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29 June 2026

Capital gains tax changes from 1 July 2027

The 2026 Federal Budget announced significant changes to capital gains tax (CGT)

Background

Treasury Laws Amendment (Tax Reform No. 1) Bill 2026 supports key elements of the Federal Budget announcements for changes to the taxation of realised capital gains (CG) from 1 July 2027 and has passed through Parliament.

Capital gains accrued from 1 July 2027 will be:

- determined using the indexation method to adjust the cost base for inflation, and
- subject to a minimum of 30% tax (limited exceptions apply).

Generally, any gains accrued prior to that date will be taxed under the current rules.

The changes apply to all capital gains tax (CGT) assets including:

- residential property (special rules apply to new builds and affordable housing)
- commercial property
- shares
- managed funds, and
- pre-CGT assets.

The rules are proposed to commence from 1 July 2027 which provides a window to reconsider any investments in light of the changes before that date.

This article outlines the CGT changes as related to individual taxpayers (including partnerships) and flow through of capital gains from trusts.

NOTE: The Government has stated that further tranches of legislation are necessary to support other reforms as well as provide clarification on the interaction between the new rules and existing legislation.

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What's not changing?

Companies and super funds (including SMSFs) are not impacted by these changes. Companies do not receive any CGT concession including indexation[1] and super funds retain the 1/3rd CGT discount on assets held for at least 12 months.

As a general comment, there's also no change to the main residence exemption or the Small Business CGT concessions.

Consultations

The legislation does not cover all impacted taxpayers. The Government has indicated that it will consult on certain elements of the CGT changes and other measures announced in the Budget. This includes consultation on the CGT changes for:

- small business, in particular tech and **start-up businesses**, and
- application to **discretionary trusts** including testamentary trusts which covers the minimum 30% tax on trust distributions.

Overview of taxation of capital gains

The primary focus of the CGT changes is removing the 50% discount available to individual taxpayers for capital gains (CG) accruing on or after 1 July 2027 and replacing it with the indexed cost base method (indexation method). This focuses on taxing the 'real' gain accounting for inflation. This captures all assets including pre-CGT assets (with limited exceptions).

General changes	Exceptions	Trusts
The key changes are: ▪ indexation method replacing 50% discount for CG accrued post 1 July 2027 ▪ introduction of minimum 30% tax on realised CG accrued post 1 July 2027 (subject to exceptions) ▪ reset of cost base on 1 July 2027 (see below '**Valuation of assets as at 1 July 2027**') ▪ broad application to assets including pre-CGT assets (subject to exceptions)	Exceptions apply to the general rules for: ▪ CG accrued prior to 1 July 2027 ▪ certain residential property (eg new builds and affordable housing) can choose between the CGT discount or the indexation method plus minimum 30% ▪ eligible innovative start-ups[2] can choose between the CGT discount or indexation method plus minimum 30% tax. However, the taxpayer will forgo the use of the small business concessions if choosing the CGT discount ▪ recipients of eligible income support payments at any time during the financial year are exempt from the 30% minimum tax	Additional changes to trusts: ▪ trustee withholds 30% on distributions to beneficiaries including CG ▪ reporting requirements by trustee to beneficiaries on types and amount of capital gains ▪ 30% withheld is non-refundable credit to individual beneficiaries

[1] With a limited exception for certain assets acquired before 21 September 1999 and indexing elements of the cost base up to 30 September 1999.

[2] Consultation paper *Capital gains tax reform – arrangements for innovative start-ups* was released on 18 June 2026 with consultation closing on 10 July 2027.

A summary of the CGT treatment based on acquisition date is below:

Asset acquired	Asset sold	CGT implications
Pre-1985	Before 1 July 2027	Current rule – generally no CGT applies (with limited exceptions such as post-1985 significant capital improvements)
	On or after 1 July 2027	No CGT on gain accrued prior to that date (with the exception of post-85 significant capital improvements) Indexation method for gain accrued from 1 July 2027
Post-1985 – pre-21 September 1999	Before 1 July 2027	Current rules – choice of CGT discount or indexation (to 30 Sept 1999)
	Sold on or after 1 July 2027	CGT discount for gain accrued prior to 1 July 2027 (indexation to 30 Sept 1999 no longer available) Indexation method for gain accrued from 1 July 2027
Post-21 September 1999 - 30 June 2027	Before 1 July 2027	CGT discount (if held for at least 12 months)
	Sold or on after 1 July 2027	CGT discount for gain accrued up to 1 July 2027 (if held for at least 12 months) Indexation method for gain accrued after 1 July 2027 (if held for at least 12 months)
On or after 1 July 2027	Anytime	Indexation method for gain accrued (if held for at least 12 months)

Note: Capital gains accrued from 1 July 2027 are taxed at a minimum of 30% (unless an exemption applies).

