Refer to the addendum for details of how that addendum amended the Ruling, including the date of effect of the amendments.

4C. Where an addendum applies both before and after its date of issue, both the pre-addendum wording of the Ruling and the revised wording in the addendum apply for the overlapping periods of time. In these circumstances, entities can choose to rely on either version when applying the Ruling during that period of time.

**5. Paragraph 8**

(a) In the first dot point, omit '65'; substitute '55'

(b) After '55', insert new footnote 4A:

<sup>4A</sup> Prior to 1 July 2022, an individual had to be aged 65 or over to be eligible to make a downsizer contribution. From 1 July 2022 to 31 December 2022 an individual had to be aged 60 or over to be eligible to make a downsizer contribution.

(c) In the second dot point, after 'disposal of an' insert 'ownership'.

**6. Paragraph 9**

(a) Omit 'sale'; substitute 'disposal'.

(b) Omit 'dwelling interest'; substitute 'ownership interest in a dwelling'.

**7. Paragraph 10**

After 'dwelling', insert 'ownership'.

**8. Paragraph 19**

Omit '2020'; substitute '2022'.

**9. Paragraph 27**

Omit '2019'; substitute '2022'.

**10. Paragraph 28**

Omit both instances of 'home'; substitute 'house'.

**11. Paragraph 29**

(a) Omit 'mid 2019'; substitute 'July 2022'.

(b) Omit '2019'; substitute '2022'.

**12. Paragraph 30**

(a) Omit '2019'; substitute '2022'.

- (b) Omit 'home'; substitute 'house'.

**13. Paragraph 45**

In the first sentence, after 'made', omit the comma.

**14. Paragraph 46**

- (a) After 'an individual', insert 'or their spouse'.  
(b) After 'only if they', insert 'or their spouse'.

**15. Paragraph 53**

Omit '2019'; substitute '2022'.

**16. Paragraph 58**

- (a) Omit 'residential rental property'; substitute 'house'.  
(b) Omit ', purchased in 2003'.  
(c) After 'main residence', insert 'from that time'.

**17. Paragraph 61**

- (a) After 'interests in the dwelling.<sup>43</sup>', insert 'However, the contribution does not have to be made from the actual proceeds.'  
(b) Omit 'Downsizer contributions may be able to be made'; substitute 'In addition, downsizer contributions may be able to be made'.

**18. Paragraph 62**

- (a) Omit the wording of the paragraph, including footnotes 45 and 46, but excluding footnote 44; substitute:

Capital proceeds are defined in the ITAA 1997, and for most cases are the money received, or entitled to be received, from the sale of the interest in the dwelling.<sup>44</sup> An individual cannot apply the CGT market value substitution rules to increase the amount of the capital proceeds from the disposal of their ownership interest in the dwelling to equal the market value of the ownership interest.<sup>46A</sup>

- (b) At the end of the paragraph, insert new footnote 46A at the end of the paragraph:

<sup>46A</sup> See section 116-30 and subsection 292-102(3A).

**19. Paragraph 63**

Omit the paragraph.

**20. Paragraph 65**

- (a) Omit 'More than one downsizer contribution'; substitute 'Multiple downsizer contributions'.
- (b) After 'from the sale of', insert 'ownership'.
- (c) Omit 'proceeds of other properties, or of ownership interests'; substitute 'proceeds of ownership interests in other properties, or from multiple disposals of ownership interests'.
- (d) Omit 'a later time'; substitute 'different times'.

**21. Paragraph 66**

- (a) After 'proceeds of', insert 'the disposal of'.
- (b) After 'spouse's', insert 'ownership'.

**22. Paragraph 67**

After 'spouse's', insert 'ownership'.

**23. Paragraph 73**

Omit the wording of the paragraph; substitute:

*Elizabeth and Philip are spouses and have lived together in a house that they purchased in 1990. They own the house as joint tenants. In February 2023 they decide to sell this house. At the time of disposal, Elizabeth is 62 and Philip is 53 years old.*

**24. Paragraph 75**

Omit '65'; substitute '55'.

**25. Paragraph 82**

- (a) After 'it must be', insert 'requested and'.
- (b) Omit '90 day'; substitute '90-day'.

This Addendum applies from 1 January 2023, with the exception of:

- new paragraph 4A, which applies from 1 July 2018, and
- the changes made by this Addendum to paragraph 62, which apply from 22 June 2020.

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**Commissioner of Taxation**

25 October 2023

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ATO references

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