


TD 2007/14A1 - Addendum - Income tax: capital gains: small business concessions: what 'liabilities' are included in the calculation of the 'net value of the CGT assets' of an entity in the context of subsection 152-20(1) of the Income Tax Assessment Act 1997?

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Addendum

Taxation Determination

Income tax: capital gains: small business concessions: what 'liabilities' are included in the calculation of the 'net value of the CGT assets' of an entity in the context of subsection 152-20(1) of the *Income Tax Assessment Act 1997*?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 2007/14 to reflect changes in the law as set out below.

For CGT events happening in the 2006-07 income year or later income years

Tax Laws Amendment (2006 Measures No. 7) Act 2007 amended subsection 152-20(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) to:

- allow a negative net value of the CGT assets of an entity to be calculated, and
- allow the following provisions to be taken into account in determining the net value of the CGT assets of an entity:
 - provisions for long service leave
 - provisions for annual leave
 - provisions for unearned income
 - provisions for tax liabilities.

TD 2007/14 is amended as follows:

1. Paragraph 3

Omit the calculation; substitute:

Assets:	\$	\$
<i>Plant and machinery</i>	1,500,000	
<i>Freehold premises</i>	3,500,000	5,000,000
Liabilities:		
<i>Mortgage (secured over the</i>	2,000,000	

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premises)

<i>Provision for leave of employees</i>	<i>500,000</i>	<u><i>2,500,000</i></u>
<i>Net value of CGT assets:</i>		<u><i>2,500,000</i></u>

2. Paragraph 4

- (a) Omit the second dot point.
 (b) Omit the note; substitute:

(Note: Although the provision for leave of employees is not a liability, it is separately taken into account under paragraph 152-20(1)(b) to determine the net value of CGT assets.)

3. Paragraph 12

Omit the calculation; substitute:

<i>Net value of CGT assets of Cassandra</i>	<i>\$1.0m</i>
<i>Net value of CGT assets of Fancy Foot Pty Ltd – Studio: (\$5m less \$0.5m)</i>	<i>\$4.5m</i>
<i>Net value of CGT assets of Wanadance Pty Ltd – Warehouse: (\$2m less \$2.8m)</i>	<i>(\$0.8m)</i>
<i>Total net value of CGT assets:</i>	<u><i>\$4.7m</i></u>

4. Paragraph 13

- (a) Omit the paragraph; substitute:

13. *Cassandra qualifies for the small business CGT concessions because she satisfies the \$5 million maximum net asset value test. Note that the \$0.8 million excess liability in respect of Wanadance Pty Ltd's CGT asset (the warehouse) can be offset against the value of Cassandra's assets or Fancy Foot Pty Ltd's CGT asset (the studio).*

- (b) Omit the note.

5. Paragraph 16

Omit the paragraph; substitute:

16. The 'net value of the CGT assets' of an entity is the amount (whether positive, negative or nil) obtained by subtracting from the sum of the market values of those assets the sum of:

- the liabilities of the entity that are related to the assets; and
- the following provisions made by the entity:
 - provisions for annual leave
 - provisions for long service leave

- provisions for unearned income, and
- provisions for tax liabilities (subsection 152-20(1)).

6. Paragraph 20

Omit the note; substitute:

(Note: provisions for annual leave, provisions for long service leave, provisions for unearned income and provisions for tax liabilities are not within the meaning of the term 'liabilities' but are separately taken into account in determining the net value of the CGT assets of an entity.)

7. Paragraph 23

Omit the heading and paragraph.

This Addendum applies to CGT events happening in the 2006-07 income year or later income years.

Commissioner of Taxation

14 April 2014

ATO references

NO:	1-2NIWPML
ISSN:	1038-8982
ATOlaw topic:	Income Tax ~~ Capital Gains Tax ~~ small business relief - 'maximum net asset value test' Income Tax ~~ Capital Gains Tax ~~ small business relief - basic conditions for relief

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