Valuation of assets as at 1 July 2027

Clients with assets acquired prior to 1 July 2027, including pre-CGT assets, will need to have a valuation as at 1 July 2027 to be able to calculate the gain accrued before and after that date. Gains accrued prior to 1 July 2027 are determined using a deemed sale and reacquisition framework. However, any notional gain or loss is disregarded until the asset is actually sold. The accrued gain or loss up to 1 July 2027 is the 'deferred' gain or loss.

Clients are able to either:

- obtain a valuation
  - this could either be a professional valuation (generally appropriate for properties or other assets that do not have an easily ascertainable value) otherwise have sufficient evidence to support a self-valuation[3], or
  - quoted prices such as for widely held unit trust or shares
- use the specified apportionment formula
  - this formula will allow a client to estimate the value of an asset on 1 July 2027 based on its growth rate over the time the assets has been held. The ATO will provide tools to assist in making this estimate (not yet available).

[3] Refer to our adviser article '**Valuations for Division 296 and other purposes**' available on mlc.com.au which provides information on using market value and obtaining valuations.

Advice tip

Clients may consider obtaining a professional valuation for specific assets, such as property. When the asset is sold, the client can then consider the formula method and elect which calculation is appropriate for their circumstances.

If obtaining a valuation, generally it is advised to obtain this around 1 July 2027.

When the asset is sold post 1 July 2027, the CG on an asset will be calculated using two different methods:

- a pre-1 July 2027 component under the current rules, and
- a post-1 July 2027 component under the new rules.

Pre-CGT assets

Generally, assets acquired before 20 September 1985 are considered pre-CGT assets and not subject to CGT (exceptions exists such as a significant capital improvement is made on or after this date which becomes a separate CGT asset). Pre-CGT assets will be captured under the new rules and subject to CGT on gains accrued from 1 July 2027. These assets will also need to be valued at 1 July 2027.

These provisions also extend to certain pre-CGT assets, such as pre-CGT shares in a private company or pre-CGT interest in a trust. For some clients, such interests will have already be deemed to be post-CGT assets due to certain triggers. Clients unsure of the status of such interests should seek specialist tax advice.

Calculating capital gains from 1 July 2027

Indexation methods applying to gains from 1 July 2027

From 1 July 2027, CG will be determined based on indexing each eligible element of the cost base[4] for assets held for at least 12 months. This applies to assets acquired:

- on or after 1 July 2027, and
- before 1 July 2027 but only applies to the CG accrued from 1 July 2027.

The indexation method will increase each eligible element of the cost base to the Consumer Price Index (CPI) as follows:

$$\frac{\text{CPI index number for quarter sold}}{\text{CPI index number for quarter cost was incurred}} \times \text{cost base}$$

To calculate the capital gain, each element of the cost base is subtracted from the capital proceeds of sale (special rules apply if not dealing at arm's-length).

NOTE: It is necessary for a client to work with a registered tax agent to calculate the cost base as not all elements of the cost base can be indexed. Indexation of the cost base is not applied if a capital loss will result. For additional information, refer to the **ATO website**.

Foreign residents or temporary residents

Indexation is available to Australian resident taxpayers and trusts. It is not available to individuals who are foreign residents or temporary residents at any time between:

- 1 July 2027 or acquisition date (if later), and
- the date of the CGT event.

Holding period of 'at least 12 months'

For the cost base to be subject to indexation, the asset must be held for at least 12 months (this is the same as the current rule to allow the 50% discount to apply).

The calculation of 'at least 12 months' excludes the acquisition date and disposal date (**TD 2002/10**). This means 365 (or 366 in a leap year) must lapse between the acquisition and disposal date.

[4] Unless a capital loss will result

Example 1: At least 12 months

An asset was acquired on 2 February 2028 and sold on 2 February 2029. A year commences from 3 February 2028 as acquisition date is excluded. A single year from 3 February 2028 end on 2 February 2029. Based on the sale date the asset has not been held for at least 12 months.

To meet the requirement, the asset was acquired on 2 February 2028 and would need to be sold on 3 February 2029.

Based on example contained in TD 2002/10

For assets held prior to 1 July 2027, including pre-CGT assets, the 12-month period commences from the original acquisition date. The deemed sale and reacquisition for the purposes of determining the cost base for assets already owned prior to 1 July 2027 are disregarded when assessing the 12-month holding period[5].

