



Capital gains tax on inherited property



This factsheet provides a summary and general information only. As this is a complex topic, it may not meet your individual circumstances. If you are uncertain, you should obtain appropriate professional advice relevant to your circumstances. You can also find more information at ato.gov.au/deceasedestatesCGT

The property you inherit is a capital asset that you acquire on the day the person dies. Generally, capital gains tax (CGT) doesn't apply at the time you inherit the dwelling. However, CGT will apply when you later sell or dispose of the dwelling, unless an exemption applies.

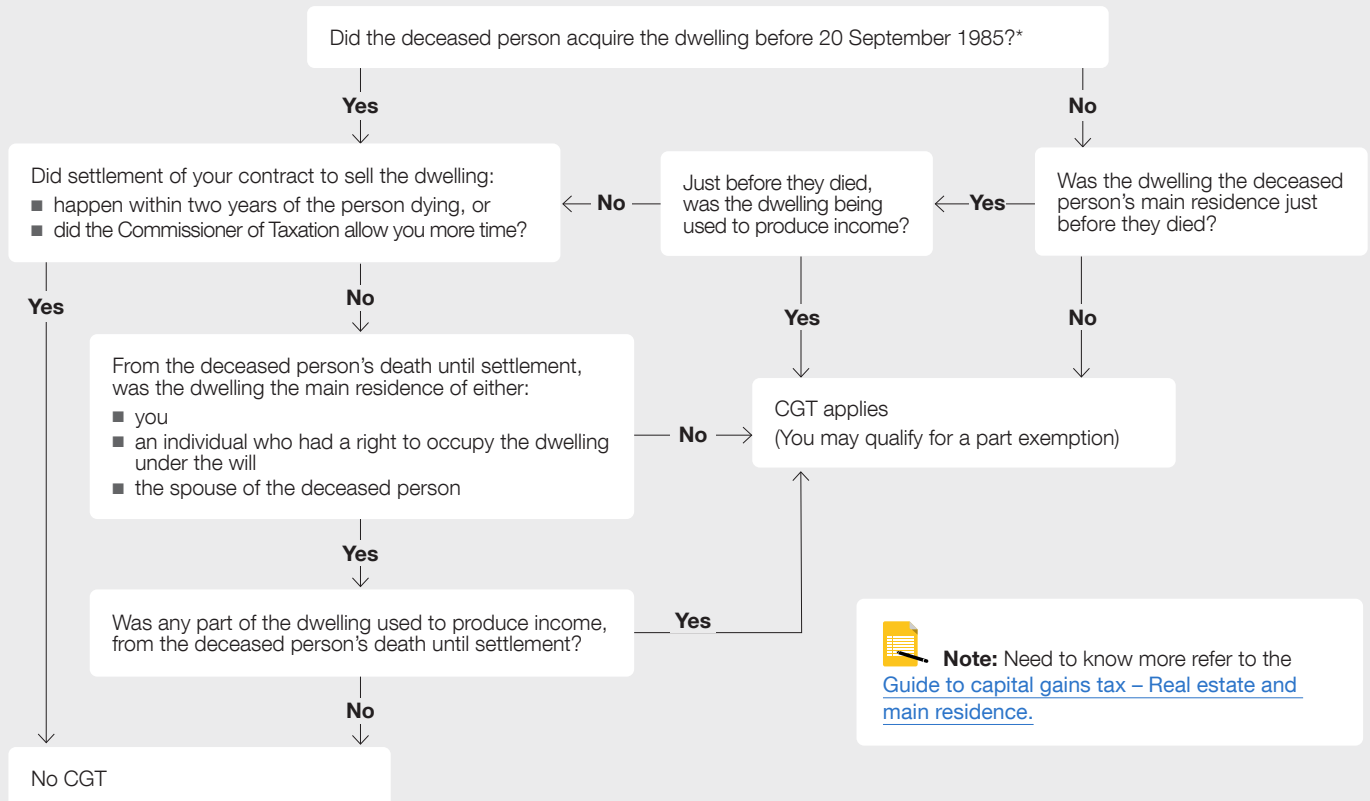
This depends on whether:

- the deceased person acquired the property before or after 20 September 1985
- it was the deceased person's main residence immediately before they died, and was not being used to produce income at that time
- the deceased person was an excluded foreign resident at the time of death
- you were an Australian resident when you inherited the property
- it was your main residence, or the main residence of any individual who had the right to occupy it under the will, or the main residence of the spouse of the deceased person immediately before their death and it was not being used to produce income
- you dispose of an inherited property within two years of the person's death and either
 - the deceased acquired the property before 20 September 1985
 - this exemption applies whether or not you used the dwelling as your main residence or to produce income during the two-year period
 - the deceased acquired the property on or after 20 September 1985
 - the dwelling passed to you after 20 August 1996, and it was the deceased person's main residence and not being used to produce income just before the date they died.



Note: if you dispose of the property outside of the two-year period, the exemption can still apply if the Commissioner of Taxation grants an extension to the [two-year ownership period](#).

CGT main residence exemption rules when you sell a dwelling that passed to you after 20 August 1996



Note: Need to know more refer to the [Guide to capital gains tax – Real estate and main residence](#).

Where the deceased person died before 20 September 1985

If the deceased person died before 20 September 1985, the property is exempt from CGT when you sell it (it is a pre-CGT asset). However, if you made a major capital improvement to the dwelling on or after 20 September 1985 those improvements are a separate asset and may be subject to CGT. (*refer to flow chart)



How to determine the value of an inherited property

Your acquisition cost of the property is the market value of the property at the date of death, if any of the following apply:

- the property was acquired by the deceased before 20 September 1985
- the property passed to you after 20 August 1996 (but not as a joint tenant), and
 - it was the deceased person's main residence just before they died
 - it was not being used to produce income
- the dwelling passed to you as the trustee of a special disability trust.

In all other circumstances, your acquisition cost will be the deceased's cost base on the day they died. That is:

- the deceased's original purchase price, and
- any other costs incurred then and afterwards (by the deceased) – for example, legal fees on that purchase and any capital improvements.

You may need to contact the trustee or the deceased's tax advisor to obtain these details.



Joint tenants and tenants in common

If two or more people acquire a property together, it can be as either:

- tenants in common
- joint tenants.

Tenants in common

If a tenant in common dies, their interest in the property becomes the asset of their deceased estate. This means it can either be:

- transferred to a beneficiary of the estate (only)
- sold (or otherwise dealt with) by the legal personal representative of the estate.

Joint tenants

For CGT purposes, if you are a joint tenant you:

- are treated as if you are a tenant in common
- own equal shares in the asset.

However, if you are a joint tenant and another joint tenant dies, on that date their interest in the asset is:

- taken to pass in equal shares to you and any other surviving joint tenants
- as if their interest is an asset of their deceased estate and you are beneficiaries.

This means that if the dwelling was the deceased's main residence, you may be entitled to the main residence exemption for the interest you acquired from them.



Example: Surviving joint tenant

In 1999, Ming and Lee buy a residential property for \$250,000 as joint tenants. Each one has a 50% interest in it. They live in it as their main residence.

On 1 May 2018, Lee dies. Ming acquires Lee's interest for an amount equal to Lee's cost base on that day (1 May 2018).

Ming continues to use the property as his main residence after Lee's death. He is entitled to the main residence exemption for the interest he acquired from Lee, as well as for his original interest.



Inherited dwelling from, or as, a foreign resident

The law for foreign residents changed on 12 December 2019. This may affect your entitlement to claim the main residence exemption on an Australian residential property that you inherited from a foreign resident.

The changes may also apply to you if:

- you inherit an Australian residential property
- you have been a foreign resident for more than six years when you sell or dispose of the property.

For more information, refer to disposing of assets from a deceased estate at ato.gov.au/deceasedestateforeignresident



Inheriting a dwelling from someone who inherited it themselves

If you inherit a deceased person's property, who also acquired the interest in the property on or after 20 September 1985 as a beneficiary (or trustee) of a deceased estate, you may be entitled to a partial main residence exemption. This is calculated on the number of days the property was your and the previous beneficiary's main residence.

