

Capital Gains Tax (CGT) part 1

CGT is a general tax applied on capital gains on sale of land, shares, etc. it is introduced on 19 September, 1985 and effective under Part IIIA ITAA36, from 20 September, 1985. Any purchase of CGT assets prior to this day is exempt to CGT no matter how much gains/losses are made from the sale of the assets.

Under Part 3-1 ITAA97, which replaced Part IIIA ITAA36, a capital gain will arise where a CGT event occurs on or after 20 September 1985 to a CGT asset and the capital amount that you receive (or are entitled to receive) from the CGT event exceeds the total costs associated with that event (S100-35). The net capital gain made by a taxpayer during an income year is included as assessable income in the taxpayer's return for that income year (s102-5).

CLASSIFICATION OF CGT ASSETS

CGT assets are classified into different classes, each explained briefly below:

- **Collectables**
 - a) Artwork, jewellery, antique (object of artistic and historical significance over 100 years old TD 1999/40), coin or medallion
 - b) Rare portfolio, manuscript or book
 - c) Postage stamp or first day cover

Collectables are used or kept mainly for your personal use or enjoyment (s108-10(2)).

Any capital gain is ignored if the acquisition of the collectable was \$500 or less (s118-10(1)).

A set of collectables is taken to be a single collectable, and the \$500 threshold applied to the set, not individual items. However, capital loss incurred from collectables can only offset gains in other collectables in current year or later income years (s108-10(1) or (4)).

- **Personal Use Assets (PUA)**

A PUA is a non-collectable asset, other than land or buildings, used or kept mainly for personal use or enjoyment (s108-20(2) (3)). Any capital gain is ignored if the acquisition of the PUA was less than \$10,000 (s118-10(3)). For example, your car or yacht will be PUA whereas your clothes or kitchenware won't be PUA.
- **Other Assets**

Other assets are assets other than collectables or PUA. The ordinary CGT rules apply to this class of assets.

SEPARATE CGT ASSETS

A building, structure or any other improvements you made on land you purchased after 20 September 1985 will be treated as Separate CGT Assets for CGT purposes and if you purchased the land prior to 20 September 1985, the improvement on the land will also be Separate CGT Assets unless you entered into the contract or construction began before this day. If you made an improvement to other assets you purchased before 20 September 1985, and the amount you spent on the improvement is more than the threshold of \$124,258 for the 2009-10 year, or more than 5% of the amount and property you received from the event, then the improvement will also be treated as Separate CGT Assets.

CGT EXEMPTIONS

- Motor vehicle designed to carry less than one tone and fewer than 9 passengers
- CGT asset used solely to produce exempt income
- Compensation or damages received for wrong, injury or illness received by taxpayer
- Gambling winnings or prizes
- Main residence up to the extent of fully rented out for six years
- Rights, annuities and allowances payable under insurance policy
- Decoration awarded for valor or brave conduct, unless purchased by taxpayer
- Superannuation or employer termination payment, depreciation assets used for business purpose, film copyright or research and development pools

TAXPAYERS SUBJECT TO CGT TAX

Australian residents are liable for CGT on gains arising from CGT event occurring to CGT asset acquired after 19 September 1985 regardless of location of the asset and irrespective of whether the residents are individuals, partnerships, trust or companies.

Foreign/temporary residents are only liable for CGT where the CGT asset is a taxable Australian Property and the event occurred after 12 December 2006.

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