Residential property 'new builds' and affordable housing

Taxpayers with realised capital gains on residential property that is classified as a 'new residential dwelling' or affordable housing will have the choice of either:

- indexation method and minimum 30% tax, or
- 50% CGT discount for new residential dwellings and CGT discount of up to 60% for affordable housing.

when determining the assessable capital gain. A new residential dwelling[6] is considered to add to the housing supply. Examples are:

New residential dwelling choice: ▪ indexation and 30% minimum tax, or ▪ CGT discount	**Not a new residential dwelling** ▪ indexation and 30% minimum tax only
Newly constructed apartment purchased-off-the plan	An established property that has been subject to an extension or renovation (regardless how extensive changes made)
A knockdown of a single dwelling which is replaced with a duplex	The knockdown of a single dwelling which is replaced with a single dwelling
A newly built property owned by a builder which is occupied for less than 12 months before being sold	A newly built property owned by a builder which is occupied for more than 12 months before being sold

These provisions relate to CGT events relating to the sale of new residential dwellings on or after 1 July 2027. This can include vacant land that was acquired prior to that date (including prior to the Budget announcement) and subsequent building and disposal of a dwelling meeting the definition. A legislative instrument will be released which will contain further detail in relation to properties held prior to 1 July 2027 and requirements to be a new residential dwelling.

The choice of CGT discount or indexation and 30% minimum tax does not apply to foreign or temporary residents even if the property meets the definition of a new residential dwelling or affordable housing.

Advice tip:

Capital gains determined using the CGT discount method are included in assessable income and can continue to be managed through allowable deductions, such as personal deductible super contributions. This includes deferred residential gains, deferred non-residential gains, realised gains on new builds or affordable housing and start-ups where the CGT discount method is chosen.

[5] ITAA97 s114-10(2)
[6] ITAA97 s 26-160(3)

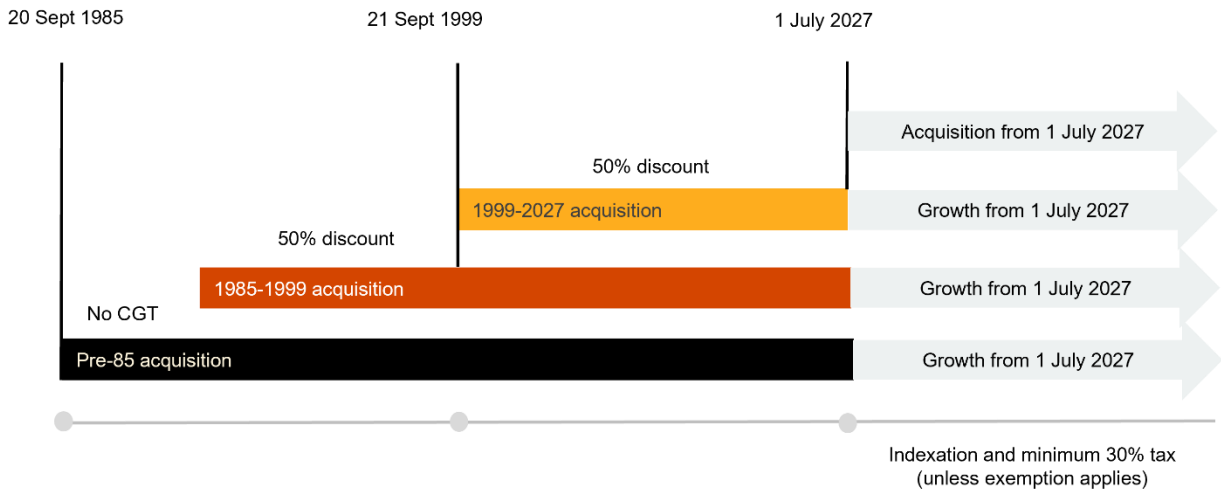
Grandfathering of 50% capital gain discount

The 50% discount method remains unchanged for realised capital gains relating to the period prior to 1 July 2027 (unless a new residential dwelling). This applies to assets acquired from 21 September 1999.

Assets acquired from 20 September 1985 but before 21 September 1999, only the 50% discount method can be used for gains accrued up to 1 July 2027 and the CGT event occurs after this date. The choice to use the indexation method on these accrued gains is removed from 1 July 2027.

Any gain on pre-September 1985 assets continue to be CGT free. However, these assets are deemed to be acquired on 1 July 2027 and captured under the new CGT rules from that date.