For more information, refer to [Guide to capital gains tax 2020 – Inheriting a dwelling from someone who inherited it themselves](#)

Examples



Example 1: fully exempt – deceased acquired the dwelling on or after 20 September 1985 and beneficiary sold it within two years of death

Rodrigo is the sole occupant of a flat he bought in April 1990. He has only ever lived in it and not used it to produce income.

Rodrigo dies in January 2018. He leaves the flat to his son, Petro. Petro initially rents out the flat, and then sells it 15 months after his father died.

Petro is entitled to a full exemption from CGT. This is because Rodrigo lived in it when he died and Petro disposed of it within two years of his father's death.



Example 2: partial exemption – main residence of deceased but then rented out for more than two years after death by beneficiary

Lucy buys a home on 1 April 1997 for \$250,000. It is her main residence from the time she acquires it until her death on 31 March 2009 (a total of 4,383 days). The property then passes to her beneficiary, Amy.

Amy lets the home as a rental property throughout her ownership period. After eight years she decides to sell. Amy sells the rental property for \$685,000 on 30 June 2017 (3,014 days after Lucy's death).

The acquisition cost of the property for Amy is its market value at Lucy's date of death, which was \$258,000. This is because it:

- passed to Amy after 20 August 1996
- was Lucy's main residence immediately before her death
- was not producing income at Lucy's date of death.

Amy will need to declare the capital gain as follows:

- calculate CGT
 - sale price \$685,000
 - acquisition cost (total cost base) \$258,000
- deduct cost base from sale price
 - total capital gain \$427,000.

Amy's taxable portion of the capital gain is calculated as:
capital gain amount × (Non-main residence days ÷ total days).

The Non-main residence days is the number of days (if any) Lucy and Amy used the dwelling to produce income, which is 3,014 (0 for Lucy and 3,014 for Amy). Total days is the number of days Lucy and Amy owned it, which is 7,397.

Amy's capital gain is:

$$\$427,000 \times 3,014 \div 7,397 = \$173,986.$$

However, Amy can use the CGT discount method to reduce her capital gain by 50%. This reduces her capital gain to \$86,993.



Example 3: partial exemption – inherited rental property – main residence of beneficiary

Vicki buys a house for \$400,000 on 12 February 1995 and uses it solely as a rental property. She dies on 17 November 1998 (owning the home for a total of 1,375 days). The house then passes to her beneficiary, Lesley, who uses it as his main residence.

As the property was purchased by Vicki after 20 September 1985 and used solely for income producing purposes, Lesley's acquisition cost is Vicki's cost base on the day she died of \$408,000. The cost base includes \$400,000 + legal fees and solicitor fees on selling.

Lesley later sells the property for \$650,000 on 27 November 2018. He has owned it for a total of 7,316 days.

As the house was not Vicki's main residence just before she died, Lesley can't claim exemption from CGT for the period Vicki used the house to produce income. However, Lesley is entitled to exemption from CGT for the period he used the house as his main residence. This is throughout his ownership period of 7,316 days only.



Example 4: partial exemption – Main residence deceased – rental property and main residence beneficiary

Mary acquires a dwelling on 1 June 2002 for \$650,000. It is her main residence until she dies on 31 August 2007 (a total of 1,918 days). Her son, Steve, inherits the dwelling and rents it out.

After renting the dwelling until 31 August 2010 (a total of 1,097 days), Steve begins living in it as his main residence. On 31 August 2019, he sells it for \$900,000 (owning it for a total of 3,288 days).

Mary acquired this main residence after 19 September 1985 and did not use it to produce income. Upon her death, the dwelling passed to Steve as a beneficiary after 20 August 1996. Therefore, Steve is taken to have acquired the dwelling at its market value of \$720,000 at the time he first used it to produce income.

The house was Mary's main residence just before she died, and Steve used the property as his main residence as well as a rental property. Steve can't claim exemption from CGT for the period he used the house to produce income. However, he can claim an exemption from CGT for the period Mary and Steve used the house as their main residence in their ownership period.

This is a general summary only

For more information, go to ato.gov.au/deceasedestatescgt or speak to a registered tax professional.

Go to ato.gov.au/rental, watch our short videos at ato.gov.au/rentalvideos, download our free Rental properties guide at ato.gov.au/rentalpropertyguide, read our Guide to capital gains tax at ato.gov.au/cgtguide