The following summarises the general taxation of CG based on original acquisition date and disposal on or after 1 July 2027:



NOTE: The CGT discount for affordable housing is up to 60%.

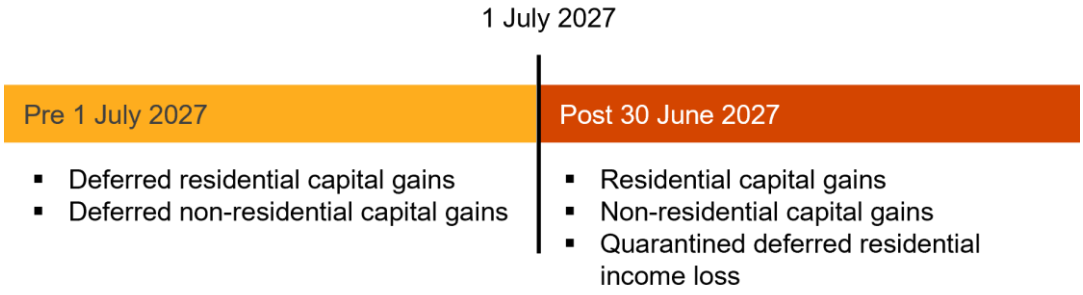
Calculating net capital gains to include in assessable income

Just like under the current system, a net capital gain is included in assessable income. If a net capital loss arises, this can be carried forward to offset CGs in future years. However, there will be a distinction between types of capital gains and losses as follows:

- residential and non-residential capital gains/losses
- gains/losses related to pre-1 July 2027 (deferred capital gains/losses) and post-1 July 2027 capital gains/losses, and
- quarantined deferred residential income loss[7].

[7] Relates to quarantining net rental property income losses on certain residential property to reduce future residential property income (including capital gains). These amounts cannot offset against other income such as wages/salary.

Broadly, the amounts vary depending on whether it relates to a pre or post 1 July 2027 capital gain:



The definition of each income type is:

Income type	Description
Residential capital gain/loss	Realised gain/loss on residential property for gains accrued post 1 July 2027 but excludes: ▪ deferred residential capital gain (see below ▪ days used as main residence from 1 July 2027 (main residence exemption).
Non-residential capital gain/loss	Non-residential realised gain/loss accrued post 1 July 2027. Excludes deferred non-residential capital (see below)
Deferred residential capital gain/loss	A notional gain/loss is determined for residential property at 30 June 2027 if held before this date. This notional gain/loss becomes a deferred residential capital gain/loss (crystallised and taxable) upon disposal of the residential property. Excludes: ▪ unrealised notional capital gain on pre-1 July 2027 residential property due to deemed disposal ▪ days used as main residence pre-1 July 2027 (main residence exemption).
Deferred non-residential gain/loss	A notional gain/loss is determined for non-residential assets at 30 June 2027 if held before this date. This notional gain/loss becomes a deferred non-residential capital gain/loss (crystallised and taxable) upon disposal of the non-residential property. Excludes unrealised notional capital gain on pre-1 July 2027 non-residential assets due to deemed disposal.
Quarantined deferred residential*	The net rental income loss arising from the portion of residential property allowable deductions above residential property income.

*Quarantined deferred residential income loss arises as a net rental loss from an **established** residential rental property acquired from Budget night (7.30pm AEST 12 May 2026) can no longer reduce other forms of taxable income (eg wages, non-property investment income) from 1 July 2027. These net rental losses will only be deductible against other income from residential properties including capital gains. Excess losses can be carried forward to offset residential property income in future years.

Apportionment of capital gains and losses accrued prior to 1 July 2027 will be determined via legislative instrument and not yet available.

When a CGT event occurs, if a net capital gain results, this is assessable income in that financial year. From 1 July 2027, the steps to calculate a net capital gain will be modified to take into account the different types of capital gains, unapplied capital losses and quarantined income loss from residential property.

To calculate the net capital gain, it is first necessary to determined total capital gains and losses from all assets realised in the financial year, including realised gains/losses based:

- on the indexation method for those that accrue from 1 July 2027, and
- realised notional gains for assets held prior to 1 July 2027.

It is also necessary to categorise the gains and losses into the four types of capital gains/losses. The net capital gain is determined by the following steps:

Step	
1.	Capital gains for the income year are reduced by current year capital losses in the following order: I. deferred non-residential capital gains II. deferred residential capital gains III. non-residential capital gains IV. residential capital gains
2.	Apply any carried forward net capital losses from previous financial years. Carried forward capital losses are applied to the types of capital gains as per the order at step 2.
3.	Apply any quarantined deferred residential amount (ie net rental property losses carried forward) from any deferred residential capital gains remaining.
4.	Apply any remaining quarantined deferred residential amount against any residential capital gains remaining
5.	If any remaining capital gains by an individual taxpayer is eligible to apply 50% discount (up to 60% for affordable housing) – apply the discount.
6.	If applicable, apply small business concessions[8] (50% active asset if chosen, CGT retirement exemption and rollover relief).
7.	Any amounts remaining in each category after step 7 is the net capital gain included in assessable income. **NOTE:** The net capital gain may need to be apportioned to identify the pre-1 July and post 1 July 2027 capital gains. Capital gains related to the post-1 July 2027 period are subject to the minimum 30% tax (unless an exemption applies). Apportionment[9] will be via legislative instrument.

If a net capital loss results, this can continue to be carried forward and offset against future capital gains but it is necessary to know which category to understand which gain it can offset. For example, capital losses related to residential dwellings may not be fully utilised until a capital gain from residential property is realised.

These steps ensure that pre-July 2027 deferred capital gains are first reduced by capital losses and to quarantine unused net rental income losses to capital gains from residential property only.

If a trust has as a net capital loss, this loss cannot be distributed to beneficiaries. It is retained by the trust and can be offset against future capital gains.

The calculation of the capital gain will depend on the acquisition/disposal date of the asset and if any concessions apply.

[8] If the small business 15-year exemption is applied, the entire gain would already be disregarded before Step 1.
[9] ITAA97 s112-185

Example 2: Asset acquired before 1 July 2027 and sold after that date

Jane purchases an asset on 1 July 2022 for $800,000. She sells the asset on 1 July 2032 for $1,600,000. Using the ATO tools[10] (specified apportionment formula) to determine the asset's value as at 1 July 2027 as $1,131,371. It is assumed no other capital gains are realised in 2032/32 and no carried forward capital losses.

Under the transitional rules, Jane calculates her capital gain by adding:

- taxable capital gains from gain accrued from acquisition to 1 July 2027 of $331,371 (ie $1,131,371 less $800,000) which can be reduced by the 50% discount resulting in a taxable capital gain of $165,685.50

Plus

- taxable capital gains accrued from 1 July 2027, determined by the sale price less the indexed cost base from 1 July 2027. Assuming indexed cost base is $1,280,042, the taxable capital gain is $319,958.00 (ie $1,600,000 - $1,280,042).

The total capital gain added to Jane's assessable income is $485,643.50.

Based on example in Budget 2026-27: Negative gearing and Capital Gains Tax Reform Fact Sheet

Example 3: Residential property income losses and capital gains

Lucy purchases an existing residential investment property in 2027/28.

As the property was purchased after 12 May 2026, she can only offset net income losses in the year made against other residential property income (or capital gains realised from residential properties) but not other income, such as salary or interest. Any income losses that cannot be offset in the year made are carried forward.

As Lucy only holds this one residential property, she accumulates total income losses of $50,000 over five financial years.

She sells the investment property in 2032/33 with a real gain of $200,000 after cost base indexation.

The residential property gain of $200,000 is reduced by the carried forward losses of $50,000. A capital gain of $150,000 will be assessed at her marginal tax rate in 2032/33.

Refer to **Appendix A** for a more comprehensive example.

Taxation of assessable gain

Minimum 30% tax on post 1 July 2027 gains

Realised capital gains accrued from 1 July 2027 will be taxed at the:

- higher of the taxpayer's marginal tax rate, and
- 30% minimum tax (unless an exemption applies).

The minimum 30% tax rate will apply to the net capital gain remaining for a financial year after offsetting capital losses. However, the minimum tax only applies to capital gains accrued from 1 July 2027. Capital gains accrued prior to 1 July 2027 continue to be taxed at the client's marginal tax rate. This includes capital gains realised by the individual or capital gains distributed via trust income.

The minimum tax applies to individuals who are Australian resident taxpayers at any time during the income year. The tax is determined prior to applying any tax offsets.

Taxpayers with a marginal tax rate of 30% or higher will pay tax based on the normal calculation including Medicare levy. However, those with a marginal tax rate less than 30% will have this flat rate of tax applied to the capital gain and ATO will determine any minimum tax gap amount which is determined as follows (unless an exemption applies):

[10] Not available at the time of publishing this document.

Step	
1.	Multiply the net capital gain accrued from 1 July 2027 (excluding gains from new residential dwellings and affordable housing) by 30%
2.	Determine individual's basic income tax liability including the capital gain (ignoring the minimum tax requirement)
3.	Determine individual's basic income tax liability if taxable income excludes the capital gain (but income cannot reduce to below nil)
4.	Subtract step 3 from step 2
5.	Subtract step 4 from step 1
6.	Round result down to nearest whole dollar (if not already)
7.	If the calculation at step 6 is positive – a minimum tax gap exists for that income year.

The capital gain is the last layer of income when determining the client's basic tax liability. The 30% minimum tax payable can be reduced by tax offsets and deductible contributions to recognised charities. Other deductions will not reduce the tax payable on capital gains subject to the minimum 30% tax. Other income continues to be taxed subject to the tax-free threshold and marginal tax rates.

Example 4: Minimum tax on capital gains

Jack (single, age 45) has taxable income before capital gains of $25,000 in 2029/30 and realises a capital gain of $10,000 on asset acquired in 2027/28. He does not receive an income support payment during the 2029/30 financial year and is not exempt from the minimum 30% tax.

Step 1: Tax payable on the minimum tax capital gain is $3,000 ($10,000 x 30%).

Step 2: Tax on $35,000 (including the minimum tax capital gain) is $2,352 (ignoring the Low Income tax offset and Medicare levy for this and the next calculation).

Step 3: Tax on $25,000 (income excluding the capital gain) is $952.

Step 4: Subtract step 3 from step 2 = $1,400.

Step 5: Subtract step 4 from step 1 = $1,600.

Step 6: Rounding to nearest whole dollar = $1,600.

Step 7: The minimum tax gap = $1,600.

Actual tax payable on $35,000 is $2,350.

Jack's total tax liability is tax payable on $35,000 plus the minimum tax gap = $2,350 + $1,600 = $3,950.

Based on example in Budget 2026-27: Negative gearing and Capital Gains Tax Reform Fact Sheet

Tax offsets and 30% minimum tax

The basic income tax liability determined at step 2 and 3 is before applying tax offsets (and Medicare levy). The minimum tax gap determined at step 7 forms part of the client's tax liability which can then be reduced by tax offsets (eg Low Income tax offset and Seniors and Pensioners tax offset) to determine tax payable.

Tax offsets are applied in a specific order under the legislation (ITAA97 s63-10).

Exemption from minimum 30% tax

An exemption may apply to the minimum 30% tax. If an exemption applies, the taxable gain is added to assessable income and taxed at the individual's marginal tax rate.

Individuals receiving a mean-tested income support payment, at any time during the financial year the gain is realised, are exempt from the minimum 30% tax.

Certain trusts, including testamentary trusts, fixed trusts and widely held trusts, are also exempt (See **Trusts** for additional information).

Taxpayers with capital gains relating to new builds and affordable housing can choose between the CGT discount or the indexation method plus minimum 30%.

Eligible innovative start-ups can choose between the CGT discount or indexation method plus minimum 30% tax. However, the taxpayer will forgo the use of the small business concessions if they choose the CGT discount.

A net capital gain determined under the 50% discount method for capital gains accrued prior to 1 July 2027 is added to assessable income and taxed at the individual's marginal tax rate. It is not subject to the minimum tax. This includes deferred residential or non-residential gains (ie gains accrued prior to 1 July 2027) are also exempt from the minimum tax. As this forms part of assessable income, capital gains determined under this method can continue to be managed through allowable deductions, such as personal deductible super contributions.

Income support recipient

An individual receiving certain Government payments[11] are exempt from the 30% minimum tax on capital gains. This includes Age Pension, Carer Payment, JobSeeker, Family Tax Benefit and certain payments from the Department of Veterans' Affairs (eg Service Pension). Refer to **Appendix B** for a more comprehensive list of payments.

Adviser tip

It is expected that the exemption from the minimum 30% tax on capital gains for those receiving a relevant income support payment applies to capital gains distributed from certain trusts (see **Trusts** below).

Medicare levy

A net capital gain is added to income and Medicare levy or Medicare levy surcharge may be payable which is based on taxable income. An increase in assessable and taxable income may also impact entitlement to other benefits and concessions such as tax offsets.

Trusts

From 1 July 2028, a trustee is required to withhold (and remit to the ATO) 30% tax from discretionary trust distributions, including capital gains. This effectively is a minimum 30% tax payable on these distributions.

Beneficiaries will include the gross value of the distribution as income. Individual beneficiaries will be entitled to a non-refundable tax credit reflecting the tax withheld. However, corporate beneficiaries will be taxed on the gross distribution with no entitlement to a tax credit (which effectively will tax these distributions at rate higher than 30%).

Certain income is exempt from the minimum tax including primary production income, certain income to vulnerable minors or income subject to non-resident withholding tax.

Certain trusts will be exempt from this new measure which are:

- fixed trusts
- widely held trusts
- complying super funds
- special disability trusts
- deceased estate
- charitable trusts, and
- testamentary trusts.

[11] S 119-15

Income from discretionary **testamentary trusts** will be exempt from the minimum tax with additional rules including:

- income is derived from deceased estate assets but any assets added after the Budget[12] announcement unrelated to the deceased estate subject to the minimum tax[13], and
- if the trust is established on or after 1 July 2028, the beneficiaries are limited to individuals and income tax exempt entities (eg recognised charities).

Capital gains via discretionary trusts prior to 1 July 2028

Eligible trusts can continue to stream different types of income[14] to individual beneficiaries. In relation to capital gains, trustees are required to provide beneficiaries with a statement, in the approved form, that states the amount of each capital gain and the type. This information separately identifies:

- capital gains subject to indexation or CGT discount
- whether the capital gain is non-residential, residential, deferred non-residential or deferred residential.

which allows the beneficiary to complete their tax return. Beneficiaries that are exempt from the 30% minimum tax on CG (eg receive an income support payment) will able to use the concession to specific CG distributions from discretionary trusts (see **Exemptions from minimum 30% tax**).

Advice tip

Legislation is still needed to require certain trustees to withhold 30% tax on distributions which is proposed to commence from1 July 2028. It is unclear how this withholding tax and non-refundable tax offset will interact with exemptions apply to eligible individuals from the minimum 30% tax on CG.

Other key CGT concessions

Main residence exemption

The main residence exemption continues to be available for eligible individuals to claim an exemption from CG in full or part. However, where the property is not considered the main residence for the full period of ownership, the CG is determined based on a proportional basis for:

- pre-1 July 2027 assets to determine deferred residential capital gains, and
- residential capital gains accrued post-1 July 2027

$$\text{Amount of capital gain} \times \frac{\text{Residential accommodation days}}{\text{Days in the post-July 2027 ownership period}}$$

Residential accommodation days relates to the period when the property was not the client's main residence. This formula is determining the assessable capital gain. Therefore, if the property is the main residence for the entire period of ownership, residential accommodation days (and the CG) will be zero.

Existing provisions relating to determining when a property is a client's main residence and how to calculate a CG is unchanged, including:

- extending the main residence under the 6-year continued main residence exemption rule
- moving between main residences
- the first used to produce income after 20 August 1996 rule , and
- inheriting a main residence.

[12] 7.30 pm 12 May 2026
[13] ITAA36 s102AG has existing provision that requires apportionment of income from estate and non-estate assets for minors. Income derived on income from non-estate assets is not excepted income and taxed at the minor penalty tax rates.
[14] Franking credits must be distributed with the franked income. These amounts cannot be streamed separately.

Small business CGT concessions

The small business concessions are not impacted by the proposed changes. The concessions are:

- 15 year exemption
- 50% active asset reduction
- CGT retirement exemption
- Rollover relief.

The 15-year exemption is still applied first if eligible, this disregards the entire capital gain. No further small business CGT concessions apply.

For sole traders, partners in a partnership, trust beneficiary or individual selling an active asset (including shares in a company or units in a trust) and the asset has been held for at least 12 months, you need to determine what part of the gain is eligible for the 50% individual CGT discount applies or the indexation method plus 30% minimum tax (unless exemption applies). The resultant capital gain can be reduced by applying any of the other three small business measures (see above).

The eligibility criteria to the 50% active asset reduction will be extended to more businesses by an increase in the turnover test from $2 million to $10 million. The increase in the turnover test only applies for eligibility for the 50% active asset reduction and does not apply to the eligibility criteria for the other small business concessions.

In addition, the Government has released a consultation paper, **Capital Gains Tax Reform – arrangements for innovative start-ups**, on the proposed concessions to apply to early-stage investors of innovative start-up businesses, including founders and employee share schemes. It's proposed to introduce the *Innovative Business CGT concession (IBCC)*. Business would need to meet specific criteria, including turnover and business activity, as well as a minimum holding period, to allow investors access to this concession.

The broad proposal for IBCC will allow individuals, partnership and trusts holding eligible shares a choice between the 50% discount or indexation plus minimum 30% tax for gains accrued from 1 July 2027. This will be extended to general partners or early-stage venture capital limited partnerships, if eligibility requirements are met. However, if this concession is used, the current small business CGT concessions cannot be utilised (if otherwise eligible).

Eligible innovative start-ups can also choose between the CGT discount or indexation method plus minimum 30% tax. However, the this means forgoing the use of the range of small business concessions if choosing this new CGT discount.

Market substitution rule

The market substitution rule remains unchanged. If an asset is disposed of for no consideration (eg gift) or less than market value ie the parties are not dealing at arm's length, the asset is deemed to be disposed at market value under the market substitution rule.

Divorce and death

The Government has stated that there will be no changes to the CGT and negative gearing rules related to assets acquired due to death or under a relationship breakdown. Legislation is required to reflect this announcement.

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Appendix A: Capital gains case studies

This case study is based on example in **Treasury Laws Amendment (Tax Reform No.1) Bill 2026 Explanatory Memorandum**.

Asher is an Australian tax resident who conducts a range of investment activities including in property used to provide residential accommodation. Asher sells the following investments in the 2030/31 income year:

- rights for a sale price of $1.2 million purchased in May 2002
- property A used from that acquisition to provide residential accommodation for a sale price of $3.2 million and purchased in January 2008
- property B, purchased in April 2029 and used to provide residential accommodation, for a sale price of $1.4 million; and
- listed shares purchased in August 2030 and sold in November of that year for $50,000.

Asher has a carried forward capital loss of $200,000 and a quarantined amount from the conduct of a portfolio of residential property investments of $1.4 million in the 2030/31 financial year.

Asher calculates the following capital gains:

Asset	Capital gain and type
Rights	$600,000 deferred non-residential capital gain (accrued gain prior to 1 July 2027) $400,000 non-residential capital gain (accrued from 1 July 2027 to date of sale)
Property A	$1,000,000 deferred residential capital gain (accrued gain prior to 1 July 2027) $500,000 residential capital gain (accrued from 1 July 2027 to date of sale)
Property B	$280,000 residential capital gain (acquired and sold after 1 July 2027)
Listed shares	$12,000 non-residential capital gain (acquired and sold after 1 July 2027)

Asher applies the section 102-5 method statement as follows:

Step	
1.	Asher has: ▪ deferred non-residential capital gain of $600,000; ▪ deferred residential capital gain of $1 million; ▪ non-residential capital gain of $12,000; ▪ residential capital gain of $780,000; and As Asher has no current year capital losses, no reduction is made to these amounts at Step 1.
2.	The deferred non-residential capital gains amount of $600,000 is reduced by the carried forward capital loss ($200,000) to $400,000.
3.	The deferred residential capital gains amount of $1 million is reduced by the quarantined amount ($1.2 million) to nil.
4.	The residential capital gains amount of $780,000 is reduced by the remaining quarantined amount ($200,000) to $580,000.
5.	The deferred non-residential capital gain that Asher made on the sale of the rights relates to a pre-1 July 2027 gain and is therefore a discount capital gain. The discount percentage (50%) is applied to reduce the remaining $400,000 of this capital gain to $200,000.
6.	Does not apply as not eligible for the small business concessions.

7. Asher has a net capital gain of $792,000 for the 2030/31 income year, made up of:

- $200,000 (deferred non-residential capital gain)
- $12,000 (non-residential capital gain)
- $580,000 (residential capital gain).

This amount is included in assessable income.

Appendix B: Income support providing exemption from minimum 30% tax

An individual receiving any of the following payments during the financial year are exempt from the 30% minimum tax on capital gains:

Department	Payment
Department of Social Services (DSS)	Age Pension
	Austudy Payment
	Carer Payment
	Disability Support Pension
	Double Orphan Pension
	JobSeeker Payment
	Parenting Payment (partnered or single)
	Special Benefit
	Youth Allowance
	Family Tax Benefit (Part A or B)
	Stillborn baby payment
	Farm Household Allowance
	Parental leave pay
	Payment under ABSTUDY including amounts identified as living allowance
Department of Veterans Affairs (DVA)	Service (Age) Pension
	Partner Service Pension
	Carer Service Pension
	War widow/er pension
	Income Support Supplement
	Invalidity Service Pension
	Veteran Payment (a payment provided as interim income support for current and former members of the Australian Defence Force who may be in financial difficulty, between lodging and waiting for claim to be assessed under compensation legislation)
	Certain payments paid due to compensation
	Special Rate Disability Pension
	Lump sum or weekly payments under *Military Rehabilitation and Compensation Act 2004*